

“Desertion of Human Rights by Globalized World”

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Introduction-

Conflict between the two spheres of human interest, which are employed for more of similar motives, has now reached to another level and its traces can be found since 1948 and also with the evolution of international human rights regime. But talking of present scenario and status of International human rights regime has questioned the encroachment of globalization in to the domain of human rights and has to an extent acquainted these globalized corporate giants about the interference. With this there has been a birth of appropriate forums to seek remedies. But this is not the question of our paper; researcher in the paper will explore the points where both of the regimes cross (implications of globalization) each other and will certainly emphasize upon ways to solve the problems and how can they move parallel to each other particularly in context to third world regions.

Now when we are starting it would be appropriate to quote professor Apolo Nsibambi who tells us that what globalization is:

“A process of advancement and increase in interaction among the world’s countries and peoples facilitated by progressive technological changes in locomotion, communication, political and military power, knowledge and skills, as well as interfacing of cultural and value systems and practices.”¹

With this it would have become quite evident that globalization is making our lives easier, simpler and complete than the question arises here is where the problem is, where the one regime contravene another and not able to move parallel. People have now started calling the human rights regime form a very idealistic and narrow prospective, which closes the doors for other regimes and hence violate human rights. And human rights are the basic rights which every human gets by being a virtue of human and use them for illegitimate coercion or trespass and are inalienable to us. The same view has also been adopted by United Nations and believing it to be very narrow once in 2002 that time’s U N High Commissioner Mary Robinson said in his speech at University of Tubingen, Germany that

“Building an ethical and sustainable form of globalization is not exclusively a human rights matter, but it must include the recognition of shared responsibility for the universal protection of human rights. That responsibility is shared by all of us, individuals, the religions, corporations, states, international financial institutions and the United Nations -

¹Nsibambi A “The effects of globalization on the state in Africa: Harnessing the benefits and minimizing the costs”, Panel discussion on globalization and the state, United Nations General Assembly, Second Committee, 2 November 2001.

all of us.”

So in one-way globalization has enhanced the capability to evolve and protect human rights but on the other way some people have adopted certain measures to violate human rights in a very unanticipated and predicted way.

Framework of globalization

As globalization is a world of interdependence and every one owes some duties and rights towards other peoples. So, some people see this emergence of cross-border networks of production, finance, and communications as posing profound challenges to traditional concepts of state sovereignty. But on a similar scale there are people who see this as a borderless world. And the contradictory implications of globalization are being observed today as per the World Bank development report which estimates at purchasing power parity and per capita GDP says that the per capita GDP in the richest twenty countries in 1960 was eighteen times that of the poorest twenty countries and later in 1995 the gap has widened to thirty seven times this clearly implicate the violation and the disadvantages of globalization.

According to UNDP Human Development Report, 1999 the assets of three wealthiest people of world are more than the combined gross national product of all least developed countries. Thus globalization has created some non-state actors which violate the human rights of poor peoples and that to in a way that were not contemplated during the development of the modern human rights movement. This increasing involvement of TNCs in the public domain has brought them into sharp focus of public attention. The impact of corporate policies and activities is likely to be felt directly by the public as consumers of their product and services, or felt by the wiser society through the environmental consequences or other reason of social concern. The increasingly direct human impact of traditional corporate policies and activities has turned the question of corporate regulation into a topical one.²

International Human Rights framework-

Now it is a time to build a framework for international human rights regime and Dinah Shelton in his work protection of human rights in globalized world very well defines as, The development of human rights law in response to globalization is not new, and there is nothing inherent in the international system that would prevent further protective measures. The movement against the slave trade, which was largely a private enterprise, and to combat the more indiscriminate or destructive forms of weaponry, such as gas warfare and dum-dum bullets, are early examples of international movements to counter the negative side of international trade and technology. Broader efforts to establish international protection for human rights can be traced to the surge of globalization and the emergence of international markets that occurred at the end of the nineteenth century. During this period, the telephone,

²Mary Robinson, “The business case for human rights”, in Financial Times Management, Visions of Ethical Business (London: Financial Times Professional, 1998). p. 14.

the telegraph, and radio transmissions first opened the world to rapid trans boundary communications; the development of railroads and steamships allowed trade to move more quickly from one market to another, while the abuses associated with industrialization provoked efforts to improve working conditions and the standard of living in many countries.³

While establishing a framework for International human rights law it is despite the emphasis on state responsibility, international human rights instruments continue to recognize human rights that are violated predominately by non-state actors, for example, freedom from slavery and forced labor. The duty imposed in such instances, however, remains primarily on the state to ensure the right against the slaveholders and employers of forced labor. Human rights instruments also speak to the obligations of non-state actors. The first general international human rights instrument, the American Declaration of the Rights and Duties of Man (American Declaration), begins its preamble with an exhortation to all individuals to conduct themselves with respect for the rights and freedoms of others. It clearly views individuals as having duties towards each other.⁴

So, obviously the question comes up in mind that weather the Globalization is good for human rights? But at the same time another question should also crop up your cerebrum is weather the proposed human rights are good for globalization or not. Like talking on a similar note the resource extraction companies, for example, have been accused of providing logistical and financial assistance to repressive state security forces and relying on those forces for protection in countries such as Burma, Colombia, Nigeria and Sudan.⁵ According to Nicola Jagers, TNCs play a threefold part regarding human rights. First, they can be direct violators of human rights. For example, by making use of forced labor. Secondly, they can indirectly violate human rights by supporting a regime that violates human rights. A clear example to explain this was that the violations of human rights by The Royal Dutch/Shell in the Delta Niger, Nigeria. Thirdly, beside the fact that TNCs may threaten an effective enjoyment of human rights, they can also be a positive influence, albeit very little, by raising the standard of living and improve respect for economic, social and cultural rights.⁶

Tussle between both the regimes-

Like as happening the contradiction between the globalization and human rights is that both of these subsume highly political relationship and further the globalization undermines the human rights but if we go according to Rhoda Howard- Hassman, this happens because

³Protection of human rights by globalized world BY Dinah Shelton.

<http://lawdigitalcommons.bc.edu/cgi/viewcontent.cgi?article=1172&context=iclr>

⁴Supra 3.

⁵ Scott Pegg, „An Emerging Market for the New Millennium: Transnational Corporations and Human Rights” in Jedzej George Frynas and Scott Pegg (ed.) Transnational Corporations and Human Rights (Palgrave Macmillan, New York, 2003), p. 1.

⁶ Nicola Jagers, „The Legal Status of the Multinational Corporations under International Law” in M. Addo (ed.), Human Rights and Transnational Corporations (Kluwer, The Hague, 1999), p. 260.

people “are more likely to enjoy their human rights if they live in a locally, rather than globally-controlled environment.”⁷ This is simply a gross violation of human rights in the developing regions especially like Africa. And some people argue that “local decision-making and democratic participation are undermined when multinational companies set national economic and social policies”, and that “accumulations of power and wealth in the hands of these multinational companies increases unemployment, poverty and marginalization of vulnerable groups.”⁸

Beside this all some people fall back with the myth of corporate social responsibility but now we need to analyze the essence through which they were born and came in to force and now the whole purpose is being defeated. Like understanding it in a way of logic of the global financial/economic regime which has therefore been a major force in defining (albeit often implicitly rather than explicitly) 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 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. The human rights regime has been primarily concerned by state actors but multinational corporations are increasingly captured by this regime.⁹

With evolution of Corporate Social Responsibility the question has been asked that at last who is responsible for maintaining, promoting and protecting human rights. According to UNDHR which focuses on state’s responsibilities to protect and promote human rights but also mentions 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 “Everyone who works has the right to just and favorable remuneration ensuring for himself and his family an existence worthy of human dignity.”

But by 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 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

⁷ See Howard-Hassman R E “The second great transformation: Human rights leapfrogging in the era of globalization” 2005 (27) Human Rights Quarterly 16.

⁸ See Shelton D “Protecting human rights in a globalized world” 2002 (25) Boston College International and Comparative Law Review 294.

⁹ Human rights and globalization: myth of corporate social responsibility. Journal of Alternative Perspectives in the Social Sciences (2009) Vol. 1, No 2, 463-475.

UDHR in their pursuit of profits maximization.¹⁰

The negative effects of corporations on human rights in development can be divided into two categories. First, the corporation may directly violate human rights by itself or in conjunction with another actor. This typically involves civil and political rights, such as the right to personal security. For example, a corporation may hire state security forces to protect its facilities that engage in torture as occurred in Myanmar in association with Unocal Corp.¹¹ Also, a corporation may directly violate rights by prohibiting collective bargaining or discriminating against minorities. The second category concerns indirect effects.

This involves the corporation's influence on host governments. Corporations can undermine the state's ability to fulfill human rights law. They use their influence to encourage governments to adopt policies of liberalization, deregulation and privatization that ignore human rights consequences¹² and the activities of the corporation requires the consent of states. Consider some points: first, the corporation remains physically headquartered in the home-state; second, empirical studies have shown that corporations still depend on their state of incorporation for sales¹³ third, corporations generally reflects the managerial culture of their home-states; and finally, the corporation is viewed in the host-state as an instrument of the home-state.¹⁴

But in the same situation globalization is leading to greater problems of state capacity to comply with human rights obligations, particularly economic, social, and cultural rights, such as trade union freedoms, the right to work, and the right to social security. It also may have a disproportionate effect on minorities. Cooperation internationally and from non-state actors is needed in the face of an undoubted concentration of wealth in the hands of multinational enterprises, greater than the wealth of many countries. Globalization is a particular issue for women, because they often bear a disproportionate burden of poverty, which may be exacerbated by economic restructuring, deregulation, and privatization.

Investors have demonstrated a preference for women in the "soft" industries such as apparel, shoe- and toy-making, data-processing, and semi-conductor assembling—industries that require unskilled to semi-skilled labor, leading women to bear the disproportionate weight of the constraints introduced by globalization. The process of economic liberalization has also led to growth in the informal sector and increased female participation therein. Employment in the informal sector generally means that employment benefits and mechanisms of

¹⁰Ibid

¹¹ international labour organization, 'Forced labour in Myanmar (Burma), Report of the Commission of inquiry appointed under article 26 of the Constitution of the international labour organization to examine the observance by Myanmar of the Forced labour Convention (2 July 1998),1930 (no. 29) parts iii.8, v.14 (3); unga, 'Situation of human Rights in Myanmar' (16 Dec 1995), un Doc. a/ReS/50/194 1995.

¹² Introduction: Economic globalization and Human rights chapter 1.

¹³Gestrin M Knight A Rugman A. (2001), The Templeton global performance Index(Oxford University Press)

¹⁴Saul, J. (2005), The Collapse of Globalism and the Reinvention of the World (penguin), 83.

protection are unavailable. Underemployment seems to be as big a problem as open unemployment.¹⁵

The duties of state does not only ends with its citizens, Human rights is a practice, which extends to the people of other countries and to those whom you even do not know. This gets quite clear on a question “What duties do states have with respect to the socioeconomic rights of people living in other countries ?” asked to Dr. Margot Salomon, director of the Laboratory for Advanced Research on the Global Economy at the London School of Economics’ Centre for the Study of Human Rights. He answers it “It may not be just the government of the victims’ country that is responsible for the harm caused. That government still has obligations to its people, but it is not an exclusive obligation. Other countries will also have, in certain circumstances, obligations.

The Maastricht Principles sought to figure out on the basis of jurisprudence what those obligations are and in what circumstances. In some cases, they’re negative obligations – obligations to do no harm, to refrain from taking steps or adopting policies that would have a high likelihood of harming people elsewhere. That would require impact assessments and due diligence. It also has to do with obligations to regulate non-state actors, such as companies where a state is in a position to do so. There are also positive obligations to fulfill the socioeconomic rights of people elsewhere. So, if people in one state are facing hunger, which has nothing to do with harm caused by another state, there are obligations of international cooperation to see these rights realized.”¹⁶

Methods to protect human rights-

Now if we look in to the methods and ways to prevent the human rights from being struck by the hammer of globalization like regarding economic conditions, Poe and Tate argue that human rights abuses should decrease with economic development yet increase with economic growth. The better the economic situation, measured by the quantity and quality of goods and services available, the less scarce are goods. Consequently, the potential for conflict, and thus repression decreases. The effect of economic growth is less obvious: Since economic growth is the engine of economic development, it should improve human rights practices in a country. However, growth usually involves winners and losers, and may, at least temporarily, increase inequality of income and wealth. As a consequence, social and political tensions rise and the probability of abusive actions increases. To test these theoretical considerations, we employ GDP per capita and GDP growth in our analysis.¹⁷

With this all there has been a responses from international regimes of globalization and

¹⁵Protecting human rights in globalized world by Dinah Shelton.
<http://lawdigitalcommons.bc.edu/cgi/viewcontent.cgi?article=1172&context=iclr>

¹⁶<http://opencanada.org/features/the-think-tank/interviews/where-human-rights-law-meets-globalization/>

¹⁷cege, Globalization, economic freedom and human rights by Axel dreher, martin gassenber and Lars H.R. seamers.

human rights like. The general trend, seen particularly among human rights advocates, has been to affirm the priority of human rights over other international legal regimes. According to this view, international economic policies cannot be exempted from conformity to international human rights law. States and international organizations are directly obliged to comply with those principles and obliged to ensure that private economic actors within their jurisdictions do not act in violation of those rights. In a 1998 statement on globalization and economic, social, and cultural rights, the CESCR expressed its concerns over the negative impact of globalization on the enjoyment of economic, social, and cultural rights, and called on states and multilateral institutions to pay enhanced attention to taking a rights-based approach to economic policy-making.¹⁸

Conclusion-

And now a simple conclusion can be drawn that none of the international human rights instruments imposes an economic model, free trade, or deregulation. Yet, as Anne Orford points out, there is a link between human rights and a liberal economic regime that may facilitate globalization. Liberal concepts of human rights identify the individual with property ownership and are linked with the emergence of capitalism. In contrast, the failure by some governments to respect core labor standards is likely to provoke trade tensions and lead to protectionist efforts. The stability of the world's trading system may thus depend upon ensuring that an open trading system does not come at the price of human rights.¹⁹

At last we are left with the conclusion that a human rights-based approach to trade and investment entails embracing a culture of human rights, and placing it at the center of all trade and investment processes and outcomes. It entails constantly monitoring how trade and investment affect the enjoyment of human rights, and it entails placing the promotion and protection of human rights among the objectives of trade reform.²⁰

From the preceding analysis, it is very evident that the phenomenon of globalization, primarily through its economic dimensions has numerous implications for the promotion and protection of all human rights. This implies that there is a need for a critical re-conceptualization of the policies and instruments of international trade, investment and finance. Such re-conceptualization must cease treating human rights issues as peripheral to their formulation and operation. The institutional mechanisms developed to establish norms and resolve disputes in the context of overlapping jurisdictions and conflicting values will in practice determine whether globalization proves to be a friend or foe to human rights. Additionally, what is also required is a more balanced approach, which ensures that human

¹⁸Supra 14.

¹⁹Supra 4.

²⁰See OHCHR“ globalization: Trade and investment available at: <http://www.ohchr.org/EN/Issues/Globalization/Pages/GlobalizationIndex.aspx>

rights principles are integrated into the rule-making processes from the outset.²¹

In the first place, it must be re-emphasized that governments in developing countries bear a considerable share of responsibility with the private actors, especially with regards to good governance and democratic accountability in the quest for economic development and prosperity occasioned by globalization without putting aside the needs to respect human rights.²²

²¹ The economic globalization and its threat to human rights by Nisar mohammad bin ahmad Vol. 2 no. 19 This paper was presented at the Postgraduate Conference: “Globalization in the 21st Century organized by Department of Criminology, University of Leicester, UK on 26 June 2007”.

²² Ibid.