**ABSTRACT:** Government has traditionally regulated and limited the constituencies whose interests corporations serve, and the mechanisms used to control corporate discretion in this regard. While both issues remain contested in virtually every jurisdiction, it was clear, through the end of the 20th century, that a rough consensus defined the debate: corporations were understood as enterprises engaged solely in an economic role. In that role, the primary corporate purpose was to serve its shareholders. Corporations could serve others as well, but only, to the extent such service did not detract from their primary mission. Within broad state-imposed constraints, the market provided the most effective mechanism for regulating corporate activity.

This understanding has been seriously challenged by patterns of globalization emerging since the 1970s. Globalization is institutionalizing transaction systems of all sorts, but principally economic transactions. The primary implementing agents for this institutionalization are economic entities operating across borders in corporate form. Unlike domestic corporations, multinational corporations form webs of economic relationships well beyond the control of any one or more states. As a result, the perception has grown that states lose the effective power to direct the character of corporate responsibility, and that the institutionalization of systems of economic transactions produced by globalization tend to favor only foreign owners while allocating all risk domestically. It has become common to hear arguments suggesting that multinational corporations can allocate risk within their global operations in a way that might make it harder for any one jurisdiction to provide effective remedies to its citizens in accordance with their own political tastes. Thus articulated, the problem of the multinational corporation has led to a number of potentially far reaching suggestions: that multinational enterprises serve a social, political and cultural role as well as an economic role; that legal rules governing such multinational enterprises be modified to match the political, social and economic realities 'on the ground;' that such entities be vested with responsibilities traditionally assigned solely to states; and that the rules for governing such enterprises flow from the same source as rules regulating the conduct of states. Since the 1970s, international and supra-national organizations have increasingly sought to respond to these arguments, usually by urging multinational business enterprises to adopt voluntary codes of conduct.

This paper will consider the ramifications of current efforts to internationalize the regulation of the social responsibility of corporations. The primary focus will be on current United Nations efforts to regulate ‘transnational corporations’ through the development of its “Norms on the Responsibilities of Transnational Corporations and Other Business Enterprises With Regard to Human Rights.” The paper first briefly describes the traditional domestic context of the debates about so-called corporate social responsibility and its relation to basic issues of corporate governance. It then turns to the Norms, first describing the genesis and current status of the Norms, and then examining the Norms themselves. The Norms point to potential critical changes in global consensus with significant ramifications for American domestic law. First, the Norms considerably alter the framework of the debate about corporate social responsibility. Corporations, seen as social, political, and economic actors, would serve not merely traditional stakeholders, but the state and international community as well. Second, the Norms significantly expand the way that international law is implemented. The multinational corporation, rather than the state, is charged with the implementation of the Norms by incorporating the Norms in all of its contractual relations. Third, the Norms reduce the ability of states to resist emerging international law norms. Because the Norms are based on a number of international instruments that have not been ratified by all states, the Norms use transnational corporations as a means of end-running states, and in the process create the basis for the articulation of customary international law principles that will apply to states. The paper ends with a consideration of the possible collision between the methodology of the Norms, the democratic principle as the basis for corporate and state organization, and the convergence of governance norms for states and non-state entities.