

# The Responsibility of Corporations for Disability Equity

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Intro selves.

We're here to talk about Corporate Social Responsibility and Disability Equity

How many of you are familiar with CSR?

Does Corporate Social Responsibility (CSR) have relevance for advocates for the rights of persons with disabilities?

Corporate social responsibility (CRS) is rarely discussed in the disability rights movement and those rights are rarely included in dialog on CSR. There is great potential for corporations in contributing to the well-being, employment, inclusion, mainstreaming, and full participation of persons with disabilities in society.

CSR and disability issues should be part of international human rights.

What is CSR?

Some see CSR as simply philanthropy by a different name, but it can be defined broadly as the efforts corporations make above and beyond regulatory requirements to balance the needs of stakeholders in the larger society with the need to make a profit. Traces of modern-day CSR can be found in the social auditing movement of the 1970s. CSR embraces three main concepts—

reputation, accountability and transparency. The World Business Council for Sustainable Development states that "Corporate social responsibility is the continuing commitment by business to behave ethically and contribute to economic development while improving the quality of life of the workforce and their families as well as of the local community and society at large." CSR includes the overall relationship of the corporation with all of its stakeholders and the larger society. These relationships include customers, employees, communities, owners/investors, government, suppliers and competitors. Some traditional elements of social responsibility include investment in community outreach, employee relations, creation and maintenance of employment, environmental stewardship and financial performance. It can include developing and implementing ethical and sustainable business or manufacturing processes, championing diversity-inclusion, enhancing corporate reputation and employer brand through philanthropic endeavors, and investing in alternative energies. We maintain that corporate social responsibility includes diversity, ethics, and sustainability.

(World Business Council, Business role,

<http://www.wbcd.org/templates/TemplateWBCSD5/layout.asp?type=p&MenuId=MTE00Q>, accessed 8/5/2010)

CSR exists outside the international regulatory, human rights, and humanitarian framework. The movement from governmental regulation and multilateral agreements to the proliferation of "voluntary standards" which are non-binding, has created a new kind of relationship between public interest groups and private business. Establishment of these voluntary codes of conduct resulted in weaker and weaker codes, for example the United Nations Global Compact, which has no monitoring nor enforcement mechanisms. The United Nations Convention on the Rights of Persons with Disabilities (CRPD) contemplates a role for business in ensuring the protection of the rights of persons with disabilities and opportunities for persons with disabilities to

participate in all aspects of society on an equal basis with others, among other provisions of the CRPD. (United Nations Convention on the Rights of Persons with Disabilities, Articles 4, 12,13 and 32, 2006). Indeed, the CRPD requires state parties to take all appropriate measures to eliminate discrimination on the basis of disability by any person, organization or private enterprise.

**Human rights** are rights inherent to all human beings, whatever our disability, nationality, place of residence, sex, national or ethnic origin, color, religion, language, or any other status. We are all equally entitled to our human rights without discrimination. These rights are all interrelated, interdependent and indivisible. Universal human rights are often expressed and guaranteed by law, in the forms of treaties, customary international law , general principles and other sources of international law. International human rights law lays down obligations of Governments to act in certain ways or to refrain from certain acts, in order to promote and protect human rights and fundamental freedoms of individuals or groups. “Human Rights are supposed to apply to every person in all countries, religions and cultures, no matter their disability, gender, age, race, national origin, or social position. Persons are entitled to appeal to rights such as freedom from harm simply because they are human beings. Nowadays, we are convinced that Human Rights entail not only protection against cruel and degrading treatment, but also the access to minimal living standards necessary to valuable human life, such as nurture, education and a certain amount of material goods. Further, Human Rights constitute moral considerations of highest priority, which are supposed to override all other social or individual interests. Because Human Rights are taken to be valid independently of legislation or implementation, they can serve as an important paradigm for the evaluation and justification of social and political orders, even when Human Rights are neither implemented nor morally recognized by the criticised societies.” (Alice Pinheiro Walla, Justifying Human Rights: A Kantian Approach,

[http://www.irmgard-coninx-stiftung.de/fileadmin/user\\_upload/pdf/archive/Alice\\_Walla.pdf](http://www.irmgard-coninx-stiftung.de/fileadmin/user_upload/pdf/archive/Alice_Walla.pdf), accessed 4/11/09)

Human rights can be distinguished from the concept of civil rights in the United States. **Civil rights** is used to state that the law-making body or government has a positive role in ensuring all people in the jurisdiction equal protection under law and equal opportunity to exercise the privileges of citizenship, residence, and presence, and otherwise to participate fully in national, state, and local life, regardless of disability, race, national origin, religion, sex, religion, age, and other characteristics unrelated to the worth or merit of the individual. Civil rights are established by law, provide protections, and means of redress of grievances and complaints.

In today's globalized world, corporations have a great deal of influence. In pursuit of their missions, nongovernmental organizations are increasingly directing substantial resources away from lobbying for regulatory regimes and toward recruiting powerful corporations into voluntary battle against a variety of injustices. (Chatterji and Listokin, 2007). Former U.S. Secretary of Labor Robert Reich notes, "The upsurge of interest in corporate social responsibility is related to the decreasing confidence in democracy. Reformers often find it easier to lobby corporate executives than to lobby politicians." (Reich, 2008). Inclusion of disability community concerns in CSR will help to move away from the charity model and toward the enforcement and/or return on investment, or business, models.

Corporations have a heavy responsibility toward people with disabilities, if only to prevent our situation from becoming worse. Researchers have asserted that workers with disabilities are "the last hired and first fired," suggesting that the employment of people with disabilities is particularly procyclical, meaning that

workers with disabilities “may be the first to be laid off in a recession and the last to be hired when conditions improve.” Although this claim has yet to be proved, various studies have shown that workers with disabilities are much more likely than workers without disabilities to have short-term jobs or work as contractors, to perceive their jobs as less than secure, and to experience job losses and periods of unemployment, partly because workers with disabilities are more often employed in occupations with lower status and less stability. (H. Stephen Kaye; The impact of the 2007–09 recession on workers with disabilities; Monthly Labor Review; October 2010) It is only since mid-2008 that the monthly Current Population Survey of the Bureau of Labor Statistics has tracked employment of people with disabilities. However, the survey is of households, and not of employers.

There are crossovers between traditionally discriminated against groups, arguing for the special position of people with disabilities. African Americans and especially American Indians and Alaska Natives are overrepresented in the population with disabilities, while Asians and Pacific Islanders and Latinos are underrepresented, statistics that are consistently found in most national surveys.

A generation of activists has been raised on the idea of CSR— that large corporations can be cajoled into paying employees better, being more environmentally responsible, improving labor conditions in developing countries, retaining more workers, embracing diversity, and donating money to fix disadvantaged schools. Where firms cannot be enticed, the strategy goes, they can be bullied (Chatterji and Listokin, 2007). Professor Aaron Chatterji, a leading academic who studies corporate behavior, is concerned that our emphasis on CSR is the wrong focus. He notes: “After years of relative futility and millions of dollars spent, progressives who are concerned about market failures and their impact on the common good need to do the responsible thing and

end their fixation on corporate social responsibility. It is time to recognize that most market failures can only be solved by governments and multilateral agreements, and progressives need to redirect activist pressure appropriately” (Chatterji and Listokin, 2007).

There is a tension in these different approaches. Which, or what mixture, is best for persons with disabilities to use to obtain right behavior from corporations? Disabled Persons Organizations must have a role in such advocacy, and cannot sit on the sidelines. Corporations create large numbers of jobs and produce a huge variety of products. Entire countries, such as the People’s Republic of China, have moved away from governmental control of the economy, toward entrepreneurship and a corporate approach to development. Lack of employment opportunities is the number one problem for persons with disabilities.

CSR typically doesn’t include disability issues. Some entire industries take little interest in the needs of persons with disabilities, such as the commercial airline industry. Others have taken notice, such as the cruise ship industry. Others have done relatively little, such as the taxicab industry in the United States. Others develop products first, then retrofit accessibility, such as the cellphone and computer industries. For others, such as housing, there is a huge unmet need for accessible housing.

The basic social duties of a corporation include the well-being of all people, including persons with disabilities. Corporations should not create more obstacles or difficulties. They should consider universal design. Some companies, unfortunately, are in the business of destruction of people. These companies in particular should take a heavy interest in the needs of persons with disabilities. For example, a company that makes landmines should devote substantial resources to provision of prosthetics. While this

may sound crass, the reality is that many companies will continue to make and sell destructive devices.

To participate in CSR, a corporation does not have to admit liability or guilt. This is analogous to companies that practice affirmative action on the basis of race and national origin. Disability, however, crosses all national borders, races, national origins, and genders. To be full participants in the modern and real world, people with disabilities must be realistic about how the world works. For too long, people with disabilities have understandably been focused on overcoming their own challenges, and not focused enough on bending the purveyors of some of those challenges to their will. Even activist disability rights organizations like ADAPT and Not Dead Yet have focused on governments and not on corporations. Corporations, through their extensive marketing, can also help overcome fear and stigma toward people with disabilities. Activism itself will help reduce the paternalistic mindset, by showing persons with disabilities in their true, active role in the entire economic sphere.

One of a number of mechanisms by which people may encourage responsible behavior by corporations is the choices they make as consumers, buying products that meet the individual consumer's test of what makes a responsible product. With respect to individual consumers, they may be willing to pay more for products when the benefits of doing so accrue to them individually, but perhaps not because of some social good. (Reich, 2008) People with disabilities can return the investment by using their purchasing power with those corporations that practice enhanced CSR. This approach has already been taken by some other groups, such as African-Americans with Rainbow Push, ranking of LGBT-friendly corporations by the Human Rights Campaign, and labeling of products in French because of the demands of Quebec. Persons with disabilities should constitute an important consumer group. They buy and consume not only the products that everyone else

does, but also products such as wheelchairs, mobility aids, durable medical goods, medicines, reading software, modified vehicles and housing, ramps, hearing aids, and a wide range of other products.

Persons with disabilities can also assist corporations by testing and noting accessibility problems with products and suggesting modifications and design changes and improvements, as well as identifying potential new products to meet their needs and those of the wider community. However, it is important to point out that persons with disabilities should be employed within the corporation, not repeatedly relied on as volunteers to provide such guidance.

We certainly do not claim that CSR is the answer for all the challenges presented to persons with disabilities. However, it is one prong of a broad and varied effort.

The approach of the international community to the human rights responsibilities of corporations has been focused more on guidelines than on mandates. United Nations Secretary-General Kofi Annan on 28 July 2005 appointed Professor John Ruggie as Special Representative on human rights and transnational corporations and other business enterprises. This mandate was requested by the UN Commission for Human Rights in its resolution 2005/69 and approved by the Economic and Social Council on 25 July 2005 (United Nations 2005). The June 2008 Human Rights Council resolution renewing the mandate of SRSG Ruggie stresses the need to provide “more effective protection to individuals and communities against human rights abuses by, or involving, transnational corporations and other business enterprises,” requests the SRSG to give “special attention to persons belonging to vulnerable groups,” and also asks him to continue to consult with “civil society, including academics, employers’ organizations, workers’ organizations, indigenous and other affected communities and non-governmental organizations.”

(Mandate of the Special Representative, 2008) Despite the fact that the UN Convention on the Rights of Persons with Disabilities was already in force at the time of this resolution, persons with disabilities are not referenced in it, nor has the SRSG discussed persons with disabilities in his reports or consulted with disabled persons organizations or experts on issues of concern to them.

Previously, persons with disabilities have relied heavily on their own efforts, their will and determination, in overcoming barriers and obstacles. They have sought and achieved the help of government agencies in nondiscrimination and in targeted programs and services.

We argue first that persons with disabilities must be included in any international framework or program on corporate responsibility, second that corporate responsibilities for persons with disabilities must go beyond some small steps on increasing their employment and producing limited specialized products, and third that international action on the responsibility of corporations with respect to human rights generally and the human rights of persons with disabilities in particular should move away from voluntary approaches toward broader international agreement on the issues, with enforcement and monitoring mechanisms that are implemented.

There is in addition a possible two-track approach, using both voluntary and coerced approaches—those obtained through persuasion, market forces, and moral arguments. Groups representing persons with disabilities should not hesitate to tell corporations the morally right thing to do. This approach has been taken by many other interest groups.

Persons with disabilities are especially sensitive to paternalism, and almost always stay away from issues concerning the cause of their disabilities. However, these qualms should not prevent

action. People with disabilities do not have to ask for special treatment, but can instead demand a seat at the table, like everyone else. In terms of causality, where a corporation has contributed to creation of disabilities, there may be insufficient legal liability, but moral responsibility can be invoked. The talented lawyers in the disability movement can help craft safe harbors for remediation of harms and eliminating vestiges of past discriminatory effects.

If corporations do not comply voluntarily, there needs to be a more vigorous international monitoring and enforcement regime to ensure compliance with international standards. Persons with disabilities must be actively involved in creation of these standards, and demand good customer and legal service. The voluntary compliance model is only as good as the results it produces. And so far, those results are not good. Corporations have money, and money is power. It takes power to maintain the walls against full inclusion of people with disabilities in economic society. The same power can be used to tear down those walls. The Berlin Wall between people with disabilities and those who are temporarily without disabilities has always been a fluid one, but one that filtered out persons with disabilities into an institutionalized, economically disadvantaged, and immobilized pool. That wall must come down.

If the idea of including disability issues in CSR has validity, here are some logical next steps:

Corporations establish disability advisory committees, with substantial representation of persons with disabilities. (United Nations Convention of the Rights of Persons with Disabilities, Article 34, 2006)

Disability advocacy organizations reach out to CSR organizations. Disability advocacy organizations reach out to international standards organizations (like the ISO) that create standards for businesses.

Identify and quantify the disability purchasing market, and those corporations and industry sectors that benefit most from persons with disabilities.

Identify those corporations with best practices for persons with disabilities, and promulgate this information.

Work with natural allies for people with disabilities, including groups representing older persons, those engaged in peace building and conflict resolution, occupational safety groups, disease-oriented groups, and health improvement oriented foundations.

Through the broad-based, focused, and targeted approaches we've laid out, progress can be made in including disability issues and concerns in corporate social responsibility. The possible achievements for persons with disabilities are great.

Thank you. Are there any questions or comments?