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ORIGINAL ARTICLE

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Synthesising synergies between CSR and BHR for corporate accountability: an integrated approach

Mallika Tamvada^{1*}

Abstract

While an emerging literature considers Corporate Social Responsibility (CSR) as obligatory, voluntarism has dominated the scholarship and policymaking related to CSR. Almost parallel to this literature, the field of law has conceived and advanced the concept of Business and Human Rights (BHR) for addressing the human rights impacts of corporations. A new wave in the literature is exploring the relationship between these two disparate fields to bridge the corporate accountability gap. Contributing to this emerging debate, this paper develops a new CSR-BHR integrated framework that presents a unified approach towards corporate accountability. The new Framework offers a taxonomy of CSR-BHR strategies that firms can select from to prioritise their CSR-BHR activities for optimising their social contributions. It provides a new foundation for developing consistent policymaking on corporates' social obligations across the world.

Keywords Corporate Social Responsibility, Business and Human Rights, Corporate accountability

Introduction

A large amount of literature on CSR has emerged over the last three decades examining the need for CSR, its role in advancing the corporate goals of firms, its nature across different institutional and economic contexts, and its relation to law. Parallel to this literature, the field of law has conceived and advanced the concept of BHR that focuses on corporate accountability 'to mitigate or prevent the adverse impacts of business activity on individuals and communities and out of expectations grounded in a specific core set of human rights obligations' (Ramasastry, 2015). More recently, scholars have underscored the need to examine the relationship and overlaps between the disparate literature of CSR based on management theory and BHR rooted in the field of law (Amao, 2011; Ramasastry, 2015; Santoro, 2015;

Wettstein, 2012a, 2012b, 2016, 2020; Obara & Peattie, 2018; Čertanec, 2019; Rasche & Waddock, 2021; Buhmann et al., 2010; Buhmann et al., 2019; Amodu, 2021; Schrempf-Stirling et al., 2022).

However, a formal integration between CSR and BHR has proved to be elusive in the current debates. The paper bridges this compelling gap in the extant literature by making a case for formal integration between CSR and BHR and developing a new CSR-BHR integration framework that offers a comprehensive approach towards corporate social obligations. Several reasons motivate such integration between CSR and BHR. Globalisation has brought the responsibilities of businesses to the centre stage, particularly in the realm of human rights (Walker-Said et al., 2015; Buhmann, 2021). It has increasingly exposed them to a fundamental question "what is the responsibility of companies towards society?" (Buhmann, 2021; Buhmann et al., 2010). This has drawn attention to the role and responsibilities of multinational companies wherein corporate accountability has become a focal point of interest at national and international

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levels (Buhmann, 2021). The discourse on CSR and BHR is increasingly attempting to identify the nature of the social obligations of companies and the need to hold them accountable for their activities.

Notwithstanding this global interest in holding corporates accountable and promoting their prosocial behaviour, the separate existence of CSR and BHR has often resulted in conflicting theories, approaches and beliefs (Connors et al., 2017), reflecting the corporate accountability gap in society (Obara & Peattie, 2018). To bridge this, several articles published in the past few years have sought to analyse the relationship between BHR and CSR (Amodu, 2021; Obara & Peattie, 2018; Ramasastry, 2015). As pointed out by Wettstein (2016), "BHR has the potential to correct some of the main criticisms that are frequently voiced against CSR" and "CSR can enrich BHR". As Carol (2021, p.16) states, human rights hold "considerable promise for CSR researchers in the future". These arguments recognise the commonalities, overlaps and complementary nature of the two constructs. However, CSR and BHR have mainly developed separately, and their relationship within business practice remains vague and under-researched (Obara & Peattie, 2018). As Ramasastry (2015) noted, despite the commonalities between CSR and BHR, the differences have led to the current divergence between them. This paper aims to offer a new perspective setting the CSR and BHR research on a convergence path to offer a systematic approach to corporate responsibilities.

Human rights risk becoming a casual narrative in CSR policies, particularly when they are perceived as belonging to the voluntary CSR domain (Wettstein, 2020), and corporate policies for social responsibility remain general strategic commitments relating to human rights without specific actions taken in connection to them (Buhmann, 2021). This gives rise to issues of transparency, empty promises, bribery, manipulation, and lack of accountability (Ford & Nolan, 2020; Tamvada, 2020). Furthermore, social obligations related to human rights are undermined, for example, when companies support local communities through their CSR, as in the case of Shell, whilst they violate human rights in other parts of the world (Connors et al., 2017; Deva, 2013a, 2013b; Wettstein, 2020).

This paper makes compelling contributions to the emerging debates at the intersection of CSR, BHR and Law. Firstly, it makes a theoretical contribution by developing a new integrated CSR-BHR framework that offers a comprehensive assessment of corporate social obligations and advances the current debates linking the two fields by providing a formal integration of CSR and BHR that was missing in the extant literature (Ramasastry, 2015; Schrepff-Stirling et al., 2022). Secondly, it makes

a practitioner contribution by deriving a taxonomy of CSR-BHR strategies companies can use to optimise their social contributions. Thirdly, it makes a policy contribution by offering a consistent approach for policymakers to implement effective regulation for human rights protection. Through these contributions, the paper advances the emerging discourse calling for closer integration of CSR and BHR. Specifically, the paper advances theory, as well as practice and policy, by going beyond the current attempts that are mainly limited to identifying the extent of commonalities between CSR and BHR by fundamentally repositioning the debate through the lens of theories that reconceptualise CSR as an obligatory responsibility (Johnston et al., 2021; Amodu, 2021; Tamvada, 2020).

The next section presents the emerging literature exploring the relationship between CSR and BHR, along with the limitations of the current approaches.¹ The third section develops the proposed CSR-BHR integration framework, building on studies that reconceptualise CSR as an obligatory responsibility (Johnston et al., 2021; Amodu, 2021; Tamvada, 2020). The new CSR and BHR integrated framework is developed using the lens of business and impact relation theory of social obligations (Tamvada, 2020). Finally, the fourth section discusses the new Framework, its contributions to the extant scholarship, and its relevance for companies. Finally, the last section presents the conclusions of the paper.

Theoretical background on CSR, BHR and law momentum

CSR-BHR background

The most common element of the CSR literature is the acknowledgement of businesses' responsibility towards society and the need for corporations to engage in socially beneficial activities (Dahlsrud, 2008). However, the meaning of CSR is contestable as there is no unanimity on what it is (Okoye, 2009; Okoye, 2016), and this absence of clarity about the nature of CSR implies random picking of social responsibilities by corporates rather than targeting actual needs. Broadly CSR is considered good corporate behaviour that goes beyond the core duties of a company through voluntary initiatives (Kolk, 2010). This voluntarism is widely prevalent in CSR (Dentchev et al., 2015; Wettstein et al., 2019; McCorquodale, 2009; Kolk, 2010; Gatti et al., 2019), making it corporates' discretionary responsibility towards society (Dentchev et al., 2015; Gatti et al., 2019; Hamidu et al., 2015). This approach can encourage companies

¹ The papers were mainly identified using the search terms "Corporate Social Responsibility" and "Business and Human Rights" in scholarly databases, including the Web of Science and Google Scholar.

to pursue CSR for strategic interests in some contexts while causing negative impacts in others. The recent cases of Shell, Unilever, Nestle, Sportsdirect, and Rana Plaza demonstrate the weakness of voluntarism as a CSR paradigm as, in most of these cases, the companies have listed their voluntary CSR activities publicly while at the same time causing severe negative impacts through their business activities (Chowdhury, 2017).² Although scholars have recently started to consider CSR obligatory, they still need to clearly define the boundaries of corporate social responsibilities and obligations, as they mainly focus on corporate internalising their social costs (Gatti et al., 2019). Thus, the current conceptualisations of CSR give ample scope for the corporate accountability gap.

In this context, an emerging body of scholarship seeks to underscore the need for regulating CSR for corporate accountability because, in the absence of regulation, firms may not discharge their responsibilities towards stakeholders (Buhmann, 2011; Osuji, 2011, 2015; Thirarungrueang, 2013; Amao, 2011; Abah, 2016; Okoye, 2016). However, the vagueness of what constitutes CSR poses significant challenges in framing regulations that can effectively hold corporates accountable. Even when such regulation is implemented, firms may continue to evade their obligations through window dressing (Jamali et al., 2017) and greenwashing (Alves, 2009; Kurpierz & Smith, 2020).

Parallel to the CSR literature, the field of Law has conceived and advanced the concept of BHR. Human rights are individuals' fundamental rights intrinsic to being human.³ The United Nations (UN) universally recognise these through the UN Human Rights Charter.⁴ The state traditionally has to protect these rights through domestic laws (Deva, 2003; Jägers, 2011; McPhail & Ferguson, 2016). 'This state-centric conventional international framework for protection of human rights obligates primarily states to promote, and not violate, human rights (Deva, 2003)'. These universal standards must be adopted at a domestic level to become enforceable. The socioeconomic conditions and institutional differences have led to the adoption of these basic and fundamental rights differently. While some jurisdictions (and organisations) are more mature in addressing BHR and CSR, these fundamental human rights recognised by the UN are weakly

regulated and are not well protected in many developing countries (Deva, 2003; FASTERLING & DEMUIJNCK, 2013). This has led to governance gaps that allow companies to exploit human rights in countries that are not well-regulated (Deva, 2003; FASTERLING & DEMUIJNCK, 2013; HACKETT and MOFFETT, 2016). These human rights impacts by businesses have underscored the need for corporate accountability (HACKETT and MOFFETT, 2016; SCHREMPF-STIRLING and WETTSTEIN, 2017; BIRCHALL, 2019).

BHR was conceived to protect human rights from the adverse consequences of business activities (Jägers, 2011). BHR explores the systematic relationship between business and human rights, 'including the respective shifting roles of the state and business in respecting and protecting human rights' (Schrempf-Stirling et al., 2022, p. 1283). It addresses whether corporations have human rights responsibilities and, if so, what such responsibilities mean for corporate behaviour, to what extent, and to whom (Schrempf-Stirling et al., 2022). The BHR perspective moves beyond voluntary and business-led responses to human rights violations to shape momentous developments in international policy, national regulation, and corporate practice (Cossart et al., 2017; De Schutter, 2016; Weissbrodt & Kruger, 2003). The accountability aspect has been researched prominently by legal scholars, and thus, BHR has its roots in legal scholarship. However, BHR is broadly about how business should act in society, a topic that is of central interest to fields that examine the role of business in society.

Intersection: CSR and BHR

Human rights have rarely been a part of the CSR discourse (Wettstein, 2012a, 2012b). Wettstein argues that the exclusion of human rights from the CSR debate is attributable to the moral nature of human rights, which is fundamentally at odds with the voluntary nature of CSR. As he writes, 'Despite the long history of CSR and plethora of different interpretations and definitions that the discussion has produced over the years, the idea has proven surprisingly resistant towards human rights as a possible focus area' (Wettstein, 2016). However, scholars have recently begun acknowledging the relationship between CSR and BHR (Ramasastry, 2015; Obara & Peattie, 2018; Čertanec, 2019; Wettstein, 2012a, 2012b, 2020; Rasche & Waddock, 2021; Schrempf-Stirling et al., 2022). These developments, along with the scope and limitations of the current debates, are presented below.

Wettstein (2012a, 2012b) classifies the trickle of studies beginning in the 1980s linking human rights and CSR into three phases. The first phase focused on labour rights. This phase underscored the importance of the rights of the workforce, particularly in relation to their employment and well-being. The second phase considered the

² Also see, *Okpabi & Ors v Royal Dutch Shell Plc & Anor* (Rev 1) [2018] EWCA Civ 191; Mike Muller, 'Nestlé baby milk scandal has grown up but not gone away' <<https://www.theguardian.com/sustainable-business/nestle-baby-milk-scandal-food-industry-standards>> accessed 25 July 2019.

³ UN, 'Human Rights' <<https://www.un.org/en/sections/issues-depth/human-rights/>> accessed 12 August 2022.

⁴ UN, 'Universal Declaration of Human Rights' <<https://www.un.org/en/universal-declaration-human-rights/index.html>> accessed 15 July 2022.

growing role of internationalisation in the universality of labour standards. In this phase, the generalisability of labour standards across geographic contexts came into pre-eminence. Finally, in the third phase, the emergence of UN Global Compact went beyond the narrow focus on labour rights in the first two phases to include human rights, environment, and anti-corruption in addition to labour rights. Notwithstanding these developments, the debates on CSR and BHR have remained inconclusive on their interlinkages. Wettstein suggests that developing holistic models that address human rights questions more systematically must become a core concern in CSR. Such integration can shift the focus to 'proactive company involvement in the protection and realisation of human rights – not as a matter of voluntariness or philanthropy, but as an actual moral obligation of companies. Ramasastry (2015) suggests that there is scope for a conversation between CSR and BHR and posits that companies should go beyond respecting human rights to positively engage with fulfilling their social responsibilities. According to Ramasastry, companies have obligations beyond the minimalistic requirement not to cause harm for human rights through CSR.

As Wettstein (2016) noted, CSR has remained an aspiration 'that expects corporates to do more for society than merely not harming it but lacks in coherence and stringency.' It remains a much-contested construct based on moral voluntarism beyond law that significantly limits the scope for integration between CSR and BHR. However, Čertanec (2019) argues that CSR is obligatory and highlights the interconnection between CSR and BHR based on their common strategic approach to implementing the two concepts, and suggests that business entities need to consider broader social goals while carrying out business activities, including respecting human rights. However, this discussion is limited to the strategic approach and, thus, misses out on other considerations of corporate accountability. Similarly, Johnston et al. (2021) argue that CSR is obligatory and posit that companies should internalise the social costs arising from their negative impacts. Their approach is limited to identifying and internalising the negative externalities and falls short of discussing the scope of CSR beyond these activities. More recently, Schrempf-Stirling et al. (2022) have examined the relationship between BHR and CSR through the context of social control.⁵

Attempts to develop public–private co-regulation like UN Global Compact, EU Multi-Stakeholder Forum on CSR in 2002, EU CSR Alliance 2006, and the Global

Reporting Initiative have reduced BHR to a normative source of CSR. Treating human rights within the realm of moral voluntarism inevitably restricted accountability for human rights to mere acts of corporate goodwill. This has led to corporations selectively meeting human rights standards based on economic incentives (Favotto & Kollman, 2022; Wolfsteller & Li, 2022). In the process, the transition of 'human rights from the domain of owed obligation into the domain of supererogatory moral discretion threatens to undermine the very core of what human rights aim to protect: the unconditional and equal dignity of all human beings while providing little scope to hold companies accountable for their human rights impacts (Wettstein, 2016). Furthermore, the lack of corporate transparency has meant that companies participate in audits and some voluntary initiatives to sidestep human rights advocacy (Nolan, 2016).

A major development is the United Nations Guiding Principles (UNGP)⁶ three pillars framework developed by Professor John Ruggie (Ruggie, 2011). One of the pillars requires all businesses to 'respect' human rights. However, they do not make businesses accountable for human rights violations. The UNGP are criticised as being soft law (Jägers, 2011; Bilchitz, 2016; Manandhar, 2019). Unless regulated through legislation, the protection of these intrinsic human rights remains a normative requirement for companies. Recently, Rasche and Waddock (2021) analysed the UNGP on CSR and BHR.⁷ According to them UNGP are 'part and parcel of the broader institutional infrastructure for CSR but differ in the voluntary scope of CSR'. However, as Deva (2021) notes, UNGP are a weak instrument for the protection of human rights – they do not allow for a stronger framing of corporate obligations. They remain generic and 'could apply to all kind of organisations irrespective of their distinctive roles in society' (Rasche & Waddock, 2021). As Wettstein (2015) observed, there is a need to acknowledge a more proactive framing of such responsibilities that focuses on the positive contributions that firms can make.

Notwithstanding these limitations, UNGP underscore the management implications of human rights duties established by CSR standards and provide a framework relevant to specifying and operationalising human rights obligations within that scope (Rasche & Waddock, 2021). As a result, although voluntary, several efforts developed under the CSR banner set out codes,

⁶ UNHRC, *Guiding Principles on Business and Human Rights*.

⁷ Pillar II of UNGPs particularly placed business responsibility to respect human rights—'these are a set of voluntary initiatives geared towards holding companies responsible' and represent mostly voluntary collaborative governance (Albareda & Waddock, 2018; Rasche & Waddock, 2021).

⁵ Social control is defined in terms of why and how society makes businesses act responsibly and channels business behaviours toward socially desirable ends.

standards, and principles of responsibility for companies, taking reference to human rights obligations (Rasche & Waddock, 2021). However, CSR instruments that are developed by linking to UNGPs naturally suffer from the absence of stronger, clearer, and positive obligations within its ambit resulting in insufficient basis for designing enforceable standards, particularly in relation to human rights.

More recently, Political CSR (PCSR) theory attempts to clarify companies' social responsibilities. PCSR emphasises how companies can deliver public goods by complementing governmental responsibilities while increasing their legitimacy (Buhmann et al., 2019; Frynas & Stephens, 2015; Scherer et al., 2016). It includes their contribution to resolving global challenges (Scherer & Palazzo, 2007). PCSR assumes that the traditional roles of state and business have blurred, with 'states losing power and business gaining power in a globalised world' (Schrepf-Stirling, 2018). Consequently, PCSR suggests that companies should contribute towards doing good for the community, including human rights aspects (Jonsson et al., 2016).

This is in line with the suggestions of human rights scholars that increased emphasis should be paid to how businesses can actively contribute to fulfilling human rights obligations (Buhmann et al., 2019). However, the PCSR theory does not offer concrete suggestions for businesses to identify social needs when public authorities fail to render public services (Buhmann et al., 2019; Mäkinen & Kourula, 2012; Jonsson et al., 2016). It does not offer concrete suggestions on how businesses can fill governance gaps. Thus, PCSR does not identify those responsibilities' ambit and operational accounts, although it acknowledges the business responsibility towards the community and, more specifically, human rights.

While an emerging body of literature and policymaking considers the relationship between CSR and BHR, it does not answer, 'if CSR as a phenomenon can solve "fundamental human rights problems", and what impact CSR has on "the broader human rights movement?"' (Nolan, 2016). Can CSR inform BHR (or vice-versa) without first addressing the fundamental gaps in the current conceptualisation of CSR? As Nolan (2016) noted, this emerging discourse should provide conceptual clarity on CSR. The recent contributions examining the relationship between CSR and BHR implicitly consider CSR as voluntary. Such a presumption fuzzies the social obligations of companies and limits the scope of integration between CSR and BHR.

Thus, while recognising the overlaps and commonalities between CSR and BHR, the emerging literature is starkly missing on models that systematically lead to their

convergence. Addressing this gap and the limitations of existing attempts to bring together these two constructs, the Framework in the following section integrates CSR and BHR. It sets out a path for their convergence.

The CSR-BHR Integrated framework

This section develops a new framework that integrates CSR and BHR for the effective and constructive discharge of corporates' social obligations using the theoretical lens of business and impact relation, as proposed by Tamvada (2020).

The business and impact relation theory of social obligations

Tamvada (2020) theorises the conceptual underpinnings of responsibility using the legal theory of morality to establish that CSR is intertwined with the legal responsibilities of business, necessitating the reconstruction of CSR as an obligatory construct. This approach strengthens the argument that CSR is an obligation towards society through its direct relation with the primary functions⁸ of the business that is mandated upon corporations. These obligations are classified as *business relations* and *impact relations*. This new approach paves the way for reconceptualising CSR as obligatory (Tamvada, 2020) by identifying immediate moral obligations that arise when companies discharge their primary functions and the associated legal responsibilities.

The *business relation* involves obligations that embody those standards, norms, and expectations that reflect a concern for what consumers, employees, shareholders, and community regard as fair and just. These are the first set of moral obligations associated with a business's primary functions, as conducting business is possible only when companies can have the required resources, customers, employees, and others who are a part of the society or the community where the business operates. The intrinsic relation between business relations and primary functions provides a channel and scope that necessitates recognising companies' positive obligations towards their stakeholders with whom they have a direct relationship to carry on the business functions. Such a relationship requires them to be responsible for stakeholders involved in business operations (Tamvada, 2020).

⁸ Primary functions are responsibilities having legal sanction and backing. The primary functions assigned to a role are associated with legal responsibilities. Registrations for the purpose of doing business, selling goods or services, meeting requirements under the law for performing the assigned role are legal responsibilities. They are rooted in duties imposed by law as well as from obligations that emerge from the terms of contractual engagements. These obligations come with the primary functions of a role. Here, parties are answerable for breach of their legal duties. These include the economic responsibilities of running the companies (Tamvada, 2020).

The second set of obligations, the *impact relation*, consists of the relationship between business operations and their potential impacts on stakeholders and the planet. As Tamvada (2020) suggests, these sets of moral obligations are directly related to the primary functions and are associated with the causal aspects of business activities and their impacts. They are closely intertwined with the legal responsibilities because of their close association with the primary functions. Here, companies have a responsibility to act in a manner that 'prevents unjustifiably getting benefitted by endangering the rights of others (even if such acts are not illegal per se). This empowers victims of wrongs to obtain redress from wrongdoers while getting justice' (Tamvada, 2020). Such responsibilities associated with the impact relation are linked to tort laws and principles of corrective justice, giving rise to a compelling need to safeguard them even in the absence of specific laws.

As Voiculescu et al. (2011) note, 'rather than owning factories in developing countries, with all the additional responsibilities involved, transnational private corporations are interested in the use of resources and reap the benefits of low labour costs.' In the process, transnational corporations gain the 'financial benefits of slavery' and associated forms of exploitation that 'take place at the bottom of the subcontracting chain, in smaller factories and workshops' without bearing direct responsibility for them (Voiculescu et al., 2011). The impact relation necessitates them to refrain from causing adverse impacts on stakeholders for securing undue benefits in the process. These impact-related obligations are the second set of moral obligations associated with a business's primary functions.

Formal integration between CSR and BHR

The integration between CSR and BHR is developed using the theoretical lens of business relations and impact relations in three steps.

Step 1: reconceptualising CSR as Business Relation and Impact Relation

Following Tamvada (2020), CSR is reconstrued as consisting of business and impact relations, as shown in Fig. 1. Here, CSR is not a voluntary construct but obligatory because of its direct relation to the company's primary functions and, consequentially, to legal proximities. BHR is an integral part of the reconstrued CSR, as it is entirely within the business and impact relations' ambit. This is because human rights broadly belong to three categories protecting the life and security of a person, economic and social rights, and personal and political rights and freedoms (Borisova & Rockinger, 2016). Business relation and impact relation encompass the

socioeconomic factors that are inter-connected and interrelated to human rights, and for this reason, BHR is within them in Fig. 1. Thus, it is a core obligation within the scope of the reconceptualised CSR.

Such a new approach is aligned with the growing consensus that corporations have positive responsibilities to contribute to the protection and realisation of human rights (Ramasastry, 2015; Tamvada, 2020; Wettstein, 2016). To fully honour human rights, three types of duties must be performed. These include the duties to avoid depriving, protect from deprivation, and aid the deprived, corresponding to the duty to respect human rights, protect human rights, and realise human rights, respectively (Wettstein, 2012a, 2012b). As governments cannot solve global problems but depend on the participation of institutions like companies (Wettstein, 2016), a narrow focus on corporate obligations of the negative kind—of non-interference and doing no harm are not sufficient (Wettstein, 2012a, 2012b). The business relation and impact relation approach acknowledges the positive obligations within the realm of BHR.

Step 2: distinguishing reconceptualised CSR and corporate social initiatives

The reconceptualised CSR encompasses the protection and realisation of human rights along with other contractual obligations arising from business relations and impact relations. The traditionally conceived notion of CSR as a voluntary construct does not consider these proximity factors. For these reasons, the traditional voluntary view of CSR is recast as Corporate Social Initiative (CSI) to distinguish it from the reconceptualised CSR. Thus, the reconceptualised CSR consists of mandatory obligations, while the traditional voluntary CSR is now conceived as CSI. Figure 2 presents this by showcasing the distinction between CSR and CSI. As part of CSI, social initiatives that are outside the ambit of the reconceptualised CSR but yet fall under the wider social context are included. These are, for instance, philanthropic or charitable activities for generating goodwill and are out of the scope of regulation.

Early CSR approaches were prone to endorsing voluntarism. They frequently equated the social responsibility of business with charitable donations to social causes and dealing with the 'supererogatory part of morality', that is, moral actions that lie beyond the call of duty or doing good (Wettstein, 2016; Mazutis, 2014). However, such voluntarism 'conflicts with the very notion of an obligation' (Wettstein, 2016). Moral voluntarism of this sort does not sit well with a focus on human rights issues (Wettstein, 2016). By construing CSR as a voluntary concept, the extant literature has missed a crucial point about the nature of responsibility. In Fig. 2, such



Fig. 1 Reconceptualised CSR, BHR and corporate accountability

voluntary initiatives beyond the scope of business relation and impact relation are categorised as CSI.

An example can illustrate the case here. Consider a mother with a child who is of school-going age. She is responsible for the child’s education. Here, responsibility implies that it is not a voluntary choice for her to take the child to school. It is a much stronger concept than voluntarism. However, the mother may decide to give a bar of chocolate to the child. This is not a responsibility but a voluntary choice the mother may make. While the responsibility is within the scope of regulation, voluntary activity is not. A fundamental error in the existing conceptualisation of CSR is mistaking responsibility for voluntary activity.

Without conceptual clarity, CSR faces challenges leading to corporate accountability remaining a voluntary self-imposed obligation that has no oversight. Thus, in Fig. 2, the reconceptualised CSR demarcates the scope and ambit of CSR, and activities beyond the CSR expected from companies for the reasons of corporate citizenship and goodwill are recognised as CSI. Such activities include “do good” rationale, the creation of shared value, poverty alleviation, and the business role for sustainable development, among others, that are beyond business relation and impact relation.

Step 3: integrating CSR and BHR

Following the first two steps, the new CSR-BHR Integration Framework is developed in Fig. 3 below. It demonstrates how CSR and BHR can be integrated to provide a more systematic view of a company’s social responsibilities. Using the theoretical lens of the business and impact relation of corporate social obligations, the new Framework, presented in Fig. 3, suggests that BHR should be viewed as being integral to CSR as BHR is within the realms of ‘business relation’ and ‘impact relation.’ Furthermore, it presents a new construct of Complementary BHR (CBHR), which is defined as the social responsibilities of firms that are in immediate connection with BHR. Thus, CBHR refers to social obligations that complement BHR and are related to BHR protection. These are mandatory obligations within the ‘business relation’ and ‘impact relation’ that indirectly impact the human rights of stakeholders. The Framework developed here suggests that companies should meet their core obligations by first prioritising activities to protect BHR, followed by CBHR, other CSR activities within the scope of *business relation and impact relation* and, after meeting these core obligations, pursue any additional corporate social initiatives (CSI) of their interest.

The business relation and impact relation aspects of CSR, which define companies’ obligatory responsibilities, encompass human rights based on legal theory and are not normative sources of corporate social obligations.

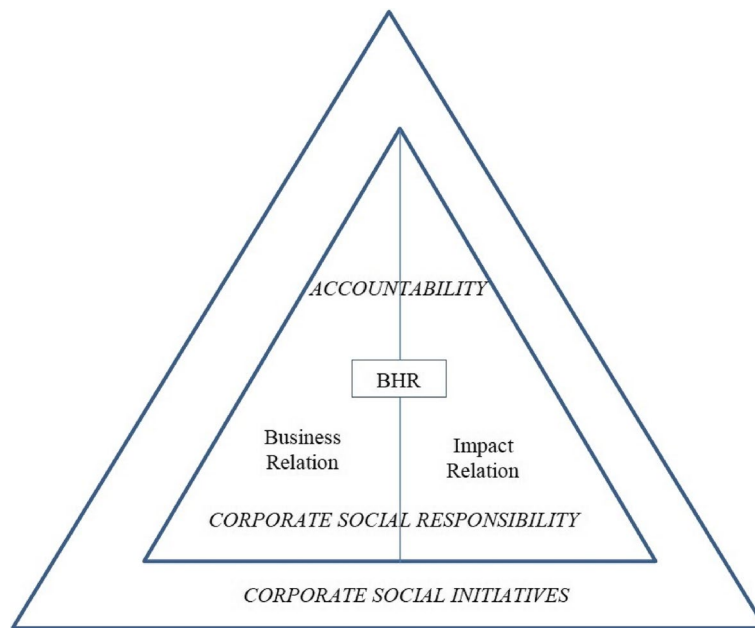


Fig. 2 The boundaries of obligations and corporate goodness

FIRMS ACTIVITIES

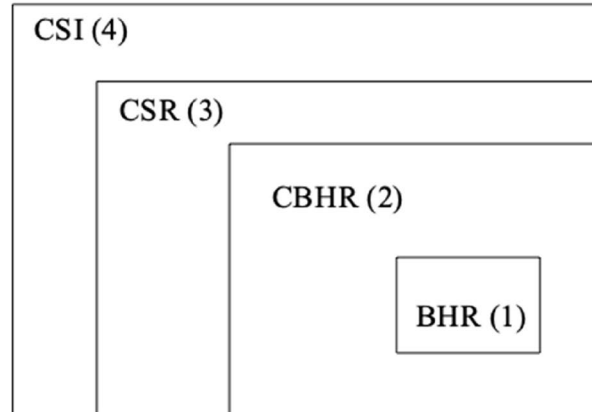


Fig. 3 An integrated CSR-BHR framework

Thus, companies must pursue BHR first as obligatory responsibilities and should prioritise these for effectively discharging social responsibilities because human rights are most fundamental for human beings that “exist prior to, or independently of, any legal or institutional rules” (Feinberg, 1973, p. 84). Once these core obligations are met, companies must pursue CBHR as the social responsibility of firms that complement the BHR—these are the set of positive human rights obligations that are linked

with BHR. Firms should prioritise these CBHR responsibilities next, as these are directly linked with the human rights of the stakeholders. The other obligations that are within the scope of CSR, consisting of business relations and impact relations, should be prioritised next as these are not directly linked with human rights. Finally, any voluntary initiatives beyond the business relation and impact relation (termed here as CSI) can be pursued so

that firms optimise their resource allocations through effective prioritisation of their social obligations.

For example, consider a multinational company having business operations in a developing country whose activities pollute river water. Its social obligations are illustrated in Table 1. Its first core obligation is to ensure that the human rights of stakeholders, like the right to life of those who are accessing the river water, are protected, as this is connected to the *impact relation* and is obligatory. Once such direct obligations are met, the company must prioritise taking all such active measures that are linked with the human rights of its stakeholders, like, for instance, providing them with safe drinking water. Such positive social obligations directly linked to BHR are referred to as CBHR. Following this, the company should prioritise activities such as investing in technologies that facilitate the cleaning of the river water instead of pursuing activities that are focused on window-dressing, such as building schools in some distant geographic region. Thus, its third core obligation is to ensure that the pollution of the river water is minimised or avoided to protect the environment. These set of obligations are beyond BHR and CBHR but yet mandatory in nature because they are within the scope of business relations and impact relations as consisting of CSR that is now reconceptualised as mandatory. Any other social initiatives the firm may engage in, like sponsoring the decoration of a roundabout or constructing a school in a distant city, are classified under CSI unless they are directly related to the business relation or impact relation.

In this context, as a second example, Shell operations in Nigeria have caused a number of negative impacts on indigenous communities (Okoye, 2016). The Framework

suggests that if Shell has to extract oil from land occupied by indigenous people, its first social obligation consists of ensuring that the human rights of stakeholders are protected as its business relationships and its business operations are not causing any negative impact on the indigenous communities as part of its impact relation. For this purpose, the company needs to identify the potential negative externalities arising from its operations and take steps to address them. Following this, the company can proactively pursue activities like building up better communities for these people instead of offering inadequate compensation and leaving the people to their fate and misery after causing negative impacts. This forms the CBHR obligations of the company.

In the absence of such a prioritisation of its social obligations, Shell continued its operations and left the communities to face the negative consequences of its business operations for almost a decade (Okoye, 2016). Indigenous people often deal with the negative consequences of the extractive projects of corporate actors who secure permissions from governments (Reguart-Segarra, 2019). Similarly, suppose sweatshops, child labour or forced labour exist in a company’s supply chains, as in the case of the Rana Plaza incident (Bair et al., 2020). In that case, the Framework suggests that the company’s core obligations include preventing those companies from engaging in such activities while taking steps to proactively provision those workers with adequate facilities, skill development programs and so on. Put together, the set of BHR and CBHR obligations protect and promote human rights by not only preventing impacts but also proactively getting involved in protecting and promoting human

Table 1 Prioritising social obligations (BHR, CBHR, CSR and CSI)

Social Obligations	What is at stake?	Nature of the obligations		Example(s)
BHR (in reconceptualised CSR)	Human Rights of Stakeholders	Negative obligations to prevent harm	Obligatory	Right to life; Labour rights
CBHR (in reconceptualised CSR)	Social obligations linked with BHR	Positive obligations linked with BHR	Obligatory	Enhanced support for stakeholders like providing healthy drinking water in the region/ offering healthcare for employees and stakeholders impacted by its activities
Other mandatory obligations (in reconceptualised CSR)	Business relation and impact relation activities beyond BHR and CBHR	Both negative as well as positive obligations beyond BHR and CBHR	Obligatory	Minimising environmental pollution; protecting the ecosystem and planet in relation to business activities
CSI (traditional voluntary concept of CSR)	Voluntary corporate social initiatives	Voluntary activities	Voluntary	Contributing to charity, Decorating a roundabout

rights by companies, as these form part of their business relation and impact relation.

Thus, by prioritising social obligations, the Framework proposes that companies must engage in BHR and CBHR activities with a sense of accountability before pursuing other social activities. In the absence of such a framework, companies are likely to engage in window dressing (Jamali et al., 2017) or greenwashing (Alves, 2009) by, for example, projecting their CSI initiatives while, at the same time, having adverse impacts on human rights. Furthermore, policymakers may enact ineffective laws to advance corporate social responsibility. For instance, the 2% spend requirement in India under the mandatory CSR (Section 135, Indian Companies Act 2013) regime might not result in incorporating protecting the core obligations of CSR and CBHR as they can violate such obligations and not be accountable if they meet the spend criteria.

BHR and CBHR together form the foundation for realising the core obligations of CSR under *business relations* and *impact relations*. As Tamvada (2020) suggests, business relations and the impact relation of CSR are intrinsically linked to the legal responsibilities of a company, and thus, the nature of CSR is obligatory. Consequently, it has relevance to law and accountability. Accordingly, the Framework developed here on this foundation suggests that BHR, CBHR and other CSR ambit falls within the scope of law and accountability. Furthermore, this enables a direction towards policy making for discharging obligations under CSR-BHR.

The Framework provides a compelling solution to the ambiguity in the scholarship on corporate social obligations, particularly for CSR and BHR. Firstly, by reconceptualising *corporate social responsibility* as an obligatory responsibility, it draws the boundaries for what constitutes it. It is within these boundaries that BHR exists, as BHR is within the ambit of business relations and impact relations that constitute CSR. This conceptualisation of CSR provides the scope for regulation and determines what regulation can be considered as optimal regulation for CSR and BHR, particularly in light of global discussions that are moving towards mandating BHR (Buhmann, 2017; Schrempf-Stirling & Van Buren, 2020; Wettstein, 2021) and CSR (Abah, 2016; Amao, 2011; Buhmann, 2011; Okoye, 2016; Osuji, 2011, 2015; Thirarungueang, 2013). It offers a solid mechanism for ensuring corporate accountability. The traditional conceptualisation of voluntary CSR is now recast as Corporate Social Initiative (CSI). This CSI is akin to the mother giving chocolate to the child in the example discussed earlier. This is voluntary and beyond the scope of regulation. While firms can be encouraged to participate in CSI, it is sub-optimal to mandate it. The case of India's mandatory CSR legislation illustrates this point. By requiring

corporates to part with their profits, the Indian policy has given rise to charitable donations for pet projects of corporates than ensuring that they minimise the harmful impacts of their activities.

The integrated CSR-BHR Framework developed here provides a taxonomy of CSR-BHR strategies that firms can select from to optimise the impact of their CSR-BHR activities. It puts in place a structure on the wide range of social obligations of corporates by offering a mechanism that allows for prioritisation of corporates' social obligations. The proposed Framework allows firms to prioritise their social contributions while providing a concrete basis for determining optimal CSR-BHR strategies by shedding light on the nature of regulation that should be put in place by policymakers for effective fulfilment of corporate social obligations and corporate accountability.

CSR, BHR and corporate accountability: a discussion

The existing scholarship mostly discusses BHR as being parallel to CSR – this has led not only to two debates overlapping occasionally but also added a lot more confusion to the fundamental aspects of CSR, particularly in relation to human rights. Thus, 'even in this most human rights conducive research stream in the larger CSR field, human rights have for the most part remained conspicuously absent' (Wettstein, 2020). Moreover, as CSR is often treated beyond law, the human rights discourse based on international human rights laws remained normative whenever human rights were discussed under CSR. This has weakened the role of international human rights law and legal theory for CSR (Buhmann, 2011). It has also stultified the boundaries for social obligations leading to some companies harming society and the environment, particularly in developing countries with weak institutions (Buhmann, 2011). These developments have led to a compelling need to design more robust mechanisms that can lead to the effective fulfilment of corporate social obligations in the world. In light of this, scholars have acknowledged the close nexus between CSR and BHR; however, the lack of conceptual clarity about CSR and the limitations in identifying the boundaries of CSR and its relation to BHR remain major challenges in the field. The CSR-BHR integration framework developed here begins to address these issues.

Addressing voluntarism in CSR

The broad construction of CSR in the literature and its emphasis on voluntary approaches have resulted in vague and indeterminate scope for real action (Dahlsrud, 2008; Okoye, 2009; Kolk, 2010; Freeman & Hasnaoui, 2011; Dentchev et al., 2015; Hamidu et al., 2015; Chauvey et al., 2015; Okoye, 2016; Barnett et al., 2019; Tamvada, 2020). This has led to considerable leeway

and discretion in the discharge of social obligations by companies (Okoye, 2016; Barnett et al., 2019; Tamvada, 2020). For corporates, this has provided scope to further strategic interests in some contexts in the pretext of meeting social obligations while causing negative impacts in other settings. As Nolan (2016) suggests, 'Even if corporations are armed with all the good intensions potentially attached to CSR, ultimately they are "beholden to the fiduciary responsibility to shareholders, which often entails continuously legitimising and expanding harmful industrial processes.'⁹ And by not imposing sanctions on transgressors, CSR intrinsically suffers from credibility issues for these reasons (Gatti et al., 2019). To remedy the issue of voluntarism in CSR and its consequences, the proposed Framework identifies the boundaries of CSR in the form of business relations and impact relations. The new Framework developed here addresses the persistent issues arising from voluntarism by reconceptualising CSR as consisting of obligatory responsibilities involving business relations and impact relations to draw boundaries of CSR.

Furthermore, the traditional view of CSR as a beyond-law concept is 'gradually giving way as a result of the twin recognition of the limited effect of pure private self-regulation and government roles in promoting CSR' (Osuji, 2015). Several attempts have been made to rethink CSR for a more meaningful and effective discharge of social obligations by companies. More recently, emerging debates have examined the relationship of CSR with law and regulation (Nieto, 2005; Buhmann, 2006, 2011; Osuji, 2011, 2015; Thirarungrueng, 2013; Amao, 2011; Abah, 2016; Okoye, 2016; Dentchev et al., 2017; Malesky & Taussig, 2017, 2019; Idemudia & Kwakyewah, 2018; Situ et al., 2020). The incorporation of specific CSR policies through regulation, as in the case of India, Malaysia and countries in the EU, indicates a mutually reinforcing relationship between CSR and law (Osuji, 2015). However, the vagueness of what constitutes CSR poses significant challenges in framing regulations that can effectively hold corporates accountable. In some countries, it is considered a charity. This has only complicated where social responsibilities are used for business cases. Thus, in the absence of a clear approach to what fundamentally

constitutes CSR, companies may continue to evade their obligations even when regulation is put in place.

Moreover, as Kirsch (2015) suggests, CSR disclosure further empowers corporations to achieve their economic pursuits 'through the use of virtuous language'. This lacuna leads to sporadic CSR regulations that have left the accountability gap open. Thus, CSR can become insignificant without legal force and accountability (Abah, 2016; Amao, 2011; Buhmann, 2011; Okoye, 2016; Osuji, 2011, 2015; Thirarungrueng, 2013), but this legal enforcement/empowerment should come with a better understanding of CSR. Addressing these issues, the Framework provides a concrete basis for the development of consistent CSR regulation by clearly identifying the mandatory social responsibilities of corporations and setting out a mechanism that enables businesses to identify and prioritise their mandatory social obligations.

Corporates' positive and negative human rights obligations

Attempts to realise BHR through frameworks such as UNGP have required corporates to merely 'respect' human rights in a similar non-obligatory manner (Deva, 2012, 2013a, 2013b; Deva and Bilchitz, 2013; Manandhar, 2019). These initiatives are executed through instruments that consider CSR through soft law approaches (Rasche & Waddock, 2021). Companies draw their responsibilities as consisting of 'voluntary and philanthropic initiatives, even if the issues at stake are directly or indirectly connected to human rights' (Wettstein, 2020). Thus, the UNGP favour business enterprise's economic interests more than human rights protection (Blitt, 2012; Deva, 2013a, 2013b) and have failed to adequately address key corporate accountability issues (Jägers, 2011; Schrempf-Stirling and Wettstein, 2017; Wolfsteller & Li, 2022). The approach of Ruggie through UNGP is also restrictive and unconvincing because it rules out any responsibility of corporations to proactively engage in the protection and realisation of rights at the outset is not appropriate in the face of global problems.

As Blitt (2012) suggests, mandating should be the focus for effective prevention and punishment for human rights abuses rather than simply recommending a due diligence approach. Several scholars, civil society members, and human rights organisations have encouraged business responsibilities for human rights through mandatory legislation (Bueno & Bright, 2020). This is gradually paving the way for international and national regulatory policies for BHR. Despite such efforts, business accountability in relation to human rights remains elusive—it has remained largely focused on negative obligations (Wolfsteller & Li, 2022). The approach of doing no harm 'may

⁹ There may be exceptions to this, as there are significant reputational impacts of corporate irresponsibility on companies' margins. For example, the Boohoo shareholders insisted in 2020 that the firm keeps its promise to improve conditions in its supply chain after it when it was discovered that the firm made a pledge to stop sub-contracting to unethical factories along the vertical chain several years ago.

leave many of the more subtle structural effects of corporate activities unaddressed' (Baumann-Pauly and Nolan, 2016). Thus, the protection and realisation of human rights have yet to materialise (Wolfsteller & Li, 2022), although scholars have acknowledged the positive human rights obligations of companies (Ramasastry, 2015; Wettstein, 2012a, 2012b). As Giuliani and Macchi (2014) suggest, multinational corporations are more likely to exploit human rights in developing countries with weak regulations and poor human rights track records than in their home countries where human rights are more closely ingrained in law. In the former contexts, the fulfilment of human rights by multinational corporations remains within the voluntary CSR domain.

To remedy this, the Framework developed here identifies BHR as integral to business relations and impact relations, which comprise the core social obligations of companies. In the process, it brings together both negative (BHR) as well as positive human rights obligations of corporates (CBHR) within the broader context of mandatory social obligations of corporates. By constructing the positive human rights obligations as CBHR, the Framework explicitly incorporates these positive obligations and contributes to advancing the current approaches that have mainly remained limited to the negative human rights obligations.

CSR and BHR convergence

CSR and BHR individually suffer from the absence of clarity, credibility and accountability, undermining their inter-relationship for fulfilling corporates' social obligations. Their common and overlapping aspects have led to arguments seeking to establish their convergence (Wettstein, 2012a, 2012b; Ramasastry, 2015; Čertanec, 2019; Obara & Peattie, 2018; Schrempf-Stirling et al., 2022). However, a workable framework to achieve this is missing in this literature. Multiple challenges have impeded their convergence. The chief of these is the lack of understanding of the nature, scope, and ambit of CSR that can answer why, to what, and how corporates are responsible to society. This has posed a significant challenge to designing new models that define corporate responsibilities more effectively while providing a structured approach for corporate accountability. BHR scholars have argued that 'CSR is insufficient to bring about the integration of human rights into company policy' (Frankental, 2002), as CSR is preconceived as voluntary and strategic as opposed to the legally attuned BHR discussion (Schrempf-Stirling et al., 2022). Thus, although the discussions on BHR and CSR have coincided, they remain as distinct concepts (Wettstein, 2016). The quest for accountability continues with fundamental enquiries on corporate obligations (Wettstein, 2016) that are not

'sufficiently integrated with companies' core operations and strategies' (Schrempf-Stirling et al., 2022). Making a unique contribution to this line of scholarly inquiry, the Framework accomplishes a conceptual convergence between CSR and BHR with significant implications for CSR and BHR theory and the practice of social obligations of companies. For the emerging body of literature seeking to identify the synergies between CSR and BHR, the Framework presents a novel approach to integrating the two constructs. For companies, the Framework offers a clear-cut approach to determining their core social obligations and the need to prioritise them. For governments, it identifies the social obligations that will benefit from formal regulations.

The integrated Framework presented here goes deeper into the nature of social obligations to identify what, why and how companies are socially responsible and accountable. It presents a conceptual framework analysing how BHR and CSR relate. It clarifies the legal aspects of rights and obligations, making the case for reconceptualising CSR stronger while providing greater clarity about corporate social obligations. The proposed integrated Framework, based on a reconceptualised approach to CSR, identifies human rights as the core of CSR through the lens of business relation and impact relation theory of corporate social obligations directly linked to legal aspects. The Framework also enables the prioritisation of social obligations. This new approach offers a compelling solution to the persistent complexity and ambiguity in understanding the social responsibilities of companies. In the process, the model provides scope for consistent regulation for corporate accountability through a structured approach to corporate social obligations while clarifying the interlinkages between CSR and BHR.

The Framework effects a shift beyond strategic CSR to answer if companies have mandatory social obligations and how they can operate whilst protecting, promoting and realising human rights. It also sheds light on how human rights can benefit the larger CSR goals vis-a-vis how CSR can benefit from the legally attuned BHR while addressing fundamental accountability issues. The Framework aids the creation of compliance mechanisms to identify the extent of legal implications for companies and contributes to the growing calls to underscore corporates' responsibility to protect human rights (Wettstein, 2016) while advancing Carroll's (2021) premise that 'closer engagement with human rights holds significant promise for future CSR research'. The novel approach developed here makes fundamental contributions to the extant literature on CSR and BHR and brings the elusive goal of corporate accountability within reach.

Conclusion

While CSR scholarship increasingly refers to human rights, a fuller integration between the two has been missing in the extant literature. One of the main limitations of the work on human rights in the context of CSR is that the focus is mainly on what human rights theory offers CSR scholars and practitioners but rarely does scholarship examine how CSR can contribute towards the protection and promotion of human rights (Obara & Peattie, 2018). Furthermore, the presumption that CSR is voluntary transforms the normative force of human rights (responsibility) into a nonbinding CSR problem solely dependent on corporations' generosity and goodwill. In turn, even if the problems in question are directly or indirectly related to human rights, businesses often position their duty in terms of voluntary or altruistic endeavours. Thus, the core obligations of companies, including BHR, risk dilution to meet voluntary standards set by the existing CSR instruments. CSR can also be seen as driven by managerial and strategic goals that do not sufficiently emphasise accountability, which is a core concern of BHR. These considerations have led to new debates on the need for a more integrated approach to corporate social obligations.

Contributing to this emerging body of scholarship, the paper identifies common grounds of CSR-BHR by viewing their intrinsic relation through a reconceptualisation of CSR as consisting of *business relation and impact relation*. It develops the CSR-BHR integration framework to provide a prioritisation lens for CSR-BHR activities of firms by recasting BHR as a mandatory and essential aspect of CSR, as *business relation and impact relation* encompass BHR. In addition to this, the paper develops a newly conceptualised construct called CBHR to reference activities that complement BHR obligations—corporate social obligations that firms should prioritise after meeting the core BHR obligations because of their immediate links with BHR that are within the *business relation and impact relation*. The Framework suggests that firms can pursue other voluntary social activities, such as charitable and philanthropic initiatives that are beyond the scope of regulation, after meeting their core obligations that are within the *business relation and impact relation*. These voluntary social activities and philanthropic initiatives are now recast as voluntary corporate social initiatives (CSI).

The paper makes compelling contributions to the extant literature by presenting this new approach to integrating the connected but disparate literature of CSR and BHR. The Framework transcends variations in institutional regimes across different countries to create a universal approach for contextualising CSR and BHR. Furthermore, the structured approach allows for the

prioritisation of corporate social obligations while shedding light on the nature of regulation that policymakers should put in place for the effective realisation of corporate social obligations. For managerial practice, the new Framework provides a comprehensive corporate accountability taxonomy to enable the prioritisation of corporate social obligations while providing a concrete basis for determining optimal CSR-BHR strategies. This enables businesses to go beyond strategic reasons or window dressing in their CSR by offering them clear benchmarking on their social obligations. The Framework also gives stakeholders clear parameters when seeking remedies for adverse human rights impacts of business activities.

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