

FEDERATED CORPORATE SOCIAL RESPONSIBILITY: CONSTRAINING THE RESPONSIBLE CORPORATION

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Building from recent criticisms that mainstream political corporate social responsibility has failed to effectively address the potential expansion of corporate influence in society, we advance a new conceptualization of corporate social responsibility inspired by U.S. federalist political theory. As federalism has served as a prevailing U.S. theory for arranging governmental political power for the advancement of the public interest, we derive from federalist principles descriptive, normative, and instrumental theoretical foundations for arranging corporate power and directing corporate social action in the pursuit of similar goals. What we call “federated corporate social responsibility” (FCSR) revives an older institutional approach to corporate responsibility, paying particular attention to the division of moral labor in society and how different corporate responsibility prescriptions stand to affect the social ecosystem of power. Federalist institutional strategies deploying separations of power and constitutions are used to develop a concept of corporate “constitutional devices,” which have promise to constrain the corporation as it fulfills its social responsibilities, even outside the ambit of a strong state and in light of barriers to constant, effective stakeholder accountability. We conclude by outlining FCSR managerial strategies, which sometimes endorse corporate social *in*action in the interest of a desirable distribution of authority across society.

Whoever assumes “responsibility” asserts “authority” ... The question, therefore, is not what are the “social responsibilities” of organizations. The question is what is the proper authority. What impacts do the organizations have because of their function?

—Peter Drucker (1969: 201)

“The world cries out for repair” (Margolis & Walsh, 2003: 268), but who should answer the call? Recent approaches to corporate social responsibility (CSR) have proceeded on the premise that resources, capacities, and influence accrued by corporations warrant their assumption of greater social responsibilities (Walsh, Weber, & Margolis, 2003; Wang, Gibson, & Zander, 2020). The extant and potential roles corporations assume in provisioning public goods and

fighting public bads where states fail to do so are the main bases on which broader social obligations for corporations are founded (Scherer & Palazzo, 2007; Scherer, Rasche, Palazzo, & Spicer, 2016). Much of the CSR and associated literatures have therefore largely been focused on how corporations can mobilize resources to solve such intractable social problems (Barnett, Henriques, & Husted, 2020; Montiel, Cuervo-Cazurra, Park, Antolín-López, & Husted, 2021). However, while much of this literature has explored the deployment of corporate resources and capabilities to remedy social problems, fewer voices in the business and society field have substantially theorized the potential side effects of such remedies, or how those side effects may be mitigated.

This opportunity for new theory development is more apparent when viewed in the context of older discussions surrounding corporations, which were particularly attuned to not only the ameliorative possibilities of spurring corporate benevolence but also the associated dangers of expanding the reach of the corporation (Berle & Means, 1932). In general, writers of this earlier era identified dual imperatives of (a) harnessing the power of corporations to address the novel social and political issues of the era while

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(b) maintaining a social and political order in which corporate power and influence were not illicitly outsized (Kaysen, 1957; Mason, 1960a; Preston & Post, 1975). Reconciling these imperatives has been considered primarily a problem of institutional design and control (Jones, 1983; Jones & Goldberg, 1982; Stone, 1975). Later scholars developed from this tradition an institutional approach to CSR (Campbell, 2007; Kourula, Moon, Salles-Djelic, & Wickert, 2019; Marens, 2008; Wood, 1991) that grants consideration to the values enshrined and promoted by existing institutions while also proposing strategies to structure and orient institutions toward those values. This institutional focus is in contrast to the now-dominant “organizational” perspective (Preston, 1975), which primarily speaks to managers on how to effectively and profitably respond to surrounding social conditions (Ackerman & Bauer, 1976; Porter & Kramer, 2006, 2011) or, in the mainstream political CSR (PCSR) literature, how to manage social legitimacy in light of expanding corporate social action (Scherer et al., 2016).

In this paper, we revive the institutional approach as we draw fresh insights from U.S. federalist political theory. Federalism, as an institutional perspective, is concerned with not just managerial or organizational responses to social ills but also cases in which a social problem ought to be beyond the purview of managerial or organizational action, and, in particular, how managers or their organizations can be *constrained* or controlled to stay within their purview (Clark, 1926; Jones, 1980, 1983; Stone, 1975; Taeusch, 1926, 1931). We review objections to corporations’ overstepping of their role—what we call *corporate expansionism*—as well as recent literature suggesting that the dominant PCSR framework has failed to incorporate theoretical resources for curbing this expansionism. We then provide a positive theory of “federated CSR” (FCSR). As federalism has continually proved to be the most successful political theory globally for preventing the overexpansion of the political powers of the state (Burgess, 2012), we look to it for a framework for understanding, effectively constraining, and directing corporate power. We outline the core commitments of FCSR, which recognizes plural sources of power, prescribes the decentralization of power, and proposes constitutional devices centered around altering fundamental power balances to achieve this goal. We illustrate this perspective with reference to the Rana Plaza collapse and the initiatives that emerged thereafter, and conclude with a preliminary set of managerial strategies implied by our framework.

CSR, CORPORATE POWER, AND CORPORATE EXPANSIONISM

Should corporations battle all the world’s injustices? The tacit directive of CSR literature appears to provide an affirmative answer: the more social responsibilities assumed by corporations, the better. The broad consensus forming around the socially impactful corporation recognizes not only that corporations possess the abilities to resolve seemingly intractable social problems but also that their undertaking of such activities poses a normative good for society as a whole. However, these calls to convert the business corporation into a force for doing good also assign corporations new tasks and responsibilities that likely come with some costs, and may even generate new sources of harm. Here, we index the modern business and society field’s evolution in thought around CSR and corporate control to illustrate its continuing struggle to advance responsible corporate social action while reigning in the growth of corporate authority (what we call *corporate expansionism*), culminating in recent frameworks for PCSR. We then present a survey of existing critiques that have raised seemingly valid concerns regarding corporate expansionism and the absence of restrictions in now-dominant CSR approaches. These concerns provide the motivating premise for our later positive contribution of federated CSR, rooted in federalist political theory.

Where Law and Conscience End: Controlling the Corporation

The early modern notions of corporate responsibility were born, not coincidentally, in an era of dwindling social control of the corporation and increasing corporate power. For much of the 20th century, a growth of corporate power was observed in the U.S. context, understood largely in terms of the sustained sheer concentration of economic activity and resources that corporations commanded (Berle & Means, 1932; Chandler, 1977; Kaysen, 1960). Most critics, observing the separation of enterprise ownership from enterprise control, judged managers to be vested with a disquieting degree of power as they enjoyed greater insulation from either competitive market forces or the will of shareholders (Berle & Means, 1932; Lan & Heracleous, 2010; Mason, 1960b; Stone, 1975).

The vacuum of control was initially hoped to be filled by a kind of trusteeship—the fulfillment of “social responsibilities” as a result of managerial conscience driving managerial action (Barnard, 1938; Berle, 1954; Dodd, 1932). However, the earliest

originators of the “business and society” field quickly recognized that the question of corporate control was far from resolved. Some form of accountability seemed necessary for even the noblest of corporate executives vowing loyalties to the public interest (Mason, 1960a). The early choice for many of these theorists was public policy and, hence, a particular institutional thesis regarding corporate control was born: government serves as the most effective countervailing force against the corporation. This arrangement of a superior–subordinate government–business “diarchy”—a system of two primary centers of power—was then reflected in the motivating framework: the “rules of the game” would be specified at the public policy level, and corporations would operate within those rules (Friedman, 1970; Preston & Post, 1975: 100). This rather rigid diarchical framework—which we call the 1970s synthesis—stemmed from the basic institutional thesis that corporations were no angels, or at least not agents that could be trusted to act conscientiously in the absence of definitive rules against certain behaviors.

This imposition of formal rules and regulations may at first appear not entirely congruent with what were classically understood to be *discretionary* dimensions of a corporation’s social responsibilities (cf. Carroll, 1999). However, this diarchical conception of corporate control crystallized particular assumptions about the opportunities and restrictions that could be placed on managers who might otherwise pursue CSR objectives that go “beyond profits” (Schwartz & Sallia, 2012; see also, e.g., Davis, 1960; Dodd, 1932; Swope, 1931). Without clear rules or value objectives against which “responsible” behavior could be evaluated, such pursuits were judged to be vulnerable to capture—for use as a cloak for what was otherwise in the managerial class’s interest (Friedman, 1962, 1970; Jensen, 2001). Proponents of the 1970s synthesis thus championed the role of formal rules in preventing managers from escaping accountability under the guise of following less defined social responsibilities (Jensen, 2001; Votaw, 1972). In contrast, more recent scholarship has vested confidence in *informal* sources of control—particularly frameworks rooted in stakeholder influence (cf. Barnett, 2014, 2019)—as able to steer managers toward acting in a manner that simultaneously serves multiple ends (Mitchell, Weaver, Agle, Bailey, & Carlson, 2016). Stakeholder social control was championed as favorably congealing corporate financial performance (CFP) with corporate ethics and social performance (CSP) in a manner that collapses responsible firm behavior into the

pursuit of “enlightened value maximization” (Jensen, 2001; cf. Margolis & Walsh, 2003). This represented a third solution to the question of corporate control: the robust powers of informal control could supplement or displace further formal regulatory interventions or exclusive reliance on the magnanimous manager (cf. Barnett, 2019; Crane, Palazzo, Spence, & Matten, 2014; de los Reyes, Scholz, & Smith, 2017; Paine, 2000; Walsh et al., 2003).

A more contemporary strand of CSR has highlighted the inadequacy of these three approaches in light of the public activities of the corporation, reverting to new standards of good corporate “citizenship” as expressive of corporate *political* responsibilities, reminiscent of the older Berleian corporate trusteeship. This new PCSR begins with the proposition that we can no longer discern a clear line between the state and the corporation as corporations have taken on state-like responsibilities (Crane & Matten, 2005; Scherer & Palazzo, 2007). Processes of globalization, the ushering in of the post-Westphalia (or “postnational”) era, and the nation-state’s resulting loosening grip on the multinational corporation (Santoro, 2010) are jointly seen to have dealt a fatal blow to the 1970s synthesis. Where older frameworks countenanced the private pursuit of profit under publicly determined rules of the game (Preston & Post, 1975), few regulatory bodies or transnational legal systems are judged to have kept pace with evolving needs of corporate oversight (Jones & Goldberg, 1982; Scherer & Palazzo, 2007). These conditions effectively leave corporations in many contexts with the slack of providing essential public goods, fighting public bads, and taking part in political deliberation (Scherer et al., 2016). Meanwhile, the sheer diversity of global values contributes to a neutralization of informal controls for managers to follow any single set of values (Goodrick & Salancik, 1996; Jamali, 2010).

PCSR thus advances a fourth solution to the problems of control, drawing from Habermasian political theory: corporations, as they fulfill the roles of government or fill “governance gaps,” need to engage in discursive processes to maintain legitimacy (Scherer et al., 2016). However, recent theory and practice have raised questions around whether the political mandate to maintain legitimacy offers a robust countervailing measure against corporate overreach. For one, insofar as PCSR appeals to nobler frameworks of “corporate citizenship” or, more recently, “deliberative democracy,” to warrant the assumption of functions typically reserved for states, PCSR discourse seems to be committed to the

legitimation of expanding corporate activities, as it cites social conditions as justification for interventionary action (Rhodes & Fleming, 2020). This legitimation of the expanded corporate role, when applied to systemic challenges facing society, stands to substantially widen managerial authority, as when it is used to justify corporate policing of labor and living condition injustices across globe-spanning supply chains (e.g., Scherer & Palazzo, 2011; Schrempf, 2012; Van Buren, Schrempf-Stirling, & Westermann-Behaylo, 2021; Wickert, 2016).

In sum, we have seen four, roughly chronologically ordered, attempts to fill the vacuum of corporate control that was detected at the beginning of the 20th century: (a) the Berleian (Berle, 1954) model of corporate trusteeship, where corporate conscience would serve as the essential control on corporations; (b) the 1970s synthesis, or diarchical framework in which government was understood as the primary countervailing force against the corporation; (c) a turn to informal sources of stakeholder control to bring CFP and CSP in harmony with one another; and (d) a turn to control processes centered around building legitimacy for performing state-like functions—that is, PCSR. We have arrived at this fourth turn to PCSR in light of the deficiencies of the others: the conscience of the manager never seemed to be a sufficient source of control; the diarchical framework was affixed to a now-outmoded model of nation-state-centric global governance; and the viability of the rough alignment of CSP and CFP through informal stakeholder controls has now been rejected by a host of literature referencing significant barriers to stakeholder accountability (Barnett, 2014, 2019; Crane et al., 2014; de los Reyes et al., 2017; Margolis & Walsh, 2003; Paine, 2000).

This brief review showcases the central, though sometimes implicit, role in CSR theory played by the boundaries or scope conditions of CSR. Their relevance is made clear in the next section, which reviews objections to corporate overreach under the guise of responsible social action. These objections all address a phenomenon we label *corporate expansionism*, or the entrance of corporate activity into domains, which indicates institutional failure to keep corporate power in check. We divide these objections into two categories: outcome-oriented objections and principled objections. Outcome-oriented objections dispute the instrumental logic linking corporate social action and preferred social impact or outcomes, whereas principled objections dispute the legitimacy or permissibility of corporate social action in spite of its prospective effectiveness.

We then review literature suggesting that these concerns may be exacerbated by PCSR.

Outcome-Oriented Objections to CSR Expansionism: The Perverse Outcomes of Even Good Intentions

Outcome-oriented objections dispute the connection between corporate social action and the actual fulfillment of social responsibilities or advancement of social welfare. Such objections hold that the potential effectiveness of corporate social action is severely hampered or effectively negated by the larger harms of accompanying corporate expansionism. This line of critique adopts the rhetorical strategy that Hirschman (1991: 11) called the *perversity thesis*; this thesis contends that actions proposed or pursued even for good reasons “will produce, via a chain of unintended consequences, the *exact contrary* of the objective being proclaimed and pursued.” Many critics of corporate expansionism have asserted that the intended ends of corporate social action—even if benevolent—simply cannot be achieved, or can only be achieved at great cost to particular constituencies in society.

One form of this objection raises concerns surrounding a “corporate saviorhood” mindset that overlooks the likely possibility that corporations have certain conflicts of interest with the interests of wider society. Girdharadas (2018), in his bestselling book *Winners Take All: The Elite Charade of Changing the World*, challenged adherents to this more messianic notion of corporate social action by pointing to the benefits and status that large corporations have and continue to accrue through the existing social and economic order. Charging corporations to lead campaigns toward systemic change or a more just society, then, is likely undermined by their vested interest in maintaining the status quo. Girdharadas (2018: 8) contended that many efforts of social change backed by corporate leaders undermine their own effectiveness by sifting away all interventions other than those which “do not upset fundamental power equations.” Similar objections within critical management scholarship have contended that CSR initiatives, implemented under a guise of assuming greater responsibilities, often result in “a further embedding of capitalist social relations” into social life as corporations colonize new spaces in “search for profit” (Hanlon, 2008: 157, 169; see also Banerjee, 2008). Such objections understand particular features of the corporation, or conditions of its environment, as

effectively sabotaging the otherwise best intentions of their leaders (Banerjee, 2008; Schneider, 2020).

While worries of perverse outcomes are commonly voiced from the political left today, it is instructive how closely they resemble the worries we find in the famous 1970 essay by Milton Friedman, generally located on the political right. Friedman (1970) criticized CSR, partially on the grounds that the expansion of the corporation's reach would potentially yield bad, unintended outcomes. For one, Friedman (1970) predicted that social initiatives would simply be executed poorly due to the manager's foray into areas far beyond their expertise. However, at a more fundamental level, Friedman worried that CSR embraced no inherent limits to what might come under the purview of the socially conscious manager: "The doctrine of 'social responsibility' taken seriously," Friedman (1970: 126) contended, would eventually extend the scope of the model corporation to "every human activity."

A recent case study provides the most striking illustration of unintended outcomes. Testimony and analysis from Indigenous Pehuenche people of the Chilean Biobío highlands indicated how PCSR, in its focus on legitimacy-building to the exclusion of priority for local autonomous governance, may have contributed to negative outcomes in justifying a kind of "corporate social imperialism" (Maher, Huenteao, & Quintremán, 2021). The development of the Ralco Dam in the area, despite corporate attempts to distribute monies and other support to the indigenous people, later coincided with "a surge in social ills," including the "highest national levels of poverty, alcoholism, domestic violence and suicide" and "a decline in the collective way of life and of indigenous spirituality" (Maher et al., 2021: 1090). Maher et al. (2021) attributed these negative outcomes to the valorization of the corporation as a candidate for legitimization when it occupies state-like roles. Further, they argued that PCSR cannot be made "right" because the entrance of the corporation into community social action in similar cases will most likely, despite "good-natured intentions," result in a dispossession of "traditional community structures that are rooted in ancient ways of knowing and seeing" (Maher et al., 2021: 1095).

Principled Objections to CSR Expansionism: The Business of Business Is Business

The other kind of objection to corporate expansionism deals not with the prospective outcomes of corporate social action but with underlying issues

related to proper institutional function. While some critiques in this vein have been phrased in terms of the "privatization" of public goods (Barley, 2007), they have often gone beyond this concern. All of them are united, though, in that they consider the entrance of corporate oversight into certain realms of social or political activity to be improper or irredeemably illegitimate, on principle. For instance, Preston and Post (1975: 97) stated that an automobile company should not, on a principled basis, involve itself in the public education system or establishing housing standards.

We find some of the most sophisticated formulations of this objection in work from the earliest iterations of the business and society field (generally, Mason, 1960a). There was a pervasive worry that an excessively benevolent vision of the corporation—as a "welfare corporation" (Drucker, 1954: 269) or "metro corporation" (Eells, 1960: 53)—would facilitate a morally objectionable excess of corporate power or "managerial authority" (Albanese, 1966; Selekman & Selekman, 1956). In 1958, Harvard Business School professor Theodore Levitt (1958: 47) reprimanded businesses for usurping other institutional functions: "Government's job is not business, and business's job is not government." Economist Neil W. Chamberlain (1973) also endorsed a "limited responsibility thesis" that fully recognized businesses' inability to remedy the absence of needed government regulation. Peter Drucker's early-career views on CSR fall in line here as well: in several places Drucker (1946, 1969) affirmed General Motors CEO Alfred Sloan's indictment of CSR as an inappropriate expansion of corporate authority. We may also return to Friedman's (1970) essay to find principled objections: "the business of business is business," he reminded his readers, reproaching corporate executives seeking to overstep their roles. One reason Friedman (1970: 124) faulted the socially responsible corporate executive was their resorting to "undemocratic procedures" to achieve that which should be undertaken in the context of democracy; where the businessperson takes himself "to be simultaneously legislator, executive, and jurist" (Friedman, 1970: 122).

Forming an unlikely alliance with Friedman, former United States Labor Secretary Robert Reich (2008) also dubbed CSR efforts to be poor substitutes for governmental programs and reform. Reich echoed the 1970s synthesis as he deemed overtures for increased corporate social action a nearly futile exercise, as they involve asking corporations to ignore the "rules of the game" established for them. The most common principle cited to motivate these

objections is one on which Reich and Friedman seem to have agreed: the benevolent autocrat is no replacement for a democratically elected political leader (see also Jones & Goldberg, 1982).

Scholars critical of what we have called “mainstream” PCSR have extended this critique to cases where some portion of the rules of the game are entirely absent or weak. Mäkinen and coauthors have suggested that PCSR exacerbates expansionism given its lack of resources for telling where corporate social action should stop and where roles of other actors—the state or civil society—should begin. PCSR then leaves underspecified the “division of moral labor” in which corporations should fit (Heikkurinen & Mäkinen, 2018; Mäkinen & Kasanen, 2016; Mäkinen & Kourula, 2012; see also Abländer, 2020; Abländer & Curbach, 2017; Smith, 2019). It is unclear, for instance, what theoretical resources PCSR has at its disposal to mount a critique of the 21st-century version of the old “company town” (Mäkinen & Kasanen, 2016). In light of PCSR’s expressed project to understand and resolve legitimacy challenges posed by broader corporate social action, the most critical statement of the worry is that “PCSR inadvertently risks valorising, even abetting, a... corporate power grab” (Rhodes & Fleming, 2020: 946). Other critics, drawing on specific cases of PCSR-in-action, have indicted the legitimacy processes on which PCSR relies for failing to interrogate or effectively remedy unequal power relations that favor certain parties over others in discursive engagement (Dawkins, 2015, 2021; Reinecke & Donaghey, 2021; Sabadoz & Singer, 2017).

In sum, these critiques indicate that theory around corporate social action requires that we question, in many cases, whether, in the first place, it is desirable or possible to legitimate corporations in their new state-like roles. Indeed, our ultimate theory will suggest that some political responsibilities consist in *forbearing* from engaging in state-like activities: that theory around reinforcing corporate social *inaction* is just as crucial as that around enabling corporate social action. Below, we present a new account of CSR rooted in federalist political theory which we argue is uniquely suited to address the question of corporate expansionism and the modern conditions of corporate power. While this approach to CSR continues to concern itself with the world’s pressing social problems, it constructs a theory of CSR that is also concerned with appropriate distributions of power and their relationship with the differentiation of institutions within our system of societal governance. It provides an updated descriptive model of power relations, an evaluative framework providing

a metric for more- and less-attractive power distributions, and a set of strategies for constraining corporations in pursuit of those distributions.

FEDERATED CSR’S BASIC COMMITMENTS

Federalism is an evolving political theory that has undergone many periods of transformation, as well as waxing and waning popularity (Karmis & Norman, 2005). Our application of federalism to CSR seeks not to resolve debates internal to political theory but instead to apply federalist principles to contemporary questions in management theory related to challenges posed by corporate expansionism.

While federalist ideas long predate U.S. political institutions, federalism was crystalized in the construction of the early U.S. political system (Zuckert, 2020). Authors of *The Federalist Papers* (Hamilton, Madison, & Jay, 1787–1788/2009) and early federal studies focused largely on the (comparative) design of nation-state constitutions as a way of setting up political institutional arrangements, effecting “intergovernmental relations” that may be hierarchically related, functionally differentiated, or territorially divided. Authors of this system harbored a deep skepticism toward any form of unchecked, centralized power. Political power was instead declared to properly “reside in the people, who delegate powers through constitutional devices to different governments serving different areas for different purposes” (Elazar, 1987: 16).

Running through the writings of James Madison was a wariness of placing a nation’s “destiny in the hands of a single citizen,” which Madison characterized as a last resort, arising only in cases when “fears of discord and disunion ... exceeded the apprehension of treachery or incapacity” (*Federalist Papers* No. 38; Hamilton et al., 1787–1788/2009). Madison deemed the control of one’s “conscience” to be inadequate for holding personal ambitions in check (Dahl, 1956: 17; *Federalist Papers* No. 51; Hamilton et al., 1787–1788/2009). The solution to centralized power, endorsed by both Madison and Alexander Hamilton, relied not on the prudence, conscience, or morals of individual rulers to exercise “self-restraint,” but instead on a formally codified dispersion of power that would ensure “external checks” to prevent tyranny (Dahl, 1956). It naturally followed that the U.S. constitutional system sought to remedy deficiencies not by merely guiding the *substance* of political actions—promoting good culture or conscience among government functionaries—but by creatively engineering the political structures vested with power to steer their direction (Chayes, 1960: 38–39).

Broader applications of federalism were inaugurated by several mid-20th-century theorists in the proto-business and society field. Berle (1955: 75) framed this reapplication as inevitable given the rise of modern corporations, as “few, if any, classic federalists foresaw a time in which great, non-territorial organizations would be the chief productive and distributive agencies.” A larger set of theorists saw merit in drawing on federalism to reframe corporate activity as part of a broader decentralized scheme of societal governance alongside the state and civil society (Berle, 1955; Brewster, 1960; Eells, 1962; Mason, 1960b; Votaw, 1965). The federalist “devices we have adopted for our public polity” were seen as a productive “point of departure” for theory around the responsibility of private business associations (Eells & Walton, 1961: 392; see also Davis & Blomstrom, 1966; Votaw, 1965).

Some 60 years later, we adopt this federalist point of departure at a time when corporate power has reemerged as a concern within CSR debates (Rhodes & Fleming, 2020), and as it remains the case that though “the separation of powers may be the most central idea in the theory of institutional design ... this has only been true of thinking about public institutions” (Braithwaite, 1997: 305). In applying federalism’s commitments to questions of CSR, we present a theoretical contribution that spans the realms of the descriptive (describing how the world is), normative or prescriptive (how the world should be), and instrumental (connecting means and ends) (Donaldson & Preston, 1995; Jones, 1995). In other words, we elaborate on how federalism sees the world (descriptive), what values and the goals it adopts (normative or prescriptive), and what strategies it prescribes to reach those goals (instrumental).

For the sake of clarity, Table 1 contrasts these central elements to the corresponding elements of mainstream PCSR, the most prevalent strand of CSR that addresses the political role of the corporation. PCSR centers on three concepts relevant to each of the realms listed above: it describes a diarchical world in which corporations are bestowed greater power equal to or beyond that of states, it prescribes the legitimation of corporate assumption of state-like tasks and responsibilities, and it deploys strategies of discourse to achieve this end. The next two sections outline how FCSR departs from PCSR on each of these three fronts. In summary, FCSR describes a world of pluralism (or polyarchy), prescribes a world of decentralized powers structured in a manner to reduce domination, and yields strategies of formally codified constitutional devices to achieve that end.

The Descriptive: Pluralism and Horizontal and Vertical Divisions of Labor

A foundational aspect of FCSR is its attention to forms of power and authority that are dispersed and arranged across society (Berle, 1955) within a system of “societal governance” (Crane & Matten, 2020; see also Rhodes & Fleming, 2020). As we will see below, an interpretive commitment to the pluralistic or variegated nature of power—what we label a *pluralist* view of power (Davis & Blomstrom, 1966)—plays a crucial role in CSR theory, overcoming simplified conceptions of diarchical power. Pluralism describes a world in which power and authority are categorically heterogeneous, sometimes separated or combined, and variegated in type and function (Eells & Walton, 1961). This pluralist perspective, when applied to the premises of CSR theory, replaces the diarchical vision with a *polyarchical* one—recognizing the coexistence of plural powers at the subnational, national, and supranational levels. Following Lindblom’s (1977) conception of polyarchy, pluralism is not in itself a “political system” (like a constitutional monarchy) but may describe the distribution of power in any number of political systems (see also Perry & Rainey, 1988). Pluralism more accurately reflects a system of social control operating by way of dispersing authority not only across but also within particular institutions, whether those are the state, the market, or civil society. This unmoors our account of power from a common perception within the diarchical view: that power is zero-sum, with societal tasks functioning like land over which two armies may vie for control (see Eberlein, 2019). Where effective solutions to social problems that rely on nonmanagerial mechanisms are often deemed a “managerial failure” (Freeman, 1984: 74–75), a plural understanding of power recognizes that domain over social issues is regularly variegated and dispersed across a number of actors within a system of societal governance.

Pluralism can illuminate both horizontal and vertical variegation and interrelations of power. We may begin with horizontal variegation at different levels of analysis. On the macro level, pluralism speaks to the division of moral labor defining which institutions are afforded authority in society (e.g., Mäkinen & Kourula, 2012). It envisions the coexistence and interpenetration of different social subsystems, including the state, the corporation, the market, and civil society (Jones, 1983; Miller, 1976). At the meso level, pluralism can be applied to a particular subsystem, thereby recognizing its internally

TABLE 1
Contrasting the Commitments of Mainstream PCSR and FCSR

	Mainstream PCSR	FCSR
Descriptive	<ul style="list-style-type: none"> • Distribution of power: Diarchical, split between the nation-state and corporations, in which corporations have gained a relative power advantage due to globalization. • Politicization: Firm is political when and because it takes on state-like functions. 	<ul style="list-style-type: none"> • Distribution of power: Pluralist, in which power is dispersed and shared across institutions. • Politicization: Firm is political because it falls within a larger system of societal governance. Even “economic” functions are subject to political justification.
Normative	<ul style="list-style-type: none"> • Focal value: Discursive engagement. • Business political mandate: “Provide public goods & contribute to voluntary self-regulation” (Eberlein, 2019: 1128); act as “stewards of public interest through deliberative processes and institutions” (Eberlein, 2019: 1128). 	<ul style="list-style-type: none"> • Focal value: Decentralization of power. • Business political mandate: Create value while decentralizing power, supporting power systems that encourage corporations to stay with division of moral labor. This will involve following the <i>principle of subsidiarity</i> (deferring to local forms of authority) as well as encouraging the <i>differentiation or variegation of authority</i>.
Instrumental	<ul style="list-style-type: none"> • Key strategy: Engage in discursive deliberation (or other means) to acquire legitimacy in assuming state-like roles. • Central managerial strategies: <ul style="list-style-type: none"> • Implement deliberative processes that invite input from external groups. • Implement voluntary MSIs and reporting initiatives, complying with input from deliberation (Eberlein, 2019). 	<ul style="list-style-type: none"> • Key strategy: Enact formally codified separations of power. • Central managerial strategies: <ul style="list-style-type: none"> • Respect existing divisions of moral labor • Support countervailing powers. • Create, innovate on, and preserve constitutional devices.

complex power relations; pluralism can describe the dispersion of authority and power within industries or across groups of individual organizations. Pluralism can also be applied to the structure of a single organization at the more micro level. In that case, the division of labor within the firm “differentiates organizational tasks and assigns them to specialized subunits” whereby “the nature of each sub-unit’s task determines its position in the organization’s workflow, and the extent to which its activities are functionally interdependent with those of other subunits” (Astley & Zajac, 1990: 482; see also Astley & Zajac, 1991; Ambos & Schlegelmilch, 2007).

Pluralism also describes vertical arrangements of power, in cases where authority is exercised over others. Returning to the prior example of organizational workflow, governments may, under certain conditions, intervene in organizational operations, thereby interfering with the tasks assigned to particular subunits. In most cases, it is the formal authority of the managers that set the tasks, structure, and conditions of work (Dosi, Marengo, & Virgillito, 2021). However, whereas many interpretations of power emphasize formally structured hierarchies of power, pluralism also attends to the structural power vested in entities as a result of their place in the division of

labor. Corporations with more “pivotal roles in the division of labour” could be said to have a high degree of *functional centrality* (Astley & Zajac, 1990: 484), which grounds a form of structural power that can stand apart from power that arises from formal hierarchies, dyadic resource dependencies (Pfeffer & Salancik, 2003), or forms of legitimacy (Suchman, 1995). Pluralism therefore recognizes that corporate expansionism may result in expanded corporate power simply in virtue of taking on a more functionally central role within the larger system of societal governance.

This systemic view of power also implies a more inclusive *politicization* of the corporation, by virtue of both the systematic effects of corporate activities and the broader set of alternatives against which corporate authority can be evaluated. Where previous political approaches to CSR relied on a predefined notion of what constitutes “the political”—generally, particular functions judged to be “state-like” (see Table 1)—FCSR recognizes that even quintessentially managerial activities are not easily separated from political questions. Managerial decision-making related to setting compensation, granting promotions, or approving leave, for instance, have political implications as they affect larger systemic outcomes,

especially relating to inequality (Amis, Brickson, Haack, & Hernandez, 2021; Amis, Mair, & Munir, 2020).

However, at a more fundamental level, given that the extant role of the corporation within a pluralistic power system can be evaluated only in relation to potential, alternatively arranged power systems, even the core functions of the corporation and the forms of authority arising out of them are subject to political justification. Consider, for instance, the managerial prerogative to exert control over an employee within the workplace—regulating their hairstyle, clothing, speech, and schedule. That these powers clearly fall within the ambit of a private business does not seem to insulate it against comparisons with alternative, perhaps more desirable, power systems (Anderson, 2017; McMahon, 2012; Taylor, 2017). The pluralist approach to power implies that very little can be easily sequestered from the realm of the political. Mainstream PCSR focuses on particular “responsible business activities that *turn corporations into political actors*” (Scherer et al., 2016: 276, emphasis added), while, under FCSR, corporations do not *become* political by way of assuming state-like functions. Rather, the corporation, ever since it became a power-exercising player within the social order, is held to have been subject to political justification.

Establishing this pluralistic account of power as a baseline description of social reality, and an associated approach to politicizing the corporation, then calls for evaluative frameworks for determining more- or less-desirable arrangements of power. Accordingly, we now turn to the normative principles guiding FCSR.

The Normative: Decentralizing Power

Jones (1983) argued that any theory around the social control of the corporation requires some set of normative values to understand what counts as a superior control mechanism over another. Here, we seek to construct a CSR theory that provides actionable advice, and that can shape the research agenda toward important questions in CSR. Research with prescriptive implications has been shown to require the invocation of normative values, in CSR in particular (Margolis & Walsh, 2003; Swanson, 1995; Wang et al., 2020), and in management theory more broadly (Donaldson, 2012, 2021). While all prescriptions must ultimately be based on a range of intrinsic values—what is valuable in the world—a workable CSR framework requires the specification of some *focal* value

that can orient and provide the initial justification for the strategies it proposes (Donaldson, 2021; see also Donaldson & Walsh, 2015; Soule, 2002).

While the federalist tradition interprets the world in terms of plural centers of power, it is far from content to rely upon existing pluralism. Informed by Madisonian concerns with the dangers of tyranny or moral harm under systems in which actors harbor concentrated, undifferentiated power, federalism thus adopts a “focal value” (Donaldson, 2021) or “normative core” (Donaldson & Preston, 1995) of decentralizing power.

A focal value of power *decentralization* should not be confused with that of power *dissolution*. As Chayes (1960: 32) argued, theorists have long been “concerned with power in both its faces—not only as an evil, to be restrained, but as a resource to be harnessed in service of society.” Some forms of power may be good or necessary, for instance in that they accompany organizations’ attempt to take advantage of certain organizational efficiencies that require scale or coordination (March & Simon, 1993) and enable value creation (Donaldson & Walsh, 2015; Moran & Ghoshal, 1999; Singer, 2019).

Federalism’s focal value of power decentralization is therefore not absolutist but is fashioned to disrupt the tendency of prevailing justifications for social action to rely on classical criteria of comparative advantage or technical efficiency in solving social issues (Porter & Kramer, 2011) to the exclusion of important normative considerations around corporate power and societal governance. Here, interests in efficiency and administrative control are balanced with the social interest in preserving a separation of powers. In the case of the corporate social action, this may not always entail the reduction of corporate power, but rather the promotion of power centers that can *countervail* it (Frederick, 1960; Galbraith, 1993; Marens, 2008). In addition, as pluralism suggests, this will not always require a redistribution of resources or legitimacy—we may also intervene in the structure of social or organizational divisions of labor to empower countervailing power centers, such as labor (Mills & Ungson, 2003). Inside the organization, Oliver Williamson (1980) described this strategy as yielding a “federated” work arrangement where separate powers (labor and management) are formally vested with autonomy over workflow.

The mandate to “decentralize” power is informed not only by the federalist tradition of promoting competing power centers (Brewster, 1960) but also by principles guiding the allocation of authority across hierarchies. The federalist principle of subsidiarity,

for instance, dictates deference to more local forms of governance. This principle has already been applied to the relationship between the state and the corporation, guarding against “excessive centralization” as it promotes “healthy pluralism and diversity in society” (Sison & Fontrodona, 2012: 236), and also within organizations between managers and employees, promoting individual autonomy (Melé, 2005) and genuine organizational diversity (Frémeaux, 2020). Abländer (2011, 2020) extended this principle to CSR, formulating criteria for divvying up tasks across different actors from a macro perspective, considering actors’ competencies, what counts as a reasonable distribution of cost and responsibility-bearing, and the rationale for extending responsibility.

Within the federalist framework, the decentralization of power as a *focal* value is ultimately rooted in the *intrinsic* value of political freedom. Because federalism is concerned with power chiefly by virtue of its potential to subject individuals to unconstrained authority, it pursues the decentralization of power in order to advance a republican notion of “nondomination,” or freedom from arbitrary authority (Pettit, 1997, 2012). The stickier theoretical issues of advancing republican nondomination cannot be done justice here, given the sheer volume and diversity of theoretical perspectives on republicanism (see Lovett, 2018). However, the republican notion of freedom proves particularly fit for a post-Westphalian economic paradigm: it has already been extended to transnational contexts, illuminating how this domination can be abated via power decentralization across polities and great distances (Bohman, 2008, 2012; Ronzoni, 2017).

FCSR homes in on the power exercised by corporations in all spheres, grounding its concerns within this republican commitment to preserve political freedom. The reviewed critics of corporate expansionism were often reacting to violations of this freedom (Brewster, 1960; Mäkinen & Kasanen, 2016), as corporate actors have garnered unconstrained authority over a broader range of social domains.

The Instrumental: Distributing Powers Through Constitutional Devices

Finally, we turn to the means by which FCSR pursues the focal value of decentralization within the context of pluralism. Here, we consider the notion of a constitution, the keystone device for imposing constraints on government within political federalism, largely through separation of powers and promotion

of checks and balances. However, whereas constitutions in the political realm generally specify stable rules or laws constraining the highest governmental authorities (Burgess, 2012; Friedrich, 1950), constitutionalism can be translated into the corporate realm by returning to the roots of what it means to establish a *federation* (from *foedus*, an agreement or pact). This opens space for constitutional interventions in the form of formal constraints to which entities within institutional arrangements may *commit* themselves (Elazar, 1987). Our account of FCSR labels these interventions *constitutional devices*, defined as formally institutionalized means of constraining power and authority “among the participants in political life”; they can accommodate a “wide variety of political structures” that are sensitive to empirical (in)validation given different conditions of the institutional environment (Elazar, 1987: 11–12).

Our constitutional perspective focuses on structures that rely on formal methods of decentralizing power or countervailing it, for instance by formally altering the balance of powers of an institutional structure’s internal governance, or by installing formal mechanisms of accountability to strengthen external countervailing power against the corporation’s deviation from a set of commitments or goals. This focus is motivated by a classical skepticism of standards for regulating power that are not formally codified in a set of rules or procedures or backed up by the material alteration of power structures (Burgess, 2012), a skepticism that has been vindicated in the corporate sphere by modern studies detailing the failures of discretionary self-regulation and informal social control (Delmas & Montes-Sancho, 2010; King & Lenox, 2000; Laufer, 2006; Margolis & Walsh, 2003).

Constitutional devices are thus differentiated from codes of conduct, corporate credos, or value statements like the Nestle Business Principles or Unilever’s Sustainable Agriculture Guidelines, which function more like vows made to oneself. These agreements may very well incorporate mechanisms of monitoring, but generally no institutional structure or formal mechanism for accountability is enlisted to ensure such monitoring is effective.

Constitutional devices also recognize the potential for constraint *both within and outside the state*. Where weak states have served as the primary justification for the corporate assumption of state-like roles (Scherer et al., 2016), constitutional devices may be implemented by alternative actors, such as industry groups, trade associations, and multistakeholder initiatives. Instead of resorting to the formulation of modes for corporations to legitimate their

expansionist activities, FCSR looks to other potential structures that could constrain them. These includes certain forms of internal firm responsibility structures (Marquis, Glynn, & Davis, 2007; Soderstrom & Weber, 2020; Zhang & Luo, 2013), binding “private regulatory initiatives” (PRIs) (Buchanan & Barnett, 2021; King & Lenox, 2000; Lenox, 2006; Mena & Waeger, 2014), methods for “structural empowerment” of employees and other stakeholders (Jones & Goldberg, 1982; Mills & Ungson, 2003), formal reporting structures to external parties, and firm-initiated corporate governance reform (Clark & Brown, 2015; Van Buren, 2010). It even includes more literal “Madisonian-style” constitutions (Skarbek, 2016), which have been used for the balanced-powers governance of private organizations outside of the ambit of the state, including pirate crews (Leeson, 2007) and prison gangs (Skarbek, 2011). All of these constitutional devices are distinguished from voluntary multistakeholder initiatives (MSIs) (cf. Eberlein, 2019), which do not meet the criteria around sufficient codification and implementation of an institutional structure to ensure regulatory effectiveness and longevity.

In addition, all constitutional devices at minimum embrace a kind of *diachronic* separation of powers. Constitutional devices bind corporate action now to limit or shape their powers in the future. To draw on the metaphor of Odysseus preparing to face the lure of the sirens, constitutional devices are the rope used by corporations to “tie themselves to the mast,” codifying difficult-to-undermine countervailing powers in governance or accountability mechanisms, and, in so doing, constricting future agency.

Importantly, such constitutional devices may be spurred by only momentary social pressures or conscientious motivations, internal or external to the corporation. This approach poses benefits compared to CSR efforts that primarily rely on informal pressures of stakeholder influence or macroprocesses of social legitimation. Such approaches have been frequently criticized for overstating the capacities of stakeholder groups to vigilantly track, evaluate, and respond to firm behavior, as well as understating significant stakeholder opportunity costs (Barnett, 2014, 2019; Paine, 2000). Constitutional devices, on the other hand, present the possibility of momentary pressure spurring a corporate constraint that is specifically structured to be resilient to future capture, shifting corporate leadership, or a “ratcheting down” of CSR schemes into impression-management (cf. Buchanan & Barnett, 2021). As exemplified in the case outlined below, the constitutional devices can

produce a spillover effect when instituted at an industrywide level: they may exert binding demands on firms and actors that enter into a particular industry even after the agreement has been implemented (Anner, 2019; Gupta & Lad, 1983).

While, as we later stress, FCSR does not give up on the possibilities of the “hard power” of government regulation or other legal interventions (Schrempf-Stirling, 2018), in some cases constitutional devices will be formally instituted by the firm itself. It would be reductive, however, to classify such cases in terms of “voluntary self-regulation,” akin to the kind Eberlein (2019) located at the core of mainstream PCSR. For instance, although the United States enacted its own constitution, it would be reductive to say that today the federal government voluntarily abides by the First Amendment; indeed, state actors can have their own action invalidated by the state-sanctioned judicial system. In the same way, a firm that, for example, installs on its board a permanent director for representing a stakeholder group would differ from firms that might consider stakeholder interests or dialogue with stakeholders on a voluntary basis (Stone, 1975). The diachronic separation of powers operating at the core of a constitutional device thus imposes constraints upon present and future actions that outlast the conscientiousness of managers or their responses to sometimes fleeting social pressures. Indeed, FCSR’s transcendence of the soft power versus hard power dichotomy—as it sometimes relies neither on vigilant informal stakeholder control nor on government intervention—is one of its primary merits.

THE RANA PLAZA DISASTER AND THE BANGLADESH ACCORD

While our account of FCSR articulates a newer vision of how institutional structures should be constructed in view of CSR, we see existing constitutional devices already at work, particularly in the realm of transnational governance mechanisms. One illustrative example can be found in the reforms pursued in the wake of the tragic 2013 Rana Plaza building collapse in Dhaka, Bangladesh. In the decades prior to the collapse, Bangladesh had become a major hub of production in the global garment sector, ranking second only to China in total garment exports. Many global retail brands, such as H&M and Walmart, took advantage of low production costs and fast delivery from suppliers in Bangladesh to source apparel sold around the world. The Bangladeshi garment sector had already drawn concerns from international nongovernmental organizations

(NGOs) and labor groups regarding labor conditions and wages. In 2012, a deadly fire in a factory producing apparel for Walmart claimed the lives of at least 112 people. Yet, this death toll would pale in comparison to the 1,134 victims of the Rana Plaza disaster in 2013 (Islam & Stringer, 2018).

While the causes of the 2013 collapse are multifaceted, many of them can ultimately be attributed to the insufficient enforcement of fire and building safety standards (Knudsen, 2017). Piore (1997) observed more than a decade earlier that many factories had instituted practices of cheap factory construction, congestion of workers, and blocking of workplace aisles and exits—practices ultimately stemming from pressures to keep production costs low.

While international brands had long professed public commitments to principles of safe labor conditions, exclusive reliance on unenforced agreements structured around these codes of ethics proved ineffective (Siddiqui, McPhail, & Rahman, 2020). Actual inspections were delegated to local inspectors who could be paid off for a certificate stating that the supplier met standards (Siddiqui et al., 2020). The formation of MSIs that relied on voluntary participation from international brands proved no more successful. A 2011 meeting of NGOs, trade unions, international brands, and the government's regulatory arm, convened after hundreds of fatalities in garment factory fires, failed to gain buy-in by international brands. Workers continued to report to jobs in unsafe conditions, while government officials often minimized regulatory enforcement in the interest of preserving their country's status as one of the cheapest outsourcing locations for the garment industry (Siddiqui & Uddin, 2016).

Building from the earlier insights of FCSR, we attribute some portion of these failures to the absence of a full range of constitutional mechanisms that effectively decentralized power and control. Since the arrival of the garment industry in the 1990s, few countervailing powers—whether locally or internationally—had proven capable of mounting a significant challenge to the power held by international brands, which ultimately shaped labor conditions and worker safety (Anner, 2019). While these international brands openly professed commitments to certain ethical principles, they appeared to rely on self-regulation and formal but unenforced agreements as reason to avoid enforced agreements with labor groups or standardized procedures of safety inspection coordinated by MSIs (Anner, 2019). Such conditions seem to reinforce a prevailing critique of

PCSR's reliance on forms of self-regulation and voluntary MSIs: these forms of "soft power" prove insufficient to resolve governance gaps (Eberlein, 2019; Kourula et al., 2019; Schrempf-Stirling, 2018).

Even after the 2013 disaster, most U.S. brands chose to continue their reliance on unenforced self-regulation, forming a more conventional MSI (the Alliance for Bangladesh Worker Safety) that lacked any formal sanctioning power over its participating members (Donaghey & Reinecke, 2018). The far more effective response to the Rana Plaza disaster, on the other hand, relied on features that reflect the FCSR commitments. The most effective governance structure to emerge in the wake of the disaster was the Accord for Fire and Building Safety in Bangladesh (referred to here as the Accord). The Accord is governed by a steering committee composed of three representatives from trade unions and three representatives chosen by the signatory brands. A representative of the International Labor Organization serves as a neutral chair. The keystone strategy of the Accord was "longer-term capacity-building" for empowerment of nonmanagement groups (Donaghey & Reinecke, 2018); an intentional intervention in the powers that determine conditions and outcomes of the Bangladeshi garment industry (Bair, Anner, & Blasi, 2020). The Accord implemented a number of requirements on its signees, including a two-year vow by signatories to maintain purchasing volumes in order to create space for workplace safety investment. It utilized a pluralist "governance structure creat[ing] a balance between the interests of labour and corporations," including labor representatives at the "highest decision-making level," while committing to "a legally binding agreement, previously unseen in transnational supply chain labour governance" (Donaghey & Reinecke, 2018: 24–25).

The Accord's success therefore consists not just in the implementation of requirements to which companies could be held accountable—long considered key to effective PRIs (King & Lenox, 2000)—but also in its intervention in the governance powers that oversaw and implemented the constraint; in this case, a constitutional structure balancing labor and industry leaders' powers (Dawkins, 2021). Thus, it was able to better insulate itself institutionally from other interests that may have undermined its mission. It successfully created an institutional structure to devote corporate resources toward a social mission while guarding against the drive toward corporation expansionism. The Accord also avoided exclusive reliance on vigilant stakeholders pressuring for

reforms—a mechanism whose insufficiency was revealed in the face of steadily mounting factory deaths leading up to the 2013 disaster.

We thus see in the Accord an implementation of governance mechanisms that defy conventional PCSR approaches, as Donaghey and Reinecke (2018) observed. For one, where PCSR has focused largely “on the roles of NGOs and activists” (Donaghey & Reinecke, 2018: 21) as well as voluntary multistakeholder initiatives (Eberlein, 2019), the incorporation of enforced codified agreements lessens reliance upon the discretion of corporate actors themselves. In addition, while recent PCSR literature has stressed the possibility of various types of cooperative regulation between government and business (Eberlein, 2019; Schrempf-Stirling, 2018), the Accord cannot even fit into this modified framework: as Bair et al. (2020) outlined, the accomplishments of the Accord were *in spite of* a range of governmental efforts to undermine its pro-labor reforms.

Still other modifications to mainstream PCSR seek to accommodate the case of the Accord by arguing that the focal value of PCSR as outlined in Table 1—discourse—requires collaboration across involved parties (de los Reyes et al., 2017), and, in particular, countervailing powers in order to buttress discursive quality and legitimacy (Dawkins, 2021). Certainly, deliberation was key to the construction of the Accord, as well as to its contentious 2021 renewal process (Paton, 2021). However, these episodes of deliberation, in and of themselves, hardly proved effective to productively steer the responsible action of corporations. The lasting success of the Accord is more directly attributable to the enforced agreements institutionalized among various parties that were designed to effectively transcend and outlast such deliberations. FCSR’s reliance on constitutional devices thus may often favor the successful *resolution* of discursive engagement rather than the construction and facilitation of discourse. While constitutional devices may require ongoing investment, contestation, and oversight (Buchanan & Barnett, 2021; Yue, Luo, & Ingram, 2013), their construction by and large represents a productive *termination* of discursive processes signaled by codified and enforced agreements that enable cooperation to emerge amid enduring forms of countervailing measures. It was the knot in the rope that constricted Odysseus from leaping into the sea, not the discourse resulting in the knot’s tying. The longevity and comparative stability of the co-equal branches of the U.S. government attest to an institutional inertia of constitutional devices that

transcends the discourse that established it or the discourse that modifies or contests it.

A key takeaway from the case of the Accord is not just the *internal* institutionalization of balanced powers. It is also its external scope—it reached a large part of the industry and established itself as the premier initiative for the goal it pursued. This is in contrast to other social action initiatives, such as the Forest Stewardship Council (FSC). The FSC also incorporated an internally balanced governance scheme—a “tricameral structure” composed of industry, social, and environmental representatives—but it was ultimately thwarted by competing initiatives that offered substitutes that were less stringent and less costly for member organizations (Moog, Spicer, & Böhm, 2015). Key to a successful constitutional device, then, is institutional design in light of its “political-economic context” (Moog et al., 2015), and in particular a sensitivity to the possibility of a “race to the bottom,” as other organizations or initiatives compete for more membership by providing less stringent substitutes (Yue et al., 2013). A race to the bottom is indeed what blocked efforts to regulate the corporation through the corporate charter—the corporate constitution itself—as individual U.S. states competitively loosened corporate law restrictions in a competition for more state charters (Cary, 1974; Orts, 2013).

This concern is directly addressed by FCSR’s broader systemic perspective, which holds that the role of the corporation—and the effectiveness of corporate controls—can only be evaluated in the context of the larger system of societal governance (Crane & Matten, 2020; see also Bhargava & Young, 2021; de Bakker, Matten, Spence, & Wickert, 2020; Miller, 1966; Rhodes & Fleming, 2020). Certainly, this evaluation includes an assessment of the vulnerability of constraints to displacement by less demanding substitutes.

A popular solution to the race to the bottom in corporate law is a *vertical* reconfiguration of the existing federalist order. Benefits posed by the possibility of chartering at the national level of the federal government (Nader, Green, & Seligman, 1976) must be weighed against the stability current arrangements have provided (Bratton & McCahery, 2006). Such a vertical reconfiguration of the division of labor may also be available in the corporate sphere, for instance via standardization by an industry body or chamber of commerce (Galaskiewicz, 1991; Gupta & Lad, 1983), or, more radically, via “change on the systemic level of capitalism” itself (Schneider, 2020; see also de Bakker et al., 2020).

Having illustrated how FCSR may be applied in practice, we now turn to a summary of managerial strategies proposed by FCSR.

MANAGERIAL STRATEGIES OF FCSR

It has become increasingly clear that “business is a part of societal governance,” and thus that we require a “systemic perspective” to give shape to the social and political responsibilities businesses are tasked to pursue (Crane & Matten, 2020; see also de Bakker et al., 2020; Kourula et al., 2019; Rhodes & Fleming, 2020). The strategies prescribed by FCSR to managers are therefore never analytically separate from strategies for preserving the health of the larger system of societal governance. Managers may address some social problems, but FCSR holds that they should sometimes engage in forbearance out of *respect for the division of moral labor*; it may also require that managers *support countervailing powers* to facilitate healthier societal governance; in addition, it encourages managers to *innovate on, create, and preserve corporate constraints* where necessary.

Respecting the Division of Moral Labor

FCSR activity will involve *respecting the division of moral labor*. Because we cannot here provide a full normative account of the appropriate division of labor (for a number of options, see Mäkinen & Kourula, 2012), we instead offer a number of strategies relativized to a not-yet-defined division. Respecting the division of moral labor implies that responsibilities sometimes may consist in *nonaid* or *nomrescue*—of *inaction*. In particular, corporate responsibility sometimes requires not “taking the reins” on an institutional response to some social ill—not responding to “the world’s cries for repair.” The temptation to fill governance gaps or intervene in the face of social injustice, as we have reviewed, often underwrites illicit expansion into social domains that yields the sometimes unintended outcomes discussed above.

An appropriate caution with regard to social action implies that corporations must be careful to attend to social action’s potential negative impacts. Maher et al. (2021) suggested that the earlier-reviewed harms inflicted on the communities of the Biobío highlands were in part due to a corporate and state override of local forms of governance. This was a failure to embrace a strategy of vertical decentralization. Indeed, one of the primary reasons federalist political theory embraces the above reviewed principle of subsidiarity, displaying deference to local

governance, is because such “federal arrangements can accommodate minority nations who aspire to self determination and the preservation of their culture, language or religion ... [or] territorially based groups with preferences that diverge from the majority population, such as ethnic or cultural minorities” (Follesdal, 2018).

Subsidiarity is a powerful principle (Abländer, 2011, 2020). It provides guidance as to the hierarchical design of power, and douses what Bartley (2018) called the “hope of transcendence,” which animates CSR efforts that portend to offer governance solutions that might somehow render insignificant the local and domestic context of action. Marquis et al. (2007) documented the neglect of local institutional contexts in theory around corporate social action, and the promise of reinvigorated institutional perspectives to enrich this area of inquiry.

On the other hand, subsidiarity is also limited as a standalone principle. Sometimes more local initiatives are not fit for a task. In the case of the FSC, Moog et al. (2015: 483–485) relayed the perspective of stakeholders who argued that ecological efforts must, by necessity, be met by full authority and resources of a governmental body; the authors added that “privatization of regulatory authority” may have worsened ecological efforts by legitimizing “state withdrawal from responsibility for global environmental problems.” Subsidiarity’s deference to localized authority therefore may very well be overridden in cases where challenges cannot be met by local governance. Balancing the centralization of authority, which is sometimes “necessary if the work of the world is to get done,” and values, which “mak[e] the work of the world worth doing” (Albanese, 1966: 136), is a key managerial skill under FCSR.

Supporting Countervailing Powers

The Biobío highlands and FSC cases both illustrate that governmental forms of societal governance can be displaced by corporate activity. However, even where corporations may successfully forbear from displacing the state, governance failures from weak or predatory states may persist. Theorists who have recognized expansionist worries within the corporate human rights obligation literature have thus concluded that a primary responsibility of corporations can instead be to *support* states (Hsieh, 2009, 2015, 2017). We can broaden this prescription to *support countervailing powers*, such as states, unions, and other interest groups (Frederick, 1960; Marens, 2008). First, this minimally requires *not*

illicitly undermining countervailing powers: for instance, not distributing anti-union propaganda or working with the state to engage in anti-union intimidation (Siddiqui & Uddin, 2016), not engaging in loophole tax avoidance or political cronyism that may undermine state governance and competitive markets (Bird & Davis-Nozemack, 2018; Dowling, 2014; Klein, Holmes, Foss, Terjesen, & Pepe, 2022; Preuss, 2010), not taking advantage of market failures that enable illicit value capture and the undermining of competitive markets (Bowen, 1953; Friedman, 1962; Heath, 2014), and not capturing industry business associations that otherwise pursue socially conscious ends (Marques, 2017).

Second, there are ways to actively promote countervailing powers, such as supporting unions or encouraging prosocial taxes. Mars Inc. illustrates a distinctively FCSR orientation toward the state (Mufson, 2019). In 2009, Mars set out an ambitious goal to move to entirely sustainably produced cocoa in its supply chains by 2020. The firm invested millions of dollars in purchasing certified sustainably sourced cocoa, and millions more to accreditation agencies. It also developed relationships with traders and government agencies on the ground in West Africa. It had already gained the highest certifications available on several of its products by 2012. Yet, it began to notice that its efforts were failing. For one, the largest accreditation organization in the Ivory Coast uncovered corruption in its own certification process, which led it to admit it could no longer back its own claims. Mars moved the target date to 2025 and continued investment in sustainable efforts. Yet, after recognizing that the firm's voluntary efforts likely would not achieve the goal of curbing unsustainable deforestation, Mars incorporated a new tactic: it began lobbying the federal government for a carbon tax that would offset its own carbon footprint. While the firm believed such a tax would give a competitive advantage to those companies that strive to minimize their footprint, it also recognized that this tax would cost the firm more than one billion dollars a year (Mufson, 2019).

The support of countervailing powers thus answers the call to "reintegrate" the state in modern political approaches to CSR (Kourula et al., 2019). However, returning to the pluralistic account of power outlined above, the mandate to support countervailing powers also moves beyond the state in integrating a far wider range of countervailing powers, including unions, multistakeholder initiatives (de Bakker, Rasche, & Ponte, 2019; Mena & Palazzo, 2012), third-party accreditation agencies (Cummings, 2012; Dando &

Swift, 2003; Terlaak, 2007), worker-driven social responsibility initiatives (Fine & Bartley, 2019), professional and trade associations (Spillman, 2012), or activist groups representing community and worker interests (Edward & Willmott, 2008).

Creating, Innovating on, and Preserving Constitutional Constraints

We have also suggested that managers may proactively address social ills without expansionism by way of constructing and innovating on new constitutional mechanisms to undertake certain responsibilities or see that certain social ends are achieved. The possibility of crafting newer, innovative constitutional constraints suggests that corporate responsibility may not only consist in responsible action within specified constraints but also in engaging with constraints themselves (Pies, Schreck, & Homann, 2021). The arenas for entrepreneurship, in other words, includes not just the arena of impactful corporate social action (Barnett et al., 2020) but also the arena of effective *constraint* or *institutional structure* for corporate social action. Thus, FCSR is additionally distinguished from all other approaches to CSR by explicitly incorporating a role for managers to engage in a kind of "institutional entrepreneurship" (Battilana, Leca, & Boxenbaum, 2009)—or, more aptly for FCSR, what in other fields is known as "constitutional entrepreneurship" (Skarbek, 2016)—which involves implementing and innovating on internal and external constitutional arrangements that advance social goals while preventing corporate expansionism. Where innovation on governance structures or constitutional constraints in management theory has largely been oriented toward solving collective action problems or market failures (Barnett & King, 2008; Klein, Mahoney, McGahan, & Pitelis, 2019; Pies et al., 2021), FCSR sets a novel goal of decentralizing power to preserve and advance nondomination. The example of the Accord captures the effectiveness of one such innovation on constraints for social action, as clothing brands abandoned their earlier aspirations of unilaterally overseeing the safety and labor conditions of their suppliers.

In addition to the innovation on and creation of constraints, managers may contribute to the *preservation and upkeep* of those effective constitutional devices already in existence. We reviewed how one central merit of constitutional mechanisms is their lesser reliance on the conscience of managers or on constant public pressures for reform for corporate

control. These latter strategies rely more on the resources, inclination, or ability of stakeholder groups to exert informal social control on the corporation (Barnett, 2019; Derry, 2012; Margolis & Walsh, 2003; Paine, 2000). However, constitutional devices are hardly panaceas for corporate control. For instance, labor groups monitoring the Accord's efforts in Bangladesh have voiced some criticism of its ability to enforce its commitments to safety conditions and punish defectors (Prupis & Fulton, 2016). Inevitably, managers will at times retain agency to act responsibly in overseeing the effectiveness of constitutional devices, allocating additional efforts or resources where constitutional devices require supplementing, or where they require a "rebalancing" of powers given changes in the larger institutional environment (see Klein et al., 2019). FCSR thus does not entirely remove the need for discretionary ethical action by managers, despite its best efforts to avoid exclusive reliance upon such discretion. Where it fails to remove discretion, it still prescribes this managerial strategy of preserving and promoting constraints.

DISCUSSION AND CONCLUSION: A TRULY SYSTEMIC APPROACH

FCSR presents an institutional approach to CSR that highlights a variety of ways in which corporations can be controlled and harnessed in service to society. We find within federalist theory answers to many critiques, perennial and new, levied against the prevailing CSR paradigms, and articulate an attractive institutional viewpoint that places CSR in the context of broader societal governance. In this way, we answer recent calls from leading scholars to offer a more normative (Wang et al., 2020), institutional (Kourula et al., 2019) approach to CSR informed by how other tools of governance may fit within the larger system of societal governance (Crane & Matten, 2020; Rhodes & Fleming, 2020).

This new approach has implications for research on both managerial and nonmanagerial institutional structures. In the former vein, the most developed analogous line of research can be found in longitudinal analyses of PRIs, which investigate how PRIs may be sustained in responding to dynamic pressures or how they may devolve into forms of impression-management (Buchanan & Barnett, 2021; Yue et al., 2013). While this research on PRIs has been valuable and enlightening, it largely revolves around strategies to perpetuate PRIs *given* preexisting institutional structures. In other words, to use Dorobantu, Kaul, and Zelner's (2017)

typology, this research has focused on how firms *adapt* in the context of existing self-regulatory institutional structures rather than *adding to* or *transforming* them. FCSR is concerned with generating prescriptions not just for the adaptation but also for the initial design of constitutional devices to enact the focal value of FCSR (e.g., Boatright, 1999). In place of existing PRIs—which are largely voluntary—FCSR suggests constitutional devices that instantiate formalized decentralization of powers, and hence urges a focus on how managers may affect their own institutional environment—innovate and enact these devices—rather than only respond to it. Other research therefore falls much more squarely in the FCSR paradigm, including efforts to investigate potential interventions in the institutional environment, for instance to enable external pressures of social movements to enact PRIs (Briscoe & Gupta, 2016; Mena & Waeger, 2014) or to facilitate substantive adoption of CSR practices (Haack, Martignoni, & Schoeneborn, 2021). However, as Weber and Waeger (2017) observed, the organization's effect on its institutional environment has been understudied relative to the reverse relationship. This is also true of how *groups* of organizations may coordinate to affect their environment.

FCSR, as we present it, adopts a particular instrumental thesis that can only acquire additional specification with further research. For instance, future research may examine the best way to "codify" a device; while, classically, it was thought that constitutions must be written (Burgess, 2012), we now inhabit a post-parchment paradigm where newer, digital commitment devices exist for establishing protocols and constraining human and organizational agency (Murray, Rhymer, & Sirmon, 2021), including digital modes of distributing and enforcing control rights through smart contracts with potential collaboration across reliable financial intermediaries (e.g., for escrow resource-sharing) and information intermediaries (Dubbink, Graafland, & van Liedekerke, 2008). Second, by making reference to several different bases of power (resources, legitimacy, and functional centrality), FCSR opens up research avenues to examine constitutional constraints not just through the lens of a single one of these bases, but across them. At present, little research has indicated the balance of which bases of power should be prioritized for the longevity or effectiveness of a constitutional device, or how interactions between these kinds of power may call for different institutional structures when a particular kind of power is scarce or abundant.

Further, in its broad focus on constraining the corporation, FCSR integrates a range of otherwise distinct research streams onto the same purposive plane: instituting constitutional devices for corporate responsibility. As reviewed above, this includes not just PRIs but also the structural empowerment of employees and other stakeholders; the building of internal firm responsibility structures; formal reporting structures to external parties; and firm-initiated corporate governance reform, including innovative proposals for rotating, randomly selecting, or term-limiting board members (Benz & Frey, 2007; Pek, 2021; Zeitoun, Osterloh, & Frey, 2014). By purposively integrating this research, FCSR opens avenues for research on the interactive outcomes of these measures—for instance, whether they may be substitutes, or whether one kind of device may more effectively constrain corporate action in one kind of institutional environment than another.

Although we have focused on managerial strategies, a properly systematic CSR research agenda will also investigate strategies nonmanagerial countervailing powers may adopt—for instance, how employees may countervail employers (Courpasson, Dany, & Clegg, 2012; Orts, 1997; Younes, Courpasson, & Jacob, 2020), how unions may countervail the corporation, and what innovative legal constraints may control the corporation (Hess, 2007; Laufer, 2008; Schrempf-Stirling, 2018; Singer, 2019). Our systemic perspective on CSR showcases the analytical necessity of attention to other power centers in society—even those that are vertically distant from the business firm, such as the broader level of the capitalist economic system (de Bakker et al., 2020; Schneider, 2020), or horizontally distant, such as powers located largely within national law enforcement, international regulatory bodies, or labor advocacy organizations. Recent legal research on novel, creative corporate constraints—such as judicially mandated corporate compliance programs (Diamantis, 2017) and sanctions that “incapacitate” the corporation (Thomas, 2019)—represent promising nascent research topics that are in urgent need of organizational scholarship (Diamantis, 2019).

In this paper, we show how we may derive a rather complete system of corporate controls, value priorities, and approaches to institutional design from a popular political theory with a rich intellectual history and provenance—one that has proven to be singularly successful in organizing power in the political sphere. We also show how insights from this political theory make explicit institutional logics of control of corporate power that need not rely on the civic virtue of executives, the constant

vigilance and good intentions of stakeholders, or even on the existence of a strong state, but rather can depend on the only periodic ability of managers or society to demand the implementation of particularly designed constraints for the social good. We have also demonstrated how a federalist approach is uniquely suited to our post-Westphalian era, characterized by a range of plural power centers and in which the preservation of localized diversity has become a social priority.

As a final point, we should stress that FCSR is not an “anti-corporate” doctrine. Indeed, we should be careful to focus not just on the *constraints* of the corporation but also on its opportunities: “the achievement of a balance between organized effort and freedom, depends on finding a positive sense of mission for the corporation, and not simply building stronger cages and placing more bars in them” (Moore, 1962: 285). CSR theory’s more recent turn to transnational governance mechanisms must continue in the vein of not only *constraining* the corporation but also *harnessing* it in service to society. Where much literature has focused on the latter (Donaldson & Walsh, 2015; Wang et al., 2020), FCSR provides resources for theorizing about the former. It finds fresh insights in old ideas and urges a renewed commitment to attending not only to the world’s suffering, but also to the negative consequences that may follow corporate responses to that suffering.

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