

CONTENTS

ABBREVIATIONS.....	vii
PREFACE	ix
CHAPTER 1 INTRODUCTION.....	1
1.1. <i>Literature Overview.....</i>	4
1.1.1. Law-oriented approaches.....	4
1.1.2. CSR approaches.....	9
1.2. <i>Critique of current research</i>	13
1.2.1. Law-oriented approaches.....	13
1.2.2. CSR approaches.....	17
1.3. <i>Matters of approach</i>	19
1.4. <i>Disposition of the book</i>	23
CHAPTER 2 ANCHORING CSR IN COMPANY LAW.....	27
2.1. <i>Managerial duties of care and loyalty under company laws</i>	28
2.1.1. Clarification of duty of care through identification of whose interests can be considered	31
2.1.2. Clarification of duty of care through judicial review.....	40
2.1.3. Clarification of duty of care through other corporate governance mechanisms	52
2.2. <i>Company law: a partial clarification of the duty of care.....</i>	68
2.2.1. Triple spin-off that company law performs	68
2.2.2. Divergent standards	70
CHAPTER 3 NORMS ADVANCED IN THE CSR DEBATE	73
3.1. <i>Milton Friedman and his critics</i>	73
3.1.1. Friedman's views.....	76
3.1.2. Stakeholder theory's response	80
3.1.3. Winning by default?	86
3.2. <i>The stakeholder norm</i>	90
CHAPTER 4 THE STAKEHOLDER NORM IN BUSINESS PRACTICE.....	97
4.1. <i>Context of CSR: governance gaps and business responses</i>	97
4.1.1. Labour	98
4.1.2. Natural resources	100
4.1.3. New markets	102
4.2. <i>Business case of CSR</i>	106
4.3. <i>Stages of CSR implementation</i>	110
4.3.1. Human rights impact assessments	112
4.3.2. Management systems.....	114
4.3.3. External audit of performance	139
4.3.4. Social reporting.....	143
4.3.5. Assurance of reports	146
4.4. <i>Pull from market actors</i>	150

Contents

4.5. Scaling-up CSR	155
4.5.1. Limits of CSR according to sceptics.....	156
4.5.2. Limits of CSR according to proponents	159
CHAPTER 5 POLICIES AND LAWS RELEVANT TO CSR.....	167
5.1. State policies	169
5.1.1. International level	169
5.1.2. National level.....	176
5.2. Disclosure regulations	177
5.2.1. Narrowly defined disclosures benefiting ‘reasonable investors’	177
5.2.2. Disclosures in the ‘grey zone’ benefiting multiple audiences	186
5.2.3. ‘Right-to-know’ disclosures benefiting certain stakeholders.....	207
5.3. Laws referring to management systems	220
5.3.1. US Sentencing Guidelines	220
5.3.2. US Environmental Protection Agency’s Audit Policy.....	226
5.3.3. Other regulations providing incentives for management systems	228
5.3.4. Regulations mandating management systems	228
5.4. Tort law	230
5.4.1. Early days for transnational litigation.....	230
5.4.2. Legal definition of negligence	234
CHAPTER 6 INCREMENTAL INSTITUTIONALISATION OF CSR REGIME	245
6.1. Making sense of procedural regulations	245
6.1.1. Reporting regulations	245
6.1.2. Regulations referring to management systems	250
6.1.3. Negligence under tort law	256
6.1.4. Intermediary variables – understanding decentralised regulatory regimes	261
6.2. Due process considerations in administrative law	278
6.3. Observations from regulatory theory	289
6.4. Incremental institutionalisation of CSR regime.....	302
6.4.1. Functions and dynamics of regimes.....	303
6.4.2. Specifying positive obligations ('support' human rights).....	311
CHAPTER 7 CONCLUSIONS	321
REFERENCES	333
INDEX	367