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Corporate or Governmental Duties? Corporate Citizenship From a Governmental Perspective

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Abstract

Recent discussions on corporate citizenship (CC) highlight the new political role of corporations in society by arguing that corporations increasingly act as quasi-governmental actors and take on what hitherto had originally been governmental tasks. By examining political and sociological citizenship theories, the authors show that such a corporate engagement can be explained by a changing (self-)conception of corporate citizens from corporate bourgeois to corporate *citoyen*. As an intermediate actor in society, the corporate *citoyen* assumes co-responsibilities for social and civic affairs and actively collaborates with fellow citizens beyond governmental regulation. This change raises the question of how such corporate civic engagement can be aligned with public policy regulations and how corporate activities can be integrated into the democratic regime. To clarify the mode of CC contributions to society, the authors will apply the tenet of subsidiarity as a governing principle which allows for specifying corporations' tasks as intermediate actors in society. By referring to the renewed European Union strategy for Corporate Social Responsibility, the authors show how such a subsidiary corporate-governmental task-sharing can be organized.

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During the last years, the political perspective of corporate activities has increasingly gained attention in academic discussion, and a whole variety of new conceptions has been developed. Labels like "Political CSR" (Scherer & Palazzo, 2007), "Business Citizenship" (Logsdon & Wood, 2001, 2002), "Corporate Global Citizenship" (Waddock & Smith, 2000), or "Corporate Citizenship" (Matten & Crane, 2005; Matten, Crane, & Chapple, 2003) try to emphasize the new role of corporations as political actors. However, the variety of approaches and the often insufficient delineation among these conceptions make it difficult to define clear boundaries of this new research area. While the authors agree with Wood and Logsdon (2008) that "defining corporate citizenship and corporate social responsibility is a single debate, not two" (p. 52), we believe that the corporate citizenship (CC) debate widens the scope of corporate social responsibility (CSR) by pointing to the role of corporations as political actors and the concomitant (new) responsibilities. And even if Crane, Matten, and Moon (2008) believe that CC for most scholars has "no particular significance or meaning" (p. 22), we will use the term CC in the following exactly to focus on its political dimension.

The factual involvement of corporations in providing public goods also poses new problems for governments and challenges the established order of political governance because it requires new forms of corporate-governmental collaboration. While most scholars stress the new role of corporations as political actors which (voluntarily) contribute to society beyond their regular business, in recent discussion, less attention has been paid to the problem of how such efforts can be integrated in the broader political context from a governmental perspective.

Thus, for example, Crane, Matten, and Moon have argued for an extended theoretical conceptualization of CC (Matten & Crane, 2005; Matten et al., 2003). Based on the observation that corporations have started to administer civic rights voluntarily in cases where national governments fail or are unable to do so, they see corporations as quasi-governmental actors and assign to them the status as members of a "surrogate citizenry" (Matten & Crane, 2005; Moon, Crane, & Matten, 2005). But this new definition by Crane, Matten, and Moon still remains rather vague, and it deals with two very different citizenship understandings. On one hand, corporations become citizens because they are bestowed with specific citizenship rights by national law. On the other hand, they are seen as citizens because they themselves are the

guarantor of citizenship rights to others. And even more importantly, if corporations act as quasi-governmental actors and provide civic rights in communities, it remains unclear whether such engagement should be seen as a voluntary discretionary engagement, terminable at any time for any reason, or as an obligation resulting from corporate citizenry.

In this article, the authors will discuss these challenges of CC (research) from a political point of view. Therefore, the article will contribute to the debate on CC by answering two fundamental questions: (a) How should CC be defined and conceived of in a globalizing economy? (b) Which responsibilities can be assigned to corporate citizens and what kind of governance principles should be applied to organize governmental-corporate task-sharing?

Addressing the first question of the status of CC in globalizing economy, we will start our argument with some historical sketches of the different conceptions of citizens as bourgeois and *citoyen* and with looking at the key principles to be found in citizenship research. Based on this examination, we will discuss the new idea of corporations as citizens and argue that a proper conception of corporations as citizens has also to distinguish between two different corporate citizen roles: the corporate bourgeois and the corporate *citoyen*.

To answer the second question concerning adequate governance arrangements, in the subsequent section we will follow Aßländer (2011, 2012) and introduce the tenet of subsidiarity as a governance principle which would allow for clarifying the social (co)responsibilities of the corporate *citoyen* in the context of governmental-corporate task-sharing. To illustrate what such subsidiary co-responsibility would mean in the context of political governance, we will then discuss the necessity of such a new governance principle by referring to the new CSR strategy of the European Union (EU). The authors will argue that even under the conditions of globalizing societies, governments may see corporations as intermediate actors bearing specific subsidiary co-responsibilities in society. However, this visualization means that governments have to develop governance structures, which are capable to cope with this new role of corporations as political actors.

Bourgeois or *Citoyen*—The Status of the Citizen

Although the idea of citizenship in the sense of belonging to a specific polity reaches back to the Greek polis and the Roman empire, the modern "idea" of citizenship was derived from philosophical enlightenment. On one hand, it is based on the concept of the nation-state that possesses sovereignty and has the power to regulate the affairs of its citizens (Hegel, 1998, §§ 260-340; Kant, 2006, §§ 43-61; see also Hirst & Thompson, 1995; Hirst, Thompson, &

Bromley, 2009, pp. 220-225). On the other hand, it is based on the assumption of social contract theory, imagining that "society" is constituted by a voluntary contract among its members (Hobbes, 2003; Locke, 1952; Rousseau, 1998). By consenting to a hypothetical contract, people establish political government, acknowledge its supremacy, establish legal security by subordinating under the same rules, and thus constitute the sphere of the civil law making them equal members in the society, that is, citizens (Fichte, 2009, II,3, § 1). Over time, this idea of a social contract among (hypothetically) equal associates has increasingly replaced the medieval imagination of people as subjects of a prince by Grace of God. From this new perspective, society has been seen as a voluntary association which is regulated by a contract among its members, constituting their citizenry and describing their rights and duties as citizens.

Notably, for Jean-Jacques Rousseau, the act of association of all individuals and their subordination under a general will (*volonté général*) forms a moral and collective body in which the individual is sovereign and subject at the same time (Rousseau, 1998, pp. 14-16). Based on this idea, Rousseau in his famous *Social Contract* delineates two types of citizens—bourgeois and *citoyen*. While the burgess (bourgeois) is defined by his settlement (town) and remains the subject of an outside authority, the citizen (*citoyen*) is member of a political community forming the state (city, polis) by participating in the political decision-making process (Rousseau, 1998, p. 15, footnote). This definition of the *citoyen* being sovereign and subject at the same time has become a cornerstone for political thinking in enlightened philosophy. In his *Principles of Political Right*, Immanuel Kant (1891) draws on this idea when arguing that the civil state is constituted by three "rational principles" (p. 35) which are (a) the liberty of every member of the society, as a *man*; (b) the equality of every member of the society with every other, as a *subject* (bourgeois); and (c) the self-dependency of every member of the commonwealth, as a *citizen* (*citoyen*). It should be noticed at this point that for Rousseau as well as for Kant, the definition of the citizen as bourgeois or *citoyen* was not seen as a contradiction or a question of either/or. Rather this distinction mirrored the double nature of citizenship reflecting two political aspects of citizenry (Aßländer & Curbach, 2014).

With the early writings of Karl Marx, this primarily political perspective of the citizen as bourgeois and *citoyen* has been re-interpreted. Marx adopts the terms of bourgeois and *citoyen*, but re-defines them for differentiating the spheres of private (economic) and political life (Cohen & Arato, 1992, pp. 304-305). While the bourgeois lives an egoistic private life, solely interested in his own affairs and regarding other men just as a means for his own purposes, the *citoyen* is defined as a member of the political community considering himself a communal being (Marx, 1975, p. 154). The

characterization of the bourgeois as "economic citizen" has been commonly accepted not only by Marxists. Latest with the writings of Werner Sombart (1987), one of the most influential German economists of the *fin de siècle*, the bourgeois was by definition perceived as a member of a specific class, the commercial society, solely defined by his "commercial spirit." For Marx and his successors, the distinction between bourgeois and *citoyen* no longer reflects two political aspects of citizenship but signifies two separate spheres of citizen's life—as bourgeois he is individual and interested primarily in his private (economic) affairs; as *citoyen* he is part of the community and interested in the public affairs and political participation. However, as Otfried Höffe (2007) states, in "real life both occur at the same time and, possibly, in the same person: those with a strong individual profile see societal commitment as an integral part of their personal character" (p. 147).

These developments in the philosophical understanding of citizenship mirror the historical and political changes and are also reflected in political theory. In the aftermath of the French revolution and with the rise of the nation-state, citizenship has become the privileged status of equal individuals who belong to the same "societal community" which in turn is confined to a national territory and governed by the rule of national law. From this point of view, the nation-state is defined as a self-sufficient entity, solely dependent on the recognition of its sovereignty by the other nation-states (Hirst & Thompson, 1995). At the same time, the nation-state becomes the sole grantor of civic rights and the concomitant privileges. Thus, the social status as citizen allows individuals to enjoy a set of unalienable rights on one hand, but consists also of some obligations on the other (Bobbio, 1987).

Nowadays, it is exactly this idea of a closed and homogeneous societal community of fellow citizens within a national territory, which is challenged by globalizing economies. The weakening of national governments' authority, new transnational forms of civil society activities, and significant cross-border migration flows (Canovan, 2009, pp. 156-158; Keck & Sikkink, 1998, pp. 35-37) have challenged the traditional understanding of nation-states based on a commonly shared culture. Nation-states are exposed to different trans-, sub-, and supra-national forces like markets and civil society, and have lost their function to be "a locus of democratic collective action" (Warren, 2009, p. 175).

Principles of CC

To clarify what citizenship could mean in the corporate context and against the background of globalizing societies, it is fruitful to look at different conceptions of citizenship as they are used as a point of departure in the recent CC debate.

In a widely discussed contribution, Néron and Norman (2008) note that the conception of citizenship can be based on one or more of the following four ideas. (a) Citizenship can be defined as *legal status*; this definition means that citizenship describes a kind of membership in a political community, typically a nation-state, accompanied by a set of citizenship rights and duties. (b) Citizenship can be based on the idea of *political identity*; seen from this view citizenship denotes the identification of the citizen with his community. This citizenship understanding allows for differentiating two identities of the citizen—the citizen as private person and the citizen as member of a community. (c) Citizenship can be rooted in the idea that citizenship serves as *locus of solidarity*; thus, citizenship focuses on the solidarity among fellow citizens and describes citizenship in its function of social cohesion. (d) The last way to conceive of citizenship depicts citizenship as *virtuous activity* aiming at the self-governing of a community. Hence, civic virtues are seen as motivating force that drives citizens actively and responsibly to engage for the common good. On one hand, citizenship as a legal status reflects the idea of the bourgeois as subject of an external authority bestowed with specific rights but not actively participating in the political decision-making. On the other hand, citizenship as political identity, as locus of solidarity and as virtuous activity, mirrors a political understanding of citizenship underpinning the active participation of the citizen in his respective society.

Wood and Logsdon (2002) approach the citizenship term from a different angle, referring to the work of Geraint Parry. The authors delineate three contemporary understandings of citizenship. In the *minimalist view*, citizens are seen as residents under a common jurisdiction which strive for personal goals within the legal boundaries. From a *communitarian perspective* citizenship consists of rights and duties against the polity. Individual liberty in this conception is not seen as a value for its own sake but is in tension with the expected individual contributions to the common good. From a *universal human rights perspective*, citizenship rights derive from natural law and are seen as a precondition of human agency. Thus, it becomes the task of the government to secure those rights. It is worth noting that Wood and Logsdon (2002) see no fundamental differences between the minimalist and the universal human rights perspective which are "united in their support of human autonomy and extensive fundamental rights" (p. 72).

Similarly, Cohen (1999) describes three components defining the full citizenship status in modern societies—citizenship as *juridical status of legal personhood*, citizenship as a *political principle of democracy*, and citizenship as a *form of membership*. Thereby, the understanding of citizenship as *legal personhood* is based on the universalistic idea of natural law (Höffe, 2007, p. 167) and built on a juridical perception of citizenship that emphasizes that, as

a legal person, every citizen has freedom and rights protected by law and "can sue in court and invoke a law that grants him rights" (Cohen, 1999, p. 249). Quite differently, citizenship as a *political principle of democracy* is a model that is rooted in the political tradition of Aristotle and the idea of the Greek polis and ensues from republican tradition in which citizenship is defined as an "activity that involves participation in ruling and being ruled by equals who have uniform political status" (Cohen, 1999, p. 248; see Aristotle, 2009, p. 117 [1283b]). According to this republican conception of society, the citizen himself is both author of the laws and bound by his rules and thus sovereign and subject at the same time and therefore has to consider "the common good as well as particular interests" simultaneously (Cohen, 1999, p. 248; see also Stokes, 2009, pp. 31-34). As a *form of membership* citizenship is bound to the membership in a specific community as the key prerequisite for the enjoyment of any social status. This membership also creates "social closure": the exclusion of those that do not belong to the respective social community of citizens (Brubaker, 1992, pp. 21-34; Canovan, 2009, pp. 156-158). Table 1 provides an overview of the different conceptions of citizenship.

To some extent, these analyses of citizenship correspond to the above mentioned role models of the bourgeois and the *citoyen*. As pointed out by Rousseau and Marx, both roles of the citizen—as private as well as political being—are inextricably bind together. It is exactly this double nature of the citizen in the republican understanding of citizenship, which Scherer, Palazzo, and Baumann (2006) contrast with the liberal understanding of citizenry. With reference to Habermas's considerations on political theory, they conclude, "In contrast to the liberal model of society, in the republican model the citizen has a double role as a private citizen ('bourgeois') and as a citizen of a state or a community ('citoyen')" (Scherer et al., 2006, p. 515). In the classical conceptions, both roles of the citizen are defined based on the citizen being part of either a nation-state, which guarantees legal protection, or by belonging to a well-defined community with rules and laws that the citizen has to comply with. However, Cohen asserts that "citizenship" in globalizing societies can be defined as membership and ties of solidarity within different groups sharing culture, values, or identity.

Such a cosmopolitan view on citizenship raises at least two problems. First, as Néron and Norman (2008) point out, such different belongings might cause conflicts because an individual's identity as citizen competes with his private individualistic interests or with his sense of membership in other political communities or identity groups. Second, the lack of clear boundaries of social belonging, accompanied by only loosely defined rights and duties, might lead to what Hirst et al. (2009) call a "durable disorder" (p. 12).

Table 1. Corporate Citizenship as Societal Status.

Corporate citizenship status	Basic ideas of citizenship (Néron & Norman, 2008)	Current views of citizenship (Wood & Logsdon, 2002)	Citizenship principle (Cohen, 1999)	Liberal and republican model of citizenship (Scherer, Palazzo, & Baumann, 2006)	Corporate citizenship understanding
Bourgeois (economic citizenship)	Legal status: Citizens are defined by law and bestowed with citizen rights which distinguish citizens from non-citizens	Minimalist/universal view: Citizens as bearers of rights which are either bestowed by community or by natural law	Legal personhood: Citizens as bearers of rights which are universal but protected by national law	Liberal model: Citizens act under the law; governments possess regulatory authority	Corporation as legal entity bestowed with specific rights by law
Citoyen (political and civil citizenship)	Virtuous activity: Citizen takes part in the self-governing of his political community and contributes actively to the common good	Communitarian view: Citizen as member of polity is obliged to contribute to the common good	Political participation: Citizen is sovereign and subject in political community and civil society	Republican model: Citizen as political actor contributes to the peaceful stabilization of society	Corporations as bearers of political rights participating in self-governing (e.g., soft law)
Full citizenship (member in social community)	Political identity/locus of solidarity: Citizens identify with communities they live in and develop ties of solidarity		Membership: Citizen as member of a societal community beyond his territorial belonging		Corporations define ties of solidarity either by territorial belonging and/or industrial membership

Because a clear criterion of belonging is missing and "groups within national states grow in significance as alternative focuses of allegiance for their members" (Hirst et al., 2009, p. 226), this condition leads to a lack of identification with the nation-state and to a reduction of collective endeavors (see also Höffe, 2007, p. 149).

Such durable disorder, caused by different belongings and the identification with various communities, makes it difficult to transfer the idea of political citizenship to corporations. Multinational corporations act in different countries and can hardly be described in terms of citizenship as belonging to one single nation-state. The *economic activities* of multinational corporations are regulated by national and international legal norms. In contrast to that, the *political activities* of such corporations are not embedded in a similar framework of national and international regulations. To develop our idea of CC further, the authors will now transfer these different ideas of economic and political citizenry to the corporate context.

Two Spheres of Corporate Citizenry—Corporate Bourgeois and Corporate *Citoyen*

As it originated in the 19th century, the modern type of corporation is a child of the bourgeois society and is invested with a specific "identity" and a "legal personhood" (Micklethwait & Wooldridge, 2005). Created as a legal person by its own a company is distinct from its owners, managers, and employees, it is able to possess private properties, it is capable to sue and being sued in court (even by its own shareholders), and it receives legal protection (Lower, 2010, pp. 74-75). Corporations are designed to be economic citizens whose main purpose is to succeed in the marketplace and to generate profits on behalf of the companies' owners. Thus, corporations are granted legal personhood status as *bourgeois* (Aßländer & Curbach, 2014). As corporate bourgeois, the corporation is a full member of the economic sphere and the private sector, and therefore enjoys the freedom to follow its own self-serving economic interests within legal boundaries. "Any reference to 'social good' was at best symbolic and derivative in that the economic function provided the social good" (Banerjee, 2007, p. 10). Like the individual bourgeois, the corporate bourgeois is subject of a sovereign which is external to his own economic scopes and provides and warrants the rules of law and grants the status of citizenship by national legislation. Because the corporate bourgeois is solely interested in economic success, also all his activities aiming at the betterment of societal welfare will ultimately be instrumental and solely serve in his (legitimate) economic interest. As Logsdon and Wood (2002) point out, in such minimalistic conception of citizenship corporations would only "claim

those rights essential to the pursuit of self-interest and would fulfill only those obligations mandated by the convenience of having a collective entity to guarantee those rights" (p. 162).

Although corporations are primarily "economic constructs," during the last decades especially, multinational corporations have started to engage in the political sphere not only by fostering civil society activities but also by assisting in public–private partnerships aiming at the betterment of the social and environmental conditions of the communities within which they operate. For example, multinationals define social and environmental standards in their supply chain; promote political, human, and labor rights in their host countries; or initiate stakeholder dialogues with different groups of civil society. These activities show that corporations have started to engage in political discourse and to participate in the process of rule-making. As corporate *citoyen*, companies have developed what Höffe (2007) calls a "benevolent civic sense" or "sense of community" (p. 147). The increasing engagement of corporate actors in initiatives like the Responsible Care Program of the chemical industry or the Caux Round Table, aiming at defining "soft law" standards of responsible business behavior, shows this changing self-conception of corporations and exemplifies how the corporate *citoyen* becomes both "legislator" and "subject" of his own rules (Crane et al., 2008, p. 70). Even if initiatives like Responsible Care occasionally have been criticized due to its too weak control mechanisms and too opportunistic regulations (King & Lenox, 2000), they also may be considered as first tentative steps to more effective mechanisms of industry-wide self-regulation. Although corporations have always tried to influence policy, such a "politicization of the corporation" (Scherer & Palazzo, 2007, p. 1115) shows a new quality because it is increasingly legitimized through partnerships with international institutions and civil society organizations (Zadek, 2001, p. 99).

However, this new development is only partially mirrored in the sphere of political governance. While the role of the corporate bourgeois is well defined by national and international law, the new role of the corporate *citoyen* is only addressed superficially. Most governmental laws and international regulations concern the status of corporations as a legal entity within the economic sphere. Thus, regulations like the Agreement on Trade Related Aspects of Intellectual Property Rights (TRIPS) or the Anti-Counterfeiting Trade Agreement (ACTA) aim at guaranteeing legal protection and legal certainty under international law. Only few regulations focus on the political aspect of corporate activities. First attempts have been made with the initiation of the UN Global Compact that expects corporations to contribute to the resolution of societal and ecological problems. However, the Global Compact does not

provide any normative rationale or at least clear regulations for how such corporate political activities should be dealt with from a governmental perspective. Notably, in globalizing societies the integration of corporate political responsibilities in the process of political governance remains one of the most challenging problems. Especially when corporate responsibilities "are entangled with state obligations, it makes it difficult if not impossible to tell who is responsible for what in practice" (Ruggie, 2008, p. 190).

Thus, bestowing corporations with a political CC status is not without problems. Apart from the question whether corporations have the competencies and capabilities to address global societal problems, such corporate activities are in fact neither legitimated nor controlled by any democratically constituted political demos. Despite the fact that we have an academic and political debate about the role of corporations as political actors, this debate is not mirrored by concepts of political governance which would allow for accommodating this new political role of corporations. Although Matten and Crane (2005) state that in cases of governmental failures "society can only be happy if corporations fill this gap," this conclusion at least partly misses the point (p. 175). Even if laudable, CC engagement remains dependent on a public consent and must be governed and controlled by public instances (Scherer et al., 2006). Even Matten and Crane see this point of lacking democratic legitimization, demanding that corporations when taking over governmental functions "should take over to the same degree exactly the type of accountability which modern societies demand from government . . ." (Matten et al., 2003, p. 118). Thus, if corporations start with providing civic rights and social services for other citizens, political regulation is needed to ensure that those services are in line with society's expectations and will be democratically legitimized.

There is empirical evidence that such a double nature of the citizen is not a purely theoretical assumption. Multinational corporations have started to bind ties of solidarity with various local communities where they operate, engaging, for example, for combating AIDS in sub-Saharan Africa or initiating educational programs in South America (Hsieh, 2009). For example, the German sportswear manufacturer Puma has initiated various programs that go beyond its immediate and mediate business interests. Within the so-called "Puma Vision" agenda, the company has defined three subprograms "Puma Safe" concerning environmental and social standards of its production, "Puma Peace" aiming at fostering the peace campaigns and initiatives in Africa, and "Puma Creative" dedicated to the benefit of young artists and film-makers (Puma, 2012). Such engagement for peaceful coexistence or artistic freedom exceeds the boundaries of the immediate business interests of the corporate bourgeois and actively contributes to a better society.

Still, such factual citizenship engagement and the self-definition of belonging do not hide the fact that also in these cases, the question of governmental-corporate task-sharing remains open. If corporations can be seen as cosmopolitan corporate *citoyens* contributing to society beyond their economic activities, a governance principle is needed that would allow for assigning the concrete co-responsibilities of the corporate *citoyen*.

Subsidiarity and Corporate Co-Responsibilities

While the discussion of the political rights and responsibilities of the individual *citoyen* has a long tradition in sociology and political philosophy, the rights and duties of the corporate citizen remain unspecified, especially from the political perspective. On one hand, nowadays governments and society expect an additional contribution of companies to solve environmental and societal problems. On the other hand, even in most theoretical contributions, it seems to remain up to the companies whether, in which field and to what extent, they want to contribute to the common good.

To clarify the new role of the corporate *citoyen*, the authors argue that corporations have to be seen as intermediate actors in society bearing a subsidiary co-responsibility (Aßländer, 2011, 2012; Lower, 2010, p. 72). From this perspective, governments have to develop governance structures that allow for embedding corporate civic engagement in the broader context of national or international policy-making and guarantee governmental supervision.

Originally, the tenet of subsidiarity is derived from natural law and describes a fair and just task-sharing among the different layers in society. It states that in society, no task should be assigned to a higher level of authority if it can be accomplished by a lesser and subordinate entity. As a principle of political governance, the principle of subsidiarity defines the relationship between political entities of higher and lower order, as between the European Community and its member states (Consolidated Version of the Treaty Establishing the European Community, Article 5). In the social context, this narrow scope is broadened and subsidiarity is seen as a norm for defining a fair task-sharing among governmental and private actors within civil society. Although the principle in this form was first formulated by Catholic Social Teaching (Pius XI, 1931, § 79), it is as well rooted in the Aristotelian tradition of political thinking and has also been discussed in Lutheran theology (Finnis, 2011, p. 159; Føllesdal, 1998; Höffe, 1997). Thus, the idea of subsidiarity is neither specifically German nor catholic. Referring to the American tradition reaching back to the Jacksonian era, Fort (1996) points out that the adoption of social responsibilities by corporations (controlled by governmental supervision) was based on the belief

that by taking on such subsidiary co-responsibilities, corporations would both pursue their own interests and benefit the common good at the same time. As Lower (2010) puts it, corporations as intermediate actors in society "could be among the non-state actors helping states to exercise public powers" (p. 187).

As a coordinating principle for the collaboration of the various levels of society, subsidiarity works in two ways. On one hand, it defends the subordinate entities from illegitimate overregulation of higher societal or political instances if they can regulate their affairs themselves. On the other hand, it constitutes a right of assistance of higher order instances if solving their problems is out of reach for the subordinate entities (von Nell-Breuning, 1964, p. 8; von Nell-Breuning, 1968, pp. 60-61). Furthermore, as Gosepath (2005) points out, the assignment of responsibilities according to the principle of subsidiarity also defends the higher instances in society—namely, the government—from being overburdened by solving societal or regulatory problems, which could be solved on a lower societal level as well. Thus, in general, the tenet of subsidiarity is based on the idea of "helping others to help themselves" (Gosepath, 2005, p. 162). Hence, as Carozza (2003) puts it, "Subsidiarity is therefore a somewhat paradoxical principle. It limits intervention, yet requires it. It expresses both a positive and a negative vision of the role of the state with respect to society and the individual" (p. 44).

However, as a governance principle, subsidiarity thus constitutes a priority rule, which gives smaller entities precedence over higher instances. This idea is justified by the principles of individual autonomy and self-determination of all citizens. It is based on the precept of personal responsibility, which obliges individuals to bear the consequences of their autonomous actions and not to shift the burdens of their individual decision to the community. Only in cases where the person in need lacks the means or capabilities to escape from her misery the community has a general moral obligation to assist (Gosepath, 2005, pp. 163-164).

Following this line of thought, community is not primarily defined by a government or nation-state, but is described as different layers in society including single individuals at the bottom as well as institutions on the intermediate and the top level. Hence, subsidiarity defines a task-specific hierarchy that is not necessarily bound by a national territory but can also be defined by functional competencies (Føllesdal, 1998; Gosepath, 2005, p. 168). Within this context, intermediate instances are either defined as a result of the factual social development of societies—such as social institutions like family or religious communities—or introduced on the basis of contract theory assuming that the neediness of the individuals leads to associations which would

allow the associates to solve their problems beyond nation-state regulations on a neighborhood or communal level (Gosepath, 2005, pp. 165-166; Lower, 2010, p. 85).

As a steering principle, subsidiarity was discussed in early German political theories. In his 1914 book *Allgemeine Staatslehre* (General Theory of the State), Jellinek describes the subsidiary relation between individuals and community shaped by natural law. In his opinion, government should take on responsibilities only and insofar as things could not be accomplished by the citizens or sub-state associations. In these cases, for assisting lower instances, the state can either *create the conditions to foster private engagement* or *accomplish the respective tasks on its own* (Jellinek, 1914, pp. 259-260).

However, subsidiarity is not to be seen as a purely autocratic principle, by which state authorities shift responsibilities to lower instances. Subsidiarity regulates the assignment of responsibilities both bottom-up and top-down. On one hand, it describes the assignment of societal responsibilities to lower levels of society by a central government. But on the other hand, it is also seen as an organizing principle, which regulates the assignment of responsibilities from the bottom-up. If organizations and associations of the lowest level cannot accomplish societal tasks in a more efficient manner, it is a precept of rationality to shift such tasks to the next higher level and vice versa. This rationality is especially true if centralized institutions can reduce costs because of economics of scale or if exceeding externalities overcharge the capacities of lower level instances (Ederveen, Gelauff, & Palkmans, 2008, pp. 23-24).

However, efficiency and cost-reduction are only second-order arguments for applying subsidiarity as governance principle. As a principle of political ethics, subsidiarity strictly refers to the tenet of justice (Finnis, 2011, p. 146; Höffe, 2007, p. 88). This reference means that subsidiarity grants legitimacy to the state accepting it as superior authority, but at the same time it restricts governmental competencies because it sees the individual as the ultimate decision-making body (Gosepath, 2005, p. 163; Höffe, 2007, p. 85). Thus, it creates an individual right and an individual duty to act autonomously and self-responsibly (Finnis, 2011, p. 169).

As a principle of political governance, subsidiarity imposes the obligation on governments to solve three key problems. First, governments have to clarify to which extent and in which areas they want to allow contributions of subordinate level actors. Second, if such areas are defined, governments have to decide upon whether the existing efforts of the lower instances suffice to accomplish the respective tasks at the expected level. Third, if they do not suffice, governments have to decide whether the incentives for private engagement should be enhanced or whether the respective tasks should be

accomplished by governmental authorities' engagement because lower entities have failed or are unable to meet the expectations. This decision imposes the obligation to governments to define clearly in which field and to which extent intermediate activities are *mandatory, expected*, or *tolerated* and in which areas state intervention is inevitable.

Gosepath (2005) supposes that "the principle of subsidiarity alone cannot solve all problems around the distribution of competencies" (p. 169). Likewise, Höffe (2007) warns that subsidiarity is only a supple principle which "depends on additional considerations about material requirements and side constraints" and therefore "does not set out any precise recommendation as how to proceed" (p. 92). Nonetheless Höffe offers some reference points for the assignment of responsibilities. Notably, in cases where the state government has to fulfill a democracy-enhancing or a freedom-promoting function, state regulation is vital (Höffe, 2007, p. 91). If the assignment of responsibilities to lower level entities would violate superior principles of justice, such as equal treatment of citizens, or would endanger fundamental citizen rights, such as political participation, state intervention is necessary. Furthermore, if the issues at stake require strict coordination, such as fighting epidemic diseases, state authorities have to intervene.

To cope with the challenges of globalization, Höffe proposes to widen the scope of subsidiarity on a horizontal level. This proposal means that intermediate instances which assume the individuals' interests may include not only sub-state associations but also new transnational forms of collaboration (Höffe, 2007, p. 90). Based on the idea of the corporate *citoyen* as intermediate actor in society, we will now discuss the tenet of subsidiarity as a principle of political governance in the context of governmental-corporate task-sharing and against the background of globalizing economies.

Subsidiarity as Governance Principle in the Age of Globalization

During the last two decades, globalization has become

> a fashionable concept in the social sciences . . . and a catch-phrase for journalists and politicians of every stripe. It is widely asserted that we live in an era in which the greater part of social life is determined by global processes, in which national cultures, national economies, national borders and national territories are dissolving. (Hirst et al., 2009, p. 2)

In the "borderless world" (Ohmae, 1999) of globalization, transnational companies seem to be able to escape from nation-state regulations and shift

production to countries with less elaborate governmental regulations. Due to new information technologies, capital and investment are no longer bound to national territories and can be moved quickly from one place on the earth to another. Kenichi Ohmae (2005), one of the most prominent visionary of globalization, paints the picture of the "homeless company" no longer based in a national community and liable solely to the international capital market and its global consumers (pp. 18-24; see also Brunkhorst, 2005, p. 132). In a globalizing economy, traditional ties of (national) solidarity become questionable (Habermas, 1998, pp. 74-75), and domestic policy is increasingly incapable of regulating (international) markets and solving (global) societal and economic problems because the national level is permeated and transformed by the transnational (Hirst & Thompson, 1992).

As a consequence, the power of nation-states has increasingly shifted not only to intergovernmental bodies like the World Trade Organization (WTO) or the European Parliament on one side but also to non-political actors like critical nongovernmental organizations (NGOs) on the other (Beck, 1998, pp. 36-40; Giddens, 1998, p. 72). Using new information technologies, sharing their information worldwide, and acting globally, critical NGOs have become the new counterpart of the multinational corporations, which have appeared as new important players on the stage of the globalized economy. Thus, as some scholars argue, the power of controlling and sanctioning corporate (mis)conduct has shifted from nation governments to NGOs which are not bound to a national territory and able to create worldwide publicity and to organize shaming campaigns, stakeholder protests, and boycotts on a transnational level (Crane & Matten, 2007, pp. 428-434; Matten & Crane, 2005; also Palazzo & Scherer, 2006; Scherer & Palazzo, 2007, 2009, pp. 424-425). Nevertheless, this shift does not mean that the global economy is without regulation or that nation-states have lost their role in globalizing societies. As Hirst and Thompson (2002) point out, "The nation-states, however powerful, cannot act alone, whilst nothing can be accomplished without their active support, legitimation and funding" (p. 252). Operating in the boundaries of national territories, even multinational corporations remain dependent on the formal structures of national law, and only the nation-state is able to guarantee the corporation's status as a legal person and to provide a legal frame, where contracts can be concluded, private property is protected, or debts can be sued (Brunkhorst, 2005, pp. 133-134). In other words, nation-states are not outdated, though they have to re-define their political authority. For Hirst and Thompson, this task of "distributing power"—upward to the international level and downward to sub-national agencies—remains one of the main issues of national policy "that will hold the system of governance together" (Hirst & Thompson, 1995, p. 423).

This issue leads back to the discussion of the responsibilities of the corporate *citoyen* and the challenge of political governance. As the authors have shown above, without clear regulations for corporate-governmental task-sharing, corporate engagement will supplant original governmental activities but this supplanting will not guarantee that such corporate activities will compensate for a lack in governmental services in all relevant areas on a sustained basis. Thereby, as Kline (2005) points out, "The danger lies less in immediate TNC [Transnational Corporations] involvement to promote specific goals than in the failure of governments to recognize and to set guidelines for such private political action" (p. 30).

To establish rules for corporate-governmental task-sharing, Kline proposes a model defining transnational corporations' political responsibilities—for example, for the protection of human rights in their host countries—by their degree of collaboration with those governments which ignore international standards. By doing so, Kline construes a "connection continuum" reaching from the directly involved "causal actor" at the one side to the "disconnected actor" at the other extreme. Referring to the principle of subsidiarity, he argues that in cases where the directly involved transnational corporations are unable to solve the problem, the task shifts to the next level, the less involved corporations on that continuum (Kline, 2005). In opposite to that view, based on a Rawlsian understanding of justice, Hsieh (2004, 2009) asserts that transnational corporations owe a duty to assist less ordered communities to allow them to become "well-ordered societies." In this context, Hsieh (2009) defines well-ordered societies as societies that secure human rights against violations, equipped with a law system, allowing to correct market failures and to protect individuals against externalities of the economic process, and enabling individuals to influence legislation to secure their interests. For profiting from the burdensome conditions in less ordered societies, Hsieh concludes, multinational corporations have to take over second-order responsibilities for protecting human and workers' rights and second-order obligations for environmental protection if their "well-ordered" home countries, which would have been in charge in the first row, are not willing or unable to fulfill their duties.

Although both approaches deliver sound reasons why corporations should take on positive duties, from a governmental perspective the question remains unanswered of how the task-sharing between nation-states and corporations as intermediate actors should be organized. Especially Hsieh sees corporations as a kind of bailsman called to action when nation-states fail. However, this conception becomes problematic in cases where lower level entities in society accomplish their tasks sufficiently without nation-state assistance. Thus, Hsieh (2009) states, "If, for example, industry self-regulation is as

effective as relying on regulation by political and legal institutions to avoid and mitigate harms, then the argument for promoting well-ordered institutions may no longer apply" (p. 269).

But this argument is precisely about the role of the corporate *citoyen* in our understanding. From a governmental perspective, the corporate *citoyen* acts on an intermediate level. He may define industry-wide standards, introduce social or environmental programs below or beyond the nation-state, or collaborate with other community members to contribute to the common good (Brunkhorst, 2005, p. 133). If something can be accomplished on this lower level with higher efficiency or could be done with greater competencies, the corporation as lower level layer in society has an obligation to contribute according to the tenet of subsidiarity, and as long as the tasks are accomplished sufficiently well the state has no right to intervene.

This position is neither a claim for a weak nor for a strong state but rather an answer to the question of how nation-states can organize collaboration with other layers in society on a sub-governmental level. While Hsieh and other authors see corporate civil engagement as necessary in cases where governments fail or are unable to provide citizenship services (Hsieh, 2004, 2009; Matten & Crane, 2005; Scherer, Palazzo, & Matten, 2009), we see this problem in a more general perspective. Because subsidiarity points in both directions, it not only obliges corporations in cases where governments fail, but it also requires governmental engagement in cases where lower instances fail or are unable to accomplish their own affairs.

Thus, two aspects of subsidiarity have to be considered. From the bottom-up perspective, subsidiarity requires the accomplishment of the respective tasks at the lowest possible level. In other words, intermediate actors have to assist citizens if the latter are unable to accomplish societal tasks by their own (Lower, 2010, pp. 72-73). This role may include the provision of fundamental public goods like health care, support of the elderly, or schooling as well as the guarantee of fundamental human rights. This role becomes an even more pressing societal duty in the absence of adequate state regulations. Transferred to the corporate context, this duty would mean that corporations have to contribute within the limits of their financial means and competences (Aßländer, 2011). Thus, for example, in the before-mentioned examples, corporations could provide health care for their workers, additional pension schemes, educational programs, or housing, and they can define principles of self-regulation which guarantee fundamental labor or human rights in their sphere of influence (Aßländer, 2012, pp. 129-130).

However, this approach does not mean that all social affairs can be regulated on the intermediate level in perpetuity. Public goods like legal security or freedom cannot be provided by intermediate corporate actors alone but

have to be guaranteed by higher order instances on the national or international level (Höffe, 1997). Although, according to the principle of subsidiarity, intermediate actors should regulate their affairs as far as possible by their own—which includes the implementation of soft-law standards or commonly accepted codes of conduct—this principle does not obviate the need of governmental regulations (Brunkhorst, 2005, p. 133). This need raises the question of whether lower level instances have an obligation to contribute to the establishment of higher order entities if they are unable to accomplish specific tasks by their own. Although some scholars try to deduce such a duty to cooperate in the establishment of higher order instances from the tenet of subsidiarity, this deduction is quite problematic. If at all, such duty in literature is only mentioned as a right of establishing association at the intermediate level (Lower, 2010, p. 76) and does not address respective duties of the intermediate instances to cooperate in the establishment of a functioning democratic regime. Hence, the tenet of subsidiarity requires a public authority as highest instance. However, as Lower (2010) argues, such political authority "need not be concentrated in discrete national clusters, nor need it be concentrated in just one body but could be distributed in a variety of ways" (p. 86).

From the top-down perspective, the state's role is "to co-ordinate the activities of the individuals and lesser communities within its jurisdiction with a view to creating the social conditions that make it as likely as possible that those individuals and communities can each achieve their fulfillment" (Lower, 2010, p. 73). In this vein, the nation-state or the community of states has to define the scope for activities on the intermediate level. More precisely, to avoid the arbitrariness of corporate engagement, governmental political authorities have to clarify what social tasks have to be accomplished by lower order instances and which responsibilities have to be assigned to what agencies. In either case, it is the nation-state governments or the community of states which are the bailsmen if this assignment of responsibilities exceeds the possibilities of the respective intermediate actors. Even so, as Jellinek (1914) points out, the state can either *create better conditions to foster private engagement* or *accomplish the respective tasks on its own* (pp. 259-260). One of the primary tasks of nation-states in globalizing societies is then to foster and to promote conditions which activate subordinate layers in society to collaborate for accomplishing the required goals. This task goes far beyond seeing corporate contributions as voluntary philanthropic activities. In this conception, corporations, just like other civic organizations, have a systemic responsibility to actively contribute to the common good and it is up to the national and supranational organization to create the conditions which would allow for such contributions (Aßländer, 2011).

However, because the tenet of subsidiarity is more of a regulative idea that should guide governmental considerations when assigning responsibilities to different layers in society, it is up to the political discourse to decide which responsibilities should be assigned to which societal layer in the specific case. Although numerous regulations have been enacted on national and international level aimed at harmonizing the economic realm of the corporate bourgeois, less effort has been made to embed the political activities of the corporate *citoyen* in a coherent political framework. It is worth noting at this point that subsidiarity has to be seen as a dynamic principle which also includes the possible re-assignment of responsibilities to lower level instances (Höffe, 2007, p. 92) and which entails the idea that the assignment of responsibilities might vary from country to country depending on the respective cultural and political traditions.

In this context, the "Renewed EU Strategy for Corporate Social Responsibility" (European Commission, 2011) provides helpful insights of what subsidiarity could mean for political governance in a supranational context. Based on the works of CSR Europe, in 2001 the European Commission launched its well-known "Green Paper—Promoting a European Framework for Corporate Social Responsibility" and defines CSR as "a concept whereby companies integrate social and environmental concerns in their business operations and in their interaction with their stakeholders on a voluntary basis" (p. 8). This definition was heavily criticized for at least two reasons. First, it offered companies the possibility of summarizing various activities under the umbrella of CSR. Second, it remained quite unspecified under which circumstances and to which extent corporations must engage with social and environmental issues. To overcome this critique, the commission offered only recently a new definition and describes CSR now as "the responsibility of enterprises for their impacts on society" (European Commission, 2011, p. 6).

Although even this new definition remains open for various interpretations, it is quite interesting to see how the commission now tries to motivate corporations for engaging in further CSR activities. In this vein, the commission sees the need "to acknowledge the role that complementary regulation plays in creating an environment more conducive to enterprises voluntarily meeting their social responsibility" (European Commission, 2011, p. 5). Although the commission still holds the view that CSR remains an issue of voluntary engagement, it also claims that it is necessary "to better clarify what is expected of enterprises" (European Commission, 2011, p. 5). Although CSR is seen primarily as a corporate task, "[p]ublic authorities should play a supporting role through a smart mix of voluntary policy measures and, where necessary, complementary regulation . . ." (European Commission, 2011, p. 7).

In its documents, the commission has neither developed systematically the idea of subsidiary co-responsibility of corporations nor explicitly mentioned subsidiarity as a guiding principle for organizing such corporate-governmental task-sharing. But we interpret that the way how corporate responsibility should be used to resolve environmental and societal problems on the intermediate corporate level approximates the idea of subsidiarity. While in the old CSR definition, the commission had focused on voluntariness and the business case for CSR (Aßländer, 2011, 2012, pp.122-124), the EU commission now refers to the political responsibilities of the *citoyen* rather than to the strategic considerations of the corporate bourgeois. It seems that the Commission has changed its strategy and now expects contributions from corporations in their role as *citoyen* in return for the protection of the economic freedom of the corporations in their role as bourgeois. Hence, the commission adopts the role as an activator and a facilitator for corporate engagement in the field of CSR. It is the governments' task to judge whether existing efforts of intermediate instances are a sufficient solution in the respective area, or whether further measures have to be taken, and it remains up to the governmental agencies—as the commission puts it—to decide, if necessary, upon complementary regulations. However, concerning the envisaged regulations, the EU document remains rather vague.

Eventually, it remains unclear which "carrot and sticks" can be used to foster private engagement on the intermediate corporate level. Indeed, the question of how to motivate people to engage for the community is as old as political philosophy and has been already addressed in Plato's *politeia*. His answer to why the most competent citizens should participate in the process of political rule-making was as unsatisfactory as simple—because they have to fear to be ruled by less competent citizens (Plato, 2008, 347c).

Apart from the traditional incentive schemes, like tax reduction or subsidies, or coercive means, like legal provisions, governments could create new space for maneuver in specific fields which are vital for both corporations and communities, and they could set standards which assure that corporate engagement does not only serve corporate interests but also meets the expectation of the community. Possible arrays for such engagement could be education, health and safety, or waste prevention or energy saving. Another step in this direction would be to acknowledge the existing regulatory efforts of corporations, that is, to enhance the status of soft-law regulations. The EU commission could verify whether and to what extent existing standards fulfill the expectations of the community and if they are in line with international norms of behavior. This kind of orchestration of soft-law and legal regulations would not obviate the need of governmental regulations but create room for assuming subsidiary co-responsibilities on the intermediate

level. If soft-law regulations prove to be insufficient, such an assignment of competencies can be withdrawn by state authorities. Furthermore, soft-law standards need not necessarily to be without democratic legitimization. For instance, the newly developed ISO 26000 standard results from a multi-stakeholder dialogue which has included different interest groups in society from various countries and claims to be based on international consent.

Thus, the authors assert that corporate-governmental task-sharing could work in a similar way at a global level. Defined by its industrial belonging, the corporate *citoyens* may collaborate in developing industry-wide social or environmental standards, establish monitoring agencies which control issues such as production safety, human rights, work safety, and so on. If these standards will not violate national law and the control mechanisms are efficient, there is no reason why states should not accept the industry standard as part of its national regulations, especially in cases where the competencies lay at industry level or where such standards can be enforced by companies themselves more efficiently. This interpretation implies that (supra-)national governmental institutions may acknowledge self-regulation of societal or environmental issues—when designed and implemented in an appropriate manner—as an effective means of ensuring responsible business conduct.

Nevertheless, the question remains how far such subsidiary co-responsibilities should reach. Although corporations may contribute significantly to solve societal problems, their capabilities are limited. Subsidiarity is based also on an idea of efficiency which means that tasks should be accomplished at that level in society where action can be done less costly, with greater competences or better efficacy. But it cannot be expected from corporations that they tackle all societal problems existing in modern society.

Discussion and Conclusion

In the preceding paragraphs, the authors have analyzed two important aspects of CC, discussing the *status* of citizenship and clarifying the *mode* of corporate citizens' contribution to society. Furthermore, we have asked how the idea of CC might be connected with the established structures of political governance. We believe that our conceptual framework allows a better understanding of what constitutes CC from a political point of view. To explain what the term CC should mean, the authors have differentiated two spheres of citizenship that could be addressed, the corporate bourgeois and the corporate *citoyen*. The status of the corporate bourgeois is defined by external governmental authority and reduced to private business purposes. The corporate bourgeois operates under rules defined by (national) governments, which guarantee legal certainty and freedom for their subjects' private economic

activities. In contrast, the corporate *citoyen* is part of a specific socio-political community, defined by his national, multilocal, or industrial belonging (Aßländer & Curbach, 2014). He plays an active role in shaping the political and social order and takes on responsibilities for others and for the common good. As intermediate actor in society he bears subsidiary co-responsibilities to accomplish respective tasks in those areas in which he has specific competencies and in which the accomplishment can be done on this level more efficiently or with greater effects for the community (Aßländer, 2011). However, he remains subordinate under political and legal regulations. Therefore governments are called to develop adequate governance structures, which would allow for integrating the political responsibilities of the corporate *citoyen*.

In our opinion, the factual engagement of corporations as providers of citizenship rights should not be seen as a new role of corporations as quasi-governmental actors (Matten & Crane, 2005; Moon et al., 2005), but as an evolving self-conception of the corporate citizen from bourgeois to *citoyen* (Aßländer & Curbach, 2014). This development has to be mirrored also by a co-development of political regulations. While much effort has been made to harmonize international regulations concerning the legal protection of the corporate bourgeois, only few attempts have been made to embed the corporation as a political citizen in the political order. Therefore, we have introduced the tenet of subsidiarity, which provides a regulatory idea of how corporate-governmental task-sharing could be organized from a governmental perspective. To illustrate how the principle of subsidiarity could be used in the context of political governance, we have referred to the example of the new EU Strategy for Corporate Social Responsibility (European Commission, 2011).

However, the new CSR strategy of the EU must be seen only as a first tentative attempt to embed societal activities of corporations in a broader political context. If subsidiarity as a principle of corporate-governmental collaboration is taken seriously, governments as well as supranational organizations such as the EU have to identify new fields for CSR activities of corporations which go beyond the expectation of voluntary corporate philanthropic engagement. Furthermore, new governance structures and monitoring instruments have to be developed which are capable to cope with the new role of corporations as political actors and ensure that corporate engagement also contributes to the common good of the (global) community.

The tenet of subsidiarity as principle of political governance also has strict limitations in cases of not-existing or weak governments. The underlying assumption of subsidiarity is that there exists at least a minimalistic national or international political order (Lower, 2010, pp. 86-87; see Höffe, 1997). Only when this assumption applies, there may be a clear duty of assistance for higher authorities in society if lower entities are in need (Gosepath, 2005,

p. 162; von Nell-Breuning, 1964, p. 8; von Nell-Breuning, 1968, pp. 60-61). Although this duty does not release intermediate societal layers from their responsibilities in the absence of such order, the tenet of subsidiarity gives only little advice concerning the co-responsibilities and liabilities of intermediate instances for the establishment of a functioning democratic regime. Because the introduction of the tenet of subsidiarity as a principle of political governance was originally intended to defend individuals against exuberant state regulations (Höffe, 1997), it refers to the nation-state as a matter of fact. More scholarly work has to be done to clarify the role of intermediate instances in society in establishing a democratic order where there is no functioning state government.

Although the authors believe that subsidiarity provides helpful insights which allow for structuring corporate-governmental task-sharing and gives advice on how public–private collaboration can be embedded in the process of political governance, it only provides an analytical frame without normative implications. If corporations are bestowed not only with legal personhood but also with a kind of political autonomy as citizens, future research is required to clarify the legal and political consequences of such a new understanding. Therefore, a normative basis has to be developed within the political process itself to define the respective rights and duties of the corporate *citoyen* concerning the establishment of a democratic order. This normative basis will also lead to a new discussion about the rights, duties, and limits of political participation of corporate citizens in general.

Last but not least, if the corporate *citoyen* is defined as a political actor who bears subsidiary co-responsibilities in society, he is also responsible for defining his own standards of behavior. Hence, the question arises of how such soft-law standards have to be embedded in the system of national jurisdiction. As shown above, we see this argument as a tentative first step to acknowledge the autonomy of the corporation as *citoyen*. However, future research has to clarify the status of industry regulations from a governmental perspective and to develop ideas for procedures of how to integrate them in the legal system.

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