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Human Rights in the Globalised world: Entails integrated social adherence

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Abstract

The conflict between human rights and globalization can be understood in the parallel historical development of an international human rights regime with a so-called “free trade” regime. These two international regimes have upsurge without entering any real dialogue until till today, although they are claiming to serve the interests of humanity. The true goals of each of these movements are contradictory and cannot be resolved 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 ideal ambition of advancing human welfare, rights and opportunities, 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.

Key Words: Corporate Social Responsibility; Corporations; Fair Remuneration; Globalization; Human Rights; International Economic Regime.

Introduction: The conflict for sustenance is ineluctable between human rights and globalization can be understand in the parallel historical development of an international human rights regime with the creation of a global financial/economic regime. These two international regimes have evolved without entering any real dialogue until very recently, although they are claiming to serve the interests of humanity. The true goals of each of these movements, I content, are contradictory and cannot be resolved – even by a movement such as corporate social responsibility (CSR). CSR is a contrivance in the form of self-regulating mechanism adopted by corporations, which, amongst other things, claims to bring the protection and promotion of human rights into the corporate agenda. This paper focus on 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, such as the United States. In the second part, I examine this regime’s current approach to human rights through CSR. In the end, I analyse the possibilities offered by the human rights regime to influence corporations’ behavior. And also of its basis in an economic logic and shall be considered as a case study.

Development of two significant international regimes in juxtaposition: An international regime encompasses ‘norms and decision-making procedures accepted by international actors to regulate contentious issues. Even though the human rights regime and the so-called ‘free trade’ regime had a similar normative an ideal ambition of advancing human welfare, rights and opportunities, however the structure of the global economic order made the achievement of these rights impossible.

In 1944, a few years ahead of 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, and to provide capital for national reconstruction and development, and to further economic and financial integration amongst nations.

Much to the surprise then there was no mention of human rights in any of the original acts of these institutions, but they were created in the spirit of reducing human misery. In 1948, the General Assembly of the United Nations ratified the UDHR in an 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 just stable world, albeit the achievements were envisaged differently. In the late 1960s, successful national development strategies began to attack the foundations of that era as being illogical-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. Governments, in the industrialized countries, stepped up in a measure to create a favorable 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, enhancing their by status as global economic actors, nonetheless continuing to share their home states' interests. The end of the Cold War boosted the free-trade ideology adopted by the West towards a potential global economic philosophy that claimed to achieve prosperity for all humanity. In parallel, the human rights regime was progressing through the adoption in 1966 of the two agreements 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 currency. The former relies preponderantly on the Bretton-Woods institutions, which, in their evolution over the last decades, have become extremely favorable to the corporate agenda and to industrialized states, whose tight control over these international financial institutions is transparent. Economic globalization through the free trade agenda is claimed to be built on the theory of reciprocal advantage. 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. Lacking in technological and industrial know-how, developing countries, provide a comparative advantage in terms of cheap labor compared to wealthier countries. 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. In addition to this, they are facing a difficult situation as to whether to enforce human rights standards such as fair remuneration and losing their comparative advantage; or guaranteeing cheap labor 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 cheap labor 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 elements of states. Through corporate social responsibility, the beneficiaries of the current economic regime call for the expansion of the voluntary and non-obligator concept of CSR to ensure the protection and promotion of human rights. The human rights regime has been primarily the concern of state actors but multinational corporations are but multi-national corporations are non-state and therefore increasingly attacked by the domestic state sectors. Some critics therefore perceive a non convergence between these two regimes. However, CSR lies within the framework of markets and its ethos does not question the profit motive of corporations.

However, I believe that CSR is an idealistic concept but importantly it seems to me that its goal of universal prosperity is yet unreachably. Therefore, critics opine that its Indian agenda for themselves at the cost of developing nothing cheap labor and that cycle of health creation lies in the abuse of innocent human rights. CSR does not have any legal binding. 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 feasible and positive approach to human rights.

Initiatives from the global financial/economic regime: the CSR movement: The human right to fair remuneration is ambiguous. At the same time, receiving a fair remuneration to fulfill one's basic needs is an inalienable human right. Considering the global financial/economic regimes reflection of 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 that the human right to fair remuneration lies at the corporations in developing countries, to a larger extent than with the state, for aforesaid the reasons, some attention needs to be duly directed to the CSR approach to human right.

Organization for Economic Cooperation and Development (OECD): CSR is on Organization for Economic Cooperation and Development through its guidelines for Multinational Enterprises, adopted in 1976 and revised in 2000. These guidelines are commonly regarded as a benchmark for CSR. It is a document which offers a framework for corporations 'to implement best practical policies for sustainable development that aims to ensure coherence between social, economic and environmental objectives'. OECD countries are fervent advocates of multinational corporations 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'. The wording of the declaration reflects the political support from these nation states to the development of corporations and the unilateral adoption of free trade, policies on their terms, for shaping the international economic order. It promotes, the international financial institutions, with the ideological belief that the current economic globalization brings 'substantial benefits to home and host countries'. 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 primarily social responsibility of corporations is to pay decent wages to their workers, irrespective of where these corporations are conducting their business activities. It appears that OECD countries cannot question the social and political power exercised by their most profitable economic agents. In case they do so, would reduce the capacity of their national champions to generate wealth by increasing the cost of labor 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, the world's most formidable corporate social responsibility initiative. It brings businesses together with UN agencies, labor, civil society and governments to evolve ten principles in the areas of human rights, labor, environment and anti-corruption. These ten principles are derived from different universally recognized documents, the first principle of the UN Global Compact states that 'Businesses should support and respect the protection of internationally proclaimed human rights. Therefore, businesses should support the right to fair remuneration as it is clearly mentioned in the UDHR. However, the principles under the section on labor 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-labor relationship. The UN Global Compact shares the view that the profits-driven market will provide the best incentive to tackle human rights and benefits from a strong support from the various agents of economic globalization which welcome, among other things, its voluntary and non-binding character. The UN in its approach to human rights in the context of CSR exhibiting it's in ability in understanding the true nature of profit driven market profit and human rights terms are contradictory in their nature.

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. Corporations include human rights amongst their proclaimed 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. However, despite the generous discourse of human rights in these documents, the right to fair remuneration is seldom mentioned. This is not surprising, that corporations are to maximize profits, 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 oppose any attempt to create an international legal framework to enforce human rights standards and CSR ensues that international legal framework is falling within the sphere of its 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 the profit motive and the structure of the global economic system cause the abuse of human rights in the first place, then, the question arises as to what the CSR is doing, if it remains silent, it means toeing the line of global corporations at the cost of human rights. 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 restraining itself to hold the global financial/economic regime accountable for the abuses committed by corporations operating in developing countries.

Human rights regimes imitative to address corporation's issues: Whereas the primary responsibility for the enforcement of human rights standards lies with national governments, there is also a growing acceptance that corporations also have an important role to play. Instruments of the human rights regime attempt to 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 entrusts any 'organs of society' to fulfill this role. Multinational corporations are not only economic but also political and social organs of world society. Therefore, they are captured by article 23 (3) of the UDHR which states that: 'Everyone who works has the right to just and favorable 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, 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 well as organs of society, to implement this right. The behavior of most 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, 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. The institutional basis of the labor-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. It is in this context the CSRs responsibility is very high and it should understand the true designs of corporations and itself that they are not charities, it is the profit and business that have invented the corporations and therefore, CSR must regulate their business operations keeping in view the time-honored of human rights.

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 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 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 – resulting in endangering human rights. In the context right to fair remuneration, paragraph 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 on the ground 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 labor. Moreover, the different instruments offered by the human rights regime to tackle the human right to fair remuneration are non-binding. This has shown 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.

Conclusion: If the human rights regime and the free trade regime have developed in juxtaposition over the last sixty years, little doubt remains that the idea of human rights is undermined by the 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 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 realization 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. None the less, safeguard of human rights alone should not contravene the proliferation of corporations, what is more important at this juncture is the sustainable development and protection of human rights and the global community. To realize this CSR has to deal in the corporations in different perspective, that is the charity corporations in place of business organizations/corporations.

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