



Eoin Jackson

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Why we need corporate responsibility now more than ever

*Michael Posner's **Conscience Incorporated** makes the case for strengthening corporate responsibility in an era of political and economic upheaval, from labour rights and ESG investment to AI regulation and democratic backsliding. Though primarily focused on the US, this timely book offers concrete recommendations for business leaders around the world navigating complex ethical challenges, according to Eoin Jackson.*

Conscience Incorporated: Pursue Profits While Protecting Human Rights. Michael H. Posner. NYU Press. 2024.

Business and human rights is a rapidly evolving area. On the one hand, a **new generation** of socially-conscious investors have sought to improve business practices through, for example, a shift toward green investment. On the other, there is increased **backlash** from conservatives to even these tentative attempts to expand business and human rights models. This is apparent in recent **legal challenges to Environmental Social Governance (ESG)** investment models, a **rollback of Diversity Equity and Inclusion (DEI)** measures by major corporations, and corporate reluctance to **divest from fossil fuels** despite its devastating consequences for the climate.

In his timely publication, Michael Posner, Director of the **Center for Business and Human Rights** at the NYU Stern School of Business provides an overview and path forward for those seeking to advance the human rights agenda in a globalised economy. Although the book is US-focused (for broader publications see for example the works of **John Ruggie** and **Surya Deva**), its holistic emphasis on driving meaningful change ensures its relevance well beyond the US context, offering valuable insights for business leaders and stakeholders around the world.



[...] a pragmatic approach to human rights issues, in which businesses are expected to do what they can, but not necessarily to proactively challenge the structures which enable the rights issues.



Posner divides his book into four conceptual sections. The first section focuses on how companies manage human rights issues in states where governments and the rule of law may not adequately protect their own people. Drawing on the experiences of businesses in countries including Saudi Arabia, Bangladesh, China, and Russia, he highlights issues ranging from factory safety, to forced labour, to challenges around operations management in a sanctioned regime. Posner emphasises the importance for businesses of monitoring supply chains and using their leverage where possible to mitigate the adverse impacts of particular suppliers. In more contentious circumstances, such as whether businesses should operate in Russia following its illegal invasion of Ukraine, Posner contends that businesses should withdraw operations where possible unless they are providing essential humanitarian products. This reflects a pragmatic approach to human rights issues, in which businesses are expected to do what they can, but not necessarily to proactively challenge the structures which enable the rights issues.



The second section addresses human rights issues in the financial sector, examining the rise of ESG investment as a model through which socially conscious investors have sought to promote business as a force for positive change. He highlights the tension between the **short-termist and shareholder-value focused mindset** which has dominated business practices since the 1970s and the challenges this poses for integrating human rights and environmental considerations into business decisions. Posner criticises ESG in its current format, arguing that a lack of rigorous standards and the continued focus on shareholder value over broader stakeholder considerations undermines the very objectives it proclaims to achieve. His call for a transformative shift to how ESG frameworks are developed and applied to investments marks a significant expansion of the more pragmatic approach taken in the first section.



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The third section discusses the business and human rights issues arising from new technologies such as AI and social media. Posner calls for greater regulation in these areas to combat misinformation, manage privacy concerns and ensure better content moderation. Posner believes companies should still improve their own standards in the meantime, citing work by his Stern colleague **Prof Paul Barrett** on how companies can better handle the rise of misinformation. Nonetheless, Posner highlights similar regulatory frameworks from the broader fields such as the **UK’s Modern Slavery Act**, and the **French and German supply chain due diligence laws** as examples of how governments can push businesses towards more sustainable practices. He effectively illustrates how stronger regulatory enforcement can encourage the businesses community to improve their human rights record, while recognising that companies can also take initiative themselves, even without regulatory enforcement.



The fourth (and perhaps most compelling) section explores different approaches to business and human rights issues, drawing on real-life practical examples to illustrate what positive change can look like for businesses. Here, Posner explores the question of how business leaders should address and manage democratic backsliding, particularly in the US context. He argues that the idea that businesses can “stay out of politics” is a fallacy when the right to vote and democratic institutions are under attack, because it damages the civil order and rule of law necessary to

provide a stable business environment. Posner contends that businesses should support efforts to protect the right to vote, as well as decry active challenges to the rule of law (citing the **response of the business community to the January 6 attack** on the US Capitol though critical of the **subsequent rollback** of this response).



Rather than conceding to conservative criticisms, Posner focuses on recommendations to improve DEI which he believes would blunt some of their arguments.



It is interesting to consider the lessons of the book in light of the business response thus far to renewed attacks on the rule of law from the second Trump administration. Major sectors like the legal industry have **splintered** in their approaches, with some firms settling and thereby acquiescing to these attacks and others lead the charge in fighting against them. The book's warning about the dangers for democracy if companies stand idle could prove highly useful for business leaders considering how to respond to the accelerating chaos of the Trump administration.

However, Posner also recognises the criticisms levelled against socially progressive efforts to improve business standards. Although supportive of DEI as a whole, he argues that we need to reconsider diversity training models and current hiring practices. He proposes these should focus on (a) (in the case of diversity training) amplifying the experience of minority groups and enabling interracial interactions and (b) new tools which can hide applicants' demographic characteristics, provide structured interviews, and strip materials of language or imagery that may unconsciously discourage minority applicants. Rather than conceding to conservative criticisms, Posner focuses on recommendations to improve DEI which he believes would blunt some of their arguments. This approach may have gained some traction, with JP Morgan recently **renaming** its DEI programmes to "Diversity Opportunity and Inclusion." Whether such rebrandings will reflect a change in practice, and if so, whether this practice will help or hinder minorities, is becoming a prescient issue as the Trump administration escalates its attacks on private sector efforts to promote inclusivity.



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One aspect of the book which warrants further research is the intersection of business and human rights regarding the climate crisis. Posner, limited by the book's scope, focuses on emerging issues associated with the green transition, particularly around how to sustainably and fairly approach mineral mining essential to renewable energy development. But with only a **small number of transnational corporations responsible for a large majority of greenhouse gas emissions**, it is imperative to consider how the practical steps identified in this book could be expanded to encourage further progress on addressing climate change.

Overall, the book provides a comprehensive and accessible guide to today's business and human rights issues. Drawing on decades of experience, it identifies practical steps forward for the business community to meaningfully engage with human rights issues. These insights amount to a significant contribution on responsible corporate engagement that can help business leaders and stakeholders to combat contemporary efforts to reverse the (limited) gains achieved in mitigating the harm caused by our prevailing capitalist economic models.

Note: *This review gives the views of the author and not the position of the LSE Review of Books blog, nor of the London School of Economics and Political Science.*

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Eoin is a PHD Candidate in Law at LSE. He holds an LLM from Harvard Law School and an LLB from Trinity College Dublin. He is the Research Chair of Law Student's for Climate Accountability, a Research Assistant at the Grantham Research Institute for Climate Change and the Environment and an Attorney of the New York State Bar

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