Company Rule: Corporations as Political Authorities

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In the city of Jamnagar, Gujarat, India, is a petrochemical plant owned by technology and engineering giant Reliance. When workers clock off their shifts, they go home to modern apartments in a township Reliance has constructed, and report that the amenities are an improvement over what factory laborers can afford on India's open market. In exchange, however, life in the township runs on company rules. When the apartments first opened, Reliance Chief Executive Mukesh Ambani, a staunch vegetarian, forbade residents from consuming meat in their homes. Workers protested by setting up illegal stalls for the cooking, selling and eating of meat directly outside the township complex. Within a few months of opening, the company was forced to create a designated meat-friendly zone inside the township.[1]

In Limpopo Province, South Africa, the platinum giant Lonmin makes calls to individual miners participating in a nationwide strike over wages. Company callers remind miners that they are due to receive company-sponsored anti-retro-viral treatment for HIV, and that failure to report to work will result in suspension of this service.[2]

In Thika, Kenya, the canned goods manufacturer Del Monte provides HIV testing and treatment to its employees, but the infection rate keeps rising. The company says some men are visiting local sex workers, who might have the virus. So the company offers its employees marriage counseling, and its counselors encourage couples to undergo HIV testing together. All of a sudden, employees

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[1] Interviews conducted with township architects, March 2014.

[2] "Striking miners are neglecting ARV treatment: Lonmin CEO" City Press April 14, 2014. Accessed April 29. http://www.citypress.co.za/news/striking-miners-neglecting-arv-treatment-lonmin-ceo/

learn if their spouses are cheating. So does Del Monte.[3]

Corporations today often serve as political authorities. They provide public services, maintain public order, and exercise control over the lives of employees and residents. The assumption of governing functions serve pragmatic purposes: companies require transport, energy, and security to operate. Yet as communities become reliant on businesses for basic needs, businesses acquire political responsibilities. Firms negotiate with local actors to secure legitimacy and defend their interests from strategic rivals, who include not only other firms, but also government agencies or popular movements.

The governance role of corporations is the subject of much existing scholarship, in such diverse fields as new institutional economics, Marxist geography, and colonial history. Yet the explanations offered typically suffer from the same critical weakness: they fail to sufficiently credit corporations as ideological agents, engaged in an intellectual project to legitimate their efforts in the eyes of their peers and the public. Without a credible theory of agency, it is impossible to account for corporations as political actors.

Most prominent in political science are arguments derived from new institutional economics. New institutional economics adopts the neo-classical vision of a world characterized by scarcity (and therefore competition), but dispenses with the assumption that actors within it are rational.[4] Here, new institutional scholars are building on the work of Ronald Coase, who first argued that efficient markets only occur naturally when there are no transaction costs.[5] In a world where transactions are costly, institutions are required to allow markets to run efficiently.

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[3] Interviews with Del Monte employees, August 2014

[4] Douglass C. North, "The New Institutional Economics and Third World Development," The New Institutional Economics and Development, ed. John Harriss et al (London: Routledge, 1997) 17.

[5] R.H. Coase, "The Problem of Social Cost," Journal of Law and Economics 3 (October 1960) 1-44.

New institutional economics seeks to determine what those institutions should be. Over time, this list has come to include secure property rights, sanctity of contracts, the rule of law, access to credit and low barriers to entry.[6] Institutions, in this formulation, are a body of rules, regulations and informal norms of conduct that enable private investment, and the enforcement mechanisms behind those rules. Following the lead of Douglass North, new institutional scholars distinguish these institutions from organizations, "groups of individuals bound by common purpose." These include political parties, companies and voluntary associations.[7]

The most recent intervention in this discourse is *Why Nations Fail*, written by Daron Acemoglu and James Robinson and built on research both men conducted with Simon Johnson.[8] Like others before them, Acemoglu and Robinson emphasize property rights and other market-creating institutions as enablers of growth. Where their work departs from that of their predecessors is in its claim that these institutions need to be not only secure, but politically inclusive, in order to succeed. This insight drives Acemoglu and Robinson to recognize the deleterious impact of colonialism on the economic fortunes of postcolonial states, and the contributions of colonialism to the prosperity of former colonizers.

The chief strength of the new institutional approach is its recognition that capitalism is both an economic system and a political one, and therefore that the combination of elements that allow it to thrive are historically specific. As Geoffrey Hodgson argues, if capitalism is a system in which capital (money and the money-value of things) matters, then it can only be dated as far back as

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[6] Hernando De Soto, The Mystery of Capital (London: Bantam, 2000); Douglass C. North, Understanding the Process of Economic Change (Princeton: Princeton University Press, 2005); Roberto Rigobon and Dani Rodrik, "Rule of law, democracy, openness, and income: estimating the interrelationships," Economics of Transition 13, No 3 (2005): 533-64.
[7] North 23
[8] Daron Acemoglu and James Robinson, Why Nations Fail (New York: Crown Publishing, 2012).

capital has had social and legal value.[9] This emphasis on historical specificity is new institutionalism's main departure from and critique of neo-classical thought. Where neoclassical economics claims to derive universal laws of human behavior, new institutionalism recognizes that economic behavior is context-contingent.

One oft-criticized aspect of this approach is a tendency towards a linear vision of history. Political institutions do not necessarily evolve towards greater security for capital. As Ato Onoma has demonstrated in Kenya and Ghana, sophisticated property rights regimes can be undermined by the very political system that created them.[10] As Sandra Joiremon has shown across a range of countries with wide variations in state capacity, state-sanctioned regimes can coexist and compete with corporate, nonprofit and customary systems of property negotiation.[11] Even the modifications to the new institutional consensus made by Acemoglu and Robinson do not account for these developments. In Kenya, for example, the weakening of property rights was a result of the shift to a more inclusive democracy in the 1990s.[12]

Moreover, the focus on a narrow range of legally defined institutions obscures political dynamics within and beyond the state. Arvind Virmani, writing on development in India has observed that new institutionalism's focus on law conceals the "microstructures" which shape the law: ministries and government departments, subsidiary institutions and agencies, and local authorities. There are internal political issues within and between these entities – what Virmani calls

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[9] Geoffrey M. Hodgson, "What is Capital? Economists and sociologists have changed its meaning: should it be changed back?" Cambridge Journal of Economics (forthcoming)
[10] Ata Kwamena Onoma, The Politics of Property Rights in Africa (New York: Cambridge University Press, 2010) 3, 10, 166
[11] Sandra Joiremon, Where There Is No Government (New York: Oxford University Press, 2011)
[12] Onoma 145

"bureaucratic politics, or bureaucratics" – that can determine the pace and direction of policy changes, and affect the efficiency of implementation.[13]

Virmani's critique is important, but it does not go far enough. Microstructures of political economy exist outside of the state as well. Government officials engage in property dispute resolution outside the scope of their job. Local religious or cultural elites offer contract negotiation services that are not legally binding, but retain sufficient trust from those who use them to be effective.[14] Ethnic gangs control the distribution of resources in ways that have the effect of law for those living in gang-controlled areas.[15] Legally sanctioned credit markets face competition from illegal moneylenders.[16] Nonprofit organizations offer credit services and non-binding dispute resolution to those without access to official channels. Private corporations secure control of property for their business, and manage the political economy of local life in areas where they work.[17]

The contemporary discourse on institutions has addressed such cases through the language of the 'fragile state,' typically suggesting that companies and other actors engage in state-like behavior as a pragmatic reaction to limited state capacity.[18] Even where scholars acknowledge that businesses, nonprofits or

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[13] Arvind Virmani, "Institutions, Governance and Policy Reform: A Framework for Analysis," Economic and Political Weekly 40, No. 22 (2005), 2341-2350.
[14] Joiremon 13
[15] Laura Seay, "Effective Responses: Protestants, Catholics, and the Provision of Health Care in the Post-war Kivus." Special Issue on the Democratic Republic of Congo. Review of African Political Economy 40, No. 35 (2013): 83-97; Catherine Boone, "Electoral Populism Where Property Rights Are Weak: Land Politics in Contemporary Sub-Saharan Africa" Comparative Politics 41, No. 2 (2009): 183-201.
[16] Shishir Sharma and S. Chamala, "Moneylender's Positive Image: Paradigms and Rural Development," Economic and Political Weekly 38, No. 17 (2003): 1713-1720.
[17] Joiremon 126, 135
[18] See for example: Douglass C. North, John Joseph Wallis and Barry R. Weingast, Violence and Social Orders: A conceptual framework for interpreting recorded human history (New York: Cambridge University Press, 2009); Denisa Kostovicova and Vesna Bojicic-Dzelilovic, Persistent State Weakness in the Global Age (London: Ashgate, 2009); Hany Besada, "Doing Business in Fragile States: The Private Sector, Natural Resources and Conflict in Africa," Report Submitted to the UN High Level Panel on post-2015 development agenda. May 25, 2013. http://www.post2015hlp.org/wp-content/uploads/2013/06/Doing-Business-in-Fragile-States-The-

kinship-based organizations often succeed in maintaining markets and delivering services, the impression is that these organizations are 'filling in' for the state, that the state has "ceded" its rightful place, or that the non-state actors are providing "second-best" institutions.[19] In other words, fragile state scholars argue, these organizations are simply providing enabling environments for capital accumulation.

The trouble with this framing is that it strips non-state organizations of their politics, construing their actions as devoid of ideology. This is especially the case when discussing corporate service providers, where scholars promote the "suspension of politics" offered by business as a "solution" to the perceived instability of developing country states.[20] Moreover, the 'fragile state' model implies that firms only rule in poor countries. In fact, my research shows that corporations act as political authorities in a wide range of socio-economic contexts, with both implicit and explicit ideology.

New institutionalism's failure to see ideology is a fundamental one: it derives from the division scholars make between institutions and organizations. As discussed above, new institutionalists define institutions as rules and mechanisms of enforcement, and organizations as groups of people. While the ideological content of an economic system, its value system, is contained in its institutions, the actors with the agency to make value judgments and to press their understanding in public discourse are 'organizations.' Because new institutional research focuses on the former, it yields a vision of society in which institutions –

Private-Sector-Natural-Resources-and-Conflict-in-Africa-FINAL-May-25-2013.pdf; Sadika Hameed, Robert D. Lamb and Kathryn Mixon, "Private Sector Development in Fragile States," report published by the Center for Strategic and International Studies, May 7, 2013, http://csis.org/publication/private-sector-development-fragile-states.

[19] Onoma 36; Joiremon 14 127; Robert Ellickson, Order Without Law: How Neighbors Settle Disputes (Cambridge: Harvard University Press, 1991); Dani Rodrik, "Second Best Institutions," American Economic Review: Papers and Proceedings 98, No 2 (2008): 100-104.

[20] Onoma 12; Sebastian Mallaby, "The Politically Incorrect Guide to Ending Poverty," The Atlantic July/August 2010.

laden with values – are assumed to arise without ideological motive, and in which actors – agents with motives and interests – merely react to institutional constraints. Indeed, some strains of institutional research argue that organizations are so shaped by the values of their institutional environment that they will eventually converge on identical practices.[21] In this model, the possibility of ideological agency at the firm level vanishes. The 'fragile state' framing of corporate governance is one product of this bifurcated vision.

A second important account of corporate political authority comes from Marxist analyses of capitalism and its relationship to empire. Marx was the first major philosopher to consider capitalism as a historically specific system, for him defined by the shift of money from a medium for the exchange of commodities to the goal of exchange and production.[22] Marx is often credited with being the first to also conceive of capitalism as a global system, writing of "the annihilation of space through time."[23] Though Marx did not specify it as such, in the generations since, his heirs have understood this 'universalizing' capacity of capital to be a driving force in imperialism.[24] The most important contemporary voice in this tradition is the anthropologist and geographer David Harvey.

In *The New Imperialism*, Harvey argues that capitalism generates surpluses of capital and labor that drive it towards crisis. Drawing on Henri Lefebvre's model of the production of space as a key to the production of social relations, Harvey argues that territorial expansion delays crisis, by transferring surplus capital and labor to places where they can be more readily absorbed. Moreover, Harvey

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[21] Roy Suddaby, David Seidl and Jane K Le, "Strategy-as-practice meets neo-institutional theory," Strategic Organization 11, 3 (2013), Walter W. Powell and Paul J DiMaggio, eds New Institutionalism in Organizational Analysis (Chicago: Chicago University Press, 1983)
[22] Hodgson 18
[23] Karl Marx, Grundrisse, Notebook V, 1857, 538-9.
[24] See for example: J.A. Hobson, Imperialism: A Study (London: George Allen and Unwin, 1938); V.I. Lenin, Imperialism: The highest stage of capitalism (London: Lawrence and Wishcart, 1948); Rosa Luxembourg, The Accumulation of Capital A contribution to an Economic Explanation of Imperialism (London: Routledge and Kegan Paul, 1963).

contends, territorial expansion can mitigate the inequality capitalism generates, by providing opportunities in the periphery for those whose desire for advancement cannot be met in the metropole.[25] This contention is borne out by the empirical literature: Acemoglu and Robinson's account of the role imperialism played in creating, and enriching, the European middle class would seem to support Harvey's claim.[26]

Harvey's account is vague on the exact processes by which capitalist imperialism occurs. He speaks of a "dialectical relation between territorial and capitalist logics of power," implying that they are related, but fundamentally different things, where the territorial aspect of power will be expressed "through the politics of state and empire."[27] In other words, while capitalists – defined by Harvey in the Marxist sense of owners of the means of production – require territorial expansion, it is the state that will acquire territory on their behalf.[28]

This analysis vastly overstates the level of alliance between firms and states. To understand why, it is useful to examine historical accounts of the economics of empire. In their seminal study of the British Empire, Peter Cain and Tony Hopkins examined the relationship between the commercial expansionism of British firms and the political expansionism of the British state. Cain and Hopkins argued – much as Harvey and others have done - that imperialist foreign policy was the result of the growing influence within British politics of 'gentlemanly capitalists,' who drove public policy in ways designed to benefit their overseas investments.[29]

Cain and Hopkins' socio-cultural characterization of gentlemanly capitalists has since been challenged as too nebulous to serve as an explanatory device for the

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[25] David Harvey, The New Imperialism (Oxford: Oxford University Press, 2005) 126.
[26] Acemoglu and Robinson 273
[27] Harvey 101-104
[28] Ibid 108
[29] Peter J. Cain and Antony Gerald Hopkins, British Imperialism 1688-2000. (Harlow: Pearson Education Limited, 2002.)

complex structural dynamics of corporate influence in Westminster.[30] Their legacy remains in a contemporary historiography that focuses heavily on the relationship between the multinational corporation and its home state. Commercial actors—especially those which made direct territorial claims, like the East India Company—emerge alternately as proxies for their home states, exploratory ventures laying the groundwork for conquest, or beneficiaries of existing imperial domination. This dynamic carries over to postcolonial history, which tends to evaluate the performance of European firms in former colonies on the basis of their linkages to the former imperial state. [31]

New research is beginning to challenge these assumptions. Recent studies from India, Australia and Ghana show firms in imperial and postcolonial contexts taking positions on matters of trade, taxation or labor that neither benefit from, nor correlate with, the interests of their home states.[32] Occasionally, this research reveals firms taking positions that defy explicit directives from home state officials. Yet these studies continue to characterize these positions as commercial in nature, as though without the state as instigator or accomplice, firms cannot be political actors.

In the process, the critical insight of Cain and Hopkins' work has been forgotten: their emphasis on the territorial nature of international commerce itself. As firms

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[30] Geoffrey Ingham, 'British Imperialism: Empire, Merchants and Decline,' Social History. 20.3 (1995): 339-354.

[31] Gareth Austin and Chibuike Ugochukwu Uche, "Collusion and Competition in Colonial Economies: Banking in British West Africa, 1916-1960." Business History Review. 81 (2007): 1-26.; Lynn Hollen Lees, "Internal Management in a Free-Standing Company: The Penang Sugar Estates, Ltd, and the Malayan Sugar Industry 1851-1914." Business History Review. 81 (2007): 27-57.; Ian Brown, "Tracing Burma's Economic Failure to Its Colonial Inheritance." Business History Review 85 (2011): 727-747.

[32] Gareth Austin and Chibuike Ugochukwu Uche, "Collusion and Competition in Colonial Economies: Banking in British West Africa, 1916-1960." Business History Review. 81 (2007) 1-26; Manali Chakrabarti and Biswajit Chatterjee, "Business Conduct in Late Colonial India: European Business in Kanpur 1900-1939." Economic and Political Weekly 41.10 (2006) 904-911; David Merrett, "Postcolonial Experiences of Australian Multinationals." *Business History Review* 81(Summer 2007) 213-236; Sarah Stockwell, "Trade, Empire and the Fiscal Context of Imperial Business During Decolonization." Economic History Review, New Series 57.1 (2004) 142-60.

acquired land, they acquired political interests which, Cain and Hopkins contended, they attempted to advance through the mechanisms of the state. Scholars have not grappled with the significance of this theoretical contribution: that the territorial aspects of international commerce give firms *political* interests of their own: in maintaining social order and the security of their territorial control. Whatever the outcome of company attempts to lobby states, these political interests lead firms to exercise political authority on their *own* behalf, and according to their own social vision.

The failure of institutional economics, Marxist theory and colonial historiography to deal with the direct political authority exercised by firms is due, in part, to the lack of scholarly engagement with the internal processes and decision-making structures of firms. To address this lacuna, it is necessary to turn to management science, where scholarship on the multinational corporation's role in development takes a narrower approach, focusing explicitly on the firm as an actor.

This tradition, framed around the notion of 'corporate social responsibility' (CSR), can be divided intro three broad strains of research.

The first, which I will call instrumentalist CSR analysis, assumes that the fundamental purpose of the corporation lies in managers' fiduciary responsibility to shareholders. As Milton Friedman argued, "The social responsibility of business is to increase its profits." Friedman argued not that firms should never engage in activities aimed at expanding social welfare, but that they should do so only when these activities serve long-term shareholder interests.[33]

Instrumentalist research, following Friedman, relies on corporate records and participant observation inside firms, to track the performance of individual

[33] Milton Friedman, "The Social Responsibility of Business is to Increase its profits," *The New York Times Magazine*, September 13, 1970.

companies in responding to specific concerns like labor unrest or environmental risk, and to evaluate the impact CSR activities have on corporate profits.[34] Christine Bader has chronicled the mixed record of British Petroleum on environmental sustainability.[35] Richard Locke has examined initiatives by manufacturing firms like Nike and Hewlett-Packard to improve labor standards at their overseas suppliers.[36] Alexander Chernev and Sean Blair have argued the CSR activities have a measurable impact on profits because they alter consumers' perceptions of product quality.[37]

This data-centric approach is powerful in its ability to chronicle the real impact of firms along a range of governance metrics. However, it is not up to the task of mapping the political significance of the governing work that firms do, because both CSR critics and advocates within this discourse assume the essential (ideological) neutrality of the firm as an entity devoted to profit.

A second strand of CSR research comes from scholars working at the nexus of academia and advocacy, including human rights experts engaged in lobbying for regulatory frameworks to cover corporate social impacts, development consultants arguing for stakeholder-driven business models, and business ethicists arguing for corporate 'citizenship' as an extension of corporate personhood. Together, these approaches comprise what I will call exhortative CSR analysis, where researchers are engaged in arguments about what political responsibilities firms *should* have.

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[34] Geoffrey Heal, When Principles Pay: Corporate Social Responsibility and the Bottom Line (New York: Columbia University Press, 2008)
[35] Christine Bader, The Evolution of a Corporate Idealist: When Girl Meets Oil (Brookline: Bibliomotion, 2014)
[36] Richard Locke, The Promise and Limits of Private Power Promoting Labor Standards in a Global Economy (New York: Cambridge University Press, 2013)
[37] Alexander Chernev and Sean Blair, "Doing Well By Doing Good: The Benevolent Halo of Corporate Social Responsibility," Journal of Consumer Research April 2015

Some exhortative CSR scholarship focuses on the legal system and in particular on establishing the viability of American criminal law as a forum for prosecuting companies for political crimes. The success of this scholarship in persuading key figures in the legal system led to a number of high profile convictions of US companies and corporate officials for complicity in overseas electoral corruption and political violence.[38] The recent U.S. Supreme Court decision in *Kiobel vs. Royal Dutch Petroleum Co.* wherein the company's defense successfully argued that such laws could only be applied to natural, rather than legal, persons has potentially limited the scope for this form of activism.[39]

Other exhortative CSR researchers focus on international regimes to control corporate political authority. After an abortive campaign to establish a legally binding international treaty governing company social and environmental impacts, and the largely ineffectual voluntary 'Global Compact' of companies promising to improve their impacts, advocates coalesced around a UN-mandated 'framework' of responsibility drafted by Harvard professor John Ruggie. The Ruggie Principles call for companies to manage their social and political impacts according to the same basic rules that international human rights treaties impose on states, and for states to shape regulatory policy around these commitments.[40]

Finally, a third group of exhortative CSR researchers focus on the channels of political action available to consumers to shape corporate governance. Arguing variously for 'corporate citizenship'[41] and the 'cosmopolitan corporation,'[42] these scholars call for increased consumer awareness and ethically-motivated

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[38] *Sam P. Wallace Co. Inc., Robert Buckner and Alfonso Rodriguez* (SEC Enforcement Decision No. 81-cv-1915)(D.D.C. 8/13/81); *Bowoto vs. Chevron Corporation*, U.S. Court of Appeals, Ninth Circuit, No. 09-15641.
[39] *Kiobel vs. Royal Dutch Petroleum Co.*, 569 US Supreme Court (2013)
[40] John Ruggie, Just Business, W.W. Norton and Co, New York, 2013; Locke 19, 177.
[41] A. Linklater, A. The transformation of political community: Ethical foundations of the post-Westphalian era. Columbia, SC: University of South Carolina Press. 1998.
[42] T. Maak, T. "The cosmopolitan corporation," Journal of Business Ethics, 84, 2009: 364-70.

consumption[43], and look at media coverage of companies as the site where corporate power is legitimated and can be contested.[44]

The exhortative approach to 'corporate social responsibility' admits that corporate actions can have a social impact and that political context can shape corporate actions, but it reduces these processes to 'externalities,' things that firms must mitigate to protect the core commercial purpose of business, and which advocacy communities can leverage to advance social justice. By focusing on the political motives of regulators, NGOs and the media, and on how these bodies can bring politics to bear *on* companies, exhortative CSR ignores the political agency *of* companies themselves. It fails to acknowledge that corporate governance is itself a political act.

The third strand of CSR scholarship centers on the emerging notion of 'political CSR.' Frustrated by the analytical limitations of instrumental and exhortative CSR research, a number of scholars have begun calling for an approach that engages more directly with corporations as political actors. The central claim of such 'political' writing is that there is something unique about 21st century corporations, which renders their activities more "political" than existing CSR theories allow. In particular, they claim that "a fragmentation of authority" attributable to neoliberal economic policy has made older approaches to CSR unworkable, because these older approaches assume an active state as a regulator.[45]

In the (alleged) absence of such a regulator, Jeremy Moone, Andrew Crane and Dirk Matten (2005) have attempted to reframe CSR activities as "business firms

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[43] Nicole Hassoun, Globalization and Global Justice, Cambridge: Cambridge University Press, 2012.
[44] Maria Joutsenvirta and Eero Vaara, "Legitimacy Struggles and Political Corporate Social Responsibility in International Settings: A Comparative Discursive Analysis of a Contested Investment in Latin America," Organization Studies (2015) 1-37; Locke 24-26.
[45] Andreas Georg Scherer and Guido Palazzo, "The New Political Role of Business in a Globalized World: A Review of a New Perspective on CSR and its Implications for the Firm, Governance and Democracy," Journal of Management Studies 48:4 (June 2011) 902.

assuming a state-like role."[46] Andreas Scherer and Guido Palazzo (2011) argue, "Businesses have started to assume social and political responsibilities that go beyond legal requirements and fill a regulatory vacuum in global governance."[47] They posit that 'political CSR' occurs "in cases where the state system fails, i.e. where the state withdraws or has to withdraw."[48]

Some scholars of political CSR greet this transformation with alarm, and see it as reflective of a failure of states to fulfill their duties[49], while others see it as an opportunity to "make use of the problem-solving potential of non-state actors in order to master these challenges more effectively."[50] But all political CSR scholars share the central assumption that something fundamental about the relationship of the state and corporations has changed, and that corporations are 'political' now, in that they are engaged in what was formerly the state's domain.

The strength of this approach is that it acknowledges that when engaging in these 'new' political activities, companies are engaged in processes of securing legitimacy from a 'public' beyond shareholders, consumers or regulators.[51] Indeed, they rightly argue that it this process of pursuing and securing legitimacy that makes CSR political.[52]

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[46] Jeremy Moone, Andrew Crane and Dirk Matten, 'Can corporations be citizens? Corporate citizenship as a metaphor for business participation in society'. *Business Ethics Quarterly*, 15 (2005): 429–54.
[47] Scherer and Palazzo 899
[48] Ibid 900
[49] Edmund F. Byrne, "In Lieu of a Sovereignty Shield, Multinational Corporations Should be Responsible for the Harm They Cause," Journal of Business Ethics 124 (2014) 606
[50] Wolf, K. D. 'Emerging patters of global governance: the new interplay between the state, business
and civil society' In Scherer, A. G. and Palazzo, G. (Eds), *Handbook of Research on Global Corporate Citizenship*. Edward Elgar, Cheltenham, 2008: 225–48
[51] Guido Palazzo and Andreas Georg Scherer, "Corporate Legitimacy as deliberation: A Communicative Framework," Journal of Business Ethics 66.1, 2006: 71-88.
[52] Scherer and Palazzo 918

Yet while political CSR scholars have called for research on these processes of legitimation for a decade, few empirical contributions have emerged. The blame for this gap has been laid on limited conceptions of 'legitimacy.' Observing that that corporate governance does not obtain its legitimacy through the same channels or in the same way as state-led governance, political CSR scholars are increasingly calling for ways to 'measure' corporate political legitimacy that are not modeled on the liberal democratic state. Alternative models of political accountability offered in this debate have included 'deliberative democracy,' 'social connectedness,' and the 'social theory of hegemony.'[53]

Whatever the outcome of these theoretical debates, there is a more fundamental problem with the 'political CSR' approach: its assumption of novelty. Like the fragile state institutionalists, 'political CSR' scholars claim that corporations become 'politicized' when they enter the realm of 'state-like' activity[54], and that this is emerging in the 21st century as a result of state weakness or neoliberal policies that dismantle the state.[55]

This assumption both understates the presence of the state alongside corporate political authority, and erases the history of corporate political authority that predates the modern state.

In an unpublished critical review of the 'political CSR' movement Marie-Laure Djelic and Helen Etchanchu highlight two historical examples of corporate governance that long-predate modern globalization. The first is the 19th century European paternalistic company, where the character of governance depended

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[53] Scherer and Palazzo 918; Byrne 618; Peter Edward and Hugh Willmott, "Discourse and Normative Business Ethics," in C. Luetge (ed.), Handbook of the Philosophical Foundations of Business Ethics (Dordrecht: Springer, 2013) 549-580.
[54] Thomas Lawton, Steven McGuire and Tazeeb Rajwani, "Corporate Political Activity: A Literature Review and Research Agenda," International Journal of Management Reviews Vol 15, 2013: 87
[55] Locke 80-81, Ruggie 19, Scherer and Palazzo 900.

on the individual values of factory owners. The second is the early 20th century American corporation, where corporate governance activities played a role in countering public grievances towards big business during the Depression.[56]

These are important precedents, and Djelic and Etchanchu are right to note that these older models declined in developed countries because the state's role in governance expanded[57], belying the notion that corporate governance has encroached on the state's realm. However, they insist, as do other political CSR scholars, that contemporary corporate governance is a new phenomenon because it is taking place on a global stage: "On the global level, an entire new space was created."[58] Yet the type of corporate governance they describe has many international precedents, most notably in the European trading companies of the early colonial period, whose histories, as previously discussed have often been overshadowed by those of colonial states.

Like the fragile state model, then, the explanatory potential of 'political CSR' is undermined by a narrow definition of what corporations are, a definition that ignores the political interests integral to business and internal to firms. Political CSR is ultimately hampered by its lack of engagement with corporate agency.

There is one school of research that has engaged seriously with the topic of corporate agency: the subfield of management science known as 'strategy as practice' (SAP). Traditionally management science has conceptualized 'strategy' as something that organizations have. The focus of this research is on the firm, or more commonly, on a set of firms within a particular industry, and on evaluating and comparing the strategies firms deploy to compete with one

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[56] Djelic Marie-Laure and Helen Etchanchu, "Contextualizing Corporate Political Responsibilities: Neoliberal CSR in Historical Perspective," SSRN Working Paper Series. Available at SSRN: http://ssrn.com/abstract=2462772 orhttp://dx.doi.org/10.2139/ssrn.2462772
[57] Djelic and Etchanchu 2
[58] Djelic and Etchanchu 39

another. In this framework, strategy is a set of plans drawn up by top managers and executives, and put into practice by staff.[59] Critical to this model is the assumption that firms, and the people who work in them, are rational actors, and therefore that "strategy is a set of 'rational' techniques for managing complex business in a changing environment."[60]

Led by David Seidl and Paula Jazarbkowski, strategy as practice scholars have been working to challenge this conception. Seidl and Jazarbkowski argue that traditional strategy research, with its emphasis on the firm and the industry, erases the role of individual actors within firms, the microstructure of corporate behavior. Moreover, it deliberately factors out the role of situational context in order to facilitate generalization.[61]

Instead of a content-based definition of strategy as "ideas organizations have," strategy as practice (SAP) scholars analyze strategy as '"something that organizations do." Drawing upon the practice turn in the social sciences, SAP considers strategy as a dynamic process, a cycle in which context and action shape one another. Top managers may set a plan in motion but will not be able to control how it flows within an organization.[62] Additionally, SAP scholars pay close attention to actions taken below the top management circles, and seek to identify their contributions to strategy by tracing the "pattern in a stream."[63]

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[59] Michael Porter, Competitive Strategy Techniques for Analyzing Industries and Companies (London: Collier Macmillan, 1983); Bruce Greenwald and Judd Kahn, Competition Demystified A Radically Simple Approach to Business Strategy (London: Portfolio, 2005).
[60] David Knights and Glenn Morgan, "Corporate Strategy, Organizations and Subjectivity: A Critique," Organization Studies 1991 251
[61] David Seidl and Paula Jazarbkowski, "Strategy as Practice: A New Perspective" in Strategy as Practice, Paula Jazarbkowski, ed. (London: SAGE, 2005) 4; Richard Whittington, What Is Strategy and Does it Matter? (London: Thomson Learning, 2002).
[62] Seidl and Jazarbkowski 4
[63] Henry Mintzberg, Mintzberg on Management Inside the Strange World of Organizations (New York: Free Press, 1990).

Together, these approaches define strategy as "emergent action," a set of path-dependencies that arise from the interactions of conscious and unconscious actions by managers and employees, and between these actions and the wider context. This definition of strategy allows SAP scholars to separate agency – a necessary criterion for treating an employee or firm as a strategic actor – from intentionality, which some, but not all, agents may have.[64] In this way, SAP is reminiscent of Latour's notion of *actants*, but rather than seeking to highlight the agency of inanimate objects, SAP scholars study the agency of organizations and their members.[65]

SAP research is deeply concerned with the political aspects of corporate strategy, emphasizing that agency is "an exercise of power," and that as an agent, the corporate manager is a "political entity with interest and intent."[66] Power in this framework takes many forms: the individual power of agents within the firm, and the structural power and agency of the firm itself. A broadly constructivist approach, SAP considers that all actions are socially situated, and therefore imbued too with the politics of the context in which they occur.

Strategic practice, for a SAP scholar, is a kind of praxis, in which different political and ideological concepts are realized and reconciled in the actions of multiple actors and the interactions between them. Because there are multiple agents within a firm, multiple layers of interaction between these agents, and between the firm and its social context, individual actions can have multiple purposes at once. A single memorandum might have a technical purpose in conveying

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[64] Seidl and Jazarbkowski 5, 8.
[65] Bruno Latour, "On Actor-Network Theory: A Few Clarifications Plus More Than a Few Complications," Soziale Welt 47 (1996), 369-81.
[66] Seidl and Jazarbkowski 5.

information as well as a social purpose in legitimating the sender's power within the firm.[67]

Because of the distinction SAP scholars make between agency and intentionality, they are able to read these multiple purposes even in cases where actors are only aware of a single function for their behavior.[68] Indeed, this duality may be a basic feature of the firm. Some SAP theorists hold that the central challenge of corporate leadership is for managers to convince other actors within the firm to behave as if they have a shared social system to contribute to, and at the same time to reconcile this ideological mission with the pragmatic imperatives of day-to-day decision-making. [69]

Crucially, SAP holds that managers and employees are not, in fact, rational actors, but political actors with shifting values and interests.[70] Well-documented patterns of intra-firm conflict over management decisions, once depicted as drags on 'rational' strategy, become key pieces of strategic development. Insofar as strategic discourse enables managers to 'rationalize' their own decisions, and legitimate their power, employees who undermine or ignore strategic directives are engaging a form of political resistance.[71] Rationality in business is

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[67] B.A. Bechky, "Sharing Meaning Across Occupational Communities: The Transformation of Understanding on a Production Floor," Organization Science 14, No. 3 (2003): 312-330; Mustafa Emirbayer and Ann Mische, "What is Agency?" American Journal of Sociology 103 (1998): 962-1023. Haridimos Tsoukas and Stephen Cummings, "Marginalization and Recovery: The Emergence of Aristotlean Themes in Organization Studies," Organization Studies 18, No. 4 (1997) 655-683.

[68] Henry Mintzberg and James A. Waters, 'Of Strategies deliberate and emergent,' Strategic Management Journal 6(3), (1985).

[69] Frank Blackler, "Knowledge and the Theory of Organizations: Organizations as Activity Systems and the Reframing of Management," Journal of Management Studies 30, No. 6 (1993): 863-884.

[70] Knights and Morgan 252

[71] Henri A. Schildt, Saku Mantere, and Eero Veera, "Reasonablity and the Linguistic Division of Labour in Institutional Work." Journal of Management Inquiry 20(1) 82; Richard Whittington et al, 'Taking Strategy Seriously: Responsibility and Reform for an Important Social Practice,' Journal of Management Inquiry 12(4), December 2003: 397-8, Knights and Morgan 269.

constrained as much by contests over ‘moral norms’ as by disputes over commercial concerns.[72]

As important a contribution as SAP research is making to our understanding of firms as political actors, the empirical subjects SAP scholars have chosen for their work limit the movement's reach. In part because SAP is a response to mainstream management theory, most empirical SAP research focuses on matters internal to the firm, or areas of explicit and declared competition with other firms. What SAP scholars have not done is apply their model of corporate agency to the political power corporations exercise over those outside the firm: to company control of space and people.[73]

My research aims to fill this gap by applying SAP to the set of activities normally discussed as corporate social responsibility, private sector service provision or non-state actor governance. The goal is to decipher how, through corporate ‘governing’ activities, corporate authority is constructed in the minds of actors and how it, in turn, constructs the power relations between them.

My definition of 'authority' is related to the Weberian concept of domination (a problematic term, of which more later), the probability that a specific set of commands will be obeyed by a given group of people. By 'corporate authority,' then, I refer to the ability of the firm to exert its control over space and people, and to have that control recognized as legitimate.

My understanding of what constitutes 'control' is similar to the description given by Mark Duffield for the control exercised by non-governmental organizations. In *Development, Security and Unending War,* Duffield describes "a banal

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[72] Heather Elms et al, “New Discourses in Strategic Management and Business Ethics,” Business Ethics Quarterly 20:3 (July 2010) 408

[73] Knights and Morgan 257, Andrea Herepath, “In the Loop: A Realist Approach to Structure and Agency in the Practice of Strategy,” Organization Studies (2014) 858

sovereignty that is enacted in the daily routine of relief and development programmes," a political authority that comes from the power to choose who benefits from development and what path development should take.[74]

Duffield chronicles the extension of NGO authority beyond the contingencies of formal access agreements with states to assume wide-ranging control over local life in the areas in which they operate. Cutting through the bureaucratic language of NGO neutrality, Duffield traces the ideological assumptions implicit in the process of choosing what types of suffering are worthy of alleviation. Similarly, my goal is to highlight the sovereignty that firms have over the daily routine of life in corporate-controlled territory and to excavate the ideology behind the choices firms make to manage space and people.

This is what it means to say that firms are political actors: that they have a vision of how society should be structured - an ideology, and a conception of how it might be brought about. Their efforts to put this vision into action in the form of governance work, to legitimate it in the eyes of their peers and the wider public, and indeed to explain and justify it to themselves, form an ideological project.[75] We need to examine the agency of firms seeking to reveal this ideology, and to distinguish the impact it has on social relations in a given community from the ideological impacts of the state or other non-state actors. To do this, we must begin with the ideological vision of actors within firms, because far from a 'rational' organization that filters out the ideological leanings of its members, a corporation amalgamates these ideologies into a new vision which reflects the power struggles – the political struggles – of actors within the firm. This is the work that SAP can enable us to do.[76]

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[74] Mark Duffield, Development, Security and Unending War Governing the World of Peoples (Cambridge: Polity Press, 2007) 52.
[75] Suddaby et al: 334
[76] Suddaby et al 331-332; Paula Jarzarbkowski, Julia Balogun and David Seidl, "Strategizing: The challenges of a practice perspective," Human Relations 60(1): 9

To link this notion of political authority to the practice-based understanding of corporate agency, I advance the concept of 'Company Rule.' Here I am drawing on the work of international relations theorist Nicholas Onuf. In World of Our Making (1989), Onuf sought to dismantle existing theories of international relations that assumed – in the absence of world government - a default state of anarchy in world politics. Focusing on the notion of 'political society' as extending far beyond states and inter-state bodies, Onuf argued that the politics of the international order could be understood through the paradigm of 'Rule.'[77]

Rule, or political order, in Onuf's reading, is built on a series of 'rules,' speech acts that, through their reception, construct the norms of daily conduct. Speech act theorists divide speech-acts into three categories: assertive (statements like "I hereby declare"), directive ("I hereby order") and commissive ("I hereby promise"). Onuf argues that these can be converted into three categories of social rules: instruction rules, or non-binding principles; directive rules, or binding laws; and commitment rules, or rights and duties. While Onuf's definition of rules is derived from speech-act theory, he extends the definition to include both spoken rules – discourse – and acted rules – practice.[78]

All rules, in this formulation, serve both a regulative and a constitutive function: they exist to bring about their own acceptance, and thereby constitute the social environment within which they function. The process of making rules legitimate, then, is part of the practice of rule-making itself.[79] Because of this, Onuf claims, "authors and histories" of particular rules need not be known in order for them to function as rules.[80]

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[77] Nicholas Onuf. World of our Making: Rules and rule in social theory and international relations. Columbia: University of South Carolina, 1989: 27, 196
[78] Onuf 21-22
[79] Onuf 74
[80] Onuf 80

For Onuf, the defining feature of political society is not anarchy, but asymmetry: "wherever rules have the effect of distributing advantages unequally," he argues, there will be a political order, or Rule, and the particular character of rules on which a social order is built determine the type of Rule. The three types of social rules give rise, when they are dominant in a society, to three types of Rule. Instruction rules enact hegemony, where asymmetries of power are maintained by the dissemination of principles. Directive rules enact hierarchy, where asymmetries of power are maintained by force or the threat of force. Commitment rules beget 'heteronomy,' where fundamental asymmetries of power are concealed by the appearance of equal choice for the super- and subordinated populations. Heteronomy, in other words, is the Rule of the market, and commitment-rules, which underlie all systems of contract and credit, are the social rules of capitalism.

Onuf's use of 'Rule,' rather than 'authority' or 'domination' or 'order' is important: it reflects his reliance on German social thought, from Hegel through Marx and Engels to Weber, where the terms '*Herrschaft*' and '*herrschen*' ('rule' and 'to rule' respectively) are used to refer to all forms of political order. While the Weberian instances of these terms are often translated into English as variations on 'domination,' the Marxian usages – most notably in *The German Ideology*, but also in the *18th Brumaire* – are often translated with references to the 'ruling class' and 'ruling ideas.'

This has given rise to the perception that Weber's ideal types refer to power backed by violence, while Marx (and after him, Gramsci) refers to power backed by ideas. Onuf, by returning to the German terms, suggests that these are in fact that same thing, that all relations of power have both material and ideological underpinnings, and are both imposed from above and negotiated from below, insofar as they are underpinned by rules. The Rule-rules paradigm is thus deeply

concerned with the question of legitimacy, and how all social orders – not just hegemony – require the super-ordinate class to constitute social reality through its ideology, its rules.

The key strength of this paradigm for the purposes of studying corporate governance – what I call 'Company Rule' is that it emphasizes what Onuf calls the "co-constitution of micro- and macro-level phenomena."[81] While the Rule-rules paradigm is compatible with much of the institutional literature (Onuf himself refers to institutions as 'linked sets of rules'), it differs from much institutional economics by placing agency for the construction of rules at the micro-level.[82] Onuf's paradigm allows us to take the insights into corporate agency offered by strategy-as-practice research, and, treating these practices as 'rules,' derive from them an analysis of a corporation's macro-level politics, its Rule.

Finally, Rules-rule enables us to address the political power of the corporation as distinct from the state, by incorporating a direct territorial dimension to company governance. Those areas where company rules apply are subject to Company Rule, and therefore these rules both contain and realize claims of corporate sovereignty over territory and population. This approach makes visible that the corporation is a distinct political entity, resolving a critical problem in human rights and CSR literature, where scholars have been frustrated by the tension between the political power of multinational corporations, and the lack of any state authority with the global sovereignty to regulate them.

'Company Rule,' then, is a framework that solves many of the theoretical and practical problems posed by explanations of corporate governance work that come from an institutional, Marxian, human rights or CSR background. First, it enables us to look directly at the political vision and ideological projects of

[81] Onuf 29
[82] Onuf 86

companies, not simply at the institutional context in which they operate or the outcomes they bring about. Second, while beginning with empirical examination of micro-practices, it allows us to trace how these practices are routinized as 'rules' and to draw out how a social and political order – Rule - is generated through them. Treating territory where these 'rules' apply as territory that is 'ruled', we can arrive at an understanding of corporate political authority, of corporate sovereignty, every bit as robust as, but fundamentally different from, that of states. All this, we achieve by dispensing with a definition of agency built around intent, and replacing it with one that depends on action.

In my own research, I am endeavoring to apply this framework to three case studies: a petrochemical factory operating in an Indian Special Economic Zone, an agribusiness plantation in Central Kenya, and a platinum mine in northern South Africa. In each of these communities, I am conducting a practice analysis of company involvement in local governance, particularly housing, health care and education, seeking to draw out the ideological vision that drives company employees in the design and implementation of these programs, and the degree to which this vision is recognized and acceded to by the communities using the services. Collecting both observational and interview-based data about daily practices of company governance, I seek to identify patterns in these governance practices. As SAP scholars treat a repeating pattern of action as signs of an emerging strategy, I treat repeating patterns of practice as emerging social rules. Using Onuf's rubric of types of rules-Rule, I plan to identify the type of Rule, the ideological and material paradigm of corporate power, in each community.

Let us take the Kenyan case as an example. Thika, where the Del Monte pineapple plantation is located is an industrial town less than an hour's drive from Nairobi. While there are other businesses in the area – notably a British American Tobacco plant – Del Monte is by far the largest local employer. It maintains two local primary schools for employees' children, and the area's only

secondary school, which is open to both employee children and those from the local community. All employees, as well as many of their extended families, live in a company housing compound, where the houses are arranged in a series of circles, called 'villages.' Each village has a clinic and dispensary, and there is a public clinic outside the housing compound that serves many in the community who are not formally affiliated to the firm. Two main roads leading from the center of Thika to the del Monte plantation are maintained by the company, and the area is policed by a company security force.

How and why did these practices evolve? From my initial fieldwork observing governance practice in Thika, conducted in August 2014, a few key features stand out. First, the plantation, like many such estates, takes the shape of a large rectangle. Del Monte's services – the roads, villages, schools and hospitals – form an inexact ring around the perimeter. Interviews with Del Monte executives suggest that although the services have been added gradually over several decades, there is an underlying logic to this shape. Executives speak of the business as under physical threat from local people, and the services as a kind of garrison, where the local people who use the services form, themselves, part of the wall of protection:

> If someone came and took the pineapple, they can sell it for 100 bob, so what can we do so people have confidence in us else people will start stealing our pineapple and selling it on the market. So you have to win their confidence, that you are responsible and not just here to make profit from 'their land' Land is a very sensitive issue, security is a problem, unemployment very high so if you have a hostile neighbor he will not help us protect our business because he will not protect your property.[83]

This deeply securitized logic is similarly reflected in the HIV/AIDS program I described earlier. The program began as a testing and treatment program for employees, because, executives and employees say, the company was

[83] Interview with Del Monte executive, August 2014

concerned about labor shortages resulting from workers becoming ill. It expanded into a wider social service, with deep tentacles into local sexual politics, because managers began to see members of the community – namely sex workers – as a existential threat to the business. The perimeter, the garrison, the governance, had to be extended to include them.

What kind of rules-Rule might we associate with this type of governance logic, in which services are added in expanding circles to incorporate, and neutralize, populations deemed threatening? I propose that the logics of these services are essentially commitment rules, where local people consume company services in exchange for becoming part of the company's security apparatus. Once inside, however, they are also subject to a variety of directive controls on their day-to-day behavior. This system of rights and duties inscribed within a directive security context produces a form of feudalism. In Onuf's typology, feudalism is an edge case, a system with elements of heteronomy and hierarchy, and that is how we might characterize Del Monte as a company ruler.[84]

My three selected cases are by no means representative of all company rulers, but one thing they share is that they fall outside the institutional settings that existing literature suggests give rise to corporate governance work: these are not failed or even fragile states, and none of the specific sites is in a remote area with limited access to state services. As such, an explanation of why companies rule in these cases must come from somewhere other than a 'capacity gap' on the part of states. I propose that it comes from within the firms themselves, and my research framework aims to untangle how.

The Company Rule framework can be applied to many forms of corporate governance work, ranging from isolated CSR programs to fully-fledged company towns like those I have selected. A research agenda that explored a wide range

[84] Onuf 217

of such cases, using strategy-as-practice analysis and the Rule-rule paradigm to map the ideological underpinnings of company rule would enable us to discover whether each company case is idiosyncratic, of if there is something about firms as organizations, irrespective of institutional context, that leads them to Rule.