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Beyond 'Basic Expectations'

One in four people (1.4 billion) in the developing world live in extreme poverty attempting to survive below the international poverty line of USD 1.25 a day. If world poverty has decreased since the early 1990s, it is largely due to poverty reduction figures in a very small number of populous countries. Global material inequality is widening rapidly between states; inequality between countries weighted by population has shrunk since 1980 only when we factor in the fast growth in China and India, and inequality among households is probably increasing. Moreover, while the global gap between the richest and the poorest people has been expanding, there is little evidence of actual improvement in the absolute position of the poorest since the 1980s. In any case, as is frequently highlighted, any debates over trends cannot mask the persistence and magnitude of both poverty and inequality on a global scale.

In 1974, developing countries asserted in a General Assembly declaration that '[i]t has proved impossible to achieve an even and balanced development of the international community under the existing international order'.¹ There is a considerable body of literature that critically engages with international law and its contribution to the creation of an environment that protects and enables vested economic and corporate interests by entrenching advantages offered certain states and their transnational private sectors. This paper builds on those important insights and looks to international human rights law to offer one solution.

Socio-economic rights give rise to obligations of 'international assistance and cooperation', in particular for states other than the right-holder's own, to contribute to fulfilling rights to an adequate standard of living, to food, to healthcare, anywhere where they are not being met. Decades of international law-making have reaffirmed the importance of international arrangements that address poverty and underdevelopment and support the realisation of economic, social and cultural rights universally. There are strong arguments to suggest that the duties certain states owe to the world's poor go beyond the realm of charity to include obligations as a matter of international law. Today, what is required of states under international human rights law includes obligations of positive action to fulfil human rights at home, as well as in far off places.

When it comes to corporate duties, the Guiding Principles on Business and Human Rights of the Special Representative of the Secretary-General on the issue of human rights and transnational corporations and other business enterprises (John Ruggie), were consciously limited to providing parameters related to the 'corporate responsibility to respect human rights', that is, private sector duties to avoid infringing human rights. By his own admission, John Ruggie advances a model of corporate human rights responsibility that captures merely 'the basic expectation society has of business in relation to human rights' and, moreover, what he considers to represent 'a global standard of expected conduct for all business enterprises'. If we look to the evolution and normative requirements of contemporary international human rights law as a legitimate marker of the global standard, we might conclude that Ruggie got it wrong by imposing merely the lowest level of ethical practice on the private sector while ignoring positive obligations it might have actively to contribute to the realisation of socio-economic rights.

¹ GA res 3201 (S-VI), Declaration on the Establishment of A New International Economic Order, 1 May 1974, preambular para 1.