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The Role of the Corporation in Fostering Sustainable Peace

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The Role of the Corporation in Fostering Sustainable Peace*

Timothy L. Fort**
Cindy A. Schipani***

ABSTRACT

This Article demonstrates that there is a plausible, conceptual relationship among corporate governance, business ethics, and sustainable peace. First, the Authors begin by outlining the benefits of and protests against globalization and the reciprocal benefits between geopolitical entities and economic activity. The Article then details specific historical events that foreshadow patterns in the relationship between business and sustainable peace. In looking more closely at those patterns, the Authors argue that through economic progress and mitigation of rivalries in the workplace, multinational corporations can contribute to sustainable peace. Thus, if this argument is correct, the stakes increase dramatically for corporations to consider these issues in their governance practices and for governments to create legislative frameworks to encourage such responsible practices. The Authors propose that incorporating attributes of peaceful societies with current successful corporate governance regimes will help to achieve both economic progress and social harmony. The Article concludes that the future will offer increasingly precise corporate models that contribute to the reduction of bloodshed.

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I. INTRODUCTION

On May 20, 2001, a front page *New York Times* news story reported that Hindus in scattered areas of the world are protesting McDonald's decision to cook its french fries in beef fat, although in 1990 it had announced that it would cook its fries only in vegetable

oil.¹ As a result, “[T]he news ricocheted to India, where restaurant windows were smashed, statues of Ronald McDonald were smeared with cow dung, and Hindu nationalist politicians called for the chain to be evicted from the country.”² The controversy is not the first McDonald’s has faced. A well-toned Prince Philip of England stated, “You people [McDonald’s] are destroying the rainforests of the world by grazing your cheap cattle.”³ And even as McDonald’s CEO, Jack Greenberg, acknowledged and defended McDonald’s record, the company is challenged on issues from undermining local farmers, threatening local culture, using genetically modified organisms in its food, relying on hormonally treated beef, opposing local unionization, distributing unsafe toys to children, and employing child labor.⁴ Such a seemingly ubiquitous problem-causing image may be why another journal not known for its left-leaning views, *The Economist*, jokingly began a recent story with “Scientists at the McDonald’s Centre for Obesity Research suggest that eating a hamburger a day actually reduces cholesterol levels.”⁵ This appeared in a story suggesting that the scientific community is beholden to the corporations funding its research.⁶

On the other hand, in addition to the employment McDonald’s brings to local areas, its influence on economic affairs and perhaps even peace, has been trumpeted as well. In a more serious vein—at least somewhat so—*The Economist* uses the price of a McDonald’s hamburger in different countries as a way to assess distortions in the exchange rate of currencies.⁷ Thomas Friedman, the National Book Award-winning *New York Times* columnist, has advanced a theory called “The Golden Arches Theory of Conflict Prevention,” claiming “no two countries that both had McDonald’s had fought a war against each other since each got its McDonald’s.”⁸ Friedman amended this theory slightly in light of the 1999 conflict between NATO and Yugoslavia, where all countries had McDonald’s. Indeed, he contended the turning point of that conflict occurred when NATO bombed the power grids and, therefore, eliminated the benefits of a networked global economy for the people, including the convenience of consuming a Big Mac.⁹ Thus, although there is now, according to

1. Laurie Goodstein, *For Hindus and Vegetarians, Surprise in McDonald’s Fries*, N.Y. TIMES, May 20, 2001, at A1.

2. *Id.*

3. Moises Naim, *McAtlas Shrugged*, FOREIGN POL’Y, May-June 2001, at 26, available at 2001 WL 11393490.

4. *Id.* at 26-32.

5. *Going for gold*, ECONOMIST, May 19, 2001, at 15.

6. *Id.*

7. Naim, *supra* note 3, at 31.

8. THOMAS L. FRIEDMAN, THE LEXUS AND THE OLIVE TREE 248 (2000).

9. *Id.* at 252-53.

Friedman, an exception to the Golden Arches Theory, the power of globalization works to mitigate the extent of conflict.¹⁰

These examples illustrate the complexity involved in assessing the ways multinational corporations may or may not foster beneficial relationships with the people they encounter. From these limited comments regarding McDonald's, one could hypothesize several potential theories.

1. Multinational corporations cause unrest, protest, and bitterness;
2. Multinational corporations are convenient scapegoats because of their power and their facelessness;
3. The influence of multinational corporations is so fundamental that they undermine even seemingly objective analyses of contemporary issues (such as scientific analysis);
4. The influence of multinational corporations is so fundamental that they have the potential to build a *Pax E-Commercia*¹¹ that philosophers such as Kant¹² only hoped to realize.

In short, the relationship between corporate action and an ideal such as sustainable peace seems to be ambiguous. Within the ambiguity, however, there may lay patterns of relationships that can be elucidated. To date, very little attention has been devoted to this topic.¹³ It is hoped that this Article will begin a dialogue on these issues in light of the following observations.

10. *Id.* at 253.

11. This term, with its Internet twist, is from Timothy L. Fort & James J. Noone, *Gifts, Bribes and Exchanges in Pre-Market Economies: Lessons for Pax E-Commercia*, 33 CORNELL INT'L L.J. 515, 515 (2000).

12. See IMMANUEL KANT, *Perpetual Peace: A Philosophical Sketch*, in POLITICAL WRITINGS (Hans Reiss ed., H.B. Nisbet trans., 2d ed. 1991).

13. The authors included in this symposium are among the first to systematically reflect on these issues. See Juliette Bennett, *Public Private Partnerships: The Role of the Private Sector in Preventing Funding Conflict*, 35 VAND. J. TRANSNAT'L L. 711 (2002); Terry Morehead Dworkin, *Whistleblowing, MNCs, and Peace*, 35 VAND. J. TRANSNAT'L L. 457 (2002); Scott Greathead, *The Multinational and the "New Stakeholder": Examining the Business Case for Human Rights*, 35 VAND. J. TRANSNAT'L L. 719 (2002); Linda Lim, Keynote Address, *Terrorism and Globalization: An International Perspective*, in 35 VAND. J. TRANSNAT'L L. 703 (2002); Donald O. Mayer, *Corporate Governance in the Cause of Peace: An Environmental Perspective*, 35 VAND. J. TRANSNAT'L L. 585 (2002); Jeffrey Nesteruk, *Conceptions of the Corporation and the Prospects of Sustainable Peace*, 35 VAND. J. TRANSNAT'L L. 437 (2002); Eric W. Orts, *War and the Business Corporation*, 35 VAND. J. TRANSNAT'L L. 549 (2002); Steven R. Salbu, *The European Union Data Privacy Directive and International Relations*, 35 VAND. J. TRANSNAT'L L. 655 (2002); Lee A. Tavis, *Corporate Governance and the Global Social Void*, 35 VAND. J. TRANSNAT'L L. 487 (2002); Interview by B. Joseph White with Madeleine Albright, U.S. Secretary of State, *The Business of Peace*, in 35 VAND. J. TRANSNAT'L L. 697 (2002).

First, as demonstrated below, there is a plausible, conceptual relationship among corporate governance, business ethics, and sustainable peace. Accordingly, Part II is concerned with developing this connection in terms of recognizing the protests against as well as the benefits of globalization, the reciprocal benefits between stable geopolitical entities and economic activity, and specific historical events that collectively add to the ambiguity, but which may also foreshadow patterns to be illuminated.

Part III looks more deeply at those patterns. In this section, it is argued that the contribution multinational corporations make to sustainable peace is more likely felt in the mitigation of internal violence rather than the elimination of wars between sovereign nations. There are exceptions. Sometimes, economic exchange may reduce the likelihood of warfare between countries. The downing of the U.S. spy-plane in China may well have had a different outcome if the economic exchanges between the two countries were not already so great¹⁴ and the potential for increase so large.¹⁵ Nevertheless, the more promising area for corporate contributions to peace may lie in the way corporations do their work in countries through economic progress in general, and through the mitigation of existing rivalries in the workplace. The way in which corporations are governed may make a difference in this regard. This governance question revisits the assumptions underlying the reasons for which corporations are established.

Finally, this Article concludes with the observation that enough evidence exists to move beyond being content with a plausible relationship among governance, ethics, and peace, and suggests that future work may uncover increasingly precise corporate models that contribute to the reduction of bloodshed. If this argument is true, of course, the stakes for corporations to practice ethically responsible governance increase dramatically, as does the pressure on governments to create legislative frameworks to encourage responsible governance practices.

II. THE PLAUSIBILITY OF CONNECTING GOVERNANCE, ETHICS, AND PEACE: THE IMPORTANCE OF TRANSPARENCY

The first question to be asked is whether there is a plausible connection among corporate governance, ethics, and peace. As

14. Paula Lyon Andrus, *Slow Boat to China*, MARKETING NEWS, Sept. 10, 2001, at 1, available at 2001 WL 6706877.

15. Trish Saywell, *Powering Asia's Growth*, FAR E. ECON. REV., Aug. 2, 2001, at 40, available at 2001 WL-FEER 24082388.

demonstrated below, the answer to that question is yes, both empirically and conceptually.

A. An Initial Empirical Connection

Transparency International (TI) is a non-governmental organization which attempts to document the level of corruption that exists within countries today.¹⁶ As its chairman, Peter Eigen, states, “[T]he scale of bribe-paying in international corporations in the developing countries of the world is massive . . . [and] . . . the results include growing poverty in poor countries, persistent undermining of the institutions of democracy, and mounting distortions in fair international commerce.”¹⁷ In attempting to determine perceptions of the level of corruption in countries, TI conducted 779 interviews with representatives of companies doing business in emerging markets.¹⁸ In conjunction with this index devoted specifically to bribe-taking, TI also utilized other indices to create a “Corruption Perceptions Index.”¹⁹ The rankings of these ninety countries provide an indication of levels of corruption that exist today. The chart is reproduced below:

The 2000 Corruption Perceptions Index²⁰

Country Rank	Country	2000 CPI Score	Surveys Used	Standard Deviation	High-Low Range
1	Finland	10.0	8	0.6	9.0 - 10.4
2	Denmark	9.8	9	0.8	8.6 - 10.6
3	New Zealand	9.4	8	0.8	8.1 - 10.2
	Sweden	9.4	9	0.7	8.1 - 9.9
5	Canada	9.2	9	0.7	8.1 - 9.9
6	Iceland	9.1	7	1.1	7.3 - 9.9
	Norway	9.1	8	0.7	7.6 - 9.5
	Singapore	9.1	11	1.0	6.2 - 9.7
9	Netherlands	8.9	9	0.6	8.1 - 9.9

16. For more information on Transparency International, see the organization's website, at <http://www.transparency.de>.

17. Peter Eigen, *The Transparency International Bribe Payers Survey*, at www.transparency.de/documents/cpi/1999/bps.html.

18. *Id.*

19. *Id.* Transparency International notes that there are countries that would likely rank even lower than those indicated in its 2000 Corruption Perceptions Index, but insufficient polling data in many countries makes it difficult to assess. *Id.*

20. Transparency International, *The 2000 Corruption Perceptions Index*, at <http://www.transparency.de/documents/cpi/2000/cpi2000.html>.

Country Rank	Country	2000 CPI Score	Surveys Used	Standard Deviation	High-Low Range
10	United Kingdom	8.7	9	0.6	7.3 - 9.7
11	Luxembourg	8.6	7	0.7	7.4 - 9.3
	Switzerland	8.6	8	0.3	8.1 - 9.1
13	Australia	8.3	10	1.0	6.7 - 9.3
14	USA	7.8	10	0.8	6.2 - 9.2
15	Austria	7.7	8	0.7	6.2 - 8.5
	Hong Kong	7.7	11	1.2	4.3 - 8.6
17	Germany	7.6	8	0.8	6.2 - 8.4
18	Chile	7.4	8	0.9	5.7 - 8.4
19	Ireland	7.2	8	1.9	2.5 - 8.5
20	Spain	7.0	8	0.7	5.9 - 8.0
21	France	6.7	9	1.0	4.3 - 7.7
22	Israel	6.6	8	1.3	4.3 - 7.9
23	Japan	6.4	11	1.3	4.3 - 7.8
	Portugal	6.4	9	0.9	5.3 - 8.1
25	Belgium	6.1	9	1.3	4.3 - 8.8
26	Botswana	6.0	4	1.6	4.3 - 8.2
27	Estonia	5.7	4	1.6	4.4 - 8.1
28	Slovenia	5.5	6	1.1	4.1 - 7.3
	Taiwan	5.5	11	1.4	2.5 - 7.2
30	Costa Rica	5.4	4	1.9	3.8 - 8.1
	Namibia	5.4	4	0.8	4.3 - 6.1
32	Hungary	5.2	10	1.2	3.9 - 8.1
	Tunisia	5.2	4	1.5	3.8 - 7.1
34	South Africa	5.0	10	0.9	3.8 - 6.6
35	Greece	4.9	8	1.7	3.7 - 8.1
36	Malaysia	4.8	11	0.6	3.8 - 5.9
37	Mauritius	4.7	5	0.8	3.9 - 5.6
	Morocco	4.7	4	0.7	4.2 - 5.6
39	Italy	4.6	8	0.6	4.0 - 5.6
	Jordan	4.6	5	0.8	3.8 - 5.7
41	Peru	4.4	5	0.5	3.8 - 5.0
42	Czech Republic	4.3	10	0.9	3.3 - 6.2
43	Belarus	4.1	3	0.8	3.4 - 4.9
	El Salvador	4.1	4	1.7	2.1 - 6.2
	Lithuania	4.1	4	0.3	3.8 - 4.4

Country Rank	Country	2000 CPI Score	Surveys Used	Standard Deviation	High-Low Range
	Malawi	4.1	4	0.4	3.8 - 4.8
	Poland	4.1	11	0.8	2.8 - 5.6
48	South Korea	4.0	11	0.6	3.4 - 5.6
49	Brazil	3.9	8	0.3	3.6 - 4.5
50	Turkey	3.8	8	0.8	2.1 - 4.5
51	Croatia	3.7	4	0.4	3.4 - 4.3
52	Argentina	3.5	8	0.6	3.0 - 4.5
	Bulgaria	3.5	6	0.4	3.3 - 4.3
	Ghana	3.5	4	0.9	2.5 - 4.7
	Senegal	3.5	3	0.8	2.8 - 4.3
	Slovak Republic	3.5	7	1.2	2.2 - 6.2
57	Latvia	3.4	3	1.3	2.1 - 4.4
	Zambia	3.4	4	1.4	2.1 - 5.1
59	Mexico	3.3	8	0.5	2.5 - 4.1
60	Colombia	3.2	8	0.8	2.5 - 4.5
	Ethiopia	3.2	3	0.8	2.5 - 3.9
	Thailand	3.2	11	0.6	2.4 - 4.0
63	China	3.1	11	1.0	0.6 - 4.3
	Egypt	3.1	7	0.7	2.3 - 4.1
65	Burkina Faso	3.0	3	1.0	2.5 - 4.4
	Kazakhstan	3.0	4	1.2	2.1 - 4.3
	Zimbabwe	3.0	7	1.5	0.6 - 4.9
68	Romania	2.9	4	1.0	2.1 - 4.3
69	India	2.8	11	0.7	2.3 - 4.3
	Philippines	2.8	11	1.0	1.7 - 4.7
71	Bolivia	2.7	4	1.3	1.7 - 4.3
	Côte-d'Ivoire	2.7	4	0.8	2.1 - 3.6
	Venezuela	2.7	8	0.7	2.1 - 4.3
74	Ecuador	2.6	4	1.0	2.1 - 4.3
	Moldova	2.6	4	0.9	1.8 - 3.8
76	Armenia	2.5	3	0.6	2.4 - 3.5
	Tanzania	2.5	4	0.6	2.1 - 3.5
	Vietnam	2.5	8	0.6	2.1 - 3.8
79	Uzbekistan	2.4	3	0.9	2.1 - 3.7
80	Uganda	2.3	4	0.6	2.1 - 3.5
81	Mozambique	2.2	3	0.2	2.4 - 2.7

Country Rank	Country	2000 CPI Score	Surveys Used	Standard Deviation	High-Low Range
82	Kenya	2.1	4	0.3	2.1 - 2.7
	Russia	2.1	10	1.1	0.6 - 4.1
84	Cameroon	2.0	4	0.6	1.6 - 3.0
85	Angola	1.7	3	0.4	1.6 - 2.5
	Indonesia	1.7	11	0.8	0.5 - 3.2
87	Azerbaijan	1.5	4	0.9	0.6 - 2.5
	Ukraine	1.5	7	0.7	0.5 - 2.5
89	Yugoslavia	1.3	3	0.9	0.6 - 2.4
90	Nigeria	1.2	4	0.6	0.6 - 2.1

Similar to TI's Corruption Perception Index, the Heidelberg Institute for International Conflict Research produces an index related to conflict around the world.²¹ This index uses a variety of sources and twenty-eight variables to define the types of conflict involved and the methods used by parties to those conflicts to resolve them.²² "Conflict" is defined as:

[T]he clashing of overlapping interests (positional differences) around national values and issues (independence, self-determination, borders and territory, access to or distribution of domestic or international power); the conflict has to be of some duration and magnitude of at least two parties (states, groups of states, organizations or organized groups) that are determined to pursue their interests and win their case. At least one party is the organized state. Possible instruments used in the course of a conflict are negotiations, authoritative decisions, threat, pressure, passive or active withdrawals, or the use of physical violence and war.²³

Conflicts, therefore, could involve any number of issues. The intensity of those conflicts, however, is even more important. According to the Heidelberg Institute, there are four levels of conflict: (1) latent conflicts, which are completely nonviolent; (2) crisis conflicts, which are mostly nonviolent; (3) severe crisis conflicts, where there is sporadic use of force; and (4) war, where there is systemic, collective use of force.²⁴

From 1989 to 1999, this index showed that there were 146 conflicts in the world and that eighty-two of them were addressed either through war or through mostly violent means.²⁵ More

21. Heidelberg Institute for International Conflict Research, at http://www.conflict.com/hiik/manual_en.html.

22. *Id.*

23. *Id.*

24. *Id.*

25. *Id.*

interestingly, however, is an examination of the particular countries engaged in conflict and the intensity of the conflict. If one compares the frequency of how conflicts are addressed with the TI index, one finds that since 1975 those countries that had the least amount of corruption—that is, those in the top quadrant of TI's Corruption Perception Index—only fourteen percent of conflicts were addressed by mostly violent means or by warfare. Countries in the second quadrant of TI's index used mostly violent means or warfare to address twenty-six percent of their conflicts. In the third quadrant, that figure rose to forty-four percent and in the bottom quadrant, which represents the countries with the most severe corruption, it escalated to sixty percent.

Transparency International Quadrant	Resolution of Conflicts by Violence
Quadrant #1 (least corrupt)	14%
Quadrant #2	26%
Quadrant #3	44%
Quadrant #4	60%

This does not necessarily mean that corruption causes violence. There are many reasons why nations go to war or why individuals and groups resort to violence within borders.²⁶ There may be explanations as to why nations that are the least corrupt do not resort to violence to address disputes. For instance, in examining the TI chart, the countries in the top quadrant are, essentially, functioning democracies. Thus, it could well be that a functioning democracy provides the means for disputes to be resolved in a peaceful manner.²⁷

On the other hand, according to *Fortune* magazine's 100 Largest Economic Table, only three of the TI top quadrant—Iceland, Luxembourg, and New Zealand—were not large economic units.²⁸ This might suggest that wealth precludes the need for corruption, or countries that are already wealthy can afford the luxury of carefully complying with the law. This would be more persuasive if not for the fact that other countries not faring as well on TI's index, such as China and Mexico, were ninth and thirteen respectively on the *Fortune* list.²⁹ Regardless of whether corruption causes violence or

26. Michael Cranna, *Introduction*, in *THE TRUE COST OF CONFLICT* xv, xvii (Michael Cranna ed., 1994).

27. CONNIE PECK, *SUSTAINABLE PEACE: THE ROLE OF THE UN AND REGIONAL ORGANIZATIONS IN PREVENTING CONFLICT* 17 (1998).

28. *The Fortune Global 500, 100 Largest Economic Table*, *FORTUNE*, Aug. 5, 1996, at F1.

29. *Id.*

whether corruption is an indicator of something more fundamentally askew in a country, the data above show that it is at least plausible that corruption and violence are in some way linked. Corporations engaged in corruption seem to at least be in the midst of a social milieu that is prone to bloodshed. If this correlation is plausible, then the question becomes whether corporations might have a role to play in rectifying this situation.

B. A Plausible Normative Rationale for Action

With the exception of those industries that have a specific reason to profit from war, rarely will business advocate for warfare for reasons of profitability.³⁰ They may, of course, legitimately be concerned with other national goals that require warfare, and their businesses may profit from that warfare.³¹ The economic leverage and political weight that such industries may wield in making decisions leading to military conflict should not be diminished.³² Yet, the narrower question of whether companies not engaged directly in producing military hardware benefit from warfare should be considered. It is reasonable to believe that they do not.

The cost of violent conflict is large. One study shows that "every major famine in recent years has taken place in a war zone."³³ Famine exists, in large part, because of the inability to deliver foodstuffs within a war zone. These difficulties may arise either because of the danger inherent in navigating between warring armies, or because the armies in control of certain areas wish to prevent delivery.³⁴ As recently as 1994, forty-two million people were displaced as a result of warfare,³⁵ and the impact on other social institutions, such as those supporting medical care and the legal system, can be large as well. This kind of disintegration can have a direct economic impact, as was the case in Kashmir, where the number of tourists dropped from 722,000 in 1988 to 10,400 in 1992.³⁶

30. Michael Cranna, *What is to be Done? Policy Initiatives for the International Community*, in *THE TRUE COST OF CONFLICT* 197 (Michael Cranna ed., 1994).

31. Dwight D. Eisenhower, *Farewell Radio and Television Address to the American People* (Jan. 17, 1961), in *PUBLIC PAPERS OF THE PRESIDENTS OF THE UNITED STATES, 1960-61* 1038 (1978).

32. The U.S. government spent an estimated \$280.8 million for defense functions in the year 2000. 145 CONG. REC. S3835 (daily ed. Apr. 12, 1999) (statement of Sen. Specter). The U.S. GDP in 2000 was \$9.963 trillion. United States Fact Book, at <http://www.cia.gov/cia/publications/factbook/geos/us.html>.

33. Cranna, *supra* note 26, at xv.

34. William DeMars, *War and Mercy in Africa*, *WORLD POL'Y J.*, Summer 2000, at 110, available at 2000 WL 20783587; Stephan Williams, *Sudan: In from the Cold*, *AFRICAN BUS.*, July-Aug. 2001, at 42, available at 2001 WL 11994463.

35. Nils Bhinda, *The Kashmir Conflict*, in *THE TRUE COST OF CONFLICT* 55, 63 (Michael Cranna ed., 1994).

36. *Id.*

Moreover, with eighty percent of the population of Kashmir dependent upon agriculture, the fact that during this period self-sufficiency was replaced with food rationing is indicative of the kind of social and economic hardship that can be experienced when conflict grips a region.³⁷ Even those defense industries that benefited from the conflict could conceivably have redirected their productivity toward manufacturing, which could have been used to combat poverty rather than build armies.³⁸ Kashmir is not an isolated case. Similar kinds of economic displacement and hardship have been chronicled in Yugoslavia,³⁹ Sudan,⁴⁰ Peru,⁴¹ Mozambique,⁴² Iraq,⁴³ and East Timor.⁴⁴

These cases are important because they suggest that there can be a business cost to warfare. Of course, there may also be a social and humanitarian cost as well; it is hard to think of a modern war that does not include human suffering.⁴⁵ More generally, however, there exists a dialectically-supporting relationship between business and sustainable peace: business needs stability to thrive, and peace can be sustained through the relationships businesses build.

C. *Benefits For Commerce Resulting From Stability: Three Economic Reasons*

Perhaps the best way to understand the benefits that accrue to businesses through stability and peace is to look at the subject through the eyes of three influential economists: F.A. Hayek, Amartya Sen, and Hernando DeSoto. Although each of these economists has significant ties to the United States, their global breadth (Hayek being Austrian, Sen being Indian, and DeSoto being Peruvian) makes them a diverse trio through which the importance of peace to economic enterprise can be seen. Three important benefits for business can be identified through their eyes.

37. *Id.*

38. *Id.* at 70, 74.

39. Angela Burke & Gordon Macdonald, *The Former Yugoslavia Conflict*, in THE TRUE COST OF CONFLICT 155 (Michael Cranna ed., 1994).

40. Nicholas Shalita, *The Sudan Conflict*, in THE TRUE COST OF CONFLICT 135 (Michael Cranna ed., 1994).

41. David Shave, *The Peru Conflict*, in THE TRUE COST OF CONFLICT 113 (Michael Cranna ed., 1994).

42. Shaun Vincent, *The Mozambique Conflict*, in THE TRUE COST OF CONFLICT 81 (Michael Cranna ed., 1994).

43. Gregory Quinn, *The Iraq Conflict*, in THE TRUE COST OF CONFLICT 25 (Michael Cranna ed., 1994).

44. Ian Robinson, *The East Timor Conflict*, in THE TRUE COST OF CONFLICT 1 (Michael Cranna ed., 1994).

45. MICHAEL I. HANDEL, *MASTERS OF WAR: CLASSICAL STRATEGIC THOUGHT* 24 (3d ed. 2001).

1. Virtues, Stability, and Trade (Hayek)

F.A. Hayek provides an important argument for linking ethics and trade.⁴⁶ Hayek argues that integrity virtues, such as promise-keeping and honesty, as well as production of high quality goods and services and enforcement of voluntary contracts, are essential to help business flourish.⁴⁷ The reason they are important is not necessarily because these virtues are ennobling—Hayek does not pass judgment on this issue—but because they allow for an extended order based on efficient trading.⁴⁸ Hayek suggests that the way to establish global ethical values and, in fact, more peaceful international relations, is to encourage international trade, because then potential trading partners can see the benefit of practicing these kinds of relationship-sustaining virtues.⁴⁹ In this conceptual understanding, ethics and trade are mutually reinforcing. Integrity virtues lead to more trade, and more trade demonstrates the efficacy of practicing these virtues, at least over the long run. In the short run, however, there are always risks of individuals seeking the advantages of trade without practicing virtues that would sustain trade, which is why a governance system is required.⁵⁰ Unfortunately, it is not enough to simply rely on individuals to practice these virtues.

It can be inferred from this that business is more likely to flourish when societies practice integrity virtues. As demonstrated above, however, those countries most prone to addressing conflicts through violent means are also those countries in which corruption is most prevalent. In other words, they do not practice integrity virtues. Moreover, some have noted that a technologically-connected global economic system is vulnerable not so much to cross-border wars, but to the actions of individuals empowered to wreak havoc on the system. Thought of another way, globalization requires even more attention to the practice of integrity virtues, because the reaction against perceived injustices can be violent. For instance, the chief of network designs for Sun Microsystems, Geoff Baehr, has been quoted as follows:

My biggest worry, and it cannot be overstated, is that this entire infrastructure is very vulnerable to attack, not just from a computer hacker, but from someone getting into the telephone switches. In this

46. See generally F.A. HAYEK, *THE FATAL CONCEIT: THE ERRORS OF SOCIALISM* (W.W. Bartley III ed., 1988).

47. *Id.* at 12, 70.

48. *Id.* at 12, 70-71.

49. *Id.* at 38-47.

50. *Id.* at 12.

world the attacker can go to the telephone front, go home and have a sandwich, and come back and attack again.⁵¹

Globalization provides the opportunity to link society, but also provides the “super-empowered individuals who hate America more than ever because of globalization and who can do something about it on their own” with the ability to disrupt the system.⁵² It would seem to be a simple truism that a technologically linked world is dependent on a certain level of stability simply to be able to keep the telephone lines open. Indeed, Friedman notes that a stable political and economic environment is the precursor to encouraging entrepreneurship.⁵³ Thus, if integrity virtues are a component to justice, then flourishing commerce benefits from virtuous behavior and is threatened by non-virtuous behavior.

2. Creativity and Growth (Sen)

A second, related benefit to business from stability and peace is its enhancement of the possibility of freedom and freedom’s benefits, ranging from alleviating marginalization to flourishing markets. The leading spokesperson for this viewpoint is the economist Amartya Sen.⁵⁴ Rather than focusing on the numerical increase in trade as an indicator of development, Sen looks at the process that allows individuals, particularly the poor, to reach the potential they would have not been able to achieve had they remained in poverty.⁵⁵ An important reason for this emphasis is that, as Sen notes, the increase in “overall opulence” in today’s global economy produces “elementary freedoms” to a large number of individuals simultaneously, perhaps even to the majority of people on the globe.⁵⁶ The satisfaction of material needs allows individuals to unleash their potential. That creativity further enriches the market. In this sense, freedom results from individuals being free from constraints imposed by the grinding harness of poverty and from “tyranny, poor economic opportunities as well as systematic social deprivation, neglect of public facilities as well as intolerance or other activity of repressive states.”⁵⁷ Rather than focusing solely on economics, this can be done by integrating values and economics. According to Sen:

The exercise of freedom is mediated by values, but the values in turn are influenced by public discussions and social interactions, which are themselves influenced by participatory freedoms It is important

51. FRIEDMAN, *supra* note 8, at 398.

52. *Id.*

53. *Id.* at 356.

54. *See generally* AMARTYA SEN, DEVELOPMENT AS FREEDOM (1999).

55. *Id.* at 3.

56. *Id.* at 3-4.

57. *Id.* at 3.

not only to give markets their due, but also to appreciate the role of other economic, social, and political freedoms in enhancing and enriching the lives that people are able to lead.⁵⁸

Friedman underscores the consequential validity of this approach by noting that “when you put assets in the hands of the poor in a politically distorted environment, such as Liberia or Burma, not much happens. But when you put assets in the hands of the poor in reasonably stable and free environments a lot will happen.”⁵⁹ From this, one can believe that it is possible that participatory freedoms empower individuals who can engage the market and enjoy its benefits. Values and business opportunities are thus enhanced, and thereby provide a way to combat marginalization of the poor and reduce the threat of violent reaction borne of desperation.

3. Stability From Legal Structures Can Unleash Capital (DeSoto)

Not only does the focus on the development of freedom lead to an emphasis on governance so that freedoms can be achieved by unleashing human potential, but proper legal governance regimes can free trapped capital as well. The spokesperson for this viewpoint is economist Hernando DeSoto.

DeSoto argues that the major difficulty that most of the world’s poor have in obtaining the benefits of capitalism exists because countries do not have the legal infrastructure for registering proper title to real estate.⁶⁰ This lack of legal infrastructure, for instance, makes it virtually impossible for the poor to make use of the assets they have, such as their homes, to become entrepreneurs.⁶¹ The West, he argues, takes its property law system for granted so much so that it typically ignores the history of legal development where gradually governments provided reliable property documentation for ownership where title was otherwise obscured.⁶² Thus, the poor have houses built on land where there are no recorded ownership rights. As a result, lenders have no reliable collateral to support loans that could be used to start a business.⁶³

The latent economic potential of this situation is immense. DeSoto calculates that in Haiti, for instance, sixty-eight percent of those living in the city and ninety-seven percent of people in the countryside reside in homes where there is no clear legal title.⁶⁴ In

58. *Id.* at 9.

59. FRIEDMAN, *supra* note 8, at 356.

60. *See generally* HERNANDO DESOTO, *THE MYSTERY OF CAPITAL: WHY CAPITALISM TRIUMPHS IN THE WEST AND FAILS EVERYWHERE ELSE* (2000).

61. *Id.* at 6.

62. *Id.* at 8.

63. *Id.* at 6.

64. *Id.* at 33.

Egypt, the same problem arises for ninety-two percent of city dwellers and eight-three percent of the people in the countryside.⁶⁵ DeSoto estimates that the total assets held by the poor in the Third World and former communist countries that cannot be accessed because of defective property registration systems is at least \$9.3 trillion.⁶⁶

The institution of property registration systems in the West, De Soto argues, required legitimizing the extant, albeit informal, rules of customs practiced by the population to provide productive economic activity, a greater good to society.⁶⁷ The connection of this process to peace is that, by doing so, the chances for social confrontation, particularly over scarce resources, are reduced and economic growth is encouraged. DeSoto argues, "everyone will benefit from globalizing capitalism within a country, but the most obvious and largest beneficiary will be the poor."⁶⁸ As already intimated, this benefit may have direct consequences for sustainable peace. Klaus Schwab of the World Economic Forum recognizes that "if we do not invent ways to make globalization more inclusive . . . we have to face the prospect of a resurgence of the acute social confrontations of the past, magnified at the international level."⁶⁹

It follows that failure to avoid social confrontations is itself a threat to business. A mutually supporting atmosphere where members of society are engaged in a market economy rather than

65. *Id.*

66. *Id.* at 35. As an analogy, DeSoto talks about the untapped potential of a mountain lake.

Consider a mountain lake. We can think about this lake in its immediate physical context and see some primary uses for it, such as canoeing and fishing. But when we think about this same lake as an engineer would by focusing on its capacity to generate energy as an additional value beyond the lake's natural state as a body of water, we suddenly see the potential created by the lake's elevated position. The challenge for the engineer is finding out how he can create a *process* that allows him to convert and fix this potential into a form that can be used to do additional work. In the case of the elevated lake, that process is contained in a hydroelectric plant that allows the lake water to move rapidly downward with the force of gravity, thereby transforming the placid lake's energy potential into the kinetic energy of tumbling water. This new kinetic energy can then rotate turbines, creating mechanical energy that be used to turn electromagnets that further convert it into electrical energy. As electricity, the potential energy of the placid lake is now fixed in the form necessary to produce controllable current that be further transmitted through wire conductors to faraway places to deploy new production . . . Capital, like energy, is also a dormant value. Bringing it to life requires us to go beyond *looking* at our assets as they are to actively *thinking* about them as they could be. It requires a process for fixing an asset's economic potential into a form that can be used to initiate additional production.

Id. at 44-45.

67. *Id.* at 194-95.

68. *Id.* at 189.

69. *Id.* at 213.

marginalized to the point of resentment connects business and peace. The Western property system allows for the production of surplus value beyond what a home would otherwise represent because it is possible to tap into the economic potential of the real estate itself.⁷⁰

The difficulty for the legal system is that if it does not keep pace with such basic natural impulses as that of building a home, it will frustratingly marginalize individuals so that they remain outside of the economic system. If this occurs, individuals will invent their own extralegal substitutes for property protection.⁷¹ This occurs now in Third World and former communist countries, but it was also the case in the West.⁷²

Rather than maintain a system that was out of touch with the norms of the people they governed, Western nations gradually began to recognize these arrangements as legitimate and found ways to absorb these contracts into the legal system.⁷³ The law maintains its legitimacy by staying in touch with the norms that guide daily life.⁷⁴ If the law fails to do so, those operating by extralegal contracts will not enter the economic and legal system.⁷⁵ “What governments in developing countries have to do is listen to the barking dogs [marking local territory] in their own communities and find out what their law should say. Only then will people stop living outside it.”⁷⁶

D. The Reciprocal Relationship Between Business and Peace

Business has an interest in peaceful relations for several reasons. One of the implications of the foregoing discussion is that in order to foster sustainable peace, businesses will need to do more than attend to profitability. The causes of war are more multifaceted than any one business or set of businesses can eliminate, but businesses can play a role in mitigating those causes when they attend to human issues. Thus, although development of wealth is an appropriate interest of business, Sen also argues that “the usefulness

70. *Id.* at 51.

71. *Id.* at 71.

72. *Id.* at 102.

Law began adapting to the needs of common people, including their expectations about property rights, in most West European countries during the nineteenth and early twentieth centuries. By that time, the Europeans had concluded that it was impossible to govern the Industrial Revolution and the presence of massive extralegality through minor ad hoc adjustments. Politicians finally understood that the problem was not people but the law, which was discouraging and preventing people from becoming more productive.

Id.

73. *Id.* at 106.

74. *Id.* at 108.

75. *Id.* at 172.

76. *Id.* at 168.

of wealth lies in the things that it allows us to do—the substantive freedoms it helps us to achieve.”⁷⁷ Indeed, it is more of an ideological mantra to assume that human beings are selfish than it is a fact of human life.⁷⁸ A goal of achieving freedom is itself a moral determination and its consequential efficacy is demonstrated by Sen’s finding that “no famine has ever taken place in the history of the world in a functioning democracy.”⁷⁹

The notion of democracy is that people have a voice in the laws that govern them. Not only does attention by business to the development of freedom reinforce the processes by which peace is achieved, but the internal dynamic by which domestic policies are created requires attention to DeSoto’s “barking dogs,” in order to understand the informal, but very real, contracts that people enter into and the appropriation of which serves to legitimize government itself.⁸⁰ Thus, there is a reciprocal, even cybernetic relationship between business and peace, where business is benefited by the stability peace brings and achievement of that stability requires business to engage in issues of human development, to encourage legal development of institutions such as property, and to nurture, as Hayek would argue, integrity virtues.

E. *The Benefits of Business to Peace*

In addition to the reciprocal relationship between business and peace identified above, business may contribute to stability in other ways. Recently, a symposium identified just and sustainable economic development as one of the ten practices necessary for abolishing war.⁸¹ There is considerable support in history for this

77. SEN, *supra* note 54, at 14.

78. SEN, *supra* note 54, at 118 (stating that “the presumption of ubiquitous selfishness is hard to defend empirically”); *see also* Timothy L. Fort & James J. Noone, *Banded Contracts, Mediating Institutions, and Corporate Governance: A Naturalist Analysis of Contractual Theories of the Firm*, 62 LAW & CONTEMP. PROBS. 163 (1999) (providing an overview of anthropological indicators that human beings are more social than individual).

79. *Id.* at 16.

80. DESOTO, *supra* note 60, at 178.

81. JUST PEACEMAKING: TEN PRACTICES FOR ABOLISHING WAR (Glen Stassen ed., 1998). The ten practices are:

1. Support Nonviolent Direct Action;
2. Take Independent Initiative to Reduce Threat;
3. Use Cooperative Conflict Resolution;
4. Acknowledge Responsibility for Conflict and Injustice and Seek Repentance and Forgiveness;
5. Advance Democracy, Human Rights and Religious Liberty;
6. Foster Just and Sustainable Economic Development;
7. Working with Emerging Cooperative Forces in the International System;

sentiment. Philosophers such as Montesquieu have argued that by trading, nations make it more unlikely they will go to war.⁸² Immanuel Kant held a similar view,⁸³ that has been carried into the present as well.⁸⁴

There is, however, another view. Donald Kagan, for instance, argues that any hope for lasting peace based on the emergence of a free market economy or on the basis of the history of democratic nations not fighting one another is misguided.⁸⁵ Kagan warns that the "only thing more common than predictions about the end of war has been war itself."⁸⁶ Moreover, anthropologist Lawrence Keeley's studies show that while groups may not trade in the midst of war, they do trade before and after war.⁸⁷ Not only was this true "before civilization," the United States and Japan actively traded prior to the attack on Pearl Harbor, and all of the combatants of World War I traded with each other before and after hostilities.⁸⁸

Nevertheless, even after undertaking his study, Keeley recommends that engagement between countries is more likely to lead to the kind of relationships where they are less likely to go to

8. Strengthen the UN and International Efforts for Cooperation and Human Rights;
9. Reduce Offensive Weapons and Weapons Trade;
10. Encourage Grassroots Peacemaking Groups.

Id.

82. See Philip M. Nichols, *Regulating Transnational Bribery in Times of Globalization and Fragmentation*, 24 YALE J. INT'L L. 257, 263 (1999).

83. See generally KANT, *supra* note 12.

84. Nichols, *supra* note 82, at 263. Nichols, for instance, cites evidence supporting the position that those countries that choose to trade rather than to erect barriers to trade tend to go to war less frequently. *Id.*

85. See generally DONALD KAGAN, *ON THE ORIGINS OF WAR AND THE PRESERVATION OF PEACE* (1995).

86. *Id.* at 1. Past theories of war's obsolescence were much the same as today's theories. *Id.* In 1792 Joseph Priestley argued that,

[T]he present commercial treaties between England and France, and between other nations formerly hostile to each other, seem to show that mankind begin to be sensible of the folly of war, and promise a new and important era in the state of the world in general, at least in Europe.

Id. Thomas Paine expressed a similar belief in his pamphlet, *The Rights of Man*, which appeared in the same year: "If commerce were permitted to act to the universal extent it is capable, it would extirpate the system of war." *Id.* Paine also believed, following Montesquieu and Kant, that "the substitution of republics for monarchies would guarantee lasting peace." *Id.* "In 1848, John Stuart Mill sang the praises of commerce, which was 'rapidly rendering war obsolete, by strengthening and multiplying the personal interests which act in natural opposition to it . . . [T]he great extent and rapid increase of international trade . . . [is] the principal guarantee of the peace of the world.'" *Id.* at 2.

87. See generally LAWRENCE KEELEY, *WAR BEFORE CIVILIZATION* (1996).

88. *Id.* at 117-22.

war.⁸⁹ In addition, others have noted that, although there has always been trade and there have always been multinational non-governmental organizations, there is something unique about this particular time and place, because "what is new is [transnational factors and organizations] number and variety and, more significant, their challenge to the control that state actors have over world affairs."⁹⁰

From all of this, it can be discerned that business can contribute to peace in at least three ways: (1) by use of track two diplomacy; (2) by promoting economic development; and (3) by redesigning and utilizing corporate governance structures modeled on peaceful societies. In looking at these alternatives, it should be stressed that they are considered in light of the most basic definition of peace: the absence of war. As Robert Pickus has argued, evils such as oppression and starvation have their own names, but "something previous is lost when the word 'violence' is blurred."⁹¹ Departing from Pickus, who further would preserve the term "violence" for mass, organized warfare, the term "violence" as used herein refers to the willful killing of people through acute means. This more narrow definition of the term provides a sufficiently concrete and precise understanding of the evil sought to be avoided so as to maintain an appropriate focus on the means by which businesses can constructively mitigate its prevalence.⁹²

1. Track Two Diplomacy Issues

Track two diplomacy is unofficial interaction among non-state actors with the goal of creating an environment in which political leaders are freer to reach accords.⁹³ Certainly, an economic enterprise that provides benefits to two different countries embroiled in a dispute contributes to an environment where the leaders of the countries can point to the mutual economic advantages of resolving a conflict as a reason to avoid escalation. This is true of trade generally, as exemplified by the 2001 negotiations regarding the Chinese downing of a U.S. spy plane.⁹⁴ It could also occur when a businessperson who has credibility and access conveys messages

89. *Id.* at 181.

90. Robert Pickus, *New Approaches*, in *APPROACHES TO PEACE: AN INTELLECTUAL MAP 235* (W. Scott Thompson & Kenneth M. Jensen eds., 1991).

91. *Id.* at 231.

92. *Id.*

93. See Joseph V. Montville, *Transnationalism and the Role of Track-Two Diplomacy*, in *APPROACHES TO PEACE: AN INTELLECTUAL MAP 262-63* (W. Scott Thompson & Kenneth M. Jensen eds., 1991).

94. Dexter Roberts & Rose Brady, *Suddenly Beijing is Betting on Pragmatism*, *BUS. WK.*, June 25, 2001, at 55. *But see* Jeff Chappell, *China Trade Remains Political Issue*, *ELEC. NEWS*, July 9, 2001, available at <http://proquest.umi.com/pqdweb?>

between governments without going through formal diplomatic channels. In each of these scenarios, corporations can build relationships that cross boundaries in a way that might not be accomplished through the traditional political means. Corporations, therefore, may be able to provide channels for communication that might not otherwise have been there.⁹⁵

There is another important insight implicit in this understanding of track two diplomacy.⁹⁶ Just as informal diplomacy or fostering of economic relations can create the atmosphere for political leaders to take risks, there is also an opportunity for multinational corporations to “arrest the dehumanization process between the groups in conflict, and gradually to educate the population about the human dimension of the pain and loss all sides suffer from the conflict. It is a difficult cognitive and group psychological process.”⁹⁷ This insight is particularly relevant to corporations because, as demonstrated below, corporations can perform this role within the boundaries of one country where there are disputes among various groups. Thus, not only may corporations play a role in diffusing conflicts between nation-states by building relationships to enable political leaders to negotiate with a government that might otherwise be considered a violent enemy, but corporations, through employment, trade, and outreach, can also “humanize” adversaries within countries to mitigate the possibilities of domestic violence.

2. Economic Opportunity and Growth

Just as there is a correlation between corruption and violence, “there is a highly positive correlation between underdevelopment and armed conflict.”⁹⁸ It has also been found, not surprisingly, that war creates poverty.⁹⁹ Complaints regarding poverty are frequently involved in wars:

In many of the conflicts and revolutions in Latin America during the 1960s through the 1990s, a crucial element was the struggle of the poor for justice. This was true in Nicaragua, El Salvador, and Guatemala, in Haiti, Jamaica, and the Dominican Republic, in Chile, Brazil, and Columbia. Poverty was an important ingredient in the struggle against apartheid in South Africa, the people power revolution in the

95. Fort & Noone, *supra* note 11, at 518 n.18.

96. Montville, *supra* note 93, at 262.

97. *Id.* at 263.

98. J. Lewis Rasmussen, *Peacemaking in the 21st Century: New Rules, New Roles, New Actors*, in PEACEMAKING IN INTERNATIONAL CONFLICT: METHODS & TECHNIQUES 31 (I. William Zartman & J. Lewis Rasmussen eds., 1999).

99. JOSEPH MILBURN THOMPSON, *JUSTICE AND PEACE: A CHRISTIAN PRIMER* 58 (1997).

Philippines, the troubles in Northern Ireland, the overthrow of the Shah of Iran, and the Palestinian question in Israel.¹⁰⁰

Another interpretation of the correlation between corruption and violence is that the correlation exists because corrupt governments frequently dominate poor countries.¹⁰¹ It is because of this connection that economic assistance provided to emerging countries is typically tied to reform. Incentives such as those provided by the International Monetary Fund and the World Bank typically provide access to First World funds and markets in return for budgetary, and sometimes political, reform.¹⁰²

There is the possibility that poverty contributes to warfare more than does corruption. If this is true, then it would make sense to spur economic development, even at the price of corruption, in order to reduce poverty. There is, undoubtedly, some truth to this claim. As already mentioned, there are studies demonstrating a high positive correlation between underdevelopment and violence.¹⁰³ Tying violence to corruption, however, may be a more helpful indicator of a social structure likely to beget more violence. If this hypothesis is also true, then multinational expansion should be justified not only upon the capacity to alleviate poverty, but to do so in a way that also mitigates corruption. Again, the link between corruption and violence requires additional research, but there are at least three initial reasons to support the hypothesis that they be linked in some way.

First, in Amartya Sen's assessment of poverty, he describes poverty in terms of a "capability deprivation."¹⁰⁴ He argues that some deprivations are intrinsically important.¹⁰⁵ He further contends that there are other influences on capability deprivation than low income, and that the relationship between low income and low capability is variable among different communities.¹⁰⁶ Factors influencing this variability include the age of a particular person, gender and social roles, location insofar as that location is prone to

100. *Id.*

101. *100 Largest Economic Table, supra* note 28, at F-1.

102. David I. Oyama, *World Watch*, WALL ST. J., Aug. 29, 2001, at A6; *India: IMF Reviewing Conditionalities*, HINDU, Aug. 30, 2001, at 1; see also DAVID CORTRIGHT, *THE PRICE OF PEACE* (1997) (analyzing the various incentives governments can use to encourage reforms that contribute to peace). As an example, Cortright cites to the economic incentives provided by the United States to Czechoslovakia from 1990 to 1992, which included IMF and World Bank resources, market access in the form of MFN status, economic assistance, investment guarantees and credits, and transfer of technology in return for guarantees on the use of such technology. CORTRIGHT, *supra*, at 105.

103. Rasmussen, *supra* note 98, at 31.

104. SEN, *supra* note 54, at 87.

105. *Id.*

106. *Id.* at 87-88.

disruption due to natural disasters, famine, or violence, and the epidemiological atmosphere.¹⁰⁷ Moreover, the relative deprivation in terms of income can lead to an absolute deprivation in terms of capability because “being relatively poor in a rich country can be a great capability handicap, even when one’s absolute income is high in terms of world standards.”¹⁰⁸ In part, this relative deprivation occurs where the desire to avoid “social exclusion” creates a demand for the poor in a rich country to devote resources to the acquisition of goods, such as televisions and automobiles, that would not occur in a poor country, where such goods are not as widespread.¹⁰⁹ A consequential example of this, Sen writes, lies in comparing premature mortality. For example, African American men possess significantly higher income than Chinese, Indian, Sri Lankan, Costa Rican, and Jamaican men, but have “remarkably higher death rates.”¹¹⁰ Another possible reason for these death rates might be the significantly higher levels of violence that occur in African American communities.¹¹¹

From this, Sen does not deduce that inequality should be eradicated. Rather, Sen notes that such attempts can “lead to loss for most—sometimes even for all.”¹¹² He does, however, argue that insufficient attention has been directed to ways in which equality can be manifested; capabilities of the poor are influenced by factors more complex than comparisons of income.¹¹³ In particular, Sen emphasizes the need for social participation and public discussion in making economic policy in order to inform economic policy of the complex dynamics that foster frustration and dampen human development.¹¹⁴

Second, anthropologists provide helpful clues as to why low income is itself not explanatory. One reason is that pre-modern societies were relatively poorer than today’s world, yet they were also less violent. Anthropologist Leslie Sponsel, for instance, argues that by studying the accumulated specimens of fossil hominids in museums and universities, one can conclude that “nonviolence and peace were likely the norm throughout most of human pre-history and that intra-human killing was probably rare.”¹¹⁵ Although eschewing the notion of a prehistoric, peace-loving hominid,

107. *Id.* at 88.

108. *Id.* at 89.

109. *Id.*

110. *Id.* at 96.

111. Dan Eggen, *Death Penalty Foes Fault Justice Study*, WASH. POST, June 19, 2001, at A3.

112. SEN, *supra* note 54, at 93.

113. *Id.* at 107-08.

114. *Id.* at 110.

115. Leslie E. Sponsel, *The Natural History of Peace: The Positive View of Human Nature and Its Potential*, in A NATURAL HISTORY OF PEACE 95, 103 (Thomas Gregor ed., 1996).

anthropologist Lawrence Keeley similarly concludes that, adjusted for population sizes, humans during the twentieth century killed at a rate twenty times higher than at any time during the hunter-gatherer era.¹¹⁶ Yet, there is no evidence that these societies were materially more prosperous than the world is today.

Sen's explanation for relative capability deprivation provides a possible explanation for this. Although hunter-gatherer societies were often hierarchical, this hierarchy was frequently based on stable environments. This is not to say that pre-modern societies did not experience catastrophes—they did—but rather catastrophes more frequently occurred as the result of natural influences such as earthquakes or volcanoes than by disruption of political and economic arrangements.¹¹⁷ Change, however, produces stress that can accentuate capability deprivation in two important ways. The first way is in the sense of a loss of the capability to control one's life. The free market, for all its merits, directly undermines this capability.¹¹⁸ Unfortunately, globalization introduces stress, threat, and social change:

The bigger, faster and more influential the herd becomes, "the more individual citizens start to feel that the locus of economic control and political decisionmaking on economic matters is shifting from the local level, where it can be controlled, to the global level, where no one is in charge and no one is minding the store. When all politics is local, your vote matters. But when the power shifts to these transnational spheres, there are no elections and there is no one to vote for."¹¹⁹

This phenomenon creates disempowerment, or to use Sen's phrase, a capability deprivation, because it deprives individuals within a community of a sense of stability and control in their lives. That no one person is responsible does not mitigate the effect because "the most arbitrary powers in history always hid under the claim of some

116. KEELEY, *supra* note 87, at 93.

117. *But see* Peter Gray & Kendrick Oliver, *The Memory of Catastrophe*, HIST. TODAY, Feb. 2001, at 915, available at 2001 WL 11232953.

118. Ervin Staub writes that:

[S]trongly established hierarchical arrangements are potentially harmful, especially in complex, heterogeneous human societies with varied subgroups that can turn against each other. Among primates, a stable dominance hierarchy reduces violence, and this can happen in small human groups as well. Under stable conditions, hierarchical, obedience-oriented or monolithic societies may be as peaceful as pluralistic ones. But when stress, threat, life problems, or social change bring forth leadership that moves the group toward violence against others, a multiplicity of beliefs and values makes it more likely that opposition will arise that inhibits this movement.

Ervin Staub, *The Psychological and Cultural Roots of Group Violence and the Creation of Caring Societies and Peaceful Group Relations*, in APPROACHES TO PEACE: A READER IN PEACE STUDIES 135 (David P. Barash ed., 1999).

119. FRIEDMAN, *supra* note 8, at 191 (quoting Stephen J. Kobring).

impersonal logic—God, the laws of nature, the laws of the market—and they always provoked a backlash when morally intolerable discrepancies become glaringly visible.”¹²⁰

One final anthropological example demonstrates the moral difficulties, as well as the capability deprivations, produced by economic change and material distributions. When Hawaii encountered the West, through the interaction with British Commander James Cook, the practice of *kapu*, or taboo, was part of the religious system by which the Islands kept themselves in *pono*, or balance.¹²¹ *Kapu* derived from the *Kumulipo*, the Hawaiian creation myth, and was part of an extremely hierarchical social system so rigid that if the shadow of an *Ali'i Nui*, or noble, fell on a common person, the person had to be put to death.¹²² Nevertheless, the *Moi*, or king, had strict responsibility to govern for the common good; for example, if the land was not fertile, Hawaiian religion deemed it a judgment by the gods of the lack of the *Moi's* purity.¹²³

Once Westerners showed that *kapu* rules, such as the prohibition for men and women to eat together, could be violated without retribution and, further, that *kapu* rules could be used by *Ali'i Nui* to restrict new Western goods to themselves, the notion of *kapu* was transformed. Rather than something that was part of a system that required reciprocal duties from all elements of society, it became something that was simply a rule, like “no trespassing,” that was imposed on the poor without a concomitant obligation to treat them well.¹²⁴ By making this kind of transformation, *kapu* rules created a capability deprivation for the common people. In other words, *kapu* rules were divorced from their communal context and simultaneously made less transparent, the combination of which created a relative disparity that was different from simple material disparity.

Thus, it may be concluded that it is not simply low income that contributes to violence, but that the ordering of social institutions, particularly in times of stress and change, can disempower individuals and thereby increase their capability deprivation. The

120. *Id.* (quoting Yaron Ezrahi).

121. ALASDAIR MACINTYRE, *AFTER VIRTUE* 105 (1981); see also Fort & Noone, *supra* note 11, at 528.

122. See VALERIO VALERI, *KINGSHIP AND SACRIFICE: RITUAL AND SOCIETY IN ANCIENT HAWAII* (Paula Wissing trans., 1985) (discussing the Hawaiian religious system); see also MARSHALL SAHLINS, *ISLANDS OF HISTORY* (1985).

123. LILIKALA KAME'ELEIHIWA, *NATIVE LAND AND FOREIGN DESIRES, KO HAWAI'I 'AINA AME NA KOI PU'UMAKE A KA PO'E HAOLE: A HISTORY OF LAND TENURE CHANGES IN HAWAII FROM TRADITIONAL TIMES UNTIL THE 1948 MAHELE INCLUDING AN ANALYSIS OF HAWAIIAN ALI'I NUI AND AMERICAN CALVINISTS* 104-15 (1992); see also Timothy L. Fort, *Corporate Makahiki: The Governing Telos of Peace*, 38 AM. BUS. L.J. 301, 342-43 (2001).

124. See SAHLINS, *supra* note 122, at 242; see also Fort, *supra* note 123, at 348-49.

disordering of social institutions thus can create the seeds of exploitation, alienation, and deprivation for which there are fewer "weapons" for the disadvantaged to use in claiming resources necessary for development. Disordering can also create a moral disparity by which those in power may be more inclined to use violence as a way to avoid discussion regarding whether the distribution of capabilities is fair. It is not simply inequality that is a problem, nor is it poverty. Instead, what threatens violence is a governance mechanism that has become corrupt because it fails to allow individuals to influence the rules that govern them.

3. Backlash and Its Meaning

If the analysis is correct, then the meaning of the so-called "backlash" against globalization is more comprehensible. One argument for the need for corporations to pay attention to the needs of corporate constituents, after all, is that there is a backlash against globalization. Protests such as those in Seattle,¹²⁵ Davos,¹²⁶ and Quebec provide evidence of this backlash.¹²⁷ Similar protests against capitalism were also raised in India by Gandhi,¹²⁸ as well as in China against British industries in the nineteenth century.¹²⁹

It may be tempting to dismiss these protests as symbolic and ineffective. Yet the technology that allows so much of globalization to occur also provides the mechanism for others to disrupt it. For instance, that a teenager in the Philippines can hack into computer systems and disrupt computers around the world¹³⁰ illustrates the vulnerability of a networked system. Similarly, chemical and biological weapons are small enough to fit into backpacks,¹³¹ and therefore can be used to disrupt globalization in countless ways.

The crux of the matter is that globalization can create a sense of disempowerment as well as empowerment. Disrupting existing social structures in exchange for material development can provide the opportunity for disempowerment of common people and corruption of those with authority to gain access to wealth and thus suppress

125. David Postman, *Resistance Takes Fast Track—Protestors Training Now for Sit-ins, Blockades*, SEATTLE TIMES, Sept. 10, 1999, at A1 (describing the protests in Seattle at the meeting of the World Trade Organization).

126. David Gresing, *Shades of Seattle Riot as Clinton Addresses Elite Economic Forum*, CHI. TRIB., Jan. 30, 2000, at C13 (describing the protests in Davos at the meeting of influential business leaders held there annually).

127. Anthony De Palma, *In the Streets, Fervor, Fears and A Gamut of Issues*, N.Y. TIMES, Apr. 22, 2001, at A4.

128. See LOUIS FISCHER, *THE LIFE OF MAHATMA GANDHI* 162-76 (1950).

129. See JONATHAN D. SPENCE, *THE SEARCH FOR MODERN CHINA* 117-64 (1990).

130. *Computer Virus Hits 14 Agencies*, CHI. TRIB., May 10, 2000, at A1.

131. *Nerve Gas Kills 6 in Tokyo; Thousands Sickened in Suspected Terrorist Plot*, CHI. TRIB., Mar. 20, 1995, at N1.

accountability to the common good. In a manner similar to what occurred in Hawaii, this dynamic is based on the ability to control societies and to reduce accountability. Maintaining such a system is easier when there is less transparency of transactions. All of these dynamics foster corruption as well as limit the viability of nonviolent conflict resolution, for the simple reason that the lack of transparency helps hide unfairness. There are also social and moral, in addition to economic, dimensions that transform a relative lack of wealth into an unjust social structure. The unjustness of a social structure calls for governance reform.

III. THE IMPORTANCE OF GOVERNANCE

Peace research shows that mass violence is no longer waged between different states as frequently as it is within borders or about the borders that states claim.¹³² According to one study, nearly two-thirds of 1993 conflicts could be defined as identity-based, "constituting a direct challenge to existing state authority as their salient characteristic."¹³³ Another widely-reported study shows that ninety-one percent of conflicts since the end of the Cold War have occurred within, rather than across, borders.¹³⁴ For corporations, these statistics are meaningful because they suggest that violence is more likely to occur within the domestic settings in which the corporation operates. It may be true, for instance, that business interests and business persons can serve to mitigate the likelihood of violent conflict between nation-states;¹³⁵ but as powerful as corporations are, they still are not nation-states with armies engaged in warfare. Corporations are, however, engaged in and dependent upon the relative stability of the local business environment; simultaneously, they are entities that arouse suspicion, protest, and violence and thus disrupt stability. Simple self-interest requires that corporations take steps to mitigate the likelihood of violence in the countries in which they operate. More particularly, they may be able to do this by taking steps to improve the atmosphere in the countries in which they operate. As suggested by the correlation between corruption and violence described in Part II, one way corporations can do this is by adopting policies that discourage corruption. In addition,

132. Rasmussen, *supra* note 98, at 23.

133. *Id.* at 30.

134. PECK, *supra* note 27, at 9.

135. Thomas L. Friedman, *How to Run the World in Seven Chapters*, N.Y. TIMES BOOK REVIEW, June 17, 2001, at 15 (reviewing HENRY KISSINGER, DOES AMERICA NEED A FOREIGN POLICY? (2001)) (arguing that China did not press harder in the controversy surrounding the downing of the U.S. spy plane in 2001 because of the multibillion dollar business interests at stake in a protracted conflict with the United States).

corporations can adopt structural policies designed to mitigate the outbreak of identity-based violence that their actions may trigger.

A. *Identifying Sources of Conflict*

Attempting to determine the reasons people go to war is an exhaustive process. In particular, there is the ever-present instinct to revert to notions of justice in order to preserve peace. While this instinct is worth preserving and pursuing, the attempt to determine an objective, universal standard of justice is itself a never-ending quest. It is important to heed Zartman's warning that:

[P]eace is sometimes the enemy of justice, and conflict can be ended only at the price of objectively fair outcomes. Such peace, so the objections go, is illusory: there is no lasting peace without justice. But justice has many referents and is ultimately subjective. A conflict resolution that perfectly combines peace and justice is as rare as other moments of perfection in human action.¹³⁶

Nevertheless, peace and economic research identify two key theories that are helpful for understanding this issue and that are particularly relevant for corporations—needs theory and security theory. These theories provide a template for identification of human interests that must be met in order to prevent the kind of dissatisfaction that can lead to conflict. They fit well with Amartya Sen's capability deprivation thesis explored above, and also interface with ethics theory, described below.

1. Needs Theory

Needs theory is an attempt in peace research literature to determine what needs, when not met, are most likely to produce grievances that lead to conflict. Zartman and Rasmussen, for instance, argue that many, if not most, current conflicts result from "the failure of political, economic, and social institutions to pay sufficient attention to the grievances and perceived needs of significant groups in the population."¹³⁷ They acknowledge that identification of the relevant specific needs is difficult because those needs can change according to context and cultural setting.¹³⁸ Nevertheless, there are some basic needs one can identify, such as:

[P]hysical and psychological security; basic survival needs, such as food and shelter; identity needs, such as dignity and respect for distinct cultural and linguistic identity; economic well-being in terms of

136. I. William Zartman, *Introduction: Toward the Resolution of International Conflicts*, in PEACEMAKING IN INTERNATIONAL CONFLICT: METHODS & TECHNIQUES 15-16 (I. William Zartman & J. Lewis Rasmussen eds., 1999).

137. Rasmussen, *supra* note 98, at 23.

138. *Id.*

educational and economic opportunity; the need for political participation; and the freedom to control one's own life (for example, the panoply of democratic rights, such as freedom of speech, movement, religious preference, and association).¹³⁹

Denial of these needs may result in conflict.¹⁴⁰

2. Security Theory

A second framework for identifying sources of conflict is provided by security theory. Michael Klare identifies six sources of insecurity: low income level, unclean water, illiteracy, lack of food, lack of housing, and preventable death.¹⁴¹ This list is at least consistent with, although less expansive than, those that are identified in needs theory. The combination of them, however, along with Sen's articulation of five kinds of freedoms, provides a set of characteristics necessary to avoid conflict. Sen's freedoms are "instrumental" in that they lead to a *telos* of individual human development rather than being ends in and of themselves. They include: (1) political freedoms, (2) economic facilities, (3) social opportunities, (4) transparency guarantees, and (5) protective security.¹⁴²

3. Interface with Ethics Theory

It is important to see three important attributes of the items on the lists provided by needs theory and security theory, and their interface with ethics theory. First, there is a set of very basic needs that are concerned with the sustainability of life itself in terms of water, food, housing, health, and preventable death. In business ethics literature, these are akin to Patricia Werhane's notion of "basic rights," protections without which life would be intolerable.¹⁴³ This suggests one possible link between corporate behavior and business ethics: to the extent that corporations are engaged in activities that violate basic rights, they risk sewing the seeds for violence. For example, several years ago, Green Giant moved an agricultural processing plant from Salinas, California to Irapuato, Mexico.¹⁴⁴ The stated reason for the move was to enable production of high-quality vegetables, particularly broccoli and cauliflower, year-round.¹⁴⁵ One

139. *Id.* at 33.

140. *Id.*

141. Michael T. Klare, *Redefining Security: The New Global Systems, in APPROACHES TO PEACE: A READER IN PEACE STUDIES* 54 (David P. Barash ed., 2000).

142. SEN, *supra* note 54, at 10.

143. See generally PATRICIA WERHANE, *PERSONS, RIGHTS, AND CORPORATIONS* (1985).

144. Videotape: *Your Job or Mine: Green Giant's Decision to Move to Mexico* (University of Michigan Business School documentary 1991) (on file with Authors).

145. *Id.*

of the consequences of the relocation, however, was that the water level in Irapuato dropped to an impossible level given the resources of the local population.¹⁴⁶ Prior to introduction of the plant, water could be found at a depth of sixty feet. After introduction of the plant, it was necessary to drill 450 feet to find water. Although the company did bring economic development to the area, the water issue caused resentment nonetheless.¹⁴⁷

Second, there are psychological as well as physical interests at stake. These theories do not simply consider income as a need requiring some degree of stakeholder satisfaction, but also consider the level of income. They do not simply identify protection from physical harm, but also protection from psychological harm. They do not simply identify the absence of corruption, but also the guarantees of transparency. In short, and consistent with Sen's argument from Part II, there is an important component of perception of fairness that is more elusive than what might be measurably and arithmetically counted that serve important interests, and require stakeholder satisfaction. If these perceptions are not addressed, the perceived unfairness could be as real as actual deprivation. The relative levels of these interests and the psychological importance attached to them require clear communication of how the needs and interests of stakeholders are being addressed, together with a mechanism for providing the stakeholders themselves with a voice in these decisions.

Needs theory and security theory are also congruent with the stakeholder and social contract theories of business ethics. Stakeholder theory, most prominently championed by Evan and Freeman,¹⁴⁸ argues that corporations should take into account anyone who is affected by a corporate action.¹⁴⁹ Although it is unlikely that corporations can pragmatically take into account all stakeholder interests in making business decisions,¹⁵⁰ stakeholder theory provides an important insight. The individual best able to identify the significance of an action on a particular stakeholder group is the stakeholder group in question rather than a manager

146. *Id.*

147. *Id.*

148. William M. Evan & Richard Freeman, *A Stakeholder Theory of the Modern Corporation: Kantian Capitalism*, in *ETHICAL THEORY AND BUSINESS* 97, 101-05 (Tom L. Beauchamp & Norman E. Bowie eds., 7th ed. 2002).

149. *Id.*

150. See, e.g., Timothy L. Fort & Cindy A. Schipani, *Corporate Governance in a Global Environment: The Search for the Best of All Worlds*, 33 *VAND. J. TRANSNAT'L L.* 829 (2000); Timothy L. Fort, *The Corporation as a Mediating Institution: An Efficacious Synthesis of Stakeholder Theory and Corporate Constituency Statutes*, 73 *NOTRE DAME L. REV.* 173 (1997).

attempting to hypothesize what the impact might be.¹⁵¹ An important reason for this, consistent with the psychological component of needs theory and security theory, is that stakeholders must perceive that important interests will be voiced and that the complaints about those deprivations will be taken seriously.

Similarly, the notion of contract theory in business ethics is based on the validity of consent of the negotiating parties. This is true in the shareholder version of contract theory, as articulated by Easterbrook and Fischel,¹⁵² who argue that corporations are simply a "nexus of contracts" for various individuals to negotiate the fulfillment of needs and desires,¹⁵³ as well as in the social contract theory, such as articulated by Michael Keeley,¹⁵⁴ Steven Salbu,¹⁵⁵ and Thomas Donaldson and Thomas Dunfee.¹⁵⁶ In the social contract version, consent to a norm is "the justificatory linchpin."¹⁵⁷ To the extent, then, that stakeholders believe that they have not freely negotiated a contract, the more likely they are to perceive an action as unfair.

The structuring of these devices plays into a governance strategy not only for communicating how corporations support local interests, but also for developing mechanisms for corporations to receive information from its stakeholders.¹⁵⁸ The latter will need to be an institutional device, and to be actually authentic as well as perceived as authentic; the device will need to make a difference in the way corporations address the interests of local stakeholders.

Finally, there is a communal aspect to conflict. Corporations will do business within particular countries, and in doing so will be working with individuals who, as residents of those countries, are subject to the rivalries that exist internally. The hiring of employees,¹⁵⁹ the location at which pollution is

151. Steven Cohen, *Stakeholders and Consent*, 14 BUS. & PROF. ETHICS J. 3, 13 (1996).

152. See FRANK H. EASTERBROOK & DANIEL R. FISCHEL, *THE ECONOMIC STRUCTURE OF CORPORATE LAW* (1991).

153. *Id.*

154. See MICHAEL KEELEY, *SOCIAL CONTRACT THEORY OF ORGANIZATIONS* (1988).

155. See Steven R. Salbu, *Insider Trading and the Social Contract*, 5 BUS. ETHICS Q. 313 (1995).

156. See THOMAS DONALDSON & THOMAS W. DUNFEE, *TIES THAT BIND* (2000).

157. Thomas Donaldson & Thomas W. Dunfee, *Toward a Unified Conception of Business Ethics in Integrative Social Contracts Theory*, 19 ACAD. MGMT. REV. 252 (1994).

158. Rasmussen, *supra* note 98, at 34. "Needs have a greater chance of being met when relevant groups are (or perceive themselves to be) representative in the society's government; a society sharply divided into distinct identity groups may require political powersharing to meet this condition." *Id.*

159. Allen Cowell, *Belfast Shipyard Loses Bid to Build Queen Mary 2, and Many Jobs*, N.Y. TIMES, Mar. 11, 2000, at C1.

released,¹⁶⁰ and the relocation of people in order to construct pipelines¹⁶¹ have all been cited as examples of ways in which otherwise productive business enterprises can become embroiled in ethnic controversies. Moreover, to the extent that corporate behavior undermines the traditions of local communities, resentment may build toward the enterprise itself.¹⁶²

This communal aspect connects with the virtue theory of business ethics because virtues are always connected to a particular community.¹⁶³ Yet, virtues appropriate for a particular community may favor one group over another and may be perceived as imposing a set of Western values, displacing traditional values, making virtue theory difficult to apply.¹⁶⁴

Thus, by focusing on basic needs, one can see how corporations may play a role in enhancing or depriving needs. In addition, one can see that the perception of how corporations address these needs can be characterized as fair or unfair even within contemporary business ethics theories. For corporations to cope with these perceptions, they must adopt governance practices that institutionalize ethical frameworks. This will enable them to directly address needs as they arise and as they are perceived by the affected individuals who may have the capacity to violently undermine corporate activities to the detriment of both the corporation and society.

B. Identity Conflict

As already noted, most violence today occurs not across borders but within borders, particularly among groups where identity is a critical issue. What makes identity-related conflicts especially difficult to deal with is dehumanization of those outside of one's in-group, conjoined with "deeply internalized images of a moral self and diabolic enemy."¹⁶⁵ As this language suggests, identity-related conflicts often carry a religious element.¹⁶⁶ In addition, these conflicts may also arise as groups clash over scarcity of environmental resources.

160. See Joanne B. Ciulla, *The Oil Rig*, in *ETHICAL ISSUES IN BUSINESS: A PHILOSOPHICAL APPROACH* 192 (Thomas Donaldson & Patricia Werhane eds., 6th ed. 1998).

161. See *Texaco in the Ecuadorian Amazon*, in *ETHICAL THEORY AND BUSINESS* 637 (Tom L. Beauchamp & Norman E. Bowie eds., 7th ed. 2002).

162. Donald O. Mayer, *Community, Business Ethics, and Global Capitalism*, 38 *AM. BUS. L.J.* 215 (2001).

163. ROBERT SOLOMON, *ETHICS AND EXCELLENCE* 105 (1993).

164. Mayer, *supra* note 162, at 253.

165. Rasmussen, *supra* note 98 (citing White).

166. See R. SCOTT APPLEBY, *THE AMBIVALENCE OF THE SACRED: RELIGION, VIOLENCE, AND RECONCILIATION* (2000).

1. Religious and Ethnic Conflicts

Religious and ethnic clashes are rarely as much about battles over the efficacy of sacramental creeds as they are about the selection of certain aspects of religious tradition that can be used in defense of the threatened existence or way of life of a particular community.¹⁶⁷ In addition to the potential benefits that may accrue from dialogue among religions to foster atmospheres of peace and understanding,¹⁶⁸ an important aspect of resolving conflict exists in understanding how competition for resources can exacerbate existing rivalries. Once they are raised to the rhetoric of “diabolic enemy” and “evil,” conflicts are far more difficult to resolve.

2. Clashes Over Environmental Resources

Thomas Homer-Dixon identifies ethnic and civil strife as the most likely of the five types of conflicts that may arise in connection with environmental issues. The first of these conflicts are those that arise directly out of local environmental degradation, such as from factory emissions, logging, or dam construction.¹⁶⁹ The second of these are ethnic clashes that result from migration and “deepened social cleavages” arising from environmental scarcity.¹⁷⁰ The third is civil strife when environmental scarcity affects economic productivity.¹⁷¹ The fourth relates to battles over particular environmental resources, such as water.¹⁷² Finally, the fifth relates to conflicts between the developed and emerging worlds over addressing global environmental problems such as global warming or ozone depletion.¹⁷³ The reason that ethnic clashes and civil strife are the most likely is because “environmental pressures could ‘ratchet up’ the level of stress, within national and international society, increasing the likelihood of many different kinds of conflict and impeding cooperative solutions.”¹⁷⁴ Although Homer-Dixon is dismissive of some of the early research making this claim,¹⁷⁵ he agrees that scarcities of resources such as cropland, fresh water, and forests contribute to violence, especially in emerging economies,

167. Michael J. Perry, *Religion in Politics*, 29 U.C. DAVIS L. REV. 729, 729 (1996).

168. See *Council for a Parliament of the World's Religions*, at <http://www.cpwr.org>.

169. THOMAS F. HOMER-DIXON, *ENVIRONMENT, SCARCITY, AND VIOLENCE* 5 (1999).

170. *Id.*

171. *Id.*

172. *Id.*

173. *Id.*

174. *Id.* at 4.

175. *Id.*

because those economies are highly dependent upon natural resources and less able to buffer themselves from social crisis.¹⁷⁶ The reason for this violence, according to Homer-Dixon, is not simply contests over valuable resources. Instead, he claims that:

[S]carcity by itself is neither a necessary nor sufficient cause [of violent conflict] . . . it is hard to identify any cause of violence that is, by itself, either necessary or sufficient; the causes of specific instances of violence are always interacting sets of factors, and the particular combination of factors can vary greatly from case to case.¹⁷⁷

Homer-Dixon's claim shifts the rationale for violence from that of contests over resources to structural distributions of power and resources, distributions that connect with rivalries and perceptions of injustice. He argues, for instance, that recent violence in Chiapas, South Africa, Pakistan, the Philippines, and Haiti are connected to environmental scarcity.¹⁷⁸ But scarcity does not result simply from environmental devastation. Instead, "scarcity is often caused by a severe imbalance in the distribution of wealth and power that results in some groups in a society getting disproportionately large slices of the resource pie."¹⁷⁹ In these instances, powerful groups controlling a political structure use their power to redirect laws in their favor.¹⁸⁰ This kind of scarcity, which he calls structural scarcity, can be contrasted with ecological marginalization in which an "imbalance of resource distribution joins with rapid population growth to drive resource-poor people into ecologically marginal areas, such as upland hillsides, areas at risk of desertification, and tropical rain forests."¹⁸¹

176. *Id.* at 12. Homer-Dixon notes that,

[O]ver 40 percent of people on the planet—some 2.4 billion—use fuelwood, charcoal, straw, or cow dung as their main source of energy; 50 to 60 percent rely on these biomass fuels for at least some of their primary energy needs. Over 1.2 billion people lack access to clean drinking water; many are forced to walk far to get what water they can find.

Id. at 13. In these kinds of environments, threats to natural resources threaten the minimal resources that the local population, relying on them, cannot afford to endure.
Id.

177. *Id.* at 7.

178. *Id.*

179. *Id.* at 15.

180. *Id.*

181. *Id.* at 16. Using water as an example, Homer-Dixon writes that,

Taking the world as a whole, the number of people living in countries with water stress or chronic water scarcity in 1997 was about 430 million; by the year 2025, using the UN's medium population projections, the number is expected to rise to 3 billion, or over a third of the planet's population.

Id. at 67. Yet, "water scarcity rarely causes interstate wars. Rather its impacts are more insidious and indirect; it constrains economic development and contributes to a host of corrosive social pressures that can, in turn, produce violence within societies."
Id. at 69.

Even so, just as famines do not occur in functioning democracies because those affected have a voice and a power to demand political redress,¹⁸² so also environmental scarcity is itself an “indirect cause of violence, and this violence is mainly internal to countries.”¹⁸³

Homer-Dixon argues that there are ways to address these kinds of resource competitions. He argues that to avoid “Malthus-predicted catastrophes,” one must address “ingenuity, market pricing, and quality of institutions.”¹⁸⁴ Technical ingenuity addresses resource extraction in the physical world, but depends on an infrastructure, such as education, that produces scientists and engineers who can address these physical problems.¹⁸⁵ Social ingenuity—the creation, reformation, and maintenance of public and semipublic goods, such as markets, funding agencies, educational and research organizations, and effective government—“is thus a precursor to technical ingenuity.”¹⁸⁶ These social institutions raise issues related to governance and the importance of governance.

C. *The Importance of Governance*

In the global economy, no one is really in charge. With free markets, powerful and inexpensive communication, and no world government, people, capital, and ideas can all float across borders. It is tempting to think that, in this environment, government and governance matter less. In fact, the opposite is true. As Friedman puts it:

In the era of globalization it is the *quality* of the state that matters. You need a smaller state, because you want the free market to allocate capital, not the slow bloated government, but you need a better state, a smarter state and a faster state, with bureaucrats that can regulate a free market, without either choking it or letting it get out of control.¹⁸⁷

Governments of nation-states that are able to provide this kind of balanced regulatory environment generally provide transparency, so

182. See SEN, *supra* note 54.

183. HOMER-DIXON, *supra* note 169, at 18-19. Homer-Dixon notes that,

Although greenhouse warming and ozone depletion have caught the Western public's attention over the last decade, certain terrestrial and aquatic environmental trends—such as rising cropland scarcity, tropical deforestation, rising freshwater scarcity, and depletion of fish stocks—deserve equal attention. Such problems will probably, in fact, interact with and multiply the effects of atmospheric change; and they merit immediate concern because they are already seriously threatening the well-being of many developing societies.

Id. at 63.

184. *Id.* at 28-31.

185. *Id.* at 110.

186. *Id.*

187. FRIEDMAN, *supra* note 8, at 158.

that decisions can be made by those with capital, labor, and ideas regarding where to invest their talents.¹⁸⁸ This has been the story of the successful emerging economies, such as Poland, which have not simply opened their doors to free markets, but have also undergirded free markets with legal structures that protect capital and contracts.¹⁸⁹

Not only do nation-states require good governance practices that blend transparency with institutions that protect property and contract, but as Connie Peck argues, many levels of governance structures are necessary to support sustainable peace.¹⁹⁰ It is not just any kind of governance that contributes to sustainable peace, but what Peck calls "good governance," whose linchpin is a participatory structure.¹⁹¹ A participatory structure has benefits of fairness which reduce the likelihood that grievances will grow into major flashpoints of conflict.¹⁹² Fairness is evidenced in these structures by the capability of people to determine their own priorities; to safeguard and promote their civil, political, economic, social, and cultural rights; and to provide a pluralist environment, within which they can live together in peace, with the freedom to develop in all ways.¹⁹³ Thus, the underlying premise is that democratic systems contribute to sustainable peace. This premise is not promoted simply because democracy is the dominant governance system of the West, however.¹⁹⁴ Rather, it is promoted because inherent within democratic systems are inevitable checks, which limit the possibility of an obsession with single points of ideological differences that cannot be comprised and, as a result, lead to war.

As R.J. Rummel writes, "democratically free people are spontaneous, diverse, and pluralistic."¹⁹⁵ Because they are truly pluralistic, people will belong to different interest groups, which will

188. Fort & Noone, *supra* note 11, at 521-22. The word "talents" is used here in a frankly biblical sense to connote the variety of valuable assets that individuals may possess from capital to unique capabilities.

189. Peter Finn, *For This President Bush, A Newly Booming Warsaw*, WASH. POST, June 16, 2001, at A17; *see also* HAYEK, *supra* note 46, at 137 (arguing that the societies that are historically successful and, in fact, the religions that endure are those that protect family and property).

190. *See* PECK, *supra* note 27.

191. *Id.* at 17.

192. *Id.*

193. *Id.*

194. *See generally* FUKAYAMA, *THE END OF HISTORY AND THE LAST MAN* (1992) (arguing that with the fall of communism, there is an "end of history" in which ideological battles have now been won by liberal democracies).

195. R.J. Rummel, *Political Systems, Violence, and War*, in *APPROACHES TO PEACE: AN INTELLECTUAL MAP* 354 (W. Scott Thompson & Kenneth M. Jensen eds., 1991).

pull them in different directions.¹⁹⁶ This creates “cross-pressure” so that:

[T]he very strong interests that drive people in one direction to the exclusion of all others, even at the risk of violence, do not develop easily. And if such interests do develop, they are usually shared by relatively few persons. That is the normal working of a democratically free society in all its diversity is to restrain the growth across the community of that consuming singleness of view and purpose that leads, if not frustrated, to wide-scale social and political violence.¹⁹⁷

On the other hand, a totalitarian structure is not spontaneous, but commanded.¹⁹⁸ In Rummel’s words, this creates a “management-worker, command-obey division” with the kind of bureaucratic organizational system that incorporates “coercive planning, plethora of rules, lines of authority from top to bottom” that ultimately polarizes major interests.¹⁹⁹ In short, a command-control, hierarchically-oriented society fosters the milieu for polarized interests, which are more difficult to be compromised. This is a finding validated by anthropologists, who have concluded that “strong respect for authority and the tendency to obey authorities is another predisposing characteristic for group violence. Given this characteristic, in the face of difficult life conditions or external threat members of the group will be more dependent on guidance by authorities.”²⁰⁰

A key preventative mechanism from developing the hostility that leads to violence, then, is the prevalence of at least participatory institutions, so that individuals have the legal infrastructure that permits them to develop their capabilities as they see fit. Certainly, this is the case on the national level. Peck argues, however, “good governance must be instituted at all levels of society—local, national, regional, and international.”²⁰¹

In at least one sense the need for participatory structures also applies to corporations. Friedman, for instance, argues that in order to obtain better governance even without a global government to fix issues such as the environment, human rights, and worker conditions, it is necessary for activists “to compel companies to behave better by mobilizing global consumers through the Internet.”²⁰² This “network solution for human rights” depends on “bottom-up regulation” that empowers the bottom, “instead of waiting

196. *Id.*

197. *Id.* at 354-55.

198. *Id.*

199. *Id.*

200. Staub, *supra* note 118, at 135.

201. PECK, *supra* note 27, at 17.

202. *Id.* at 206-17.

for the top, by shaping a coalition that produces better governance without global government."²⁰³

D. *The Importance of Corporate Governance*

There is a belief underlying contemporary business strategy that as long as one operates within the bounds of the law, one is free to engage in any business practice that does not harm the self-interest of the company.²⁰⁴ Implicit in this understanding is the notion that other societal institutions are in place to protect interests that require protecting, so that it is not the responsibility of a corporation to be concerned with these issues.²⁰⁵ In addition, the argument goes, if stakeholders wish corporations to behave otherwise, the market will send the appropriate signals so that corporations change their behavior.²⁰⁶ Even prominent business ethicist and corporate governance scholar, Thomas Dunfee, has expressed sympathy for this viewpoint in arguing that embedded within markets are moral preferences which, provided they are expressed, provide incentives for corporations to take into account the impact of actions on corporate stakeholders.²⁰⁷

This approach might be denoted as a balance of power approach. There is an inherent balancing mechanism in this approach that prevents corporations from unduly exerting their influence to the detriment of others who participate in that market. Corporations are thus able to pursue their self-interest attentive only to the market, which will send them the appropriate information regarding whether consumers value the corporation's actions.²⁰⁸

In this regard, corporations also undertake what business ethicist William Frederick calls an economizing function.²⁰⁹ By this, Frederick means that in all aspects of life, to combat entropy, it is necessary to convert resources into useful materials and energy.²¹⁰ When corporations do this well, they are rewarded with profitability.²¹¹ Corporations cross borders and establish

203. *Id.*

204. Fort & Schipani, *supra* note 150, at 842-45.

205. *Id.* at 844 n.65.

206. *See, e.g., id.* at 836 (discussing the basic tenets of contractarianism).

207. Thomas W. Dunfee, *Corporate Governance in a Market with Morality*, 62 LAW & CONTEMP. PROBS. 129, 139-43 (1999).

208. *See, e.g.,* MILTON FRIEDMAN, CAPITALISM AND FREEDOM 15 (1962).

209. WILLIAM C. FREDRICK, VALUES, NATURE AND CULTURE IN THE AMERICAN CORPORATION 25 (1995).

210. *Id.* at 29. This is true in terms of photosynthesis as well as metabolism. In a sense, corporations act as society's metabolism because they convert resources into useful materials and energy. *Id.*

211. *See, e.g.,* Roberta Romano, *A Guide to Takeovers: Theory, Evidence, and Regulation*, 9 YALE J. ON REG. 119 (1992).

relationships that might not otherwise exist and, in doing so, they provide opportunities and frequently raise standards of living for the societies in which they are located.²¹² Yet, there are at least three reasons why one might be skeptical of the sufficiency of the balance of power analogy.

First, while markets provide information regarding the views of various economic actors, it is unclear whether markets convey adequate breadth of information. Material goods and services are easily quantifiable, whereas less tangible notions are less susceptible to arithmetic quantification. One cannot quantify the value of a just peace. This is one response—provided by religious leaders, for instance—in critique of balance of power conceptions of national security. The National Conference of Catholic Bishops, for instance, has argued that peace is not the result of the balance of power,²¹³ but rather peace contains an inherent aspect of justice that is different from the equilibrium produced by a set of competing interests.²¹⁴

Second, the work of a balance of power scholar, Henry Kissinger, reveals an even more pragmatic rationale for the dangers inherent in such an approach. Kissinger describes the balance of power of the Concert of Europe, which successfully maintained almost uninterrupted peace from 1848 until 1914, as one based not only on an equilibrium of national power within Europe, but also based on a “moral element of moderation,” particularly linking the three Eastern powers of Prussia, Austria, and Russia.²¹⁵ This moderation muted the contests for geopolitical and ethnic dominance for many decades, so much that Austria muted its claims to its next-door Balkan nations while Russia soft-pedaled its identification with the same countries that shared ethnic identity.²¹⁶ Eventually, however, the moderation among these countries was jettisoned in exchange for a rawer form of pursuit of power for national self-interest.²¹⁷ The resulting *realpolitik* eventually produced an insecurity and desperation for power that led to polarization of interests, and alliances that led to World War I.²¹⁸

The import of this analogy is that reliance upon a balance of power, shorn of moral moderation, risks polarization of interests. A company insistent upon profitability, for instance, may be willing to substantially contribute to the corruption of a given country in order

212. Martin Crutsinger, *Greenspan Warns of Protectionism*, WASH. POST, Apr. 5, 2001, at E3.

213. NATIONAL CONFERENCE OF CATHOLIC BISHOPS, *THE CHALLENGE OF PEACE: GOD'S PROMISE AND OUR RESPONSE* 21 (1983).

214. *Id.*

215. HENRY KISSINGER, *DIPLOMACY* 102 (1994).

216. *Id.* at 94.

217. *Id.*

218. *Id.* at 103.

to obtain market share and profitability. Yet, for a corporation to do this, it engages in the social milieu that is correlated with violent resolution of conflicts.

A third reason for being skeptical about the persuasiveness of a balance of power model for corporate behavior is simply that it may well be unsustainable for business purposes. If corporations contribute to the corruption of a given country in order to produce short-term profitability, it may well also sew the seeds for opposition to that company's actions within that country.²¹⁹ In other words, if the market is an attempt to produce utilitarian benefit—that is, the greatest happiness for the greatest number of people—then E.F. Schumacher's warning is telling. Schumacher, in something of a cult classic, argues that a person "driven by greed of envy loses the power of seeing things as they really are, of seeing things in their roundness and wholeness, and his very successes become failures."²²⁰ The foundations of peace, Schumacher argues, cannot be attained by cultivating drives such as greed and envy, because those drives "destroy intelligence, happiness, serenity, and therefore the peacefulness of man."²²¹ Although the rhetoric and political philosophy is diametrically opposed, even free market theorist F.A. Hayek would seem to agree, because he too argues that virtues must be taught by religious and other institutions in order for individuals to value moral notions such as truth-telling, honesty, and promise-keeping that sustain the market itself.²²²

E. *Why Corporations Should Incorporate Peace as a Telos*

A starting point for why corporations should consider incorporating peace as a governing teleological goal lies, surprisingly, in the realist and neo-realist notion of foreign relations. As Donald Kagan assesses, realists believe that states and nations seek as much power as they can, whereas neo-realists understand the behavior of states in terms of security.²²³ The notion of security connects with governance, in that "the evidence suggests that the most secure are those that provide the greatest human security to their populations. Weak states are those that either do not, or cannot, provide human security."²²⁴ Moreover, this very weakness may lead political elites into a vicious cycle that further weakens their security and that of

219. See Jonathan Berman, *Boardrooms and Bombs: Strategies of Multinational Corporations in Conflict Areas*, HARV. INT'L REV., Fall 2000, at 28.

220. E.F. SCHUMACHER, *SMALL IS BEAUTIFUL: ECONOMICS AS IF PEOPLE MATTERED* 21 (1973).

221. *Id.*

222. See generally HAYEK, *supra* note 46.

223. KAGAN, *supra* note 85, at 6-7.

224. PECK, *supra* note 27, at 16.

their people. Securing the interests of the people requires responding to human needs, and thus:

[I]nvolves the institutionalization of participatory processes in order to provide civil and political rights to all peoples. It requires adequate legal enforcement and judicial protection to ensure that all citizens are treated equally and fairly and that their human rights are safeguarded. It involves equitable economic development and opportunities so that economic and social rights can be provided. Finally, it entails the development of pluralistic norms and practices that respect the unique cultures and identities of all. Sustainable peace also requires education of dominant groups to convince them that their own long-term security interests lie in the development of a just society.²²⁵

In this light, corporations may have a self-interest in undertaking action to alleviate the pressures that cause conflict, if for no other reason than to limit the likelihood of the "angry empowered person" of which Friedman writes.²²⁶ More generally, if the arguments made to support these correlations are true and understood, there may be a genuine interest among corporate leaders to aspire to orient policies to mitigate the likelihood of bloodshed.

This does not require, however, enactment of an international law that would mandate corporations to alter their governance practices. As Myles McDougal writes,

[I]n pluralistic and rapidly changing communities, rules are always complementary ambiguous, and incomplete The conception of 'international law' as a body of rules regulating the interrelations of nation-states is doubly myopic.²²⁷ Beyond the infirmities of its overestimating of the potentialities of rules, it has infirmities in the scope of the activities it seeks to make subject to law.²²⁸

Rather than taking a deontological approach and mandate duties for corporations, a reflexive model is proposed that would allow corporate boards to add an additional criterion to that of increasing shareholder value: that of aiming toward sustainable peace. There are five reasons for this approach.

First, clear aims are important for establishing ethical governance mechanisms designed to foster peace. Two business ethicists with training in psychology demonstrate the importance of this. David Messick notes that psychological studies demonstrate the unsurprising finding that human beings tend to value their own self-interest over that of others.²²⁹ Because of this tendency, Messick argues that clearly identified ethical principles provide a check

225. *Id.*

226. FRIEDMAN, *supra* note 8.

227. Myres S. McDougal, *Law and Peace*, in APPROACHES TO PEACE: A READER IN PEACE STUDIES 134 (David P. Barash ed., 1999).

228. *Id.*

229. David M. Messick & Max Bazerman, *Ethical Leadership and the Psychology of Decision Making*, 37 SLOAN MGMT. REV. 9 (no. 2, 1996).

against individuals simply acting in their self-interest.²³⁰ Ethical principles create a distance that makes individuals think about additional consequences to their actions beyond what the individual might recognize.²³¹

The same holds true in corporations. If the only criterion for success is increasing shareholder value, then it is more difficult for other considerations, which may have an impact on profitability in the long-term, to enter into a decision-maker's calculus.²³² It has been argued that the corporate constituency statutes, which have been passed in twenty-eight states in the United States, and which generally allow managers to take into account the impact of actions on non-shareholder constituents, are superfluous because a well-run company must always take such stakeholders into account.²³³ The difficulty, however, is that not all companies are well run.²³⁴ A clearly identified responsibility to stakeholders increases the likelihood that such interests will be considered.

Indeed, a clearly identified goal has also been called an "aim" by another business ethicist, Joshua Margolis.²³⁵ Margolis argues that psychological studies show that a clearly defined "aim" acts to discipline the mind so as to hold it accountable.²³⁶ This Aristotelian notion suggests that corporations must do more than be aware of the possibility that their actions could contribute to a social milieu that fosters violence. To the extent that they wish to avoid contributing to bloodshed, they must establish a goal, an aim, or a *telos* that commits the corporation to practices that lead to the achievement of that goal. In doing so, corporations may be aspiring for more than one goal. To some, this is dangerous because it requires the corporation to serve "too many masters."²³⁷ Yet, well-run corporations already serve masters of shareholders, public opinion, bondholders, and other stakeholders; serving multiple masters is part of the job.²³⁸ For example, even shareholder value proponents Daniel Fischel and Frank Easterbrook note that the *New York Times* is free to pursue goals of profitability, as well as journalistic excellence.²³⁹

230. *Id.*

231. *Id.*

232. La Rue Tone Hosmer, *Why Be Moral? A Different Rationale for Managers*, 4 BUS. ETHICS Q. 191 (1994).

233. See, e.g., Joseph Biancalana, *Defining the Proper Corporate Constituency: Asking the Wrong Question*, 59 U. CIN. L. REV. 425 (1990); William J. Carney, *Does Defining Constituencies Matter?*, 59 U. CIN. L. REV. 385 (1990).

234. See generally Fort, *supra* note 150.

235. Joshua Margolis, *Psychological Pragmatism And the Imperative of Aims: A New Approach for Business Ethics*, 8 BUS. ETHICS Q. 409 (1998).

236. *Id.*

237. Fort, *supra* note 150, at 180.

238. *Id.*

239. FISCHEL & EASTERBROOK, *supra* note 152, at 36.

Second, this raises the question of the role of law. Advocating an international law requiring corporations to adopt this kind of *telos* is not the solution. Rather, there is an opportunity for corporations to include peace as a goal and, perhaps, corporations could be encouraged to do so through various domestic and international incentives. Domestically, this could be in the form of tax incentives. Internationally, it could be in the form of trade benefits. The difficulty with a law that mandates specific rules, however, is the diversity of communities. Even natural law, which “did achieve conceptions of a larger community of humankind and of a common human nature and, hence, ma[d]e immense contribution to the development of transcommunity perceptions of law” also tends to apply ethnocentric interpretations as universal principles, although there can be diversity of beliefs.²⁴⁰ It is important to identify overarching aspects of human nature and human events, but it is also important to do so in a way that does not disempower individuals in particular communities. The characteristics of good governance already identified stress the importance of giving individuals within a community an opportunity to voice their concerns. Thus, the overarching governance structure should allow for this type of contribution from those affected by a corporate action.

There is also a question regarding just how much law individuals really need. For instance, Gandhi, a British-trained lawyer, thought that ninety percent of people did not need to be governed.²⁴¹ The only people who required governance were the top five percent, comprised of the avaricious, the hoarders, and the black marketers, and the bottom five percent, comprised of common thieves, murderers, and gangsters.²⁴² Rather than attempt to provide specific rules for all individuals, a corporate governance regime could provide a forum by which individuals may have a voice in their own affairs while protecting against the mere few who may cause problems.

The third reason why it is important for corporations to consider pursuing peace as part of their business identity relates to the power of corporations generally. Although, it is important not to confuse economics and politics, nevertheless, it is difficult to dispute the proposition that multinational corporations are powerful. A central premise of democratic institutions is that power requires checking; otherwise that power can do evil as well as good.²⁴³ In an advanced nation-state, an effective government may check corporate power,²⁴⁴

240. McDougal, *supra* note 227, at 138-39.

241. VED MEHTA, *MAHATMA GANDHI AND HIS APOSTLES* 214 (1977).

242. *Id.*

243. FRIEDMAN, *supra* note 208, at 3.

244. Cf. CASS SUNSTEIN, *REPUBLIC.COM* (2001) (warning about the influence of corporate power even in places like the United States as demonstrated through debates over campaign finance reform).

but when a large multinational corporation does business in an emerging market, the relative power of the corporation vis-à-vis the government suggests that governmental regulation of business may be insufficient to prevent corporate misconduct.²⁴⁵

Fourth, peace literature and psychological research emphasize the importance of doing. In corporations, people work side-by-side with others with whom they may not otherwise have an association. Sociologist Ronald Takaki, for instance, argues it is at work that Americans encounter diversity that they may not find in neighborhoods, churches, families, and voluntary associations.²⁴⁶ If countries are more prone to ethnic violence and civil strife than they are to cross-border warfare, then a business can serve as a place where individuals can make connections with those of other identities that they might not otherwise have made. This can have an important psychological and consequential effect. Ervin Staub reports that:

[P]sychological research shows that people learn by doing. As people help or harm others, they become increasingly helpful or capable of inflicting increasing harm The evolution of helping and harming is also apparent in real life. Many heroic rescuers of Jews in Nazi Europe started out intending to help an acquaintance for a short time, but then became increasingly helpful and committed. Helpful actions create psychological change in the actor.²⁴⁷

Business organizations provide a place where individuals can develop face-to-face relationships with others. They can form a sense of community with those that they previously did not know. This kind of learning-by-doing has roots in other kinds of peace-related projects. For instance, the "Seeds of Peace" program annually brings approximately four hundred Arab and Israeli teenagers to Maine.²⁴⁸ One of the first steps is simply to give the enemy a face.²⁴⁹ By creating personal relationships, this breaks through stereotypes,²⁵⁰ and doing so creates a sense of community with individuals who have a stake in the preservation of that community.²⁵¹ Further, giving

245. See, e.g., William E. Newberry & Thomas N. Gladwin, *Shell and Nigerian Oil*, in *ETHICAL ISSUES IN BUSINESS: A PHILOSOPHICAL APPROACH* 522 (Thomas Donaldson & Patricia H. Werhane eds., 7th ed. 2002) (noting the influence of Shell on the government of Nigeria).

246. RONALD TAKAKI, *A DIFFERENT MIRROR: A HISTORY OF MULTICULTURAL AMERICA* 426 (1993).

247. Ervin Staub, *supra* note 118, at 140.

248. JOHN WALLACH, *THE ENEMY HAS A FACE: THE SEEDS OF PEACE EXPERIENCE* 3 (2000).

249. *Id.* at 7.

250. *Id.* at 39.

251. *Id.* at 7.

youngsters a voice—that is, the opportunity to speak—empowers them.²⁵²

The fifth reason that corporations should include peace as a corporate goal is that it creates a sense of community. Aristotle long ago emphasized the connection between individual virtue and the role of the community in forming the moral character of someone who possessed excellent virtue.²⁵³ A community is held together by a common goal or set of goals.²⁵⁴ If people learn by doing, as described above, then the doing that occurs within an organization will impact how people behave generally.²⁵⁵ If a corporate community is held together by a pursuit of profit that rationalizes corruption and abuse, that culture is bound to have deleterious effects on individual behavior. The nature of the corporate community is, in fact, the critical link between ethics and governance because it is in the governance of a community that certain kinds of behaviors are produced, whether for the good or not. Thus, it is important to specify more clearly the attributes a corporation would possess if it were to link governance, ethics, and sustainable peace.

IV. CONCLUSION

Anthropologists have studied the attributes of peaceful societies. These studies provide an understanding of what a corporate

252. *Id.* at 52-53.

Empowering, even if you don't change another person's opinion, is literally giving somebody a voice. A voice doesn't mean that you always get heard. In the adult world, we don't always get heard. But sometimes we simply need to speak. This sense of empowerment is an important step for the youngsters. They are able to move beyond self-pity and come closer to acknowledging their own role in the conflict. They are forcing the people around them to understand their pain, even to experience it. Yet if the youngsters themselves don't re-experience the pain as well, if they simply force it onto other people, they are not able to make a connection between their suffering; they only reaffirm the righteousness of their cause. As long as they continue to pursue that argument, they remain closed to the other side. The youngsters are not accepting or acknowledging what those around them have to share.

Id.

253. See ARISTOTLE, *NICHOMACHEAN ETHICS* (Martin Ostwald trans., 1962); ALASDAIR MACINTYRE, *AFTER VIRTUE* (1981); ROBERT SOLOMON, *ETHICS AND EXCELLENCE: COOPERATION AND INTEGRITY IN BUSINESS* (1993); Jeffery Nesteruk, *Law and the Virtues: Developing a Legal Theory for Business Ethics*, 5 *BUS. ETHICS Q.* 361 (1995); Bill Shaw & John Corvino, *Homer and the 'Why Be Moral' Question*, 6 *BUS. ETHICS Q.* 373 (1996).

254. See AMITAI ETZIONI, *THE NEW GOLDEN RULE* (1996).

255. See Sandra L. Robinson & Anne M. O'Leary-Kelly, *Monkey See, Monkey Do: The Influence of Work Groups on the Antisocial Behavior of Employees*, 41 *ACAD. MGMT. J.* 658 (1998) (concluding that individuals tend to follow the prevailing norms of the organization in which they work).

community that fosters peace may look like. Leslie Sponsel, for instance, in studying ethnographies of the Semai, Chewong, Buid, and Piaroa peoples concludes that there is a positive correlation between gender equality and peace.²⁵⁶ Sponsel also notes the work of David Fabbro, who has provided a more comprehensive list of those attributes that are absent and those that are present in peaceful communities.

Peaceful communities, says Fabbro, do not have inter-group violence or feuding, internal or external warfare, a threat from an external enemy group or nation, social stratification, a full-time political leader or centralized authority, or police or military organizations.²⁵⁷ Peaceful societies, he argues, tend to be small and open communities with face-to-face, interpersonal interactions. They possess an egalitarian social structure, maintain a generalized notion of reciprocity, reach decision-making through group consensus, and encourage nonviolent values throughout the community.²⁵⁸ This list would seem to argue against a hierarchical community structure and, given the size and bureaucracy of multinational corporations,²⁵⁹ the likelihood of the other attributes related to interpersonal interaction and equality seem remote. Indeed, Nicholas Carr notes that globalization works directly against these tendencies even though it pays lip service to a diluted dimension of cooperation in terms of teams. Carr states that:

[T]o be flexible is to lack attachments . . . but forming connections and communities, holding on to one's olive trees—just being able to decorate your own desk and call it your home away from home—is one of the most defining characteristics of human beings. Globalization, by creating a world in which we are constantly being asked to break such connections, reinvent ourselves, think in the short term and stay flexible, sets us all adrift and leaves everyone feeling like a temporary worker . . . we don't bond with others; we "team" with them. We don't have friends; we have contacts. We're not members of enduring nurturing communities; we're nodes in ever-shifting, coldly utilitarian networks.²⁶⁰

It is important to note, of course, that the anthropological studies of nonviolent societies are not done within the context of multinational business organizations. One of the salient characteristics of these groups, in fact, runs entirely counter to the

256. Sponsel, *supra* note 115, at 95.

257. *Id.* at 107-08 (citing David Fabbro, *Peaceful Societies: An Introduction*, 15 J. PEACE RES. 67 (1978)).

258. *Id.* at 108.

259. See, e.g., ROBERT JACKALL, *MORAL MAZES: THE WORLD OF CORPORATE MANAGERS* (1988).

260. FRIEDMAN, *supra* note 8, at 424-25 (citing Carr).

thrust of globalization in that these groups are often remotely located so that external threats are rare.²⁶¹

In contrast, globalization connects people so that they cannot be aloof to the rest of the world. Nevertheless, the efficacy of face-to-face interaction in open communities has been demonstrated in school mediation situations in which:

[D]isputants are few in number, know each other well through daily interaction, and expect to have an ongoing relationship after the dispute is resolved. Close to 90 percent of those involved in school peer mediating, for example, report satisfaction with the agreement and are willing to honor their agreements over time. In contrast, peer mediation with large groups is often less effective.²⁶²

The anthropologists are onto a conception of mediating institutions. Mediating institutions are relatively small organizations where moral identity and behavior is formed.²⁶³ The size of the organizations is critical because "people can be themselves only in small comprehensible groups."²⁶⁴ Large business organizations, like any large organization,²⁶⁵ may contain economic efficiencies, but "most of the sociologists and psychologists insistently warn us of . . . dangers to the integrity of the individual when he feels as nothing more than a small cog in a vast machine and when the human relationships of his daily working life become increasingly dehumanized."²⁶⁶

A central difficulty of modernity is its emphasis on large organizations. As Michael Nagler writes, the shift from *oikos* networks to that of *poleis* in ancient times and further codified by the nation-state system "led in similar ways to less peace in their respective systems . . . because they swept aside valuable modes of association that had evolved in their respective cultures while creating a framework for even larger polarizations."²⁶⁷ Yet, small-scale organizations do not necessarily have the perspective by which they can adopt policies for a common good, such as the environment. Homer-Dixon, for instance, argues that small groups in developing countries may already have wealth, power, and status because of

261. Sponsel, *supra* note 115, at 95.

262. David Steele et al., *Use Cooperative Conflict Resolution*, in JUST PEACEMAKING: TEN PRACTICES FOR ABOLISHING WAR 59 (Glen Stassen ed., 1998).

263. See, e.g., TIMOTHY L. FORT, ETHICS AND GOVERNANCE: BUSINESS AS MEDIATING INSTITUTION (2001).

264. SCHUMACHER, *supra* note 220, at 80.

265. Vaclav Havel compares the attributes of socialist organizations and large corporations because of the diminution of the importance of the individual in each. Fort & Schipani, *supra* note 150, at 831 (citing VACLAV HAVEL, DISTURBING THE PEACE: A CONVERSATION WITH KAREL HVIZDALA 14 (Paul Wilson trans., 1990)).

266. SCHUMACHER, *supra* note 220, at 257.

267. Michael N. Nagler, *Ideas of World Order and the Map of Peace*, in APPROACHES TO PEACE: A READER IN PEACE STUDIES 378 (David P. Barash ed., 1999).

their extant social position.²⁶⁸ As such, they frequently have narrow interests that can impede efforts to establish social institutions, laws, and other broader interests of society.²⁶⁹ In critiquing Robert Putnam, whose civic association reliance would challenge the above argument, Homer-Dixon writes that "social segmentation can tear apart the civic networks essential to building and maintaining social trust and good will; in turn, loss of trust and good will removes a critical restraint on the severity and harmfulness of the social competition that arises from greater environmental scarcity."²⁷⁰

The central task of a governance system that fosters peace, then, will be to develop a sense of community by empowering individuals and providing them with a voice in the institutions that govern them. It will also be necessary for the governance system to provide transparency so that actions of any one group or multiples of groups can be evaluated and called to account.²⁷¹ It is therefore proposed that corporate governance systems that incorporate the attributes of peaceful societies as the criteria by which they are evaluated can help achieve both economic progress and social harmony.²⁷²

268. HOMER-DIXON, *supra* note 169, at 118.

269. *Id.*

270. *Id.* at 122.

271. Schumacher explains the dilemma in this way: "[W]e must learn to think in terms of an articulated structure that can cope with a multiplicity of small-scale units." SCHUMACHER, *supra* note 220, at 80.

272. Michael N. Nagler, *Ideas of World Order and the Map of Peace*, in *APPROACHES TO PEACE: AN INTELLECTUAL MAP* 380-81 (W. Scott Thompson & Kenneth M. Jensen eds., 1992).

Ghandi . . . saw the ideal world as a system in which individuals would voluntarily serve the family, the family would serve the state, the state the nation, and the nation the entire world: 'In this structure composed of innumerable villages there will be ever-widening, ever-ascending circles. Life will not be a pyramid with the apex sustained by the bottom. But it will be an oceanic circle whose center will be the individual always ready to perish for the village, the latter ready to perish for the circle of villages, till at last the whole becomes one life composed of individuals . . . sharing the majesty of the oceanic circle of which they are integral units. Therefore, the outermost circumference will not wield power to crush the inner circle, but will give strength to all within and derive its own strength from it.

Id.