

## Global Business Standards and Sustainable Capitalism: The Need for Accountability

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Globalisation has contradictory effects: it leads both to empowerment and disempowerment. A major effect of globalisation is the decline in state capacity.

Under the current state of law, national systems are effectively unwilling or unable to hold companies operating in their countries accountable. Governments are afraid that, in a globalized economy, if they exercise strict controls over businesses, foreign investors will go elsewhere.

The complex structure of multinationals - headquarters in one country, subsidiaries and operations in many others - creates real obstacles for local courts in exercising jurisdiction over the entire corporation. Companies transfer capital, labour, technology and other resources based on economic factors. On the positive side business activities provide employment for countless millions, but on the negative side a variety of daily business practices may lead to human rights abuses.

Notwithstanding the far-reaching impact of companies on human rights, most companies oppose any move towards binding regulations. Instead, following several high-profile cases and public pressure, some business sectors (like in the recent years the Extractive Industry Sector) have drawn up voluntary codes of conduct, to guide their performance in their own operations and within their sphere of influence. But voluntary codes of conduct carry no legal authority or accountability mechanisms. Furthermore, many of them reflect what is politically acceptable within and among the participating entities rather than what is objectively required by the human rights needs on the ground.

The existing initiatives such as the OECD Guidelines, the Global Compact, and the ILO Tripartite Declaration, useful in raising awareness, have failed to reduce the negative consequences of corporate behaviour on human rights.

Amnesty International believes that the **United Nations Norms on the Responsibilities of Transnational Corporations and Other Business Enterprises with Regard to Human Rights** (UN Norms) are the logical next step in a strategy to develop corporate legal accountability: in fact, they fill a gap in the international human rights framework..

The Norms make clear that states have the primary responsibility for the promotion and protection of human rights, but they recognize that under international law, companies must also respect human rights. Large companies do wield increasing power, and it is only logical that responsibilities go together with the exercise of that power

The UN Norms do not impose unreasonable demands on companies. Intelligent laws not only restrain abuses, they can also fulfil an important role in promoting good practices. And what serious company would argue that good laws are not good for business?

There is in the current months an ongoing discussion between the Special Rapporteur John Ruggie, and the NGO's on what role and effectiveness can be given to the U.N. Norms. We hope that at least two important elements will be clarified: the concepts of *sphere of influence* and of *complicity*.

Building agreement on the Norms will not be easy in this difficult period of economic and political uncertainty. But companies cannot escape responsibility or be silent witnesses to widespread human rights violations. Human rights are not a luxury for good times, they must be respected and upheld at all times under all circumstances, by all actors, state or corporate.

There is also a challenge for the EU and its role to humanise globalisation.

The various documents from the Commissions, indeed, have not set up a clear picture. But several resolutions from the European Parliament have spoken a different language. We think Europe should follow them, equally mainstreaming human rights as a cross-cutting issue, and ensuring consistency in its policies.

The EU should therefore not only continue to stress CSR through documents, but should also adopt legislative measures concerning the human rights responsibility of European companies when active outside the EU.