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Responsibility in Business and Enterprise

Responsibility is far from being an alien concept in the world of business and enterprise. From a variety of legal responsibilities (such as blame and liability) to corporate social responsibility (CSR) via the notion of accountability, the field of corporate responsibility is already well populated and thoroughly analyzed.

However, these different types of responsibility are not always clearly articulated. A large volume of literature exists concerning the legal and social responsibility of companies, but synthetic perspectives, connecting normative, legal, economic and empirical reflection, are rare. Pavie *et al*. [PAV 14, p. 14] identified four levels of corporate responsibility: the internal chain of responsibility (between directors and employees, for example), the responsibility emanating from the status of the moral entity (such as the obligation to pay taxes), responsibility that arises from interactions with other partners (suppliers) and a responsibility to future generations. However, this analysis does not go into detail considering the different natures of these levels of responsibility (notably moral and legal). Furthermore, no justification is provided to legitimize responsibility toward suppliers or future generations, which is, as we shall see, far from evident.

In this chapter, we shall organize and connect the different aspects of responsibility encountered within a framework of economic interactions. Rather than opposing or simply juxtaposing legal and social responsibility, for example, our aim is to highlight the connections and complementary elements found in different interpretations of responsibility, seen within the specific framework of the company. To do this, we shall begin by briefly discussing the work carried out in a previous volume in this series on responsible research and innovation [PEL 16b] which analyzed 10 differentt

understandings of responsibility. Here, these interpretations will be rapidly examined in order to specify their implications within the specific corporate context (section 1.1). Building on this typology, the remainder of the chapter is split into three parts, which focus on the legal specificities of responsibility, organizational responsibilities associated with the operation of a company and, finally, the specifically ethical element of responsibility.

In section 1.2, we shall examine a number of important aspects of legal responsibility for corporations and their representatives, as defined in the applicable laws. We shall then briefly consider the types of responsibility that arise from the organizational character of the enterprise, with its origins in the attribution of specific functions, for example as stipulated in a contract (section 2.3). Finally, we shall provide a detailed analysis of the way in which the literature on CSR distinguishes between different levels of responsibility (economic, legal, normative or "social") and organizes these levels in relation to each other. More specifically, we shall analyze the way in which demands originating from a society result in an "ethical" form of responsibility, different from the legal form and economic constraints, and the way in which these different dimensions are articulated.

1.1. Different notions of responsibility

In a previous volume, working alongside Bernard Reber [PEL 15, PEL 16b, PEL 16c], we analyzed at least 10 different meanings of responsibility encountered in a variety of works on moral philosophy [HAR 68, GOO 86, BOV 98, DUF 07, CAN 02, WIL 08, VIN 09, VIN 11, VAN 11, GOO 83] and recent literature on Responsible Research and Innovation (RRI) [OWE 12, OWE 13b, GRI 13] or CSR [GOO 83]. According to this typology, responsibility may be understood as:

1) cause: for example, drought is responsible for poor harvests and a reduction in the turnover of farmers. The drought is the cause;

2) moral or legal blameworthiness[1]: for example, manager X is responsible for lying about the real quality of an airplane braking system, and is blamed;

3) liability: for example, company Y sold a defective product, and is thus responsible for Z's accident, and must compensate accordingly;

1 In the context of moral philosophy, this idea also extends to the notion of praiseworthiness.

4a) and 4b) accountability: for example, the director of company K is answerable to the company's stakeholders, and must justify his or her actions and their consequences;

5) task or role: for example, the postman is responsible for distributing mail. This is his assigned task;

6) authority: for example, the product manager is responsible for a product from creation to launch and has the authority to make decisions;

7) capacity: for example, Mr. Y has the cognitive and moral capacities to act in a responsible manner;

8) obligation: for example, a human resources director is responsible for his or her employees, and has a moral obligation to ensure their wellbeing[2];

9) capacity to respond: for example, Ms. Z has the capacity to respond to an issue in an adequate, prompt and accurate manner;

10) care (virtue): for example, Mr. K has the disposition to act in a responsible way.

This general typology allows us to characterize and articulate the different types of responsibility involved in economic relations. Before going into detail with regard to these notions, we must consider the case of responsibility as cause (1)[3]. It underpins the establishment of responsibility in terms of blameworthiness or liability: an individual who is declared to be responsible and obliged to provide compensation must be identified as the cause of the harmful event. However, it is less essential when considering responsibility in terms of a capacity to react or as a virtue, as the causality connection between actions and condemnable events is considerably weaker. In any case, responsibility as a cause is never sufficient in and of itself to take account of the normative dimension running through the legal and moral concepts considered here. The following sections will thus focus on the latter elements.

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2 We do not wish to imply that a moral obligation of this nature should be imposed on directors without further discussion. Responsibility in terms of obligation is based on a deontological interpretation of the term [PEL 16b], according to which company directors have a responsibility with regard to the wellbeing of their employees at work, for example. This perspective is debated, as we shall see later, by proponents of a non-normative understanding of enterprise. For the moment, whether or not this thesis is justified is incidental; its existence simply illustrates the fact that a moral obligation may exist within the notion of responsibility.

3 For more details, see [PEL 16b].

1.2. Legal responsibility

The first aspect widely encountered in the domain of corporate responsibility corresponds to the legal dimension of the notion, which, in our typology, relates to responsibility in terms of blameworthiness (2) and liability (3)[4].

These two notions can be found in a vast quantity of literature, which describes and analyzes the various legal statuses that may be adopted by commercial societies, along with their accompanying regimes of responsibility. Our intention here is not to go into detail concerning the social and legal forms of companies, but rather to highlight the ways in which the legal responsibility of an entity such as a company or society[5] (in terms of the legal framework for a company) may be defined and applied in relation to other notions.

Generally speaking, building on the fundamental distinction in most legal systems between civil and criminal law, a distinction may be made between two types of legal responsibility for moral or physical persons: civil responsibility and criminal responsibility.

1.2.1. *Civil liability of companies and directors*

Civil liability, or responsibility, is the obligation to make reparation for damages caused to another entity. It may concern physical persons (individuals) or moral entities (such as companies or associations). In the latter case, a company may incur civil liability in cases of damage or prejudice caused to a third party, in which case compensation may be due to the victim in the form of damages. In French law[6], a distinction is made between two forms of civil liability. The first form is *contractual* liability, which is "the requirement for the debtor of an obligation resulting from a contract to make reparation for damages caused to the creditor following non-fulfillment of an obligation imputable to the debtor" [DEE 95, p. 422].

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4 Judicial language differentiates between responsibility in terms of sanctions and responsibility in terms of compensation, which corresponds to the distinction between criminal and civil law.

5 The distinction between the two terms is covered in greater detail in Chapter 2.

6 Most of the examples here are drawn from the French context. However, the distinction between civil and criminal liability and the existence of responsibility for moral entities (companies) are recognized by many states.

This form of liability comes into play, for example, in the case of damages resulting from the non-completion or delayed completion of a contract (sudden breach of a contract made with a supplier, delays in product delivery or poor execution of the work).

The second form is *tort liability*, which denotes the obligation to make reparation for damage caused to a third party, whether or not a contract is involved. It may apply to a physical person (the director of the company, or any other person to whom power has been delegated), or to a moral entity (the company). This form of liability comes into play in the case of counterfeiting, for example, or unfair competition practices.

Three conditions are necessary for a person (moral or physical) to be held civilly liable: the existence of damages or prejudice, the existence of fault (voluntary or otherwise) and a causality connection between the fault and the damage. This form of responsibility combines the notion of sanctions (and thus of blame, in connection with the existence of a fault) with the obligation to make reparation for damages[7].

Finally, whilst civil liability mostly applies to companies (for example in cases of contractual responsibility), it may also concern a physical person (such as a company director) when, for example, damage results from voluntary deceit on the part of a supplier that can be traced back to one or more identified persons.

1.2.2. *Criminal liability of physical and moral persons*

Criminal liability, as opposed to civil liability, comes into play in cases where a legal *violation* can be identified, rather than a *fault*. Since 1994, French law also offers the possibility for a moral person, i.e. a company or association, to be held criminally liable.

Thus, according to article 121-2 of the *Code Pénal*, “Moral persons, with the exception of the State, are criminally liable, according to the distinctions set out in articles 121-4 to 121-7, for violations committed on their behalf, by their agencies or by their representatives”.

7 This distinction is important: the fact of being held responsible for a moral fault, in the “blame” sense, does not necessarily create an obligation of reparation.

The attribution of criminal liability to a moral entity can be problematic, as a company or association does not have its own "will", and is also independent from its directors [BOU 97, p. 78][8]. However, this mechanism has been used in an attempt to limit the immunity of moral persons (companies or associations) in cases of serious environmental impacts (such as the Erika disaster[9]), public health (such as the recent Mediator scandal[10]), public economic order, or social legislation (illegal employment).

A moral entity may be held criminally liable and subject to a variety of sanctions for different types of infractions: manslaughter or involuntary bodily harm (for example in the case of accidents at work), violations of human dignity, in cases of damage to property as stipulated in the criminal law codes (theft, concealment, extortion), crimes against the nation (espionage, terrorism, active corruption and influence trafficking), alongside a number of more specific cases, such as illegal employment or the production of counterfeit goods.

In cases of a proven violation, sanctions, applied according to the seriousness of the crime, should be seen as a punishment rather than an attempt at reparation. It is thus possible to combine both civil and criminal responsibility: the tortious civil liability of the directors or of the company may also be invoked by the victim or their successors in order to obtain damages and interest in cases where the violation has resulted in damage to a third party. In the case of a workplace accident, for example, resulting from the non-respect of safety regulations and causing the death of an employee, the director (and/or any other person in the company in a position of authority with regard to the decision) may be declared criminally liable, while the civil responsibility of the company may be invoked by the victim's successors in order to obtain damages and interest.

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8 See the following chapter (section 2.1.2) for further discussion of this point.

9 On December 12, 1999, the Erika, a Maltese oil tanker used by Total and loaded with 37,000 tons of fuel oil, sank off the coast of Brittany. In 2008, Total SA and Rina (an Italian company responsible for the maintenance of the tanker) were issued with a fine of 375,000 euros and obliged to pay 192,000 euros in damages and interests to the victims, in a judgment that was later upheld by the Appeals Court in 2012.

10 The Servier pharmaceutical company was convicted in 2015 (judgment upheld on appeal in 2016) for the sale of Médiator, a drug intended for use against diabetes but used as a hunger suppressant; the drug had already been shown to present serious risks to health in the mid-1990s. Mediator causes serious damage to heart valves, for which documentation has been available since the early 2000s. Mediator was condemned for continuing to market the product in spite of this information.

One difficulty raised by the definition of the criminal responsibility of a company arises from the interpretation of the expression "working on behalf of", i.e. "in the interests of" a company. In practice, this involves identifying the acts and decisions of those carrying out functions of "direction, administration, management or control, or of any person holding delegated powers, with the competence, authority and means necessary for the execution of their mission" [CRI 00][11], carried out on behalf of the company and constituting a legal violation.

A moral entity is only criminally liable if blameworthy actions can be traced back to its agencies or representatives, who are necessarily physical persons[12]. However, the criminal responsibility of companies introduces a distinction between the company and its representatives, which is essential in regulating corporate behaviors. The capacity to impose sanctions on a company for bad practice via the use of a variety of punishments (from fines to the closure of the company, via the establishment of judicial supervision, for example) has increased the possibilities for control and obligation of companies, forcing them to take account of certain risks linked to their activity.

In the case of environmental risks, for example, French law considers the environment as a "protected social value". However, environmental criminal law remains deunified and is not always easy to apply [DAO 13]. The recognition of criminal responsibility for moral entities is a legal development that has enabled convictions to be made for certain negligent or deceitful acts by companies, as in the case of the Erika oil tanker disaster mentioned above, or the negligence likely to have been involved in the AZote Fertilisants fertilizer factory accident in Toulouse, France. In this last case, the factory site, belonging to a subsidiary of Atofina, was completely destroyed by an ammonium nitrate explosion on September 21, 2001. The accident resulted in the death of around 30 people, injury to 2,500 others and considerable material damages. Grande Paroisse[13], the company that owned the factory, and its director, Serge Biechlin, were found guilty of involuntary manslaughter in September 2012. Grande Paroisse was fined 225,000 euros

11 Cour de Cassation, Chambre criminelle, May 30, 2000, 99-84.212, published in the official bulletin.

12 Cour de Cassation, Chambre criminelle, January 18, 2000, 99-80.318, published in the official bulletin.

13 Grande Paroisse was a subsidiary of Atofina, created in 2000 by a merger between the chemical activities of Total-Fina and Elf. Until 2004, it covered part of the chemical activities of the Total group.

and Serge Biechlin received a jail sentence of 3 years, 2 years of which was suspended, and a fine of 45,000 euros. The causes cited to justify this sentence in the context of the case included anomalies observed in the management of special industrial waste within the company, and the fact that these anomalies caused the building in question to explode [DAO 13, p. 54]. The case is not yet closed[14]. Nevertheless, the case still (for now) represents an important step in the management of industrial risk in France, in that it helped to refine the means used to limit technological and natural risks and to sanction unsuitable behaviors in relation to security and the environment[15].

In conclusion, the civil and criminal responsibility of a company or its representatives provide an essential first framework for understanding corporate responsibility: companies must comply with the law. The threat of financial or penal sanctions may be used to regulate behaviors, bringing them into line with social demands formalized in law. As we saw in the previous volume [PEL 16b], these forms of purely "negative" responsibility are important in that they correspond to successive layers of social norms, configured in such a way as to regulate economic activity according to principles of justice. The respect of legal constraints corresponds to an essential step in responsibility, without which the notion itself cannot be understood. However, as most proponents of "social" corporate responsibility point out, an essentially retrospective engagement[16], the dynamics of which relate solely to the fear of sanctions, is not sufficient to exploit the full potential of the normative dimension of the concept of responsibility. Respect of the law alone is often not sufficient to respond to the various challenges posed by technological evolution. Moreover, as we shall see in Chapter 2, the long temporality of legislation creates a need for voluntary forms of normative constraint, rooted in ethics, which are better able to evolve in relation to a context and not simply to legislation. CSR was

14 On January 13, 2015, the French High Court of Appeal overturned the verdict reached by the Toulouse court of appeal on the basis that it included irregularities. A third trial began in Paris on 24, January 2017 , whose verdict is expected by October 31 2017.

15 Notably via the implementation of Law 2003-699 of July 30, 2003, the so-called Loi Bachelot, relating to the prevention of technological and natural risks and to reparation for damages.

16 Although civil responsibility, for example, can include a preventive element intended to preclude certain types of damage. However, we also see [PEL 16b] that only "positive" forms of responsibility (such as roles, authority, capacity, response capacity and care) are based on a broader vision of anticipation, which is essential in the context of governance for responsible innovation.

developed with the explicit aim of compensating for these shortcomings, i.e. the slow speed of legal evolutions and the lack of flexibility and adaptability to specific contexts (see section 1.4 and Chapter 2).

1.3. Structure and responsibility

On a different level, although one which does not exclude legal responsibility, the notions of responsibility as a role/task (5), authority (6) and capacity (7) feature in another significant body of literature on company management, linked to the organization of responsibilities within a company following a hierarchy, the distribution of functions and the structure of the company more generally.

In this area, we find a number of prospective and retrospective responsibilities that may be governed by explicit or implicit contracts, along with codes of conduct internal to the company.

The contract established between an employee and a company at the time of recruitment specifies, among other things, the tasks to be accomplished by the employee, the ways in which these tasks are to be carried out, timings (where applicable), the various limitations or advantages associated with the job and the corresponding salary. This creates a first sphere of contractual responsibility, which may give rise to financial sanctions or to a breach of contract if the terms are not respected. Running parallel to elements defined in the contract, daily practice involves a number of other more or less implicit spheres of responsibility, arising from the hierarchical organization and the decision-making processes specific to each team within a company.

Goodpaster [GOO 83], for example, identifies responsibility as a role, associated less with the causal relationships that exist between the actions of an individual and certain observed consequences than with a "socially expected" behavior connected with the role: lawyers, doctors and company executives, for example, have responsibilities to their clients, patients, employees and suppliers that arise from their specific role. Each specific function in society or within a company is associated with certain responsibilities (contractual or otherwise), which the individual is meant to fulfill, and which are expected by colleagues and partners.

Goodpaster [GOO 83] also identifies a form of responsibility as capacity, denoting individual aptitudes to make responsible decisions based on certain

capacities for reasoning and on the exercise of certain virtues, such as trust and integrity. These elements will be discussed in more detail in Chapter 4.

These different forms of responsibility play out in the activities of the individuals concerned. They combine formal (legal) and informal (tacit) responsibilities, retrospective responsibility (in cases of fault or liability for damage) and prospective responsibility (for the attainment of certain goals, such as the successful direction of a project). The most normative degree of responsibility, corresponding to the idea of CSR, is often based on these preexisting responsibilities, which regulate economic activity. However, it goes further in that it involves an explicitly normative aspect, and in that it is not limited to the strictly individual context of responsibility associated with a role or with authority. CSR is a commitment made by the whole company, seen both as a group of individuals, involved in actions and decision making, and as a homogeneous whole, capable of interacting with other entities.

1.4. Corporate social responsibility

A final body of work on business ethics, CSR and stakeholder theory (SHT), which aims to articulate the different levels of responsibility (legal, social and normative), can be understood on the basis of notions of responsibility as a moral obligation (8), accountability (4), reactivity (9) and virtue or care (10).

Our analysis is not intended to be exhaustive; there are several existing works that fulfill this role [GAR 04, CAR 08a, FRE 08, MEL 08, MER 06]. Our aim is simply to highlight and analyze certain elements of reasoning encountered within this vast corpus that are particularly useful in understanding responsibility in innovation and for the establishment of governance principles for RI.

1.4.1. *Different definitions of CSR*

Many attempts have been made to map theories relating to corporate responsibility, highlighting the heterogeneous and eclectic nature of the field. History-based works by Carroll [CAR 08a] and Frederick [FRE 97, FRE 98, FRE 08], alongside the synthetic typologies put forward by Donaldson and Preston [DON 95], Garriga and Melé [GAR 04, MEL 08] allow us to approach CSR as a relatively structured field, grouping conflicting definitions and a range of approaches that are not always coherent with one another.

This heterogeneity was perfectly expressed by Dow Votaw in 1972:

> "Corporate social responsibility means something but not always the same thing to everybody. To some it conveys the idea of legal responsibility or liability; to others, it means socially responsible behavior in an ethical sense; to others still, the meaning transmitted is that of 'responsible for', in a causal mode; many simply equate it with a charitable contribution; some take it to mean socially conscious; many of those who embrace it most fervently see it as a mere synonym for 'legitimacy', in the context of 'belonging' or being proper or valid; a few see it as a sort of fiduciary duty imposing higher standards of behavior on businessmen than on citizens at large" [VOT 72, p. 25].

Thus, there are many different definitions associated with CSR: Dahlsrud [DAH 08] lists no fewer than 37. From a theoretical perspective, most definitions of CSR aim to ensure that "the human and economic resources" of a society are "utilized for broad social ends and not simply for the narrowly circumscribed interests of private persons and firms" [FRE 60, p. 60]. Economic activities, while primarily focused on wealth creation and on maximizing profit, should also involve a responsibility "to help society achieve its basic goals" [STE 71, p. 164], or to improve the social order [EEL 61, p. 247]. The "social" dimension of corporate responsibility permits the addition of a normative constraint to specifications, a means of taking account of the advantages (or disadvantages) that companies provide to society, in their position as actors within a network of relationships.

However, the notion of "broader social ends" or "improvement of the social order" may be interpreted in very different ways, for example as an ideal for harmonious and organic interoperation of economic and social elements [FRE 08, p. 523], or through the conflicts of interest and strategic interactions that occur between actors [NEV 06, REY 06, BEN 98, AGL 99, MIT 97, OGD 99, SEN 06]. Moreover, authors concerned with CSR have described a variety of ways of identifying the "social good", for example using principles drawn from deontological approaches to morality (see Chapter 2), or using constructivist mechanisms in which the determination of the good is the result of collective construction (see section 1.4.2.2). Finally, the nature of normative responses developed to regulate economic activity has evolved over time, in association with the priorities fixed by social

demands. Several typologies have been proposed with the aim of organizing the abundance of literature on the subject.

The works of Carroll and Frederick [CAR 08a, FRE 08], for example, identify four stages in the historical development of CSR: philanthropy in the 1950s, echoes of social movements in the 1960s and 1970s that focused on the role of social activism, the birth of SHT and business ethics in the 1980s and the idea of corporate citizenship that emerged in the early 2000s.

Taking a more synthetic approach, Garriga and Melé [GAR 04] identify four fields of investigation in relation to CSR: instrumental theories in which only the connection between management and economic efficiency is considered important; integration theories, which see the origins of responsibility in the response to a social demand (such as combatting discrimination of any form or reducing pollution, for example); ethical theories, which promote the idea of a moral obligation for companies to accept their social responsibility; and political theories, which notably promote the idea of corporate *citizenship*.

This typology will be used in the following sections, although it will not be covered completely. We shall discuss several levels of responsibility. The first corresponds to Friedman's famous thesis, according to which the only responsibility of a company (with the exception of respecting the law) is to increase its own profit (section 1.4.2.1). Building on this thesis, later developments in CSR, and in particular SHT, promote a specifically ethical form of responsibility (but one which also includes other levels); authors aim to understand and justify how the sphere of influence of a company and its resulting responsibilities must integrate human and non-human entities affected by its activities (section 1.4.2.2). A final body of work identifies a level of responsibility that corresponds to the political role of the company (section 1.4.2.3).

1.4.2. *Different levels of "social" responsibility*

1.4.2.1. *Economic responsibility*

The essential starting point for anyone concerned with corporate responsibility is Milton Friedman's iconic thesis [FRI 70], according to which the freedom of an individual cannot be limited by anything other than law. This thesis is perfectly summarized in a few phrases appearing at the end of an article published in the *New York Times* in 1970.

> "[I] have said that in such a [free] society, there is one and only one social responsibility of business – to use its resources and engage in activities designed to increase its profits so long as it stays within the rules of the game, which is to say, engages in open and free competition without deception or fraud". [FRI 70, p. 126]

A strong example of the so-called "neo-classical" current of economic theory, the hypotheses which underpin Friedman's thesis maintain that society is an atomistic collection of individuals, attempting to maximize their utility under revenue constraints (i.e. consumers represented by their preferences) and their profits under technological constraints (i.e. producers, i.e. enterprises). Following the tradition established by Adam Smith, the greatest social wealth is obtained when each individual is free to consume, invest and produce in their own way while respecting legal constraints, which guarantee, on the one hand, fundamental civic liberties, but also equal participation in competition. Free competition is seen as leading to optimal distribution of resources and the greatest social "wealth", due to the process of emulation, which encourages the holders of capital to invest in the most productive activities, and stimulates innovation and creativity [SAM 47, ARR 51, JEN 00][17]. Subsequently, the state may intervene via the tax system for the purposes of wealth redistribution, for example in the case of market imperfections (informational asymmetry) [ARR 63]. The potential negative impacts of economic activity may also be offset by the law and private philanthropic activities [FRI 70]. However, companies are under no economic or moral obligation to compensate for their harmful effects beyond that which is required by law. A company carrying out agricultural activity, which results in degradation of the quality of a nearby watercourse, for example, can only be held responsible for this damage insofar as is recognized by the law. In the absence of legal constraints, the company in question has no obligation (and absolutely no moral obligation, according to Friedman) to do anything to remedy the damages caused, especially if this would have an effect on profits. If remedial action is required, this should be taken by public institutions.

This approach to social organization leaves no space for entrepreneurial behaviors that deviate from the strict pursuit of maximum profits. The only responsibility of a director is to be accountable to the company's stakeholders, considered as owners of the company; the risk taken by them

17 See Chapter 2, section 2.2.1.

in supporting the company should be rewarded[18]. In this sense, any limitation to entrepreneurial freedom via moral constraints is neither meaningful in terms of the theory of property rights nor in terms of economic efficiency.

To understand Friedman's reticence with regard to the now widely accepted notion of social responsibility, we need to look further than simple economic rationality to the specific historical context of his statements, made during the Cold War period. For Friedman, requiring a company director to look to anything other than the pursuit of profit constituted a dangerous step toward socialism, the *bête noire* of contemporary neo-liberal authors. This vision is reflected in the following lines, often neglected by the opponents of corporate responsibility:

> "But the doctrine of 'social responsibility' taken seriously would extend the scope of the political mechanism to every human activity. It does not differ in philosophy from the most explicitly collectivist doctrine. It differs only by professing to believe that collectivist ends can be attained without collectivist means. That is why, in my book *Capitalism and Freedom*, I have called it a 'fundamentally subversive doctrine' in a free society" [FRI 70].

The extreme nature of Friedman's allegations seems almost comical to modern sensibilities. However, similar ideas have been expressed by more recent authors, such as Michael Jensen [JEN 02, p. 243], who maintains the parallel between stakeholder interest[19] and communism:

> "If widely adopted, stakeholder theory will reduce social welfare just as its advocates claim to increase it – just as in the failed communist and socialist experiments of the twentieth century".

Despite these fallacious amalgams[20], successive and repeated efforts to create a philosophical basis for the idea that companies have a moral obligation to take account of the impact of their activity on their environment have highlighted the difficulty, for authors working on CSR, of

18 See Chapter 2, section 2.1.2, for a more in-depth discussion of this theory.

19 Defined below.

20 These authors appear to have failed to grasp the fundamental difference in nature between promoting the interests of stakeholders affected by a company, and doctrines that advocate the collectivization of land and the means of production.

convincing readers that another organizational paradigm than that promoted by neo-classical economics is possible.

However, critics have not hesitated to come forward, even within this school of thought. Writing shortly after Friedman, Paul Samuelson (who can hardly be considered as a promoter of socialism) wrote: "a large corporation these days not only may engage in social responsibility, it *had damn well better try to do so*" [SAM 71, p. 24]. Following a similar instrumental vein, Kenneth Arrow, a key figure in work on general equilibrium, used the tools provided by microeconomics to justify the necessity for political and ethical regulation of economic activity in the case of market imperfection [ARR 73][21].

Within literature on CSR, partly created as a response to Friedman's approach, critics have focused on a number of blind spots. Three points are particularly important. First, the temporality of neo-classical models often leads to a focus on short-term profits, with no long-term vision[22], in a context where overexploitation of resources for economic and industrial activities has created an increasingly urgent need for medium- and long-term strategic perspectives. The extension of corporate responsibilities to the environment and social actors who are or may be affected by the activity (stakeholders) thus becomes morally necessary and even rational, notably in order to prevent the proliferation and aggravation of social conflicts that will inevitably result from the increasing scarcity of resources. Another critical attack on the theses of Friedman and his supporters, central to the relevance of CSR, is based on the idea that the law alone is not sufficient for ample regulation of economic activity, as it does not respond quickly enough to contextual changes [GOO 83, MEL 08, ROU 11] and often comes into play too late, when damage has already been caused. For this reason, the use of "soft law" and voluntary behaviors by companies is justified by the fact that these companies have a clearer vision of the problems that need to be solved and an increased capacity to adapt to an immediate context in relation to legislative tools[23].

The final argument, which will be discussed and illustrated in greater detail in the following chapters, is that the hypothesis of autonomy of the

21 These arguments will be covered in greater detail in Chapter 2.

22 Even Keynes [KEY 31], who introduced a new paradigm in economic theory that was radically opposed to the microeconomics prevalent at the time, famously stated that "The long run is a misleading guide to current affairs. In the long run we are all dead".

23 See Chapter 2.

firm neglects the fact that companies exist within a social setting, made up of interactions between social actors (which are not limited to contracts alone), in which the nature of relationships between companies and their stakeholders must be taken into account in their entirety, both for normative reasons and from a perspective of economic rationality.

However, the "economic" responsibility highlighted by Friedman should not be considered as insignificant in relation to the legal or moral dimensions of corporate engagement. Far from rejecting something that is necessary – the generation of profit is a counterpart to the investment of resources in a company – authors working on CSR have focused on the *articulation* between this essential, fundamental level of responsibility and legal and ethical aspects.

1.4.2.2. *The ethical dimension of corporate responsibility*

1.4.2.2.1. Typologies of levels of responsibility

The works of Carroll (in collaboration with other authors) [CAR 79, CAR 91, CAR 10, SCH 03], among others, offer a fundamental typology that has been reused by all authors involved in this domain. This typology identifies four levels of corporate "social" responsibility, or three in the case of an article written in collaboration with Schwartz [SCH 03].

First, companies have an economic responsibility "to produce goods and services that society desires and to sell them at a profit" [CAR 79, p. 500]. Following Friedman's theory, economic viability is the first social aim of a company, which, otherwise, would have no reason to exist. Companies, which at least partly respond to individual needs, only exist because the investors who finance them have the assurance of remuneration in case of success, in the form of maximization of profits. However, moving away from the traditional neoclassical framework, Carroll and Shabana [CAR 10, p. 91] consider that profit maximization should be a long-term concern (not merely a short-term aim), allowing for a reduction in the potentially excessive pressure to create profit. Building on this idea, the introduction of a longer temporality might be considered to allow for the inclusion of other objectives within the weighting process, moving away from an exclusive focus on maximum profit in the here and now. These objectives include, for example, the need to optimize the use of natural resources, or contribution to a better social distribution of wealth, based on the idea that increasing inequality is a source of economic instability.

Second, again following Friedman, companies must respect the legal constraints applicable to the geographical space in which they operate, whether in relation to fundamental rights, employment law or business law. Laws are the "codified ethics" of society [CAR 91, p. 41]; they thus form a necessary element in "the social contract between economic activity and society". This element is necessary, but not sufficient: as Carroll and Shabana indicate [CAR 10], there is ongoing debate between authors in the field of CSR concerning whether legal constraints should be increased in order to improve regulation of corporate activity or, on the contrary, standards of responsibility should remain within the moral domain in the form of voluntary engagements [for example, see PHI 03b]. Without taking a definitive position on the long-standing issue of the hierarchization of morality and law (covered in greater detail in Chapter 2), it is, at least, possible to note that legal standards cannot cover the whole domain of corporate responsibility [CAR 10].

For this reason, companies also have ethical and philanthropic responsibilities[24] that are merely, respectively, *expected* and *desired* (whereas economic and legal responsibilities are *required*) [CAR 10, p. 90]. First, philanthropy, which covers the charitable activities of companies, represents the first stage in the historical development of CSR, as we have seen. It emerged with the explosion of the great American fortunes in the early 20th Century, which gave rise to complex social ambitions for control and improvement of community welfare, as exemplified by the Fordist development model.

Next, Carroll pinpoints a more specifically *ethical* responsibility, which embodies:

> "those standards, norms, or expectations that reflect a concern for what consumers, employees, shareholders, and the community regard as fair, just, or in keeping with the respect or protection of stakeholders' moral rights" [CAR 91, p. 41].

It is thus easier to see why Garriga and Mélé [GAR 04] placed Archie Carroll's approach in the category of "integrative" theories, aiming to respond to a social demand. The standards of what is "good" are established neither by researchers, nor by politicians, nor by members of a company, significantly or exclusively, but are defined in conjunction by all of these

24 The two categories were seen as distinct in 1979.

different parties. Carroll promotes a constructivist perspective[25] in terms of determining the social good, for which the norms of the "good" are created based on the expectations of members of society. In a later version of his model, developed in collaboration with Schwartz [SCH 03, p. 512], Carroll specifies the normative source of the prescriptions of CSR: ethical codes of conduct and standards of responsibility may involve justifications based on consequentialism or on deontological theory[26]. Finally, however, while "context matters when deciding what is right or what is wrong", actions must comply with a set of "minimal ethical standards" [SCH 03, p. 512], citing Donaldson [DON 96, pp. 6–7]. There is therefore a common normative core, offering the possibility of consensus, from which ethical principles for CSR may be constructed.

However, the thorny issue of establishing a form of agreement (whether or not this results from a partial consensus) around this set of minimum standards is not addressed[27]. This is one of the limits of this form of moral constructivism, which makes too ready use of the hypothesis of the existence of a community of standards with the capacity to govern social order. Economic and political history shows that this is not the case: the question of determining norms for "good" or "responsible" practice requires further discussion. This point is clearly understood in explicitly normative approaches to CSR. SHT, in particular (see section 1.4.2.2.2), pays particular attention to the interaction between various social actors and the way in which standards are created within the context of these interactions.

Taking a rather different approach, Prakash Sethi proposed another typology of responsibility in the mid-1970s, aligning standards of responsibility with the demands expressed by society. Sethi begins by noting that criteria for what may be considered to be responsible are historically and culturally marked, and may evolve [SET 75]; he then defines three levels of corporate behaviors, governed by different processes of legitimation. The

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25 Moral constructivism defends both the idea that moral statements are a construct (which do not refer to an ontological reality, as in the case of a description such as "X is square") and the fact that these statements are susceptible to objective views. A moral reflection (individual or collective) that follows a certain number of rules and constraints, i.e. a particular procedure that needs to be defined, may be seen to be objective. Finally, constructivism holds that a procedure of this type may be identified through reflection.

26 Carroll and Schwartz's later modifications [SCH 03] do not fundamentally alter their constructivist position.

27 See [PEL 16b] for an in-depth analysis of this point. Elements of a response to this question are provided in Chapter 4.

economic and legal dimensions are combined in the form of social *obligations*, which correspond to the requirement to respond to market forces and to respect legal constraints. Next, companies have a social *responsibility* which, as in the case of Carroll, reflects the efforts made by the company to satisfy prevailing social norms, values and expectations (other than those which are exclusively financial) at a given time. Social "expectations" identified in the 1970s included the fight against racial and gender discrimination, pollution reduction, the improvement of health and safety in the workplace, pricing equality for consumers, increased product quality and the provision of information for investors [FRE 08]. Social responsibility becomes prescriptive if a company is required to behave in a way which is "congruent" to norms, values and expectations relating to the "social" performance of a company [SET 75, p. 62].

Finally, Sethi considers a third level of corporate adaptation to social norms, which he refers to as *social responsiveness*. In this, the company must not only adapt to existing standards, but also anticipate future developments before the potential harmful effects of its activity lead to large-scale social crises [SET 75, p. 63]. Compared to social responsibility, social responsiveness is therefore *preventive* in character and requires forecasting in order to identify new social norms, which companies may need to respect. This aspect of responsibility, seen in terms of responsiveness, is central to the idea of responsible innovation, and will be covered in greater detail in Chapter 2.

In conclusion, Carroll and Sethi's typologies constitute a first attempt to distinguish different levels of responsibility arising from (1) market forces, (2) legal constraints and (3) social expectations. This distinction creates a space outside of the traditional constraints imposed by law and the economic system, in which companies may freely consent to respect moral standards promoted by social actors.

However, the question of how and why this type of injunction is imposed on companies remains open, as does that of the way in which these standards are identified, weighted and put into practice by the company. The following chapter is dedicated to the first of these two questions. We shall consider the different arguments that oppose or promote the idea of *ethical* corporate responsibility, in addition to legal and economic elements. The following sections concern the second part of this problem: the means by which a company can identify standards to which they should conform, and the mechanisms by which these standards, upheld by social actors with different and potentially conflicting value systems, evolve into constraints for a

company. SHT, an essential element within CSR, allows us to trace lines of response, by defining the sphere of influence of the company and defining the actors with whom it must communicate.

1.4.2.2.2. Responsibility toward "stakeholders"

Within CSR, SHT alone has generated a considerable volume of literature. The origins of this theory are often attributed to Edward Freeman [FRE 83, FRE 84][28]. It became widespread following the waves of protest in the 1960s and 1970s across Europe and the United States, while offering an alternative to more radical socialist political theories. The social movements prevalent in the Western world before the major petrol crises reopened debates over working conditions, ecology and environmental protection, feminism and discrimination as a whole, which first emerged in the late 19th and early 20th Century; these debates fed into reflection in terms of SHT. Furthermore, the political shift of the 1970s toward a more dynamic form of democracy, based on citizen participation and reflection, also had an effect on the fields of management and organizational theory, raising the idea that companies should be envisaged in relation to their environment with a view to the quality of the relationship they build with this environment.

We therefore need a more precise definition of the notion of "environment". Several different visions of "stakeholders" can be found in the published literature. These generally focus on groups of individuals who are subject to or benefit from the actions of a company, beyond the immediate sphere of the market (suppliers, clients or competitors, for example), to whom the company has obligations that are not simply contractual in nature [JON 80, p. 59].

In "neo-classical" approaches to economic theory, the only stakeholders that a firm needs to take into account are shareholders or stockholders. Freeman's seminal works [FRE 83, and especially FRE 84] popularized the neologism "stakeholder", in use since the 1960s[29], derived from the term "stockholder" [MER 06, MUL 07].

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28 Although Carroll [CAR 08a] considers Johnson's article [JON 71] as a precursor in terms of stakeholder-based analysis, and work carried out by Berle and Means [BER 32b] in the 1930s involved analyses that are very close to those encountered in stakeholder theory (See Chapter 2).

29 According to Freeman [FRE 84, p. 31], the term first appeared in 1963 in a paper presented at the Stanford Research Institute (SRI).

A lot may be said concerning the different developments of this theory, notably with regard to the various stakeholder typologies that have been proposed [for example BON 14, MER 11]. Proponents of SHT often differ in their assessment of the number and nature of groups of stakeholders, and the justifications used to delimit relevant groups. For Freeman, for example, stakeholders are "those groups without whose support the organization would cease to exist" [FRE 84]. In another text, Freeman offers another definition, which, like the first, is widely used; this second version focuses more on the transformation of relationships between different social actors as a result of reciprocal influence. Stakeholders are thus seen as "any group or individual who can affect or is affected by the achievement of the organization's objectives" [FRE 84, p. 46]. This bilateral dimension of relationships between a company and its stakeholders was represented by Donaldson and Preston [DON 95] in a widely reproduced diagram. While the central focus on the interest of directors and the company in this representation has been debated [MER 10, p. 151[30], BON 14, see Chapter 3], it clearly illustrates an approach to the firm as "the center of a network of interdependent interests and constituents" [POS 02, p. 8].

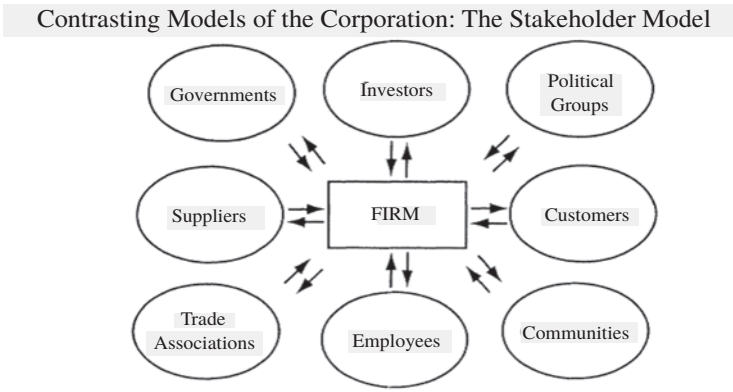

Figure 1.1. *Relationships between a company and its stakeholders, taken from [DON 95, p. 69]*

Within the literature, we also find a range of opinions as to the extent of the set of stakeholders, with notable differences in terms of scale. The

30 The author suggests "developing this representation to take account of a greater connection between stakeholders themselves".

narrowest visions (for example that given in [CLA 95]) only include stakeholders who are voluntarily or involuntarily subject to risk, through the investment of capital or another element of value in the company (this includes shareholders, employees and suppliers). The broadest visions include any social group affected by or affecting the firm. Stakeholders may thus be divided into primary stakeholders, essential to the survival of the company (owners, employees, clients and suppliers), and secondary stakeholders, who may be affected by or have an effect on the company and its performance (media, consumers, governments, competitors, pressure groups and non-profits, along with society as a whole) [CLA 95, MET 98][31].

Certain critics, for example [JEN 02], have highlighted the risk of unfettered expansion of the sphere of actors to whom a company may have a responsibility. In more general terms, should the environment [JEN 02, STA 95, PHI 00], terrorists [JEN 02, PHI 03a], blackmailers or thieves be considered to be stakeholders [JEN 02, p. 236]? Should we include animals in the definition [MER 06]?

Precise definitions have been put forward to clearly define who or what may be considered as stakeholders, organized according to certain criteria. For example, groups may be considered as stakeholders if they respond to one or more of the following criteria: legitimate relations with the company; the power to influence organizational decisions; urgent demands made on the company [MIT 97]. According to Kochan and Rubinstein, stakeholders are defined by the provision of critical resources for the company, a certain level of risk-taking, and the potential to exercise power that affects the performance of the firm [KOC 00].

Stakeholders are thus identified and taken into account on a case-by-case basis, adapted to the specific context in which the company finds itself on each occasion. Preston and Post [PRE 81] identified both primary (economic and legal) and secondary environments (including other considerations of a more ethical nature), suggesting that this distinction between stakeholders would contribute to the development of a specific social agenda for each company. Their model thus rejects the idea that there is a single "social performance agenda", applicable to all companies, and "denies that the firm should develop an accommodating response to whatever social issues may be raised, regardless of their source or substance" [PRE 81, p. 57]. The

31 Mitchell *et al*. [MIT 99] provide an in-depth analysis of the diversity of definitions used for stakeholders.

selection of stakeholders to take into account at a given moment makes it possible to trace the limits of corporate responsibility. Amaeshi *et al*. [AMA 08], for example, restrict the sphere of corporate responsibility to the actors involved in the supply chain (including suppliers and consumers) over whom influence may be exerted. It is thus meaningless to consider a company as having responsibility outside of its sphere of influence (see Chapter 2).

This type of theory demonstrates tensions that are also found in legal interpretations of responsibility, ranging from a holistic notion of the firm, according to which the company "interacts" directly with stakeholders, and an individualist understanding, wherein the company can only be considered as the sum of its parts. According to the latter view, only physical persons (directors, and more generally any individual in possession of a certain authority) can interact legitimately with stakeholders, themselves considered as a group of individuals rather than as groups motivated by a collective will. Both views include relevant aspects. Companies sometimes interact with their stakeholders as a relatively unified organizational whole (for example in cases where a firm responds to remarks made by a non-profit); in other cases, it is more meaningful to consider individual and specific relationships between company directors and specific suppliers, for example, or local heritage protection agencies.

Compared to other major threads in CSR, SHT is based on a dynamic vision of the ecosystem within which a firm operates, used to specify the function of stakeholders with which it interacts and the nature of connections that should be established. SHT provides a framework that runs parallel to the constraints exercised by the economic and legal fields, used in selecting social standards to regulate company activities, taking account of the strategic element of this process. However, the purpose of this reflection is not solely to identify and characterize the social actors involved in normative production. It also offers arguments to legitimize the obligations and responsibilities of the firm in relation to stakeholders. The different strategies put forward by SHT to ensure stakeholder interests are taken into account will be analyzed in detail in Chapter 2.

First, however, we shall consider a final dimension of corporate responsibility as found in CSR literature. This arises from the firm's position within a political context as a social actor holding a certain degree of power and, according to certain authors, with both rights and responsibilities.

1.4.2.3. *The political dimension of corporate responsibility*

In addition to economic, legal and ethical responsibilities, certain authors concerned with CSR have noted the existence of a political dimension of corporate responsibility. Two types of argument have been developed in greater detail. The first is constructed based on the notion of "corporate citizenship", while the second centers on that of the *power* exercised by a company on society, giving rise to certain responsibilities.

1.4.2.3.1. Corporate citizenship

Among the "political" theories of CSR encountered in published work [FRE 06, CAR 08a, GAR 04, MEL 08], we find the recent idea of corporate *citizenship*, an important development relating to the latest phase in the development of CSR [GAR 04, FRE 08, MEL 08]. According to this approach, the firm constitutes one social and political actor among others, with associated rights and responsibilities.

The "virtuous" behaviors of companies should notably take account of the transformations of a globalized economy, for which national rules no longer offer sufficient regulation. As a citizen and member of an international community, a company must respect the rights of the members of this community; in the case of globalized companies, this includes those traditionally affected by the firm's activity (employees or local communities) within a framework, but also beyond national borders. Wood and Logsdon [WOO 02] refer to the Universal Declaration of Human Rights and maintain that companies have an obligation to guarantee certain rights, recognized as universal and fundamental, for all stakeholders, whatever their geographic location. However, to address the multiplicity of cultural contexts and the range of different possible interpretations of fundamental rights, the authors make use of Donaldson and Dunfee's analysis [DON 99a], according to which there is a limited number of fundamental and general norms ("hypernorms") that may then be subject to context-specific variations[32]. Thus, companies are encouraged to assume responsibility toward extraterritorial stakeholders. While this cannot be based exclusively on the notion of individual citizenship, it involves the same recognition of rights and responsibilities for companies in a globalized and multicultural context.

32 Donaldson and Dunfee's analysis will be discussed in greater detail in Chapter 2 (section 2.3).

More precisely, for Matten and Crane [MAT 05], companies enter into the sphere of citizenship in response to the failure of traditional actors, i.e. states and governments, to guarantee these rights. Thus, companies are able to play a triple role [MAT 05, p. 174]. They can be *providers* of *social* rights by providing their employees with services such as education or healthcare. In respecting fundamental *civil* rights, such as the freedom of expression and market access, they fulfill a role of *enabling* rights. Finally, they play a part in *channeling political* rights; citizens gain access to an alternative route or means of expression from the conventional political channels, expressing opinions through boycott activities, for example.

Although attractive, the idea of corporate citizenship raises a number of issues that stem from and highlight criticisms directed against CSR in general. CSR is often criticized for failing to provide clear principles for action, and for making use of confusing fundamental notions, as discussed in [MEL 08, GAR 04, MER 06, DON 95], for example. The notion of corporate citizenship is less conceptually developed than SHT and includes an additional degree of ambiguity. The political and legal dimensions of corporate citizenship have still to be fully defined, both in theoretical terms and in terms of international law: for the moment, there is no international entity with the capacity to harmonize labor or environmental law, which remains highly variable from country to country. Furthermore, while the globalized context has to be taken into account, the influence of evolving international standards (whether legal or ethical) remains limited.

1.4.2.3.2. Power and responsibility

Taking a different approach, focused more on the relationship between power and responsibility than on the globalization of economic exchanges, Davis [DAV 67] offers an interesting approach to the political justification of the existence of non-economic corporate responsibilities. One key point from the list of reasons given to justify the "social" responsibility of organizations is that companies are not independent and autonomous (the approach taken in microeconomics), but form part of a pluralist social fabric, made up of centers of power (social groups) that are both relatively independent and interconnected. Davis notably considered the company as a *joint venture* [DAV 67, p. 47] of "responsible citizens and groups of citizens", such as investors, directors, workers, local communities and scientists.

> "Together these groups offer diverse inputs and expect diverse outputs. Viewed as a whole, the outputs are more than economic; social, psychological, political, and other outputs are

> also expected. This joint venture involving many groups is not necessarily a conflict or struggle for absolute power. Rather, it represents the efforts of people to reconcile their needs through a variety of organizational interests" [DAV 67, p. 47].

This systemic vision of the firm allows divergent interests of different social groups to be connected to their shared aims (for example when a company responds to a specific need), rather than placing them in opposition. This point will be discussed further in Chapter 4, in the context of an approach to the firm based on the ethics of care.

In addition to highlighting a perspective which Davis referred to as "pluralist", this relational vision of the firm demonstrates the *social power* of entrepreneurs, corresponding to their capacity to influence public opinion, particularly in terms of directive decisions in relation to economic laws and policies or labor law. Since "they are leaders, are intelligent men of affairs, and command vast economic resources" [DAV 67, p. 48], entrepreneurs have a social power, demonstrated by their role in advising political actors who willingly seek their advice and support [DAV 67].

This social power engenders a form of social *responsibility* for entrepreneurs that is proportional to their influence. For Davis, this results in a "power-responsibility equation", i.e. a form of tension between the two forces that needs to be rebalanced. The responsibility of an actor must increase to counterbalance any extension of their transformational power. This pursuit of a balance of forces is well known in business, and is at the heart of a number of key precepts in management theory for company executives, notably the idea that the responsibility of an employee should be considered in relation to their authority and operational independence [DAV 67].

Finally, the theory of pure and perfect competition used by Friedman to decry CSR falls apart due to its use of the totally unrealistic hypothesis according to which economic activity has a purely neutral effect on social institutions and actors [DAV 67, p. 49]. The consubstantial responsibility that arises from this role can only be recognized through acceptance of the social role of companies. In response to those who fear that CSR might be too great a weight to be borne by firms, Davis notes that, as one of many centers of power, companies are not required to tackle all forms of social deprivation in isolation. They are not required to attempt to solve all of the world's problems, to take the place of various State institutions responsible

for social welfare and the redistribution of resources or, finally, to replace private charity[33]. Once again, their responsibility corresponds to the extent of their power and influence over their environment.

Finally, using an argument that is both pragmatic and instrumental, Davis sets out what he refers to as "the Iron Law of Responsibility": "those who do not take responsibility for their power, ultimately shall lose it" [DAV 67, p. 49]. He justifies his statement using historical examples, rather than a normative vision of responsibility that might appear to be idealized. Each time companies have attempted to deny or evade responsibility, other social groups have taken their place. In the case of unemployment pay in the United States, for example, the State used its legislative powers to limit the freedoms of companies refusing to consider ways of reducing the negative impact of job losses in the early 20th Century. Business thus lost some of its power to act, and found itself, paradoxically, in the position

> "of paying unemployment costs it originally denied responsibility for, but having less control than when it did not pay! Business power has drained away to bring the power-responsibility equation back into balance" [DAV 67, p. 50].

This example takes us to the heart of arguments in favor of CSR: by accepting the power for normative creation, companies also ensure greater control of their environment. As social actors, companies do not only respond to social requirements. They also have the capacity to determine their environment in a way that both takes account of social demands and serves their own interests. In addition to the political obligation of responsibility raised by a company's power and influence, we thus find an instrumental argument relating to the benefits available to those who act decisively in creating regulatory frameworks for activities by which they are directly concerned.

Recognition of the political dimension of corporate responsibility thus provides a first element for understanding the engagement of firms with regard to social actors affected by, and affecting, their activities. The fact that these actions are not neutral for social institutions and organizations, and strengthen or weaken respect for certain rights and the existence of good practices, means that a company may be under the obligation to reduce the

33 The only way in which unequal distribution of resources might, or should, be corrected, according to Friedman.

negative impacts of its activity. This idea will be considered in greater detail in Chapter 2, with the aim of understanding the nature of voluntary engagement by firms to submit to certain social norms.

In the end, this analysis of the different registers of responsibility discussed within CSR literature shows that these registers are structured around the legal and economic constraints facing firms, the social expectations underpinning the emergence of standards, and a political role proportional to the influence of the company. While different authors and schools of thought in CSR assign various levels of importance to these elements, the previous sections have shown the way in which they can be articulated. In Chapter 3, we shall show the way in which they provide a fertile theoretical framework for principles of governance for responsible innovation.

1.4.3. *Tools for CSR*

To conclude our reflection on the dimensions of responsibility involved in CSR, we shall consider the concrete means presented in CSR literature for companies to implement standards of responsibility. A first series of tools to transform responsibility into concrete behavioral recommendations can be found in the field of business ethics, which offers a number of action strategies that companies may wish to implement (section 1.4.3.1). However, the translation of the theoretical framework of CSR into practical standards is not without its problems. One that has received limited attention within CSR relates to the meaning of the terms "ethical" or "responsible", or, in other terms, the way in which standards of "good" are determined. To shed light on this question from a practical (and not solely theoretical) perspective, we have developed a typology of responsible companies based on the way in which the term "responsible" is assigned to them (section 1.4.3.2).

1.4.3.1. *Business ethics*

Business ethics emerged during the 1980s, at the same time as SHT, to which it is closely related. It forms a second major current in normative, or ethical, theories of CSR, following Garriga and Melé's typology [GAR 04] as presented in section 1.4.1, formulating explicit *prescriptions* for companies; in this, business ethics differs from instrumental theories, which focus on *convincing* firms of the economic effectiveness of CSR (see Chapter 2). As in the case of SHT, business ethics [e.g. DUS 88, GOO 83,

BOW 90, BOW 98, BAN 07, SHA 11, FER 11a, FER 11b, DES 12] generally makes use of three broad moral theories (deontological, consequentialist and virtue ethics) as a foundation for principles of responsibility[34]. Compared to SHT, however, business ethics operates more as a form of applied ethics, tackling problems organized by theme (whistleblowers, the creation of codes of conduct, client relations, supplier relations, etc.) for which action guidelines are required[35]. It thus offers an operational framework that is sometimes lacking in stakeholder-based approaches, allowing for the formulation of concrete proposals for defining, transmitting and ensuring respect of norms for an ethical company. As a form of "ethics", it is less concerned with responsibility (its origins, legitimacy and interpretations) than with standards used to regulate economic activity and the best ways of developing and enforcing them.

For example, authors working on business ethics have studied ways of promoting *business culture*, i.e. the organizational characteristics that determine a firm's strategic orientations, decisions made by management, but also the behaviors of the employees who work there [DEA 82]. Via internal operations – such as appropriate reward systems (pay rises, promotions, bonuses or benefits in kind), the creation of ethical programs and the attitude of directors – an organization may reinforce or discourage certain practices judged to be morally beneficial or reprehensible. Thus, above and beyond the level of individual morality, organizations have a direct influence on the behaviors of their members, through production and management choices, contributing to the creation of its own history, culture and identity.

Taking a more specific approach, Frederick [FRE 08, p. 526] lists a variety of tools that may promote ethical management and a corporate culture favorable to the respect of ethical standards. The first element relates to the *objectives* established by a company. These objectives may be formulated in terms of growth or profit alone, or include the realization of certain ethical norms. Once these general objectives have been formulated, the status assigned to the resulting norms has an effect on their impact. The determination of strategic orientations at a very early stage, when conceiving the commercial project, has an influence on all decisions taken at a later

34 The deontological and consequentialist approaches to stakeholder theory will be covered in greater detail in Chapter 2, while Chapter 4 is devoted to notions of responsibility based on the ethics of virtue, or care.

35 The works of Shaw [SHA 11] and Bowie and Duska [BOW 90] provide a detailed presentation of the various questions and problems covered by business ethics.

point: a standard for reducing CO_2 emissions, for example, will not have the same effect when defined late in the day, from a palliative perspective, as when defined during the product design process. Authors in the field of business ethics often highlight the importance of defining strategic ethical targets (formulated, for example, in terms of ecological impact or of the quality of stakeholder relations) alongside constraints of economic profitability, allowing these targets to affect the whole business development model, driven by a strong directive position [FER 11a, FER 11b, SHA 11][36].

The second way in which a company can encourage ethical behaviors in its midst and create a relation of trust with its various stakeholders is through *codes of best practice*. Most large companies have now developed their own codes of best practice, specifying their ethical aims and the means used to achieve them[37]. These codes of practice are a translation of the company's declared objectives: they provide a precise and concrete formulation of behaviors considered to be acceptable or unacceptable within an organization in different domains, including the production and quality of goods and services; relationships between employees, with other stakeholders, with clients and suppliers, and with non-profits; protocols to follow in cases of error, unsuitable behavior, etc., in order to ensure the quality of life in the workplace [FER 11a]. To assist in the enforcement or creation of codes of conduct, a company may appoint an *ethics expert* to monitor employee behavior and to take appropriate action in cases of transgression. To encourage whistleblowing, firms may also choose to implement an *ethics hotline* (usually a telephone number) through which employees may anonymously highlight bad practice. Another means of ensuring that ethical standards are followed is to use *ethical audit* procedures, where a company determines which norms it intends to follow, and is then judged on its conformity to these norms. Ethical audits are carried out by independent organizations, brought in to evaluate the "non-financial" performance of a company, i.e. its accomplishments in terms of human resource management, the environment, client and supplier relations, etc. Finally, the last essential tool for applying codes of best practice is *training* and *communications*. Internal training for employees and, in some cases, other stakeholders, such as suppliers, for example by teaching moral reasoning through the use of ethical theories, creates better comprehension and increased acceptance of norms by those who are required to respect

36 Examples illustrating this idea are given in the following section and in Chapter 3.

37 For example, see Kotler and Lee [KOT 05] for a catalog of good practice, which can be used by companies to develop their own codes of best practice.

them. In operational terms, good communication with employees, suppliers and clients with regard to the adoption of ethical norms by a company is essential in order to ensure visibility and increase efficiency.

These different tools may be combined to offer a range of strategies for companies implementing ethical engagements. They determine the ways in which a company exercises its responsibility. A vast body of literature is available with regard to the relevance of these tools and the conditions for effective use. Rather than reproducing their results and the debates involved here, we shall concentrate on one element that has received little attention to date, concerning the normative origin of that which is considered to be "ethical" or "responsible".

1.4.3.2. *Typology of responsibility in practice*

More specifically, we wish to consider how the norms used to define certain practices as "ethical" or "responsible" (the terms are often used synonymously" are determined in published literature on business ethics, and to identify the criteria for "good" used within business ethics and CSR. The responses to these questions will be structured on the basis of two pairs of distinctions, which are not mutually exclusive, drawn from moral philosophy: the first between means and ends, and the second between procedural and substantive understandings of the responsibility of others.

In the first case (distinction between means and ends), two sources are involved in defining a set of actions as morally adequate, depending on whether the *products and services*[38] produced by the company are considered ethical because they respect standards that are considered to be morally adequate, or whether the *means* used to produce them are considered to be ethical. Four different business profiles can be identified, depending on whether or not the products or services offered by the company can be considered ethical in their own right, and whether or not the means of production can be considered ethical.

In the first case, the product *and* the means are considered as ethical. This occurs, for example, when a company aims to satisfy fundamental needs that are not taken into account by the market using methods of production and diffusion, which can be considered to be ethical. The social enterprise Grameen Danone, founded in 2006 as a partnership between Danone and Mohamed Yunus, the founder of microcredit [TUB 15], is a good example

38 Identified as ends.

of a company in which an ethical aim has defined the whole development model. The project was launched to offer yogurts to the most deprived populations in Bangladesh at an affordable price, enriched in micronutrients to combat dietary deficiencies. The company used an economic model based on proximity, with a low-automation production plant employing as many people as possible, using a primarily local distribution network, and reinvesting almost all profits into the company rather than giving them to the owners. The declared aim of the project was not, therefore, focused on shareholder profits, but rather on poverty reduction, improved nutrition and limited environmental impact using an innovative, sustainable and profitable economic model. Clearly, companies such as Danone are able to participate in low-profit activities of this type because of their revenues from other sectors. Following the ideas set out by Carroll, the literature on business ethics presents a clear view of this type of activity: ethical practice (as distinct from charity) must be profitable, if only to ensure the sustainability of the enterprise. However, the chosen economic model (reinvesting profits into the company) demonstrates a strong ethical stance taken by a major company. The product is considered to be ethical (yogurt with a high nutritional value and at a low price), as are the means of production (including a factory adapted to the local context and a local distribution network which promotes employment).

In the second case, the product itself is not considered ethical, but the methods of production are. Body Shop, for example, shot to fame in the 1990s by refusing to test their cosmetic products on animals and by creating priority partnerships with resource suppliers from developing countries. More recently, companies such as Greystone Bakery have been considered "ethical" due to their focus on employing people in need (the homeless, ex-prisoners, addicts, etc.), based on the idea of social reintegration through work[39]. In this case, the methods of production are considered to contribute to social welfare, rather than the products (cosmetics in the first case, biscuits in the second), as they aim to reduce the vulnerability of certain stakeholders: for Body Shop, this included reducing animal suffering and increasing the revenues of resource producers, while for Greystone Bakery, the focus was on reducing marginalization or social exclusion.

The third case concerns companies that may have an "ethical" or "responsible" objective (such as the production of renewable energy through wind power) but which use non-ethical production methods. These might

39 See Chapter 2 for a more detailed analysis of the Greystone Bakery model.

include employment practices that infringe on basic human rights and do not create a decent working environment, or negotiation processes that exclude certain stakeholders. In this case, it can be hard to evaluate the company, as a balance needs to be found between morally appropriate ends and means that are considered to be inadequate in normative terms. Taking a consequentialist perspective, the morality of an action is determined on the basis of consequences, so judgment would be based on whether or not the benefits outweigh the costs. From a deontological approach, however, ends cannot be considered independently of means, and a company that does not respect employee rights could never be considered responsible (whatever the virtues of the product).

The fourth and final case covers situations in which neither the means nor the ends may be considered to be ethical. Major players in the tobacco industry, for example, are known for their lobbying activities, intended to prevent governments from taking overly stringent measures to limit the consumption of cigarettes, in spite of the known detrimental effects of smoking on human health.

This typology allows companies to be categorized according to whether their objectives, production methods or both are considered to be ethical. The recognition of responsible engagement thus arises from conformity to certain behaviors judged to be adequate, or the realization of certain ends judged to be morally desirable. However, the question of which behaviors or ends are considered to be morally desirable remains. One approach to this issue makes use of a second distinction, that between procedural and substantive notions of responsibility, to interpret literature on CSR and business ethics.

This opposition has been analyzed in greater detail elsewhere, in the specific context of responsible research and innovation [PEL 16c]. Here, we simply wish to note that the procedural notion of corporate responsibility focuses on the *conditions* to be respected in a set of actions leading to the production of a good. SHT, for example, places the focus on the fact that stakeholders should be taken into account in corporate decision processes: this broadly corresponds to a procedural approach to responsibility. Substantive approaches, on the other hand, aim to guarantee the realization of certain ends that are the subject of consensus with regard to their moral adequacy. International standards such as ISO 26 000 or those published by the Global Reporting Initiative (GRI) are good examples of this.

In terms of the application of CSR standards, substantive approaches generally dominate in aims to increase the visible and concrete nature of company efforts to engage with their responsibility. In the cases of Grameen Danone or Greystone Bakery, responsibility standards correspond to improving the welfare of certain vulnerable or fragile stakeholders, traditionally excluded from the market (as consumers or as workers). In other cases, for example Body Shop, the aim is to build equitable relationships with producers and to end animal suffering. Other elements that might feature in a list of recognized ethical aims include the fight against rare or pandemic diseases, the reduction of greenhouse gas emissions, reduced use of natural resources, more humane management of human resources, consideration of the interests of future generations and, more generally, the various social demands aimed at improving social welfare that emerge at different times and in different places.

The many and various practical interpretations of CSR are thus based on a division of corporate activity into *fields* for which specific norms may be established: client relations, supplier relations, product quality, environmental impact, etc. International standards, such as ISO 26000 or those produced by the non-profit GRI, demonstrate the practical potential of this type of approach, in that they offer a long, precise and structured list of practices that are considered to be ethical.

The ISO 26000 standard, for example, is based on two fundamental principles: first, the organization's identification of its own social responsibility and, second, the recognition of stakeholders with which it needs to interact. Starting from this basis, the standard defines six fields of application for responsibility: consumer issues, community involvement and development, human rights, labor practices, the environment and fair operating practices. For each category, the standard identifies subcategories that specify the guiding principles to be followed by companies. In this case, responsibility is considered as a set of good practices in the different fields that define the zone of influence of a company; these fields should be considered in an integrative manner, as parts of a whole aimed at guaranteeing a responsible approach, and not treated separately or independently from each other.

The international GRI initiative brought together various actors (including companies, non-profits, consultancies and universities) to propose rules and indicators for companies wishing to engage in sustainable approaches to development. The GRI standards also include a general and

fundamental standard, made up of several principles (for example stakeholder inclusion and considerations of sustainability), alongside standards for specific domains (economic, environmental, human rights, social relations, working conditions, responsibility in relation to products, society). The GRI operates both as a point of reference for good practice and as a tool in creating reports on company actions in relation to environmental, social or economic concerns.

In the domains of CSR or sustainable development, the ISO 26000 standard or the GRI constitute a crystallization of an international consensus on what constitutes "good practice", something which can evolve over time and with the emergence of new demands. In this *field*-based reading of CSR, the adjectives "responsible" and "ethical" are practically synonymous; in this, they differ from the CSR approaches analyzed in the previous sections, where responsibility included a variety of dimensions, of which ethics or normative considerations were only one, alongside legal, economic and political aspects. While the field-based approach is necessary for the formulation of precise behavioral standards and codify corporate strategies, it is not always sufficient. As we shall see in Chapter 3, procedural readings of responsibility may be necessary to ensure that certain conditions are respected in production processes and more specifically in innovation, independently of the results that may arise from the respect of these conditions.

1.5. Conclusion

In this chapter, we have analyzed different levels of corporate responsibility, from legal responsibility to social responsibility, via the individual responsibilities of employees and company executives interpreted as roles, capacities or authorities, involving multiple economic, legal, ethical and political dimensions of responsibility. These different interpretations are complementary; as we shall see in the following chapters, they may be used together in a variety of combinations, rather than in an exclusive and/or opposing manner[40].

We have also demonstrated the theoretical potential of CSR literature for interpreting, characterizing and organizing these different levels of responsibility in order to define a field of action for companies. It is not

40 See the previous volume in this series [PEL 16b].

enough to simply juxtapose different dimensions of responsibility: in order to correctly understand the problem, the company's need for economic survival has to be considered in association with the limiting power of legal standards over its actions, submission to standards based on social expectations in terms of social and environmental justice, and the political responsibility associated with the transformational power acquired by a company.

However, the question of *legitimizing* and *justifying* the limiting power and even the existence of extraeconomic responsibilities for a company remains unanswered. In other terms, we need to examine the reasons put forward by different schools of thought on CSR for inciting companies to make normative changes and engage their responsibility. In Chapter 2, we shall analyze the various instrumental and normative strategies used to justify the existence of responsibility and the obligation to submit to it – an existence that is, itself, disputed by the proponents of a purely microeconomic interpretation of enterprise.