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GLOBAL BUSINESS AND HUMAN RIGHTS

By

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Both the Human Rights Watch's annual world report 2006¹ and the interim report of the Special Representative of the UN Secretary-General on the issue of human rights and transnational corporations and other business enterprises² are now out and these provide ample food for thought about global business and its relationship to human rights. Transnational business operations across the globe are a common phenomenon and are increasingly more so in the age of globalization. While such operations are considered to be blessings for economic growth and development in the host countries concerned, in particular, and for the global economy in general, there are frequent allegations against transnational corporations (TNCs) of violation of human rights, environmental degradation and so on. Such allegations abound lately, for example, that against Exxon Mobil Corp. in Indonesia, Fresh Del Monte Produce Inc. in Guatemala, ChevronTexaco Corp. in Nigeria and in Ecuador, Unocal in Myanmar, and Occidental Petroleum Corp., Coca-Cola Co. and coal miner Drummond Co. in Colombia, to name but a few.

¹ Available at: <http://www.hrw.org/english/docs/2006/01/13/global12428.htm>

² E/CN.4/2006/97 (22 February 2006).

Non-governmental organizations (NGOs) rather than host governments are found to eloquently express the affected peoples' concern and grievances in international forums and to take actions against the culprits in various relevant jurisdictions. This appears to be recently a growing tendency. But the victims and their supporters apparently stumble in the forecourt of the law that is very shaky in this respect. This phenomenon poses a big challenge for international law, in general, and international human rights law, in particular, more than ever before in the progressively globalized world. Just imagine the scenario for a moment: there are some 70,000 transnational firms operating in the world today, together with roughly 700,000 subsidiaries and millions of suppliers connected through distributed networks across the globe. The activities of these entities certainly have a great impact on the lives and conditions of millions of people around the world and the world economy as a whole.

The problem with traditional international law is that the responsibility for the protection of human rights lies with the State and not with any business entity. The issue thus arises whether corporations have any international obligations to protect human rights, or any such obligations that relate to business can be directly imposed on them. As international law is not yet clear on this matter, the dilemma comes to the forefront in quest for a solution to the ever-demanding issue. Just ask one's conscience if one would invest one's pension savings for the old age in a project that causes human rights violations or abuse in any form such as forced labour, child labour, destruction of human habitat and indigenous population, rape and brutality, mayhem, even ethnic cleansing and untold miseries for people. The conscientious negative answer to this behooves one to think of monitoring corporate behaviour even beyond the debate of state *v.* transnational corporations' responsibility for the protection of

human rights. It is not only corporate accountability for human rights but also corporate partnership with the host state in the protection of human rights that is the pressing need of our time, given TNCs' global reach, capacity and influence that surpass many nation states. Although over the past ten years or so, corporate social responsibility (CSR) has blossomed as an idea at the persistent persuasion of the global civil society and has moved up to the corporate agenda, it has not effectively addressed the issue so far. Due to the lack of a solid legal framework in this respect, CSR merely operates as a glossy public relations agenda and a tool for manipulation of corporate image.

Recently, various stakeholders have started to ponder over the matter with great urgency. The recent report of the United Nations Commission on Human Rights on the responsibilities of transnational corporations and related business enterprises with regard to human rights notes significant gaps in understanding the nature and scope of the human rights responsibilities of business. The outstanding issues that need detailed study should be urgently identified. In July last year the UN Secretary-General appointed John Ruggie, a Harvard academic, Special Representative for Business and Human Rights to look into the issues. What are needed, not just producing mundane reports after reports to occupy shelf-space, but the understanding of business entities, their willingness to be transparent in their actions and their genuine good will in establishing human dignity and respecting human dignity and offering every help and co-operation with various stakeholders concerned, *i.e.* states, shareholders, peoples affected by the transnational activities, employers' and employees' associations, relevant international organizations and agencies, treaty monitoring bodies and non-governmental organizations so that business and human rights matters are

well balanced and the world becomes a much better place in the age of globalization. However, such goodwill sometimes could be found in short supply, hence there is an urgent need to formulate a set of legally binding rules – a set of global standards – which should be the yardstick against which the actions of corporations need to be measured. Furthermore, the ways and means of the governance of human rights in the borders of states should be explored in the days ahead.

On an encouraging note it can be reported that while launching its annual report in Washington lately the Human Rights Watch has said that TNCs have responded favourably to calls for binding human rights standards in the corporate sector as voluntary guidelines have failed to repair the bad image of the corporate world. Multinational executives have also started to question the wisdom of self-regulation and voluntary codes of conduct on the moral plane.