



THE SCHOOL OF PUBLIC POLICY

MASTER OF PUBLIC POLICY CAPSTONE PROJECT

Corporate Social Responsibility and Conflict Areas: SodaStream a Case Study

Submitted by:

Sarah Suchotzky

Approved by Supervisor:

Approved by Dr. G. Kent Fellows on August 23, 2023

Submitted in fulfillment of the requirements of PPOL 623 and completion of the requirements for the Master of Public Policy degree



THE SCHOOL OF PUBLIC POLICY

Capstone Approval Page

The undersigned, being the Capstone Project Supervisor, declares that

Student Name:

Sarah Suchotzky

has successfully completed the Capstone Project within the

Capstone Course PPOL 623 A&B

Dr. G. Kent Fellows

(Name of supervisor)

(Supervisor's signature)

August 23, 2023

(Date)

Abstract

The purpose of this paper is to review and compare international Corporate Social Responsibility standards through the case study of SodaStream. There are three main international organizations that are compared; the United Nations’ “*Guiding Principles on business and Human Rights*”; the Organization for Economic Cooperation and Development “*Guidelines for Multinational Enterprises on Responsible Business Conduct*” and World Trade Organization’s regional trade agreements. The main critique for these guidelines is that they are voluntary for both states and their corporations that operate outside their jurisdiction. I examine the case study of SodaStream because the Israeli company operated in West Bank, in internationally recognized illegal Israeli settlements. The company claimed that it was operating out of West Bank as a means to economic cooperation of the region and provide well paid employment to Palestinians. However, the company faced backlash from the international community due to claims that SodaStream was not treating employees fairly and that the company was detrimental to the establishment of a two-state solution. International standards and reporting of corporate social responsibility could play an important role in examining the impact that the behaviour of SodaStream had on the region. This paper lists four recommendations to for the international community to consider: 1. Increase publicly available research on the impact of corporations and corporate social responsibility in conflict regions 2. Develop more specific and standardized corporate social responsibility indicators 3. Establish Funding requirements returned to the community 4. Create more legally binding corporate social responsibility provision through trade agreements.

Issue

Corporate Social Responsibility (CSR) has been discussed by international forums such as the United Nations, and the Organisation for Economic Cooperation and Development (OECD), academically and corporately, for more than three decades. Additionally, some corporations have attempted to take steps to be more socially responsible by implementing CSR-related business plans. CSR, according to the World Trade Organization (WTO), is based on the idea that corporations are responsible for the social, and environmental impacts of their activities as well as the economic impact (Monterio, 2021). Though there have been frameworks and guidelines created through the UN and the OECD, there has been no internationally accepted consensus on definition, measures, or indicators to fully guide corporations (Monterio, 2021). Even with continued discussions at different levels of government about more robust CSR-related legislation, there is a growing social concern about the impact of corporations on developing areas and regions in conflict.

Purpose

The purpose of this paper is to review and compare international Corporate Social Responsibility standards. As mentioned, there are currently many indicators or frameworks that guide CSR for companies operating outside the jurisdiction of their home country, this created a lack of standardization for these indicators. It is largely left up to individual countries to set policy and regulations in these areas. I begin with a brief explanation on the historical context of corporations operating abroad and the significance of extractive resources and developing countries. The next section compares and contrasts different international guidelines for responsible corporate conduct with operating abroad, including a discussion on how these are monitored and which countries are having success. I use a case study to examine how

corporations are able to use the branding of CSR when operating in a conflict region and the impacts this may have on the economic, social and political development of that region. Specifically, examining the Israeli- based company of SodaStream and its operations in the West Bank from 2012-2017, its public statements compared to media reporting and a non-governmental organization protesting about the company’s operations. In the last part of this paper, I make recommendations to organizations like the UN and OECD as well as the international community at large about potential next steps for CSR. The goal is to alleviate some of the concerns about corporations operating in conflicting regions, including some limitations to the research of this paper and these next steps more broadly.

Background

States have been building power and wealth by accessing the resources from other countries via their corporations that operate abroad throughout time. Early recorded examples of these resources include spices, silks, minerals, gold, food, and labour. One historically established company to fall under this definition was The East India Company. This company began to create exclusive trading rights between England and the east at a time when England was in need of economic influence and power to tamper threats from the continent (Webster, 2009). This is another common theme to trade, not only to bring resources to a nation but all the “extras” that come with wealth including influence and power. Scholars such as Richard Hakluyt, postulated the theories of political economy, later known as mercantilism, through the idea that there was finite wealth in the world and that for nations to strengthen themselves they must obtain more of the world's scarce resources (Webster, 2009). In 1600, the merchants of London petitioned the Crown for a joint stock trading company that would have exclusive trading rights with the east (Asia and India) and to export gold to fund its purchases, this led to

the creation The British East India Company (Webster, 2009). From its creation in 1600 to its demise in 1874 (Webster, 2009) to today, The East India Company is widely recognized for being at the helm of trade, geopolitics, and its actions that shaped history and the world as it is known today.

Resource Curse

More recently, the late 1900s and early 2000s saw a lot of economic development for a large portion of the world, this was the end of the industrial period moving into more globalization. This time period saw an increase in movement of people, capital and trade. The 1900s saw two World Wars, the Cold War, various proxy wars (including the Vietnam and Korean wars) and the 1970s fuel crisis all of which fueled the fears of the scarcity of resources. These fears culminated into the resources curse. This curse stems from Hakluyt's theory, where developed, and sometimes resource-poor countries, sought to gain access to the resources of countries that had them in abundance. This is often done through extractive- firms, that lacked accountability to the host countries, operating in these resource- rich countries but also through misusing the paradoxical relationship between resource wealth and development in these countries (Genasci & Pray, 2008). Resource rich countries often develop more slowly than their counterparts because they are seen to be more susceptible to internal conflicts that arise from corruption and weaker institutions (Genasci & Pray, 2008). If and when developed states are unable or unwilling to aid in the economic development of resource-rich developing nations, corporations from developed countries operating in developing states should assist in the development of the country. Furthermore, these companies should be held accountable for their actions in the developing countries from oil spills to economic decline (Genasci & Pray, 2008). However, Blowfield and Fryans (2005) argue that there is an unwillingness to consider the

causality of conditions or events. Where poverty is presented as a “regrettable” by product of business practices, rather than the detrimental consequence that it has to the community, discouraging any amount of exploration into complex structure or practices of the business (Blowfield & Fryans, 2005).

International Standards for CSR

Though there are many international organizations with guidelines on responsible conduct of corporations that operate abroad, it comes to the home country to implement these indicators and to regulate and monitor them. One of the most commonly implemented guidelines for CSR comes out of the United Nations, but others have been released from the Organisation for Economic Cooperation and Development (OECD) and the World Trade Organisation (WTO).

United Nations

The United Nations “*Guiding Principles on business and Human Rights: Implementing the United Nations ‘Protect, Respect, and Remedy’ Framework*” (UN Guiding Principles), are the principles most commonly used when developing corporate social responsibility indicators. These principles were endorsed by the Human Rights Council in resolution 17/4 on June 16, 2011 (United Nations Human Rights Commission, 2011). These principles are not to be considered international law or to undermine any legislation from States, they are to guide both States and corporations to create more tangible results for sustainable corporate responsibility. The UN Guiding Principles are broken into 3 pillars, 1. the state duty to protect human rights, 2. the corporate responsibility to respect human rights, 3. access to remedy. Pillar one emphasizes the state’s need to create legislation that protects third parties from human rights abuses of its corporations operating abroad and sets clear expectations for their corporation (United Nations

Human Rights Commission, 2011). Pillar 1 clearly indicates that it is the duty of the state to protect against human rights abuses that occur both within its territory and in the jurisdiction by third parties including business enterprises (United Nations Human Rights Commission, 2011). However, should human abuses occur at the hands of a private actor, the state is not necessarily responsible, but must take appropriate measures “to prevent, investigate, punish and redress private actors’ abuses,” and in doing so states should set out clear expectations of all business enterprises under its jurisdiction (United Nations Human Rights Commission, 2011).

Pillar 2 of the UN Guiding Principles explains that business enterprises have the responsibility to respect human rights as it is a global standard and expected wherever the business may operate, and that this standard should go above what is expected in compliance with national laws or regulations. This responsibility refers to internationally recognized human rights as through international bills, such as the International Bill of Human Rights and the International Labour Organization’s Declaration on Fundamental Principles and Rights at Work (OECD, 2023).

This pillar outlines two requirements from business enterprises regarding the respect of human rights; “[to] avoid causing or contributing to adverse human rights impacts through their own activities, and address such impacts when they occur, [and to] seek to prevent or mitigate adverse human rights impacts that are directly linked to their operations, products or services by their business relationships, even if they have not contributed to those impacts,” (United Nations Human Rights Commission, 2011). Pillar two does not list mandatory requirements, but recommends that business enterprises have policies and processes in place to help them meet commitments to the respect of human rights, and to prevent, mitigate and remedy human rights abuses. Though prevention and mitigation are the preferred methods for business enterprises to

take, pillar three looks to provide guidance about how states and business enterprises can provide access to remedy should human rights abuses occur.

Pillar three, “access to remedy,” principles and mechanisms for access to remedy are outlined in this section and explains that if states do not take appropriate measures to investigate, penalize and rectify human rights abuses when they occur, then the duty to protect is ultimately meaningless (United Nations Human Rights Commission, 2011). These mechanisms should be made available through state-based judicial mechanisms and non-judicial mechanisms including creating legal responsibility for its business enterprises and domestic criminal and civil laws against avoidance of accountability. Non-state actors should take measures to create global performance standards and agreements that hold both state and business enterprises accountable.

Organization for Economic Cooperation and Development

The Organization for Economic Cooperation and Development (OECD) has a set of guidelines for enterprises operating abroad as well; the *OECD Guidelines for Multinational Enterprises on Responsible Business Conduct*, referred to as “the Guidelines,” (OECD, 2023). These Guidelines were created in 1976 and have undergone continuous updates as society has changed and evolved. The latest update in 2023, reflects a response to challenges faced since the last review in 2011, including “urgent” social, environmental and technological priorities that businesses enterprises face. These guidelines are intended to encourage business enterprises to trade and invest responsibly that will strengthen ties between countries and generate benefits for societies that will aid in achieving a sustainable outcome. These measures have a general reference and would apply to all areas of risk management including any potential human rights abuses.

The guidelines are broken into sections: general policies; human rights; employment and industrial relations; environment; combatting bribery and other forms of corruption; consumer interests; science technology and innovation; competition and taxation. As the OECD is primarily concerned with economic development, many of the guidelines and general policy focus on guiding business enterprises through a focus on corporate governance principles such as compliance with labour laws, environmental regulations, and taxation/financial laws. The general policies encourage enterprises to co-operate with governments in the development and in the implementation of corporate policies and government policies and laws. For the purposes of this paper, I will focus on general principles around economic and sustainable development and human rights in areas outside the jurisdiction of the state to which the business enterprises are headquartered

The human rights guidelines follow much the same elements as the UN ‘Protect, respect, Remedy Framework for Business and Human Rights’; a duty and responsibility to respect human rights. There are six primary guidelines in this framework with the stipulation that these guidelines are meant to work in tandem to internationally recognized human rights and all relevant domestic laws and regulations (OECD, 2023). These six guidelines are;

- “1. Respect human rights, which means they [states and business enterprises] should avoid infringing on the human rights of others and should address adverse human rights impacts with which they are involved;
2. Within the context of their own activities, avoid causing or contributing to adverse human rights impacts and address such impacts when they occur;

3. Seek ways to prevent or mitigate adverse human rights impacts that are directly linked to their business operations, products or services by a business relation even if they do not contribute to those impacts;
4. Have a publicly available policy commitment to respect human rights;
5. Carry out human rights due diligence as appropriate to their size, the nature and context of operations and the severity of the risks of adverse human rights impacts;
6. Provide for or co-operate through legitimate processes in the remediation of adverse human rights impacts where they identify that they have causes or contributed to these impacts” (OECD, 2023).

These OECD guidelines go into more detailed commentary recommendations such as when in situations of armed conflict both state and business enterprise should respect standard of international humanitarian law and to express the commitment to respect human rights publicly, through a statement that comes from a senior level of the enterprise.

The Combating Bribery and Other Forms of Corruption is another related principle (OECD, 2023). This framework consists of seven guiding principles outlining steps that business enterprises should take to avoid engaging in potential corruption or bribery. They include not engaging in corruption through request or acceptance of any undue pecuniary value, having policies and disciplinary actions set in place to discourage the behaviour and the maintenance of accurate record keeping. The OECD explains that corruption is damaging to democratic institutions but also the governance of corporations because it discourages investments and competitive conditions in international markets. This type of corruption disproportionately impacts marginalized and vulnerable populations because of the diversion of funds through corrupt practices which undermine the ability of the community to achieve higher levels of

economic, social and environmental welfare. This framework is created complementary to other UN and OECD standards and measures for corruption and anti-bribery such as the United Nations Convention against Corruption and the OECD Anti-Bribery Convention.

World Trade Organization

The World Trade Organization (WTO) is an organization that sets out rules for international trade among nations (World Trade Organization, 2023). These rules are set out in negotiations and signed agreements that are then to be fully ratified by the member states' governments, making them legally binding. The goal is to help the producers of goods, importers and exporters conduct business fairly. In March of 2021, the WTO published a working paper examining CSR provisions in its trade agreements (Monterio, 2021). The WTO discovered that as of December 2020, sixty-five of its regional trade agreements (11% of all agreements it analyzed) explicitly referred to CSR with over half of these agreements being between developed and developing countries (Monterio, 2021). This working group noted that there has been a general increase in the

inclusion of CSR provisions in the WTO's regional trade agreements over the last twenty years as depicted in Figure 1 (Monterio, 2021).

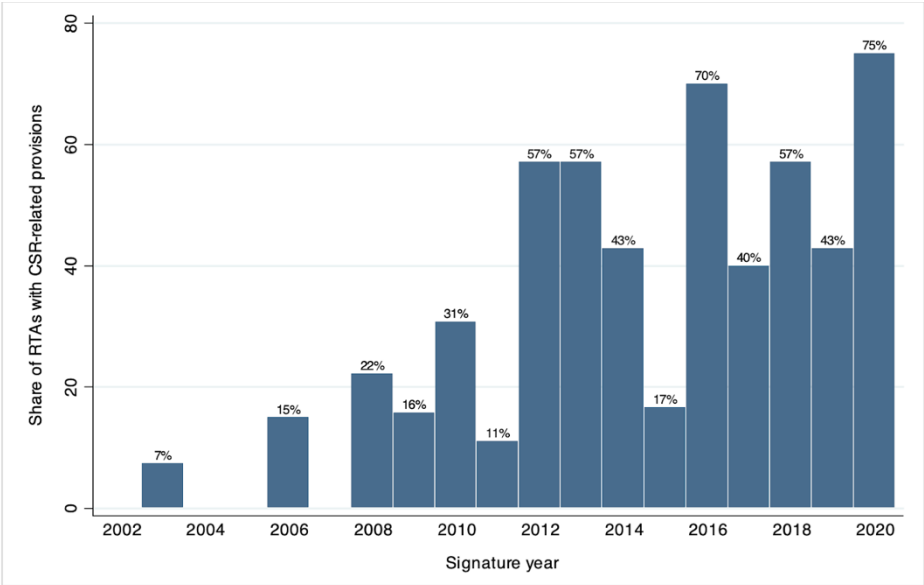


Figure 1: Growing RTAs with CSR Provisions (Monteiro, 2021)

There were seven types of CSR-related provisions found in the regional agreements, the top three revolved around the promotion of CSR standards like the UN Guidelines and the OECD guidelines, the importance of CSR and cooperation amongst the member states (Monterio, 2021). However, the working group points out that none of the regional trade agreements that they examined explicitly defines CSR, some of them list scope of the provisions, outlining standards, principles or guidelines to follow, but these are all voluntary and non-binding internationally (Monterio, 2021). Within these agreements the language in reference to CSR is depicted as voluntary and as “best endeavor” with some regions explicitly mentioning the importance of voluntary adoption of CSR guidelines, like those mentioned above and the implementation of territorial/jurisdictional legislation in reference to adhering to and respecting CSR principles.

Comparison

The *OECD Guidelines for Multinational Enterprises on Responsible Business Conduct* are more robust in its recommendations for business enterprises than the United Nations “Guiding Principles on business and Human Rights”, however both of these frameworks incorporate the adherence to other internationally recognized frameworks such as the United Nations Convention against Corruption, the United Nations Sustainable Development Goals, and the OECD Due Diligence Guidance on Responsible Business Conduct. The WTO does not have a framework or principles but has begun investigating the role that CSR provisions have taken in their regional trade agreements. This working group discovered that many of the WTO’s agreements between developed and developing countries include vague language regarding CSR provisions, including the importance of them, the promotion of the UN Guiding Principles, and the OECD Guidelines and the need for regional cooperation. The biggest criticism of the frameworks from the UN and the OECD along with the CSR provisions mentioned in the

WTO's regional agreements, is that they are voluntary. It is recommended by these organizations that their member states create legislation and regulation related to CSR standards and principles that their business enterprise must adhere to domestically and regionally, but this is still a recommendation. One beneficial element to CSR provisions being included in the WTO's regional trade agreements is that these agreements are to be ratified in legislation of the signing parties making them legally binding, but the language surrounding the CSR provisions are vague and usually worded as voluntary, giving the perception of less importance in compared to other elements of the agreement.

There are other guidelines such as: World Bank and International Monetary Fund, both having strategic plans for their own organizations with funding available for member states to aid in CSR implementation. The International Organization for Standardization (ISO) is a non-governmental international organization to which 168 countries are a member (International Organization for Standardization, 2023). ISO is the world's leading network on standardizations, it brings together experts from its member countries to develop international standards. In response to growing societal concerns about the business conduct of corporations that work abroad, ISO began investigating social responsibility and created a working group forum with recommendations for business enterprises, however, these recommendations have not received as much attention internationally as the UN Guiding Principles or the OECD Guidelines or outside of the organization itself.

CSR plays a pivotal role in holding states and corporations responsible for their actions and to a higher standard of conduct when they operate both domestically and abroad. These indicators provide guidance so that they might avoid adverse risk to the communities where they are operating. To study this fully research should be conducted examining many corporations

and their impact to their host communities, however for this paper I examined one corporation and its relationship to the region it was operating in as an example of how having a better understanding of CSR and the roles of both a state and corporation could aid in conflict resolution.

Case Study

SodaStream is an Israeli soda company that operated in West Bank from the early 2000s until 2015, when it came under international scrutiny and targeted by the Boycott, Divestment, Sanctions (BDS) movement. The company's CEO Daniel Birnbaum claims that the company is interested in the economic development and betterment of the lives of all those who work in the SodaStream factories but also for the Palestinians and Bedouin people of West Bank. The BDS movement protests the Israeli settlements in West Bank as they are considered illegal under international law, and makes the claim that the SodaStream company does not live up to its statements of equal treatment for all its employees. Both of these claims are difficult to understand, support or discredit because there has been very little effort done by the international community to investigate the level of CSR the SodaStream truly operates under and all international CSR standards and reporting are voluntary.

International Law

The United Nations declared that the establishment of Israeli settlements in "Palestinian territory occupied since 1967, including East Jerusalem," is not legal and is considered a violation under the international law and is an obstacle to the two-state solution (SRES2334, 2016). The members of the United Nations see these settlements as in violation of the fourth Geneva Conventions as well as the Rome Statues (SRES2334, 2016). The fourth Geneva

Conventions is that of “protected persons” it outlines how civilians should be treated in war times or by occupying states; Article 4 defines a protect person as,

“Persons protected by the Convention are those who at a given moment and, in any manner, whatsoever, find themselves, in case of a conflict or occupation, in the hands of persons a Party to the conflict or Occupying Power of which they are not nationals” (IV Geneva Convention, 1949).

In the view of the international community, it is Israel’s responsibility to protect, and provide for all people living in the occupied territories and see the settlements as illegally encroaching on the livelihoods of the Palestinian people.

UN resolutions state that Israeli settlements in west bank and Golan heights are in violation of international law and Israeli companies are considered an extension to the State of Israel and fall under the “settlement” term when they operate outside the recognized borders of Israel (Amnesty International, 2021). The United Nations, including the Committee on Economic, Social and Cultural Rights along with the Human Rights Committee, contend that any infringements to human rights that occur due to activities of businesses which are under the control of the state are the responsibility of that state and must be prevented or addressed (Amnesty International, 2021). To protect the human rights of Palestinians living and working in the West Bank, Israel could delegate the regulation of companies operating in the West Bank to a third party, but has not done this so the responsibility to protect continues to fall to the Israeli government (Amnesty International, 2021).

Israel State Background

After the six-day war in 1967, Israel annexed the West Bank which was under the control of Jordan. This action was condemned and classified as illegal by many on the international

forums including at the United Nations. Since then, Israel has allowed for the sprawl of its people into the West Bank through the creation of settlements. The West Bank is an important geopolitical area for the Middle East as it is the home to a large portion of Palestinians that were displaced through the creation of the State of Israel and during the six-day war. Since the Israeli settlements are a contentious issue for the region and there is much tension between the Arab world and Israelis, violent conflict often arises around these settlements in the West Bank.

There is no formal law in Israel that states that corporations must comply with any standard of CSR. However, the Israeli Government through its Ministry of Economy and Industry adopted a role to facilitate operations within the Israeli Market under the OECD Guidelines for Multinational Enterprises (Silberklang, 2019). This initiative has prompted some companies and organizations to also contribute to building CSR in Israel including the development of Maala CSR Index (Silberklang, 2019). This indicator was developed as an integrated approach of internationally accepted parameters, and included local priorities, market conditions, and business culture (Silberklang, 2019). The goal of Israeli CSR is to mitigate social disparities and support inclusive growth, specifically as it pertains to small business and local communities and marginalized populations by building capacities within individuals (Silberklang, 2019).

Another initiative was the Israel Securities Authority's (ISA) Disclosure of Corporate Social Responsibility and Environmental Social and Governance (ESG) Risks- a Proposed Outline. This proposal, published in April of 2021, is the result of two-round table discussions, one with local public companies and institutional investors, academics, and law and accounting firms and the second was an international- based discussion (Israel Securities Authority, 2021). It outlines six reporting recommendations for corporations with respect to CSR and ESG that

centre around accountability, i.e., the publication of annual reporting on CSR and ESG (Israel Securities Authority, 2021). These measures are voluntarily but highly recommended and supported by the Ministry of Economy and Industry (Israel Securities Authority, 2021). In 2020 the Ministry of Strategic Affairs developed and promoted its “Impact Nation” (“the Project”) strategic plan to encourage both private and public companies to not only comply with CSR measures but to also publish their annual reports (Israel Securities Authority, 2021). This initiative was meant to build in a level of accountability to the public where these companies would report on their environmental and social impacts as well as on fair business practices (Israel Securities Authority, 2021). The Project was set up to encourage companies to publish their CSR reports and as an incentive the Ministry created a grant of NIS 100,000 for each company that published its reports in the first phase of this project with a total budget of NIS 3 million (Israel Securities Authority, 2021; Even-Chen, 2020). Of the twenty-five companies that applied to be a part of this pilot project, there were seventeen that were selected and received the grant money (The Jerusalem Post, 2021). The outcome of this project is yet to be determined; however, the Project indicates that Israel values CSR in its business market and is making it a priority.

SodaStream and CSR

SodaStream is a beverage company that was originally formed in the United Kingdom in 1903. It began distribution of its products in Israel in 1978 and merged with Israeli company Soda-Club in 1998 (SodaStream, 2023). Today, SodaStream has been branded as an environmentally friendly carbonated drink that is available in forty-six countries on six continents, including Europe and North America (SodaStream, 2023). In 2006, Soda Club was a failing enterprise and was purchased by Fortissimo Capital, a company that specializes in

purchasing unprofitable companies and through changes to management strategies helping them be more profitable. Fortissimo hired Daniel Birnbaum to run this operation with Soda Club (Maital, 2012). Birnbaum’s strategy to turn the company around, to become more profitable with a sustainable growth, took his management beyond a simple profit motive., His motivation for corporate improvement was rooted in a strategy focused on doing more “good for Israel's society and workers including minorities and helping the environment” (Maital, 2012). In 2012, SodaStream had several factory plants that operated in different countries, but the main one was in a town called Mishor Adumim, which is near Jerusalem and is an Israeli settlement in the West Bank, as seen in Figure 2 (Maital, 2012). At this time SodaStream had five plants including in the areas of Alon Tavor, Ashkelon, and Mishor Adumim, employing approximately 450 Palestinians and 400 Israeli- Arabs (Novick, 2012).



Figure 2: Mishor Adumim, West Bank to Negev, Israel (Google Maps)

Employment for all workers included medical and social benefits with “Israel-scale wages,” meaning the pay was on par with what Israeli companies pay workers, not Palestinian (Maital, 2012). In 2012 the Israeli government gave a twenty-five-million-shekel¹ grant to SodaStream to build a new plant in the desert, southern region of Israel called Negev (Maital, 2012). This grant was meant to cover twenty percent of the

¹ Approximately \$8,926,260.00 CAD

cost to build the plant and to employ about five hundred workers adding to the 1,100 SodaStream employees in Israel (Maital, 2012). The facility in Negev opened in 2016 amidst controversy over SodaStream's operations in the West Bank and the employment and treatment of Palestinians and Bedouin (Maital, 2012).

Despite the company's attempts to communicate that they were trying to create some social and economic development in these areas, the facilities sparked pro-Palestinian protests, including from the Boycott, Divestment, Sanctions movement (BDS). BDS is a Palestinian-led movement that advocates for freedom, justice, and equality for the Palestinian people (Boycott, Divestment, Sanctions Movement, 2020). Inspired by the South African anti-apartheid movement, the BDS movement calls for Israel to comply with international laws and UN resolutions which state that the Israel occupation of the Palestinian land of West Bank is an illegal occupation (Boycott, Divestment, Sanctions Movement, 2020). The movement calls for three things, first the boycotting of anything related to Israel including sporting events, academic institutions and Israeli or international corporations that engage with the violations of Palestinian Human Rights (Boycott, Divestment, Sanctions Movement, 2020). It also calls for the divestment of banks, councils, churches, universities from the State of Israel and Israeli companies, and that the international community become more diligent on placing sanctions on the State of Israel by banning businesses from operations with internationally deemed illegal Israeli settlements (Boycott, Divestment, Sanctions Movement, 2020).

In 2014, BDS ramped up its campaign about SodaStream drawing international attention when it called for Oxfam to remove actor Scarlett Johansson as a global ambassador, after she appeared in an advertisement for SodaStream and voiced her support for the company's facility in the West Bank (Zelaya, 2014). Johansson is quoted saying "SodaStream is a company that is

not only committed to the environment but to building a bridge to peace between Israel and Palestine, supporting neighbors working alongside each other, receiving equal pay, equal benefits and equal rights.” BDS’s counter statement called out Oxfam as being unable to credibly stand behind previous statements it has made against the illegal Israeli settlements when its global ambassador supports them and the poor treatment of Palestinians for economic cooperation, or for the facilitation of economic growth of the region (Zelaya, 2014). By October 2014, Forbes Magazine reported that SodaStream pre-market trading shares were down by 18%, but Birnbaum attributed this to low customer demand in the US market, and made no mention of the BDS movement in his interview with Forbes (Sharf, 2014). The company announced that it would be closing its West Bank facility and moving it to the Negev region of Israel, denying that the BDS movement had any role in this decision and it was “purely commercial” (Black, 2014). However, Oxfam, who opposes the Israeli settlements, released a statement pertaining to the closure where it praised the BDS movement’s ability to hold “corporate criminals” accountable for their actions, and participation in the illegal Israeli Settlements (Black, 2014). Oxfam claimed that the BDS movement “forced retailers across Europe and North America to drop SodaStream,” and this contributed to the decrease in its trading shares (Black, 2014).

In addition to the fundamentally different views that SodaStream and BDS movement have regarding the SodaStream factory in West Bank and the drop in shares in 2014, they have opposing views on the impact that the move from West Bank to Negev had on the population in West Bank. SodaStream claimed that the move was to have a bigger facility and that the company had sought to transfer up to six hundred of the jobs held by Palestinians to the new plant, however the Israeli government would only permit one hundred and thirty out of security concerns so many Palestinians lost their jobs (Black, 2014). A shift manager from the West Bank

facility stated that he believed that the people who wanted this facility closed were not considering the families that rely on it (Black, 2014). It is a place where Jews, Christians and Muslims all work together and some of them have worked in these circumstances for ten years, “This place personifies coexistence and the melting pot. Even at times of tension, disputes remain foreign to this place,” a general manager at SodaStream stated (The Times of Israel, 2016). However, the BDS movement sees the company as harming the Palestinian people, the same people SodaStream is claiming to help. According to a 2017 report from Oxfam, \$3.4 billion a year is diverted from the Palestinian Authority to the State of Israel, this is due to sixty-one percent of the West Bank region being under the authority of Israel and being where most Israeli settlements are located (Oxfam International, 2017). The movement states that though the Palestinian workers do suffer from economic loss when their Israeli employer moves out of the region, the blame rests with Israel for allowing its companies to operate in West Bank and pay the workers more than the Palestinian companies can, making the workers economically dependent on the Israeli companies and Israel itself (Harris, 2016).

Recommendation

The ideological differences between SodaStream’s social initiative within its operation in West Bank and the BDS movement’s protest of their operation in West Bank is not one to likely change in the near future, however this is an example of a case where CSR could play a role in legitimizing either side’s argument. In this case, if SodaStream had a mandatory reporting and publishing obligation either dictated from the Israeli government or from the international community, it could be possible to examine the impact the company had on the region. Key reporting measurements could include economic, social, political, and environmental elements.

This reporting structure would be further legitimized if a third party were to audit the reports, especially in cases where there are claims of human rights violations.

This paper has identified four recommendations to the United Nations Human Rights Office, the OECD, the World Trade Organization and to the international community at large.

1. Public Research

The first being that there needs to be more systematic research conducted in this area. There are private consulting and accounting firms that have taken on some of the research tasks and that have built this reporting into its strategies for the businesses that they serve. For example, Deloitte, one of the “Big Four”² is an international consulting firm that has operated for over one hundred and seventy-five years and currently in one hundred and fifty countries and territories (Deloitte, 2023). One of the pieces to its strategy is to research the importance of ESG reporting and measuring to its clients through its statement “your company’s environmental, social, and governance programs demonstrate your commitment to effective risk management and long-term resiliency” (Deloitte, 2023). However, these companies have no international obligation to share their research publicly, nor do the clients they have. Research in this area should also include more impact assessments for conducting business in developing regions.

2. More Specific Indicators and Measurements

The two frameworks mentioned in this paper, the UN “Guiding Principles on business and Human Rights” and the *OECD Guidelines for Multinational Enterprises on Responsible Business Conduct*, are for the purposes of guidance for states and corporations that take it upon themselves to implement CSR legislation or policy. However, to be more effective and to measure the impact of CSR more systematically, specific indicators need to be developed. For

² Deloitte, Ernst & Young (EY), KPMG, and PwC

example, on the environmental stage, the international community has held corporations responsible for their climate impact and set clear goals for them and their countries to meet, i.e., “net zero emissions by 2050” (United Nations, 2023). Having these agreed upon indicators and goals sets clear expectations for both states and corporations and are measurable.

3. Funding Requirements for Development

Through international agreements and state legislation, corporations should be required to reinvest some of its profit back into the region in which it operates. This means outside of employment packages, corporations would need to make meaningful investments towards economic, social, political etc. areas. This could be in the form of building schools or community centres, or investments to small and medium sized businesses. These kinds of investments to the regions would help spur growth and demonstrate the commitment the corporation has to CSR of its company and its operations in developing regions. Research into the financial implications for corporations would be a valuable tool when developing this recommendation.

4. Legally Binding

A step to making CSR more effective would be to make it more legally binding. Under the UN and OECD frameworks, creating CSR legislation or corporate policy is done voluntarily, however these organizations have the ability to create more legally binding agreements. For instance, with the UN Security Council, when a nation signs on to a UN Sanction, they must have that sanction ratified through their domestic legislative process, which then creates laws to which its banking institutions and corporations must abide. Similarly, the WTO facilitates international free trade agreements, these agreements are also legally binding in terms of international law and come into effect once domestically ratified by signing members. Multilateral or bi-lateral agreements have aided in creating economic stability and to some extent

peace between countries, such as in the early 2000s when Middle Eastern countries, including Israel, entered into Free Trade Agreements, known as Middle East Free Trade Area Initiative (MEFTA), to bolster economic growth (United States Trade Representative, 2023). To incorporate formal CSR requirements and measuring structures into these agreements could have an effective impact on the corporations that are headquartered in these member states. It would not only hold states accountable for their actions but the corporations that operate under them, such as SodaStream in West Bank. In this situation, provisions written into a trade agreement could include reporting structures that allow for the monitoring of the social and political impact that corporations have in contested territories, while having the potential to alleviate some concerns through other provisions built into the agreement. The WTO would be well placed to monitor and evaluate the CSR requirements from each agreement as the third-party facilitator.

These recommendations are not exhaustive; however, they could be a value first phase for increasing the accountability of states and corporations to actions they take when operating outside domestic jurisdiction.

Considerations

This paper recognizes that there are significant considerations and limitations to the recommendations listed above. One of the largest being that these recommendations are at the international level. Creating international standards, legally binding agreements, or pressure on domestically rooted corporations has proven to be challenging for the international community. The Paris Climate accord is one example where the domestic politics of one influential state played a key role in the successful ratification of the agreement, and not all states have domestically ratified this agreement yet (United Nations Climate Change, 2016). Additionally, research into this area is difficult. With no standardized measurement, no internationally

recognized definition of CSR, and the reluctance of some corporations and governments to cooperate, access to data becomes an issue. Measuring the impact that a corporation has on a particular region requires many actors, collecting information and having the willingness to share it openly. Some developing regions do not operate this way. There are countries and governments that still operate within a bribing culture, which is one of the CSR indicators for the international frameworks mentioned above. How corporations are supposed to operate in these countries, while still respecting their commitments to CSR, is one area that would require additional research.

Reference List

- 17 companies join Strategic Affairs Ministry's "impact nation" initiative.* (2021). The Jerusalem Post. <https://www.jpost.com/israel-news/17-companies-join-strategic-affairs-ministrys-impact-nation-initiative-653965>
- About Us.* (2023). SodaStream. <https://sodastream.com/blogs/explore/about-us>
- About Us.* (2023). International Organization for Standardization. <https://www.iso.org/about-us.html>
- Black, I. (2014). *SodaStream to move factory out of West Bank Israeli settlement.* The Guardian. <https://www.theguardian.com/business/2014/oct/29/sodastream-move-factory-west-bank-israel-slash-forecast>
- Blowfield, M. & Frynas, J.G. (2005). Setting New Agendas: Critical Perspective on Corporate Social Responsibility in the Developing World. *International Affairs*, 81, 499-513.
- Chapter 3: Israeli settlements and international law.* (2021). Amnesty International. <https://www.amnesty.org/en/latest/campaigns/2019/01/chapter-3-israeli-settlements-and-international-law/>
- Disclosure of Corporate Social Responsibility (CSR) and Environmental Social and Governance (ESG) Risks - A Proposed Outline. (2021). *Israel Securities Authority.* <https://www.isa.gov.il/sites/ISAEng/1489/staff%20positions/Documents/13052021.pdf>
- Even-Chen, A. (2020). *Israeli government encourages companies to publish corporate responsibility reports.* JD Supra. <https://www.jdsupra.com/legalnews/israeli-government-encourages-companies-89566/>
- Genasci, M., & Pray, S. (2008). Extracting accountability: the implications of the resource curse for CSR theory and practice. *Yale Human Rights and Development Law Journal*, 11, 37+.

<https://link-gale->

[com.ezproxy.lib.ucalgary.ca/apps/doc/A183981037/PPTH?u=ucalgary&sid=bookmark-PPTH&xid=b6df5469](https://link-gale-com.ezproxy.lib.ucalgary.ca/apps/doc/A183981037/PPTH?u=ucalgary&sid=bookmark-PPTH&xid=b6df5469)

Goal 13: Take urgent action to combat climate change and its impacts. (2023). United Nations.

<https://www.un.org/sustainabledevelopment/climate-change/>

Harris, E. (2016). *When 500 Palestinians lose their jobs at SodaStream, who's to blame?* NPR.

<https://www.npr.org/sections/parallels/2016/03/27/471885452/when-500-palestinians-lose-their-jobs-at-sodastream-whos-to-blame>

IV Geneva Convention Relative to the Protection of Civilian Persons in Time of War. (1949).

https://www.un.org/en/genocideprevention/documents/atrocity-crimes/Doc.33_GC-IV-EN.pdf

Maital, S. (2012). *Not Just Blowing Bubbles.* The Jerusalem Post.

<https://www.jpost.com/jerusalem-report/jewish-world/not-just-blowing-bubbles>

Middle East Free Trade Area Initiative (MEFTA). (2023). United States Trade

Representative. <https://ustr.gov/trade-agreements/other-initiatives/middle-east-free-trade-area-initiative-mefta>

Monterio, J.A. (2021). *Buena Vista: Social Corporate Responsibility Provision in Regional*

Trade Agreements, World Trade Organization.

Novick, A. (2012). *SodaStream of Conscience.* The Jerusalem Post.

<https://www.jpost.com/blogs/brand-of-the-jews/sodastream-of-conscience-365040>

OECD (2023). *OECD Guidelines for Multinational Enterprises on Responsible Business*

Conduct, OECD Publishing, Paris, <https://doi.org/10.1787/81f92357-en>.

Paris Agreement - Status of Ratification (2016). United Nations Climate Change.

<https://unfccc.int/process/the-paris-agreement/status-of-ratification>

Resolution 2334 (2016). United Nations Security Council. 7852 rd. meeting.

<https://www.un.org/webcast/pdfs/SRES2334-2016.pdf>

Sharf, S. (2014). *SodaStream shares plunge to all-time low on 53% income decline*. Forbes.

<https://www.forbes.com/sites/samanthasharf/2014/10/07/sodastream-shares-plunge-to-all-time-low-on-53-income-decline/?sh=675adcdc4fc9>

Silberklang, E. (2019). *Sustainability and Corporate Social Responsibility in Israel*. Maala.

<https://www.maala-en.org.il/corporate-social-responsibility-in-israel/>

SodaStream hires hundreds of new employees in Southern Israel. (2016). The Times of Israel.

<https://www.timesofisrael.com/sodastream-hires-hundreds-of-new-employees-in-southern-israel/>

United Nations Human Rights Commission. (2011). *Guiding Principles on Business and Human Rights: Implementing the United Nations ‘Protect, Respect, and Remedy’ Framework*, United Nations. HR/PUB/11/04

Webster, A. (2009). *The twilight of the East India Company: the evolution of Anglo-Asian commerce and politics, 1790-1860*. Boydell & Brewer.

What is BDS?. (2020). Boycott, Divestment, Sanctions Movement.

<https://bdsmovement.net/what-is-bds>

What is Oxfam’s position on the Israel-Palestine Conflict? (2017). Oxfam International.

<https://www.oxfam.org/en/what-oxfams-position-israel-palestine-conflict>

What is Oxfam’s position on the Israel-Palestine Conflict? Oxfam International. (2017, May 24).

<https://www.oxfam.org/en/what-oxfams-position-israel-palestine-conflictt>

What is the WTO?. (2023). World Trade Organization.

https://www.wto.org/english/thewto_e/whatis_e/whatis_e.htm

Who we are. (2023). Deloitte. https://www.deloitte.com/global/en/about.html?icid=top_about

Zelaya, I. (2014). *BDS movement: Oxfam should Dump Scarlett Johansson.* Washington Jewish Week. <https://www.washingtonjewishweek.com/bds-movement-oxfam-should-dump-scarlett-johansson/>