

Corporations and Human Rights: the international agenda



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Human Rights and Corporate Accountability



Is international law useful for achieving justice? In the context of:

- a system of 'victors justice'
- The degradation of international law
- the lack of a liberal democratic architecture in international law

Is human rights law useful in achieving justice?

- Human rights law supposed to provide some accountability for the excesses of State power. But what about corporate power?
-in the age of neo-liberalism

Structures of Human Rights Violation?

A secret solidarity between the corporate form and the authority to commit human rights violations?

- Real conditions of coercion and violence are abstracted by law
- Structures of irresponsibility
- Corporate personhood and the creation of a new legal subject
- Formal separation of public and private spheres

Origins of Demands for Corporate Human Rights Standards

- From the 1950s on, the secretariat of the ICFTU prompted by International Metalworkers Union and US United Automobile, Aerospace and Agricultural Implement Workers use human rights as a means of “economic cannibalism”
- 1972 ILO conference provides key indicator of the complex divisions amongst participants:
 - Developed country governments were “TNC positive”
 - Employers from developed and developing countries were “TNC positive”
 - Socialist country governments were “TNC hostile”
 - trade union and worker representatives from developed and developing countries were TNC hostile”

Origins of Demands for Corporate Human Rights Standards (cont)

- developing country governments shaped by “neo-colonialism” concerns
- mid-1970s the role of ITT in Chile and TNC investment in Southern Africa become key issues in the debate
- By early 1990s, the UN Commission on TNCs shifted substantially from a ‘policing’ approach to one which sought to enhance the role of TNCs in economic growth and development.

emergence of a corporate state of exception?

30 Years of UN (in)action on Corporate Human Rights Standards

- 1972 – United Nations Economic and Social Council “calls for a study of the role of multinational corporations and their impact on the process of development.”
- 1982 - (October) UN Intergovernmental Working Group creates a Draft Code
- 1998 – Birth of the UN Norms
- 1999 - Secretary-General issues a call at the Davos World Economic Forum a “Global Compact”

30 Years of UN (in)action on Corporate Human Rights Standards

- 2000 – UN Global Compact established by Kofi Annan
- 2005 (February) UN Human Rights Commission refers Norms back to the Secretariate.
- 2005 (August) John Ruggie appointed as UN Secretary General's Special Representative on Human Rights and Transnational Corporations.
- 2011 – (May) John Ruggie presents his final report to the UN Human Rights Council.
- 2011 – (June) UN Human Rights Council resolution endorses Ruggie's Guiding Principles for Corporations.

The UN Norms

1998

- Sub-Commission On Prevention Of Discrimination And Protection Of Minorities adopted resolution 1998/8

2004

- Draft Norms submitted by the sub-commission to the Commission on Human Rights
- ICC and IOE strongly oppose the Norms, along with other business groups The Norms play “fast and loose” with international law
 - And run “counter to the general structure of international law.”
 - “the Norms are imprecise as to the source of their legal authority.”
 - the Norms are political and therefore not a matter for the courts

The UN Norms (cont)

- Amnesty International “urges the widest possible use and dissemination of the UN Human Rights Norms for Business
- UK government brokers a compromise in the UN which asked for broad consultation with stakeholders and clarification of existing legal responsibilities (although elsewhere it openly rejected the Norms).

2005

- UN Human Rights Commission refers the Norms back to the sub-commission

From Ruggie to the 2011 Resolution

In his report to the UN Human Rights Council in 2006, Ruggie argued:

- the expansion of the private sector in the global economy meant that the expectations of the Norms had become unrealistic and untenable.
- most of the business criticisms repeated in some form

Human Rights Council resolution HRC/RES/17/4, 6th July, 2011

- Endorses the Ruggie report
- Endorses the Guiding Principles on Business and Human Rights since they “contribute to a socially sustainable globalization, without foreclosing any other long-term development”
- Establishes a working group on the issue of human rights and transnational
- Secretary-General to report on the advancement of the business and human rights agenda in 4 years
- Establishes a forum on business and human rights under the guidance of the Working Group to meet annually for two working days

Key Questions for the Corporate Human Rights Debate



- Can the human rights law open up space closed down by the political sphere?
- What role can developing countries play in the UN agenda?
- What role are trade unions and social movements playing in the UN agenda?
- What is the purpose of seeking legal solutions to socio-economic problems?
- In any case, can 'justice' be achieved through international law reform?