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Human Rights and Globalization: The Myth of Corporate Social Responsibility?

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Abstract: *The tensions between human rights and globalization can be read in the parallel historical development of an international human rights regime with a so-called “free trade” regime. These two international regimes have developed without entering any real dialogue until very recently, although they are both claiming to serve the interests of humanity. The true goals of each of these movements, I argue, are contradictory and cannot be resolved – least of all by a movement such as corporate social responsibility (CSR), which originates in the corporate sector. Even though the human rights regime and the global economic regime had a similar normative ambition of advancing human welfare, rights and opportunities, the paradox of this ambition was that the structure of the global economic order made the achievement of these rights impossible. Whereas the primary responsibility for the enforcement of human rights standards lies with national governments, there is a growing acceptance that corporations also have an important role to play. Instruments of the human rights regime attempt to share or complement states responsibilities with private actors’ responsibility. Indeed, the human rights regime affirms explicitly the prevalence of the human right to fair remuneration over wealth creation, rationale of the free trade regime. The contradiction is apparent and the human right to fair remuneration highlights the incompatibility of the two regimes.*

Keywords: *Corporate Social Responsibility; Corporations; Fair Remuneration; Globalization; Human Rights; International Economic Regime*

The tensions between human rights and globalization can be read in the parallel historical development of an international human rights regime (beginning in 1948) with the creation of a global financial/economic regime. These two international regimes have developed without entering any real dialogue until very recently, although they are both claiming to serve the interests of humanity¹. The true goals of each of these movements, I argue, are contradictory and cannot be resolved – least of all by a movement such as corporate social responsibility (CSR). CSR is a form of

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voluntary self-regulation by corporations, which, amongst other things, claims to bring the protection and promotion of human rights onto the corporate agenda.

This paper starts with a brief historical perspective of the rise of these international regimes to contextualize the contemporary political, economic and social world order. The architects of the global economic regime are industrialized states, though mostly the United States, the international financial institutions so created, and major corporations. In the second part, I assess this regime's current approach to human rights through CSR. Finally, I analyse the possibilities offered by the human rights regime to influence corporations' behaviour. The human right to fair remuneration is key to my wider question because of its basis in an economic logic and will be considered as a case study.

1. Development of two international regimes in parallel

An international regime encompasses 'norms and decision-making procedures accepted by international actors to regulate an issue area' (Haas: 1980: 358). Even though the human rights regime and the so-called 'free trade' labelled regime had a similar normative ambition of advancing human welfare, rights and opportunities, the paradox of this ambition was that the structure of the global economic order made the achievement of these rights impossible.

In 1944, a few years before the Universal Declaration of Human Rights (UDHR), the Bretton Woods institutions were established in an effort to ensure international financial stability and to avoid a recurrence of the economic crisis which had led to World War II. The International Monetary Fund, the International Bank for Development and Reconstruction (the World Bank), and, in 1948, the General Agreement on Tariffs and Trade (the predecessor of the World Trade Organization), were created to facilitate more stable economic growth, to provide capital for national reconstruction and development, and to further economic

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and financial integration amongst nations (Cox: 1994: 46). There was no mention of human rights in any of the founding acts of these institutionsⁱⁱ, but they were created in the spirit of reducing human misery. In 1948, the General Assembly of the United Nations ratified the UDHRⁱⁱⁱ in a parallel attempt to prevent any future world conflict by granting unalienable rights to individuals and communities. These two projects were indeed born out of a formally comparable ideal of a fairer and more stable world^{iv}, albeit the mean to achievement were envisaged differently.

By the late 1960s, successful national development strategies began to be undermined by a rhetoric that attacked the foundations of that era as being ill-conceived and unsustainable. The end of the US dollar-gold standard in the early 1970s and the Thatcher/Reagan era, characterized by waves of deregulation and privatization in the 1980s, accentuated this trend (c/f Chossudovsky: 1998). Governments, in already industrialized countries, were then in measure to create a favourable legal and fiscal climate for the further development of large-scale enterprises. These corporations consolidated their activities outside of their home-base, often in newly decolonized states, thereby enhancing their status as global economic actors, nonetheless continuing to share their home states' interests (Hoogvelt: 1997: 52). The end of the Cold War elevated the free-trade ideology adopted by the West toward a dominant global economic philosophy that would claim to achieve prosperity for all humanity (c/f Fukuyama: 1992). In parallel, the human rights regime was progressing through the adoption in 1966^v of the two covenants on civil and political rights, and on social, economic and cultural rights.

At the beginning of the 21st century, the global financial/economic regime and the human rights regime have both gained momentum. The former relies heavily on the Bretton-Woods institutions, which, in their evolution over the last decades, have become extremely favourable to the corporate agenda and to industrialized states, whose control over these international financial institutions is transparent (Khaler: 2005: 12; Neederven: 2004: 133). Economic globalization through the free trade agenda is

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claimed to be built on the theory of comparative advantage (c/f Ricardo: 1817). Schematically, it emphasizes the idea that if economic entities, within states, specialize in industries and activities in which they have a relative advantage compared to those in other countries, and export their production while importing goods from these other countries, all trade partners will ultimately be more prosperous (Wolf: 2004: 81). Lacking technological and industrial know-how, developing countries, present a comparative advantage in terms of cheap labour compared to wealthier countries (c/f Chang: 2003). Trapped in debt repayment cycles, and without debt remission, developing states need the foreign direct investment (FDI) brought by multinational corporations to maintain their national budget. They are facing the difficult choice of whether enforcing human rights standards such as fair remuneration and losing their comparative advantage; or guaranteeing cheap labour to corporations and leave workers unprotected in order to attract FDI.

The logic of the global financial/economic regime has therefore been a major force in defining (albeit often implicitly rather than explicitly) cheap labour and lack of regulations as the comparative advantage of developing states on the global market. These institutional and ideological forces have thus shaped the structure of global modes of production and exchange and affect the political, social and economic agency of states. Through corporate social responsibility, proponents and beneficiaries of the current economic regime call for the expansion of the voluntary and non-binding concept of CSR to ensure the protection and promotion of human rights (c/f Ruggie: 2008). The human rights regime has been primarily concerned by state actors but multinational corporations are increasingly captured by this regime.

Some critics therefore perceive a convergence between these two regimes (Zerk: 2006: 8), a relationship that largely differs from the situation in 1948. However, CSR lies within the framework of markets and its ethos does not question the profit motive of corporations (Doane: 2005: 217). The cycle of wealth creation, I argue, is at the origins of most

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human rights abuses by corporations and yet, global society is still told to rely on corporations to tackle human rights on a voluntary and non-binding basis. The next section will highlight the contradictions between the human rights regime and the interests of the most powerful agents of economic globalization which advocate CSR as the most adequate approach to human rights.

2. Initiatives from the global financial/economic regime: the CSR movement

The human right to fair remuneration can be ambiguous. At the same time, receiving a fair remuneration with which one can fulfil one's basic needs is an inalienable human right^{vi}. Considering that the global financial/economic regime reflects specific economic and political interests and that corporations are crucial agents of the wealth creation process; considering as well that corporations regard workers' remuneration as a cost in this process; and finally that the human right to fair remuneration lies with corporations in developing countries, to a similar or larger extent than with the state, for the reasons mentioned above, some attention needs to be directed to the CSR approach to this human right.

Organization for Economic Cooperation and Development (OECD)^{vii}

CSR is on the Organization for Economic Cooperation and Development's agenda through its guidelines for Multinational Enterprises, adopted in 1976 and revised in 2000. These guidelines are commonly regarded as a benchmark for CSR (Clarke: 2007: 242). It is a document which offers a framework for corporations 'to implement best practice policies for sustainable development that seek to ensure coherence between social, economic and environmental objectives' (OECD: 2000: 16). OECD countries are fervent advocates of multinational corporations that they consider as '... the engine, worldwide, for private sector participation in the global market – to raise capital, create jobs, earn profits and divide the value added among those contributing to its success' (OECD: 1998: 13). The wording of

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the declaration reflects the political support from these nation states to the development of corporations and the unilateral adoption of free trade, on their terms, to shape the international economic order. It promotes, with the international financial institutions, the ideological belief that the current economic globalization brings 'substantial benefits to home and host countries' (OECD: 200: 15).

The guidelines focus on 'best practices' for corporations but do not mention the payment of a fair remuneration to workers. However, the payment of wages is the first level of social commitment between workers and corporations, between society and these economic agents. The most basic social responsibility of corporations is to pay decent wages to their workers, irrespective of where these corporations are conducting their activities. It appears that OECD countries cannot question the social and political power exercised by their most profitable economic agents. To do so would reduce the capacity of their national champions to generate wealth by increasing the cost of labour in the production process. The same states that have agreed on the UDHR in 1948, decline to hold the economic entities they created accountable for the non-respect of the human right to fair remuneration in developing countries.

The United Nations Global Compact

The UN Global Compact initiative, launched in 2000, is, to this day, the world's most substantial corporate social responsibility initiative. It brings businesses together with UN agencies, labour, civil society and governments to advance ten principles in the areas of human rights, labour, environment and anti-corruption (Corell: 2005: 236). These ten principles are derived from different universally recognized documents, and the first principle of the UN Global Compact states that 'Businesses should support and respect the protection of internationally proclaimed human rights'^{viii}. Therefore, businesses should support the right to fair remuneration as it is clearly mentioned in the UDHR. However, the principles under the section on labour standards do not mention nor encourage businesses to provide workers with fair remuneration and decent wages even though, it is an essential feature of the business-labour

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relationship. The UN Global Compact shares the view that the profits-driven market will provide the best incentive to tackle human rights (c/f Ruggie: 2008) and benefits from a strong support from the various agents of economic globalization which welcome, amongst other things, its voluntary and non-binding character.

The corporate effort

The proliferation of codes, statements of principle, and good practices is said to constitute the dawn of a new era for CSR (Testy: 2002: 1235). Corporations include human rights amongst their claimed preoccupations through their CSR discourse. Most corporations now produce a separate report about their social and environmental responsibility and impact beside their annual financial report^{ix}. However, despite the generous discourse of human rights in these documents, the right to fair remuneration is seldom mentioned. This is not surprising, as the only purpose of corporations is to maximize profits (Friedman: 1970), to balance their costs and revenues in order to generate a surplus. Workers' wages represent a cost which must remain as low as possible to maximize wealth creation. It is simply denying their *raison d'être* to expect corporations to voluntarily raise wages and decrease their competitiveness and profitability by enforcing the human right to fair remuneration. Thus from within both the OECD and the UN Global Compact, corporations argue almost unilaterally that the CSR movement has to remain voluntary and non-binding. They strongly reject any attempt to create an international legal framework to enforce human rights standards as falling within their sphere of influence. The driving agents of the present global economic regime are selective in the kind of human rights they claim to protect and refuse to be subjected to international human rights law.

The global financial/economic regime has been pushed – by dissenting groups within civil society – to acknowledge that human rights were not exclusively a matter of states but that economic entities could have an impact on their promotion and protection. However, the preferred response, CSR, does not question the processes of wealth generation. If

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the profit motive and the structure of the global economic system cause the abuse of human rights in the first place, CSR, lying within a global profits-driven market framework, is an inadequate response to the protection and promotion of human rights. Meanwhile, the human rights regime attempts – albeit timidly – to hold the global financial/economic regime accountable for the abuses committed by corporations operating in developing countries as the last section will explain.

Initiatives from the human rights regime to address corporations

Whereas the primary responsibility for the enforcement of human rights standards lies with national governments, there is a growing acceptance that corporations also have an important role to play (Lozano and Prandi: 2005: 183). Instruments of the human rights regime attempt to share or complement states responsibilities with private actors' responsibility. Indeed, the human rights regime affirms explicitly the prevalence of the human right to fair remuneration over wealth creation.

The Universal Declaration of Human Rights

The UDHR focuses on states' responsibilities to protect and promote human rights but also mentions any 'organs of society' to fulfil this role^x. Multinational corporations are not only economic but also political and social organs of world society (Kreide: 2007: 176). Therefore, they are captured by article 23 (3) of the UDHR which states that:

'Everyone who works has the right to just and favourable remuneration ensuring for himself and his family an existence worthy of human dignity...'

Considering the increasing power held by western multinational corporations in contrast with that of developing countries (Lieten: 2001: 103), it is anachronistic and a delusion to exclusively hold states accountable and responsible for enforcing the human right to fair remuneration. It is corporations' responsibility, as organs of society, to implement this right. The behaviour of most

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corporations in developing countries is therefore in breach of article 23 (3) of the UDHR in their pursuit of profits maximization.

The International Covenant on Economic, Social and Cultural Rights (ICESCR)

The ICESCR makes reference to states and individuals and reaffirms the right to fair remuneration in its article 7 (a) (i) by stating that everyone is entitled to:

‘Fair wages and equal remuneration for work of equal value without distinction of any kind ...’

Corporations do hold a national identity (Hirst and Thomson: 1996; Harrod: 2006); according to article 7 (a) (i), one could argue that industrialized states have the responsibility to implement extra-territorial regulations over their corporations. It is indeed their duty under the ICESCR^{xi}. The institutional basis of the labour-business relationship in industrialized countries guarantees, to varying degree, the right to fair remuneration to individuals. However, in developing nations, this institutional basis, result of historical and cultural processes, is often absent. The expression ‘work of equal value without distinction of any kind’ suggests that a corporation should not treat distinctively a worker in its home state from a worker in a host state. When a corporation operates in a developing country and generates wealth through disregarding the human right to fair remuneration, the home state of the corporation is therefore in breach of the ICESCR.

The UN Norms on the Responsibilities of Transnational Corporations and Other Business Enterprises with regard to Human Rights

The most recent and relevant document linking economic entities to human rights is the UN Norms, which give a list of the human rights obligations of companies. Unlike the UDHR and the ICESCR, the Norms are directly aimed at corporations^{xii} but have not gone through the ratification procedure. They still represent the most comprehensive document to address corporations’ wrongdoings. The Norms statement was approved in 2003 by

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the UN Sub-Commission on the Promotion and Protection of Human Rights. In its preamble, it recognizes that corporations have:

‘...the capacity to cause harmful impacts on the human rights and lives of individuals through their core business practices and operations ...’

This statement acknowledges that the way wealth is presumed to be generated – through the global financial/economic regime – results in endangering human rights. In relation to the right to fair remuneration, paragraph 8 of the Norms states that:

‘Transnational corporations and other business enterprises shall provide workers with remuneration that ensures an adequate standard of living for them and their families’

It can be argued that the Norms are aimed to recall the primacy of universally acknowledged human rights over profit maximization. This goal contravenes the interests of the architects of the global financial/economic regime as well as the perceived interests of developing countries which wish to conserve their comparative advantage in terms of cheap labour. Moreover, the different instruments offered by the human rights regime to tackle the human right to fair remuneration are non-binding. This section has shown, nevertheless, that an international legal framework, considering corporations as subjects of international law could play an instrumental role in advancing the goals of the international human rights regime.

3. Conclusion

If the human rights regime and the free trade regime have developed in parallel over the last sixty years, little doubt remains that the idea of human rights is undermined by currently loose concepts such as economic growth and wealth creation. The human rights regime is, indeed, subjected to the global financial/economic regime. The widespread ideological belief in industrialization, free trade

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and economic growth as paramount to achieve progress for humanity is severely flawed, however. The key international financial institutions advocating such ideology, shaped and dominated by industrialized states, have structured a global economic system which protects specific national and corporate interests. Relying on multinational corporations, agents of globalization groomed by industrialized states, to respect and promote human rights in developing countries is delusional. Corporations' purpose is to generate wealth predominantly for their own management and shareholders by maximizing profits. Ensuring a fair remuneration to their workers would greatly undermine or even prevent the realization of their goals.

The CSR movement, emanating from the corporate sector, voluntary and non-binding, therefore, cannot offer a satisfying approach to promote and protect human rights as it implies a selectivity of human rights which do not threaten the profit motive of corporations. Achieving global human security, the end purpose of the UDHR, requires a change of paradigm and a challenging of the primacy of the creation of wealth through the realisation of economic surplus over the protection of human rights and the respect of the environment. The human rights regime and the present global economic regime remain truly incompatible.

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i There has been some institutional overlap – notably the United Nation's Economic and Social Council, and the United Nations Conference on Trade and Development – but the institutions of the financial/economic regime have generally treated overlap from the human rights arena as an intrusion on their prerogatives.

ii However, the United Nations' Economic and Social Council initiated the idea of the General Agreement on Tariffs and Trade.

iii Only 48 nations ratified the Declaration, with 0 votes against and 8 abstentions

iv Indeed, the Bretton Woods conference was held under United Nations' auspices.

v entering in force in 1976

vi Article 23 (3) of the Universal Declaration of Human Rights

vii An organization – created in 1948 and reformed in 1961 – of 30 high income countries whose secretariat is strongly committed to the free market ideology and which provides a forum for discussing economic issues and reaching agreements, some of which are legally binding

viii Article 1 of the United Nations Global Compact

ix Increasingly, this becomes a mandatory exercise as Belgium, France and the UK for instance require such reports from their biggest economic entities to be published annually

x Preamble of the UDHR

xi Multilateral treaty adopted by the UN General Assembly in 1966, part of the international bill of human rights, 158 states have ratified this Covenant to this day

xii although they first affirm that states shall bear the primary responsibility of promoting and ensuring respect for human rights