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# FROM ETHICS TO REGULATION: REFRAMING CORPORATE SOCIAL RESPONSIBILITY AS A LEGAL- GOVERNANCE HYBRID

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## ABSTRACT

Corporate Social Responsibility (CSR) has evolved from a peripheral, philanthropic practice into a core component of contemporary corporate governance. Despite this transformation, CSR is still widely understood as a voluntary alternative to law, positioned outside formal legal obligation. This article challenges that framing by arguing that CSR can only be meaningfully understood in relation to law. Drawing on Doreen McBarnet's socio-legal analysis, the article conceptualizes CSR as a hybrid governance mechanism operating at the intersection of law, markets, and civil society. It demonstrates that CSR functions not merely beyond law, but also through law and increasingly for law, shaping regulatory expectations, influencing legal development, and filling governance gaps created by globalization, fragmented legal systems, and weak enforcement. The article traces the shift of CSR from voluntarism to governance, showing how CSR has become embedded in corporate strategy, risk management, supply-chain oversight, and ESG disclosure regimes. It critically examines CSR beyond law as aspirational yet strategically motivated, highlighting how reputational pressure, investor expectations, and regulatory anticipation shape voluntary responsibility. Through the lens of creative compliance and legal engineering, the article exposes the limits of CSR through law, illustrating how legal compliance and CSR frameworks can legitimize minimal responsibility while avoiding substantive accountability. The role of civil society and market-based enforcement in global supply chains is analyzed as both a partial substitute for weak public regulation and a source of uneven, visibility-driven accountability. It argues that CSR increasingly operates for law by diffusing norms that later crystallize into binding legal obligations, while warning against the uncritical incorporation of corporate-defined standards into public regulation. It concludes that CSR should not replace law but must be governed through robust legal frameworks to ensure genuine accountability, democratic legitimacy, and protection of social and environmental interests.

**Keywords:** Corporate Social Responsibility, Hybrid Governance, Corporate Accountability, Creative Compliance, Globalization.

## 1. Introduction

Corporate Social Responsibility (CSR) has undergone a profound transformation over the last three decades, evolving from a marginal, philanthropic concern into a central pillar of contemporary corporate governance. Across jurisdictions and sectors, corporations now routinely publish sustainability and integrated reports, adopt internal codes of conduct on human rights, labour standards, and environmental protection, participate in Environmental, Social and Governance (ESG) benchmarking regimes, and publicly commit to ethical norms that extend far beyond the minimum requirements of positive law. These practices are no longer confined to reputational branding or discretionary benevolence; rather, they are embedded in board-level decision-making, risk management systems, supply-chain governance, and investor relations. Despite this deep institutionalization, CSR continues to be conceptually framed both in academic discourse and in policy debates as a voluntary alternative to law, an arena of corporate morality or self-regulation that exists “beyond” or “outside” formal legal obligation. This article challenges that persistent framing by arguing that CSR cannot be meaningfully understood except in relation to law, and that treating CSR as merely voluntary obscures its regulatory significance and its growing influence over the evolution of legal norms. Drawing on the influential socio-legal analysis of **Doreen McBarnet**, this article contends that CSR operates neither as a substitute for law nor as a simple supplement to it, but as a hybrid governance mechanism situated at the intersection of law, markets, and civil society, simultaneously shaped by legal frameworks and increasingly operating *for* law by generating norms, expectations, and practices that feed back into formal regulation. McBarnet’s work on “creative compliance” and “regulatory ritualism” is particularly instructive here, as it demonstrates how corporations respond strategically to legal rules by complying with their formal requirements while circumventing their underlying purposes, thereby exposing the limits of law conceived narrowly as command-and-control regulation. In this context, CSR emerges not as an ethical luxury but as a response to the structural gaps, jurisdictional limits, and enforcement deficits of national and international legal systems, especially in an era of globalization characterized by transnational production networks and regulatory fragmentation. Multinational enterprises operate across multiple legal regimes with varying levels of protection for workers, communities, and the environment, creating spaces in which harmful practices may be legally permissible yet socially unacceptable. CSR fills these spaces

by articulating standards often drawn from international soft-law instruments such as the **OECD** Guidelines for Multinational Enterprises, the **International Labour Organization** conventions, and the **United Nations** Guiding Principles on Business and Human Rights that lack direct enforceability but nonetheless exert normative pressure on corporate behavior. Crucially, however, these standards do not arise in a legal vacuum; they are deeply intertwined with law in their origins, content, and effects. They draw legitimacy from international legal discourse, borrow the language and structure of legal rights and duties, and are increasingly incorporated into binding legal instruments through mechanisms such as mandatory disclosure laws, due diligence obligations, and fiduciary duty reforms. From this perspective, CSR can be understood as operating *in the shadow of law*, shaped by existing legal norms and by the anticipation of future regulation. Corporations adopt CSR policies not only to signal ethical commitment but also to manage legal risk, pre-empt stricter regulation, and demonstrate compliance with emerging expectations articulated by regulators, courts, investors, and civil society actors. The rise of mandatory non-financial reporting regimes in the European Union, for example, illustrates how practices initially developed as voluntary CSR initiatives have been progressively formalized into legal requirements, blurring the boundary between voluntary and mandatory governance. Similarly, the growing wave of human rights and environmental due diligence legislation most notably in France, Germany, and at the EU level reflects a process in which CSR norms have crystallized into law, transforming soft expectations into enforceable obligations. At the same time, CSR also operates *for law* by functioning as a site of norm production and experimentation. Through codes of conduct, industry standards, and multi-stakeholder initiatives, corporations and other actors develop detailed operational norms that often precede and inform legislative and judicial developments. These private standards may later be referenced by courts in determining the content of duties of care, by regulators in drafting new rules, or by legislators seeking politically feasible pathways to reform. In this sense, CSR contributes to what has been described as “regulatory pluralism,” in which governance is produced through the interaction of public and private actors across multiple levels, rather than solely through state-centric lawmaking. Importantly, recognizing CSR as a hybrid governance mechanism does not imply that it is inherently progressive or emancipatory. McBarnet’s critique reminds us that CSR can also function as a strategy of legitimation, allowing corporations to claim social responsibility while avoiding more stringent legal accountability. Voluntary commitments may be selectively implemented, weakly enforced, or strategically framed to deflect criticism and delay regulation, reinforcing power asymmetries between corporations and affected stakeholders. Yet this ambivalence does

not negate CSR's regulatory significance; rather, it underscores the need to analyze CSR through a socio-legal lens that attends to power, institutional context, and the dynamic interaction between law and non-law. By reframing CSR not as an alternative to law but as part of an evolving regulatory ecosystem, this article challenges the binary opposition between voluntary ethics and mandatory regulation that continues to dominate much of the CSR literature. It argues instead that CSR should be understood as a legally embedded and legally consequential form of governance, one that both reflects and reshapes the boundaries of corporate obligation. Such a reconceptualization has important implications for corporate governance theory, regulatory design, and accountability debates. It suggests that the effectiveness of CSR cannot be assessed solely by reference to corporate intentions or moral commitments, but must be evaluated in terms of its interaction with legal institutions, its capacity to influence regulatory outcomes, and its role in structuring expectations about responsible corporate conduct. In an era marked by global supply chains, climate crisis, and heightened scrutiny of corporate power, understanding CSR as a hybrid governance mechanism operating at the intersection of law, markets, and civil society is not merely an academic exercise; it is essential to grasping how contemporary capitalism is regulated, contested, and transformed (McBarnet 2007; McBarnet, Voiculescu and Campbell 2007; Parker 2002; Moon 2014; Zerk 2006; Backer 2012; OECD 2011; UN 2011).

### **1.1 From Voluntarism to Governance: Reframing CSR**

Early discourse on Corporate Social Responsibility (CSR) was grounded predominantly in notions of corporate philanthropy and ethical discretion, treating responsibility as a voluntary expression of managerial benevolence rather than as a constitutive element of corporate governance. In this early formulation, CSR was closely associated with charitable giving, community outreach, and symbolic commitments to social welfare that were peripheral to firms' core economic activities. Such practices reinforced a sharp conceptual boundary between profit-making and responsibility, positioning CSR as something corporations might pursue once legal compliance and shareholder interests had been satisfied. Over time, however, this understanding has been fundamentally reconfigured. CSR has become structurally embedded in corporate strategy, risk management, and governance architecture, reshaping how corporations conceptualize responsibility, accountability, and long-term value creation. Contemporary CSR is now operationalized through board-level sustainability oversight, supply-chain governance mechanisms, human rights due diligence processes, ESG disclosure

regimes, and incentive structures tied to non-financial performance. This shift reflects not merely a change in corporate ethics, but a deeper transformation in the organization of global capitalism itself. The institutionalization of CSR is inseparable from broader structural developments, including market deregulation, the globalization and fragmentation of production networks, the relative erosion of state enforcement capacity, and the intensification of scrutiny by civil society, investors, and transnational advocacy networks. As corporate activity has become increasingly transnational, regulatory authority has remained largely territorially bounded, producing governance gaps in which harmful practices may be formally legal yet socially unacceptable. These gaps are especially pronounced in global supply chains, where lead firms exercise significant economic power without corresponding legal responsibility for labor rights violations, environmental degradation, or human rights harms occurring beyond their home jurisdictions. In this context, CSR has emerged as a mechanism through which corporations seek to manage regulatory uncertainty, reputational risk, and political contestation across multiple legal regimes. Crucially, however, CSR does not arise despite the existence of law, but precisely because law is fragmented, weakly enforced, or strategically navigated by corporate actors.

It is here that the socio-legal intervention of **Doreen McBarnet** is particularly illuminating. McBarnet's analysis reframes CSR not as an ethical supplement to law, but as a regulatory response to law's structural limits and failures. Through her work on "creative compliance" and "regulatory ritualism," she demonstrates how corporations may formally comply with legal requirements while undermining their substantive objectives, exploiting legal complexity, jurisdictional fragmentation, and enforcement gaps. CSR, on this account, emerges precisely in the spaces where law proves inadequate where regulation is absent, indeterminate, or vulnerable to strategic manipulation. Rather than occupying a sphere beyond law, CSR is deeply entangled with it, shaped by legal discourse and oriented toward legal risk, even as it remains formally voluntary. This insight has gained renewed significance in the post-2020 regulatory landscape, marked by the rapid expansion of mandatory human rights and environmental due diligence regimes. Legislative initiatives such as France's *Loi de Vigilance*, Germany's Supply Chain Due Diligence Act, and the European Union's proposed Corporate Sustainability Due Diligence Directive reflect a process in which norms long articulated through CSR have begun to crystallize into binding legal obligations. These developments underscore McBarnet's core claim: CSR operates in the shadow of law, both anticipating and shaping legal reform. Practices initially framed as voluntary risk mapping, supplier audits,

stakeholder engagement, impact assessment have increasingly been incorporated into legal standards of corporate conduct. In this sense, CSR functions not only as a response to governance gaps, but also as a laboratory for regulatory experimentation, generating norms that inform legislative and judicial developments.

At the same time, the embedding of CSR within corporate governance does not resolve its inherent ambivalence. While CSR can contribute to harm prevention and norm diffusion in contexts of weak regulation, it can also serve as a strategy of legitimation, enabling corporations to claim responsibility while resisting more stringent forms of legal accountability. Voluntary commitments may be selectively implemented, weakly enforced, or strategically framed to deflect criticism and delay regulation. The privatization of responsibility through CSR risks displacing democratic oversight with managerial discretion, reinforcing power asymmetries between corporations and affected stakeholders. From this perspective, CSR does not simply compensate for law's failures; it may also stabilize them by offering an appearance of governance without equivalent mechanisms of coercion or redress. Understanding CSR as a hybrid governance mechanism therefore requires moving beyond binary distinctions between voluntary ethics and mandatory regulation. CSR is neither a substitute for law nor a purely moral enterprise; it is a legally embedded form of governance that both reflects and reshapes the boundaries of corporate obligation. McBarnet's intervention remains critical because it exposes how CSR is produced through the interaction of legal constraint, market pressure, and social contestation. In an era of global supply chains, climate crisis, and heightened scrutiny of corporate power, CSR must be analyzed not as an optional expression of corporate virtue, but as a response to the structural limits of contemporary legal regulation one that simultaneously mitigates, manages, and sometimes obscures those limits (McBarnet 2003; McBarnet 2007; Parker 2002; Braithwaite 2008; Vogel 2010; De Schutter 2016; Buhmann 2020; Sinkovics et al. 2021).

### **1.2 CSR Beyond Law: Aspirational Norms and Strategic Responsibility**

**CSR beyond law** is commonly understood as corporate conduct that voluntarily exceeds minimum legal requirements, encompassing initiatives such as enhanced labour standards in supply chains, ambitious environmental commitments that go beyond statutory thresholds, and proactive human-rights protections adopted in jurisdictions where domestic law is silent, weak, or poorly enforced. In this aspirational framing, CSR beyond law is often presented as evidence

of corporate moral leadership: firms are depicted as responsible actors willing to internalize social and environmental costs that legal systems fail to address. This narrative has been particularly influential in global governance debates, where voluntary corporate standards are frequently invoked as solutions to regulatory gaps created by globalization, jurisdictional fragmentation, and uneven state capacity. Yet while CSR beyond law undoubtedly plays an important role in shaping expectations of responsible corporate conduct, its normative appeal should not obscure its structural drivers or its inherent limitations.

A central contribution of **Doreen McBarnet** is her caution against idealizing CSR beyond law as a form of altruism detached from economic rationality. McBarnet argues that voluntary responsibility is rarely motivated by ethical commitment alone; rather, it is shaped by a dense web of strategic considerations that link CSR closely to market pressures and legal risk management. Corporations adopt CSR initiatives beyond law in response to reputational vulnerability, investor expectations, consumer activism, and the anticipation of future regulation. In an era of instantaneous information flows, social media scrutiny, and transnational campaigning, reputational damage can translate rapidly into financial loss, prompting firms to adopt voluntary standards as a form of risk mitigation. Similarly, the rise of ESG-oriented investment has embedded CSR beyond law into capital allocation decisions, encouraging corporations to demonstrate responsibility in order to maintain access to finance and satisfy institutional investors' fiduciary expectations.

Consumer activism also plays a crucial role in shaping CSR beyond law. Global brands, in particular, are highly sensitive to public campaigns linking them to labour exploitation, environmental harm, or human-rights abuses in their supply chains. Voluntary codes of conduct, supplier audits, and sustainability commitments often function as mechanisms through which firms seek to reassure consumers and civil society actors that they are managing these risks responsibly. At the same time, CSR beyond law frequently operates as a strategy of pre-emptive regulatory avoidance. By demonstrating that industry is capable of self-regulation, corporations may seek to forestall or soften the introduction of binding legal obligations. In this sense, voluntary responsibility can function not only as a response to governance gaps, but also as a political tool within regulatory struggles over the scope and intensity of state intervention.

These dynamics are often captured under the rubric of the “business case” for CSR, which

frames responsibility as compatible with, or even instrumental to, long-term profitability. According to this logic, CSR beyond law can enhance brand value, attract investment, improve employee retention, and reduce exposure to litigation or regulatory sanctions. While this instrumental framing has been effective in mainstreaming CSR within corporate governance, it also reveals the fragility of responsibility grounded primarily in economic calculation. When CSR is justified chiefly by reference to profitability, commitments that conflict with short-term commercial interests become vulnerable to retrenchment. Socially necessary but commercially inconvenient obligations such as meaningful living wages, deep decarbonization, or robust protections for marginalized communities may be deprioritized or diluted when they threaten competitive advantage.

McBarnet's critique highlights a deeper structural problem: CSR beyond law lacks the stability and universality associated with legal obligation. Because it is voluntary, its scope, content, and enforcement remain largely within corporate discretion. Firms may selectively adopt those aspects of responsibility that align with their strategic interests while neglecting others that impose higher costs or challenge core business models. Moreover, voluntary commitments are often weakly enforced, relying on self-reporting, private audits, or reputational sanctions rather than on independent oversight or meaningful remedies for affected stakeholders. This selective and contingent character raises questions about the capacity of CSR beyond law to deliver sustained and equitable social outcomes, particularly in contexts marked by power asymmetries between multinational corporations and workers or communities in the Global South.

Understanding CSR beyond law through McBarnet's socio-legal lens thus complicates celebratory accounts of voluntary responsibility. CSR beyond law is not a space free from law, but one structured by law's presence and absence: it emerges where legal regulation is weak or strategically navigated, and it is shaped by the shadow of potential legal intervention. Its aspirational character is therefore inseparable from its strategic function. While CSR beyond law can contribute to norm diffusion and raise expectations of responsible conduct, it cannot substitute for binding legal frameworks capable of imposing non-negotiable obligations and providing enforceable remedies. Treating CSR beyond law as a sufficient response to corporate social harm risks normalizing a governance model in which responsibility is contingent, uneven, and ultimately subordinate to market logic. From this perspective, the value of CSR beyond law lies not in its moral purity, but in its capacity to expose regulatory gaps and generate pressure for more robust legal accountability, reminding us that voluntary responsibility, when

detached from law, remains inherently precarious (McBarnet 2007; Parker 2002; Vogel 2010; De Schutter 2016).

### 1.3 CSR Through Law: Creative Compliance and Legal Engineering

**CSR through law** refers to the ways in which corporations engage with legal frameworks not merely as constraints on behavior, but as strategic resources to be managed, interpreted, and sometimes engineered in order to construct an appearance of responsibility while preserving commercial flexibility. This dimension of CSR is most powerfully illuminated by the socio-legal analysis of **Doreen McBarnet**, whose work exposes how corporate responsibility is frequently performed *through* law rather than imposed *by* it. McBarnet's concepts of "creative compliance" and "legal engineering" challenge the conventional assumption that compliance with law necessarily equates to substantive responsibility. Instead, she demonstrates that corporations may comply meticulously with the formal requirements of legal rules while simultaneously circumventing their underlying regulatory purposes, thereby transforming law itself into a site of strategic maneuvering.

Creative compliance captures the phenomenon whereby corporations adhere to the letter of the law while undermining its spirit. This occurs through the exploitation of legal complexity, gaps, ambiguities, and jurisdictional fragmentation. In areas such as tax regulation, corporate disclosure, labor standards, and environmental protection, firms often deploy sophisticated legal expertise to structure transactions, corporate forms, and reporting practices in ways that technically satisfy legal obligations but hollow out their substantive intent. CSR through law thus operates not outside legality, but within it, relying on the symbolic authority of law to legitimize corporate conduct that may remain socially harmful. Codes of conduct, compliance programs, and sustainability reports frequently emphasize adherence to legal standards, presenting legality as evidence of responsibility, even where those standards are minimal or poorly enforced. Legal engineering extends this logic further by highlighting how corporations actively shape the legal environment in which they operate. Through lobbying, regulatory arbitrage, contractualization, and the use of private ordering mechanisms, firms participate in the construction of legal norms that govern their own conduct. CSR initiatives are often embedded in this process. Voluntary standards and internal compliance systems may be designed to align closely with existing legal requirements, allowing corporations to demonstrate responsibility without incurring obligations that exceed what law already

demands. In some cases, CSR through law functions as a defensive strategy: by institutionalizing compliance mechanisms and publicizing their commitment to legality, corporations may seek to insulate themselves from liability, regulatory intervention, or public criticism. Law becomes not a floor for responsibility, but a ceiling.

This dynamic is particularly visible in transnational corporate activity, where multinational enterprises operate across multiple jurisdictions with uneven regulatory capacity. By carefully allocating activities among subsidiaries, outsourcing risk to suppliers, and relying on contractual governance rather than direct control, corporations may limit their formal legal responsibility while maintaining economic power. CSR through law often mirrors these structures. Supply-chain codes of conduct, for example, typically require suppliers to comply with local law, even where that law fails to protect workers' rights or the environment. Responsibility is thus framed as compliance with existing legal standards, deflecting attention from the inadequacy of those standards themselves. In this way, CSR through law reinforces the fragmentation of legal accountability rather than overcoming it. McBarnet's critique is especially important because it reveals how CSR through law can coexist with, and even entrench, regulatory failure. The proliferation of compliance systems and legalistic CSR frameworks may create an illusion of governance, masking the absence of substantive protection for affected stakeholders. Legal compliance becomes a performative exercise, emphasizing documentation, audits, and procedural adherence rather than outcomes. This phenomenon aligns with broader critiques of managerialized regulation, in which responsibility is translated into risk management and process-oriented controls that prioritize corporate defensibility over social justice. CSR through law thus exemplifies the limits of command-and-control regulation in complex corporate environments, while also exposing the dangers of over-reliance on legality as a proxy for responsibility.

At the same time, CSR through law is not inherently cynical or ineffective. Legal frameworks provide the language, categories, and legitimacy through which claims of responsibility are articulated and contested. Compliance obligations can serve as entry points for broader normative expectations, and legal liability risks can incentivize corporations to internalize social and environmental concerns. However, McBarnet's analysis cautions that without attention to how law is interpreted, applied, and strategically navigated, CSR through law may stabilize minimalism rather than promote transformation. When responsibility is reduced to compliance engineering, the deeper ethical and social objectives of regulation are subordinated

to technical legality. Understanding CSR through law therefore requires a shift from asking whether corporations comply with legal rules to examining how they comply, and to what ends. It calls for a socio-legal analysis attentive to power, expertise, and institutional context, recognizing that law does not operate automatically or neutrally, but is mediated through corporate practices and professional cultures. CSR through law reveals the paradox at the heart of contemporary corporate governance: law is both indispensable to responsibility and vulnerable to capture by those it seeks to regulate. Rather than resolving this tension, CSR through law often institutionalizes it, transforming responsibility into a matter of legal form rather than substantive justice. Seen in this light, CSR through law underscores the need for regulatory approaches that move beyond formal compliance and address the structural incentives that enable creative compliance to flourish, reaffirming McBarnet's central insight that legality alone is never enough to secure genuine corporate accountability (McBarnet 2003; McBarnet 2007; Parker 2002; Braithwaite 2008; Tombs and Whyte 2015).

#### **1.4 Globalization, CSR, Regulatory Gaps, Civil Society and Market-Based Enforcement**

Globalization has fundamentally reshaped the regulatory landscape in which corporations operate, exposing deep gaps between territorially bounded legal systems and transnational production networks. As firms fragment production across multiple jurisdictions, labor exploitation, environmental degradation, and human-rights abuses frequently occur in countries where regulatory capacity is weak, enforcement is politically constrained, or legal standards are deliberately lowered to attract foreign investment. In this context, CSR has emerged as a form of transnational private governance that seeks to compensate for the limits of state-based regulation. Through supplier codes of conduct, auditing regimes, certification schemes, and sustainability reporting, multinational corporations attempt to extend behavioral norms beyond their home jurisdictions and across global value chains. These instruments operate as quasi-regulatory mechanisms, relying on contractual obligation, monitoring, and reputational pressure rather than public law. As scholars such as Doreen McBarnet have argued, CSR in global supply chains reflects a shift "beyond law" and "through law," where legal techniques are repurposed to support private ordering rather than public accountability. While this shift promises flexibility and speed in addressing transnational harms, it also raises profound concerns about democratic legitimacy, accountability deficits, and the concentration of regulatory authority in corporate hands.

The governance role of CSR is inseparable from civil society and market-based enforcement mechanisms. NGOs, investigative journalists, socially responsible investors, trade unions, and increasingly consumers themselves act as de facto enforcement agents, monitoring corporate behavior and applying pressure through naming-and-shaming campaigns, divestment, boycotts, and shareholder activism. These actors often operate more rapidly and globally than formal legal systems, enabling them to respond to abuses that fall outside the reach of national regulators. Reputational sanctions, in particular, can be devastating for brand-dependent firms whose market value rests heavily on trust, ethical image, and consumer loyalty. High-profile scandals in sectors such as apparel, electronics, and extractive industries illustrate how reputational damage can force companies to reform supplier practices, terminate contracts, or adopt stricter CSR standards even in the absence of legal compulsion. In this sense, CSR enforcement through civil society and markets partially substitutes for weak public regulation, transforming social norms into economic incentives.

Yet the same features that give CSR its transnational reach also reveal its structural limitations. Market-based enforcement is uneven, selective, and contingent on visibility. Abuses that occur deep within supply chains, affect marginalized communities, or lack media appeal may escape scrutiny altogether, while highly visible issues receive disproportionate attention. This selectivity risks privileging symbolic compliance over systemic reform, encouraging firms to manage reputational risk rather than address underlying power imbalances in global production. Moreover, privatized enforcement mechanisms lack many of the procedural safeguards associated with public law. Decisions about standards, monitoring, and sanctions are typically made by corporations or private auditors, often without meaningful participation from affected workers or communities. This raises concerns about accountability and democratic legitimacy, as corporate actors effectively assume regulatory functions without being subject to equivalent public oversight.

Taken together, CSR in the context of globalization embodies both promise and peril. On the one hand, it demonstrates the capacity of private ordering, civil society pressure, and market dynamics to address regulatory gaps that states are unwilling or unable to fill. On the other hand, it risks entrenching a governance model in which regulatory power is concentrated in corporate hands, enforcement is fragmented and visibility-driven, and fundamental questions of social justice are reframed as matters of voluntary responsibility rather than enforceable rights. As scholars such as Vogel, Braithwaite, and McBarnet emphasize, CSR should therefore

be understood not as a substitute for law, but as a contested and incomplete response to the structural governance deficits of globalization one that must ultimately be complemented by stronger transnational legal frameworks and public accountability mechanisms.

### **1.5 CSR For Law: Norm Diffusion and Legal Evolution.**

CSR has increasingly come to operate **for law**, not merely alongside or beyond it, by shaping the normative environment in which formal regulation emerges and evolves. Voluntary corporate standards once dismissed as soft, symbolic, or peripheral now frequently function as precursors to binding legal obligations. Practices such as environmental and sustainability reporting, supply-chain due-diligence requirements, and human-rights disclosure regimes illustrate how CSR initiatives can crystallize into regulatory expectations, judicial reference points, and ultimately statutory mandates. In this trajectory, CSR contributes to legal evolution by generating normative consensus around acceptable corporate behavior, testing regulatory models in advance of legislation, and lowering political resistance to formal intervention by familiarizing firms and markets with new standards. As Doreen McBarnet argues, CSR can operate “for law” by preparing the ground for regulation, demonstrating feasibility, and reframing contested social demands such as environmental protection or labor rights as mainstream governance concerns rather than radical intrusions into market freedom. However, this process is neither automatic nor normatively neutral. When voluntary standards migrate into public law without critical scrutiny, there is a real risk that corporate-defined norms become entrenched as legal baselines, embedding managerial preferences, cost calculations, and reputational priorities into the very fabric of regulation. In such cases, CSR may narrow rather than expand the horizon of public accountability, locking in minimalist standards that reflect what corporations are willing to accept rather than what justice, sustainability, or rights protection require.

This ambivalence becomes clearer when CSR is examined through the lens of corporate accountability. McBarnet reconceptualizes accountability as plural rather than exclusively juridical, extending it beyond courts and regulators to include reputational exposure, investor discipline, benchmarking and rankings, and civil-society monitoring. These mechanisms undoubtedly enhance transparency and visibility, often revealing corporate practices that would otherwise remain hidden within complex organizational structures and global supply chains. Reputational sanctions, shareholder pressure, and ESG-based benchmarking can induce

behavioral change more rapidly than litigation or administrative enforcement, particularly in transnational contexts where legal remedies are slow, fragmented, or jurisdictionally constrained. Yet visibility should not be conflated with responsibility. Accountability without enforceable sanction remains structurally weak, relying on market sensitivity, media attention, and stakeholder mobilization that are uneven and selective. Firms may manage reputational risk through strategic disclosure, selective compliance, or symbolic gestures, while deeper structural harms persist. In this sense, CSR-based accountability mechanisms supplement but cannot substitute for legal responsibility grounded in enforceable duties, remedies, and sanctions.

These dynamics raise fundamental questions of democratic legitimacy and the proper role of the state in contemporary governance. When corporations design, implement, and enforce standards through CSR, regulatory authority shifts often subtly from democratically accountable institutions to private actors. Decisions about priorities, thresholds, monitoring, and enforcement are made within corporate or multi-stakeholder frameworks that lack the procedural safeguards, representativeness, and public deliberation associated with democratic lawmaking. McBarnet's framework rejects both extremes of this debate: neither the romanticization of CSR as a replacement for law nor the withdrawal or abdication of the state in the face of private governance. Instead, it calls for a recalibrated state role that actively leverages CSR while refusing to defer to it. This involves embedding voluntary norms into enforceable legal frameworks, using CSR practices as informational and experimental inputs rather than regulatory endpoints, and designing laws that anticipate and counter creative compliance strategies through which firms technically obey rules while undermining their substantive purpose.

Seen together, CSR's role in norm diffusion, accountability, and governance reveals a complex, dialectical relationship between private initiative and public authority. CSR can accelerate legal evolution, broaden the repertoire of accountability mechanisms, and respond flexibly to emerging social risks. At the same time, without robust state oversight and democratic control, it risks privatizing regulation, diluting accountability, and naturalizing corporate power within public law. The challenge, therefore, is not to choose between CSR and law, but to govern their interaction: to ensure that CSR informs and strengthens legal development without capturing it, and that accountability mechanisms rooted in reputation and markets are anchored by enforceable legal responsibility. Only through such a calibrated approach can CSR contribute

meaningfully to legitimate, effective, and democratically grounded systems of corporate governance.

## **2. Advantages of CSR as a Hybrid Governance Mechanism**

When Corporate Social Responsibility (CSR) is understood as a system that operates between law, markets, and civil society, its practical value becomes clearer. One major advantage of CSR is its flexibility. Unlike formal law, which is often slow to change and limited by national borders, CSR can respond more quickly to social and environmental problems. This is especially important in global supply chains, where harmful practices may take place in countries with weak regulation. Through tools such as supplier codes of conduct, human rights due diligence, and sustainability reporting, companies can apply common standards across different countries without waiting for legal reform.

Another important benefit of CSR is increased transparency. Sustainability reports, ESG disclosures, and benchmarking systems make corporate practices more visible to investors, regulators, civil society groups, and the public. This visibility creates pressure on companies to improve their behavior, as poor performance can damage reputation, investor confidence, and consumer trust. Even without legal penalties, the risk of public criticism or loss of market value can motivate companies to act more responsibly. CSR also allows experimentation. Voluntary initiatives give companies and policymakers space to test new approaches, such as human rights impact assessments or supply-chain monitoring systems. Successful practices can later be adopted into law, making CSR a useful testing ground for future regulation. Finally, CSR expands accountability beyond courts and regulators. Investors, NGOs, consumers, and the media all play a role in monitoring corporate behavior. While CSR cannot replace law, it can support legal regulation by filling gaps, spreading norms, and strengthening expectations about responsible business conduct. When connected to strong legal frameworks, CSR can help improve corporate accountability and encourage more preventive and forward-looking governance.

## **3. Challenges and Limitations of CSR**

Despite its benefits, CSR also has serious weaknesses that limit its ability to deliver lasting and fair social outcomes. The most basic problem is that CSR is usually voluntary. Companies decide for themselves what responsibilities to adopt, how far to go, and how strictly to enforce

their commitments. This makes it easy for firms to focus on highly visible or low-cost initiatives while avoiding deeper changes that might affect profits. As a result, CSR can become more about managing public image than preventing real harm.

Enforcement is another major limitation. CSR relies heavily on self-reporting, private audits, and reputational pressure rather than legal sanctions. These mechanisms are often weak and inconsistent, and they rarely provide meaningful remedies for workers or communities harmed by corporate activity. People affected by abuses, especially in developing countries, usually have little power to challenge corporate decisions or demand accountability through CSR processes.

CSR can also weaken demands for stronger law. When companies present legal compliance or voluntary initiatives as proof of responsibility, attention is diverted from the fact that existing laws may be inadequate or poorly enforced. In some cases, voluntary CSR standards later become part of formal regulation, but without careful scrutiny they may reflect what companies are willing to accept rather than what justice or sustainability requires.

Finally, CSR raises concerns about democratic legitimacy. When corporations set standards and monitor themselves, regulatory power shifts away from public institutions toward private actors. This can reduce transparency, public participation, and democratic control. For these reasons, CSR should not be seen as a replacement for law. Without strong legal oversight, CSR risks maintaining the appearance of responsibility while leaving underlying governance gaps largely untouched.

#### **4. Future Perspective of CSR**

The future of Corporate Social Responsibility (CSR) is moving toward something more practical, more serious, and less optional. CSR is no longer just about companies wanting to “do good” or look ethical. Instead, it is slowly becoming part of how businesses are expected to operate. Many practices that started as voluntary CSR—such as reporting on climate risks, checking human rights conditions in supply chains, or disclosing environmental impacts—are now being turned into legal requirements in different parts of the world. This shows that CSR is increasingly acting as a stepping stone between moral expectations and binding rules.

In the coming years, CSR is likely to focus less on glossy reports and promises and more on

real results. Stakeholders are paying closer attention to whether CSR actually improves working conditions, protects the environment, and prevents harm. Investors, regulators, and civil society groups are becoming better at spotting superficial or “box-ticking” CSR, which means companies will face more pressure to show genuine impact rather than symbolic compliance. Technology will also shape the future of CSR. Tools such as digital supply-chain tracking, data monitoring, and online reporting will make it harder for companies to hide harmful practices deep in their operations. This increased visibility can strengthen accountability, but only if the information is used meaningfully and not just for marketing.

Another important shift will be the growing voice of workers, communities, and affected groups. People who experience the consequences of corporate activity are demanding to be heard, not just managed through audits or reports. This may push companies to adopt more open and inclusive approaches to responsibility. Still, CSR cannot work well on its own. Without strong laws, clear rules, and independent enforcement, CSR risks becoming another tool for managing reputation rather than protecting people and the planet. The future challenge is to make CSR support stronger regulation, not replace it—so that responsibility becomes something companies must deliver, not just something they promise.

## **5. Conclusion**

This article has shown that Corporate Social Responsibility (CSR) can no longer be understood as a purely voluntary or moral choice that exists outside the law. Over time, CSR has become deeply embedded in corporate governance and is closely connected to legal systems, market forces, and civil society pressure. What began as charitable and symbolic activity has evolved into a structured way through which companies manage risk, respond to public expectations, and shape how responsibility is defined in a globalized economy. Seen through Doreen McBarnet’s socio-legal lens, CSR emerges not as an alternative to law, but as a hybrid form of governance that operates alongside law, through law, and increasingly for law.

The analysis demonstrates that CSR plays a real role in addressing regulatory gaps created by globalization, weak enforcement, and fragmented legal systems. By promoting transparency, encouraging preventive action, and spreading shared standards across global supply chains, CSR can improve corporate behavior in situations where formal regulation struggles to reach. It can also act as a testing ground for new regulatory ideas, many of which later find their way

into binding legal frameworks. In this sense, CSR contributes to legal evolution and helps raise expectations about what responsible business conduct should look like.

At the same time, the article highlights the serious limits of relying on CSR alone. Because CSR is often voluntary and controlled by corporations themselves, it can be selective, uneven, and focused more on reputation than on real social change. Concepts such as creative compliance and legal engineering show how companies may follow the letter of the law or adopt CSR language while avoiding deeper responsibility. Market-based and reputational enforcement, while powerful in some cases, remains unreliable and unequal, often failing to protect those most affected by corporate harm. Without strong legal backing, CSR risks creating the appearance of responsibility without delivering meaningful accountability or justice.

The future of CSR therefore depends on how it is governed. The key challenge is not to choose between CSR and law, but to ensure that they work together in a balanced way. CSR should inform and support stronger legal standards, not replace them. States must play an active role by turning credible CSR practices into enforceable obligations, closing opportunities for creative compliance, and ensuring access to remedies for affected communities. When anchored in robust legal frameworks and democratic oversight, CSR can move beyond image management and become a meaningful part of corporate accountability. Only then can CSR contribute to a system of governance that genuinely protects people, the environment, and the public interest in an increasingly globalized economy.

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