

1st International Conference on Business and Human Rights in Africa, 9-11 December 2015.



***1st International Conference on
Business and Human Rights in Africa***

9-11 December 2015

***Venue: Centre for Human Rights
University of Lagos, Akoka, Lagos, Nigeria***



***Special Guest of Honour
H.E Mr. Akinwunmi Ambode
Executive Governor of Lagos State***



Guest of Honour

H.E Ogbeni Rauf Adesoji Aregbesola

Executive Governor of Osun State



Chief Host

Professor R.A Bello

B.Sc.(Ife);M.A.Sc.,Ph.D.(Waterloo);FNSChE,FNSE,FAEng

Vice-Chancellor, University of Lagos



Chairman Local Organising Committee

Prof. Akin Ibidapo-Obe

Dean, Faculty of Law, University of Lagos

Professor Akin Ibidapo-Obe obtained his LL.B Degree from the University of Lagos in 1977 and was called to the Nigerian Bar in July 1978. He was awarded LL.M with Distinction from the University of Ife, now Obafemi Awolowo University OAU, in 1980. He joined the Faculty of Law of OAU as Lecturer II in 1989. He was promoted to Senior Lecturer in 1996 and Associate Professor with effect from 1st October 1998. He has been Examinations Officer, Sub-Dean and Ag. Head of Department of Public Law. He was visiting Professor of Law at Southern University, Baton Rouge, Louisiana, U.S.A. in 1993. He has also been an Exchange Scholar to the University of Nottingham, England. He has delivered papers at learned conferences in several countries. As an Afrocentric legal scholar with special interest in African Customary Law, his contributions were rewarded with the traditional honour of Bamofin-Ibile Ipetumodu (exponent of indigenous law). He was a Director of Constitutional Rights Project (CRP); Member, Director, and Founder of several other notable human rights organisation.



Keynote Speaker

Professor Bonita Meyersfeld

Director, Centre for Applied Legal Studies

University of Witwatersrand, Johannesburg

Professor Bonita Meyersfeld

Bonita Meyersfeld is the Director of Centre for Applied Legal Studies and a professor of law at the School of Law, University of Witwatersrand, Johannesburg (NRF Y1). She is an editor of South African Journal on Human Rights and the founding member and chair of the board of lawyers against Abuse . Bonita teaches international law, business and human rights and international criminal law. Prior to working in South Africa, Bonita worked as a legal advisor in the House of Lords in the United Kingdom and the gender consultant to the International Centre for Transitional Justice in New York. Bonita obtained her LLB from Wits Law School and her LLM and JSD from Yale Law School. She is the author of Domestic Violence and International Law, Hart Publishing (UK) (2010)



Conference Initiator / Vice Chair LOC

Mr Eustace Onuegbu

Executive Director, De Bernards Institute of Human Rights and Business

www.humanrights4business.org

Eustace is the Founder and Executive Director of De Bernards Institute of Human Rights and Business (formally Institute of Human Rights and Business Africa) which is global foundation that promotes Corporate Respect for Human Rights in Africa. Before forming the organisation, Eustace worked as a Lead Consultant for UK law firms and social enterprises on CSR, Human Rights and sustained development and trained lawyers, civil society organisations, business owners/managers on corporate social responsibility and human rights due diligence.

Eustace has also worked in partnership with Diplomatic Missions and members of the parliament (MPs) in the UK and other countries to resolve high profile human rights cases and successfully challenged European Authorities in Courts on issues of human rights violations. His work has covered most sectors of the economy in areas such as Business Impact Assessment (Construction, Mining/Extraction and Manufacturing sectors), Employment and Working Conditions, Child Labour, Gender Rights and Representation at Workplace, Contractual Obligations, Environmental Issues , Business and Migration, Centre for Responsible Business (Workplace Human Rights Training Programmes), The Role of Government and Overseas' Missions (Duty to Protect), International and National Human Rights Instruments, Country Business Guides, etc. He has also worked on a number of funded community projects around the world.

Eustace has a degree in International Business and Management from Amsterdam School of Business in the Netherlands and a post graduate degree in International Human Rights Law from Birmingham City University in the United Kingdom.

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CONFERENCE PROGRAM

1st International Conference on Business and Human Rights in Africa

Date: 9 – 11 December 2015

Venue: Center for Human Rights, University of Lagos, Akoka, Lagos, Nigeria

ANCHORS: Dr. Sope Williams & Mr Yinka Owoeye, Faculty of Law, University of Lagos.

TIME	ACTION	SPEAKERS
8:00 am	Registration/Arrival of Guests	LOC Members
9:30am	Agenda setting & Protocol	Anchors
9:40am	National Anthem	ALL
9:50am	Welcome Address	Prof. Akin Ibidapo-Obe Dean Faculty of Law, University of Lagos
10:00am	Background and Conference Objectives	Mr. Eustace Onuegbu Executive Director IHRBA
10.10	Opening Remarks	US Consulate, Lagos Voice for Change/UKAID Nigeria Bar Association Business Community National /State Assembly Rep. of the IGP, FRSC, EFCC
10:20am	Keynote Address	Professor Bonita Meyersfeld, Executive Director, Centre for Applied Legal Studies, School of Law, University of Witwatersrand, Johannesburg
10:40am	Chief Host Special Remarks	Prof Rahmon Ade Bello, Vice Chancellor, University of Lagos
10:50am	Guest of Honor Remarks	Ogbeni Rauf Aregebesola His Excellency, the Governor of the State of Osun
11:00am	Special Guest Remarks	Mr Akinwunmi Ambode, His Excellency, the Governor of Lagos State
11:20pm	Vote of thanks	Mr Wahab Shitu Coordinator, Center for Human Rights, University of Lagos
1130	Tea Break	LOC
12:00 -130pm	Business Session: Chairperson Prof Oye Oyewo	Theme1 : Contextualising Business and Human Rights
	Speakers	Barr. Nelson Ogbuanya Senior Lecturer,

		<p>Department of Commercial Law, Nigerian Law School, Lagos Reconciling Corporate Philanthropy and Corporate Abuse of Human Rights</p> <p>Francisca M. Nkadi Ph.D, Adjunct Professor, Colorado State University Global Campus, USA-Business, Ethics and Human Rights in Africa</p> <p>Discussants :</p> <p>Dr Yemi Oke, Senior Lecturer, Faculty of Law University of Lagos</p> <p>Nneamaka Jennifer Omo</p> <p>Chief Research Officer/ Head – NHRC</p> <p>Dr Akinola Akintayo , Lecturer Faculty of Law , University of Lagos</p> <p>Discussions/Comments/Proposal</p>
130pm-230pm	<p>Business Session 2</p> <p>Chairperson: Prof CK Agomo</p>	<p><u>Theme 2; - Masculinity, Gender and Social Inclusion in Business environment</u></p>
	<p>Speakers</p>	<p>Ms Patience Ekpeoba</p> <p>Output Lead , Voice 4 Change/UKAID- Masculinity, Gender and Social inclusion in Business Environment & Dr Abiola Akiyode-Afolabi , Faculty of Law, University of Lagos</p> <p>Dr Iyabo Oguniran</p> <p>Senior Lecturer, Faculty of Law- Children Rights in Business environment</p> <p>Chinezelum Obianyo, ESQ, LLM, FCI Arb, JP – Sustainable Development of the Rights of the Child in Nigerian Environment.</p> <p>Discussants;</p> <p>Ms Fayó Williams- Executive Director NNEW, Lagos</p> <p>Mr Kunle Ajagbe, Partner, Perchstone & Graeys</p> <p>Discussions/Comments/Proposal</p>
2:30pm	Lunch	LOC
3.00pm-4.00pm	<p>Business Session 3 –</p> <p>Chairperson: Prof. Joe Abugu</p>	<p>Theme 3: National Security, Foreign Investment , Business and Human</p>
		<p>Yan St-Pierre, CEO and Counter-Terrorism Policy Consultant at Modern Security Consulting Group - MOSECON GmbH</p> <p>The Role of Private Security Companies in the Corporate Respect for Human Rights</p>

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		<p>Dr. S. A. Igbinedion Lecturer, Faculty of Law, University of Lagos, Nigeria- Linking Corruption In International Business Transactions With Human Rights Violations</p> <p>Ihuoma k. Ilobinso- The Effect Of Aggressive Tax Planning By Multinational Companies On Human Rights In Developing Nations.</p> <p>Discussion</p> <p>AIG. Mbu Joseph Mbu Zone 2, Police Command</p> <p>Mumunni Adetokunbo (SERAP)</p> <p>Mr. Benjamin Madu CEO – Kulabeche Associates Ltd Board Member IHRB</p>
430PM	Closing	

CONFERENCE DAY 2 , DECEMBER 10, HUMAN RIGHTS DAY

Anchors: Dr Sope Williams & Yinka Owoeye, Faculty of Law, University of Lagos

TIME	ACTION	ROLE
8:00 am	Registration	LOC
930:am	Press Conference- Human Rights and Business	Chairman LOC
10.30am-1130	Business Session 4 Chairman: Prof Adeniyi Olatunbosun, Dean Faculty of Law, University of Ibadan	Beyond Compliance: Business Sustainability & Human Rights
	Keynote speech Day 2	Prof. Akin Ibidapo-Obe Dean – Faculty of Law, University of Lagos, Nigeria Discussions
1130	Tea Break	
12.00-130pm	Business Session 5 Chairperson: Prof Bankole Sodipo, Dean Faculty of Law, Babcock University, Ogun State	Theme 5 : The Role of the State in Business and Human Rights
	Speakers	Dr. Kehinde Olayode, Dept. of International

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		<p>Relations, Obafemi Awolowo University, Ile-Ife, Nigeria -From Predatory to Developmental: Appraising the Role of the African State in Promoting Business and Human Rights</p> <p>Dr Rita Ozoemena, Senior Lecturer, Faculty of Law, University of Johannesburg - The Obligation of non-state actors in the promotion and protection of the right to development in South Africa.</p> <p>Bellinda R. Chinowawa- Taming the Dragon – Exploring Local Options for Greater Accountability of Chinese Multinational Corporations in Zimbabwe</p> <p>Discussion</p>
130-230	Business Session 6 Chairperson; Prof Akin Ibidapo Obe	Theme: Human Rights and the Environment / Extractive Industries
1:30-230	:	<p>Oluwatoyin Adejonwo-Osho PhD, Faculty of Law, University of Lagos - Achieving Justice and Human Rights in an Era of Climate Change: The Role of Business</p> <p>Mr. Tshiswaka Masoka Hubert, General Director at Institut de Recherche en Droits Humains – TCCT, DR Congo</p> <p>Dr Engobo Emeseh, Lecturer in Law and Coordinator, LL.M Environmental Law and Management, Aberystwyth University, Ceredigion, UK</p> <p>Discussants:</p> <p>David Ugbolor- ANEEJ, Benin, EDO State.</p> <p>Suraj Olanrewaju- HEDA</p> <p>Mrs Ifeoma Oluwasemilore, Faculty of Law, Unilag</p>
2 30-330	Lunch	LOC
330-400pm	Conference Conclusions and Comunique/Closing	LOC

CONFERENCE DAY 3, DECEMBER 11TH 2015

TIME	ACTION	ROLE
10:00 am -1200PM	University tour & site seeing	LOC



CALL FOR ABSTRACTS

The Centre for Human Rights, University of Lagos, in collaboration with The Institute for Human Rights and Business in Africa, Lagos, are pleased to announce the Call for Abstracts for the first International Conference on Business and Human Rights in Africa. The Conference will be held on 9-11 December, 2015 at the Auditorium, University of Lagos, Nigeria.

Conference Themes

The Conference will address a range of critically important issues and themes relating to the intersection between business, corporations, and human rights. Plenary speakers include some of the leading thinkers in these areas, and the conference will feature numerous papers, and workshop presentations. We are inviting abstracts for paper presentations and workshops addressing the broad conference themes in these particular areas:

SN	Broad theme	Sub-themes
1	Contextualizing Business and Human Rights	This will cover a wide range of modern issues in human rights and business
2	National Security, Business and Human Rights	The role of business in addressing terrorism, terrorism financing, and the effects of insecurity on business.
3	Foreign Investment and Human Rights	Human rights and MNCs
4	Beyond Compliance: Business sustainability and Human Rights	Consumer rights, compliance with labour/employment laws, human rights in the value chain.
5	Social Inclusion, Business and Human Rights	Gender rights, children's rights and rights of persons with disabilities
6	Environmental Rights and Business	Extractive industries, occupational health

		and safety.
7	Business, Human Rights and Corruption	Corporate misconduct, extractive industries
8	The Role of the State in Business and Human Rights	The role of Security agencies, the public sector and consumer protection agencies
9	Religion, Business and Human Rights	Religious freedoms proselytization, religious organisations and taxation

Note that abstract ideas that extend beyond these thematic areas but which are within the broad conference focus will also be considered.

Submit a Conference Abstract

Abstracts for the conference should be emailed to humanrights@unilagcentreforhumanrights.org AND icbhra@gmail.com and should be no more than 300 words. The deadline for submission is 16th October 2015. Authors of accepted abstracts will be notified by 30th October, 2015. Authors of accepted abstracts must also submit the full conference paper and a Power point presentation of no more than 12 slides prior to the conference. Please note that late paper submissions will not be considered.

Important dates

Event	Date
Abstract submission opens	18 th September 2015
Abstract submission deadline	16 th October 2015
Acceptance Notification	30 th October 2015
Full paper submission deadline	4 th December 2015

Conference Details

To learn more about the conference, including speakers, session formats, venue, registration etc, please visit www.unilagcentreforhumanrights.org; www.humanrights4business.org.

For Further Enquiries, Please call:

2348052036007, 2348023418544, 2348108610474, 2348108610473



CONCEPT NOTE

Background

The first International Conference on Business and Human Rights in Africa is being organised by the Centre for Human Rights, University of Lagos, in collaboration with The Institute for Human Rights and Business Africa. The Conference will be the most innovative and thought-provoking workshops on the Relationship between Businesses and Human Rights in recent times. It is a leading platform for business leaders and human rights experts to discuss the relationship between Business and Human Rights ; a place to identify solutions that integrate Human Rights into core business, a networking opportunity to build relationships with key partners, a means to gain reputational benefits from being involved. It is also an opportunity to assess the progress made by African Governments and to look forward to new possibilities for a more sustainable future in sub Saharan Africa.

The United Nations Guiding Principles reporting framework states that "the corporate responsibility to respect human rights...in essence means to act with due diligence to avoid infringing on the rights of others." Discharging "this responsibility to respect requires due diligence" and "because companies can affect virtually all internationally recognized rights, they should consider the responsibility to respect in relation to all such rights. The conference will therefore place strong emphasis on company policies and business strategies associated with respect for human rights, as well as cultural and environmental challenges. The three days Human Rights Workshop will showcase the innovative approaches being implemented by leading organisations and feature thought leaders and research on a diverse range of issues facing businesses in Africa.

Conference Focus

The conference will focus on the UN three pillars Framework which consists of:

The state duty to protect human rights

The corporate responsibility to respect human rights

The need for a greater access to remedy for victims of business related abuse.

Conference Themes

The Conference will address a range of critically important issues and themes relating to the intersection between business, corporations, and human rights. Plenary speakers include some of the leading thinkers in these areas, and the conference will feature numerous papers, and workshop presentations. We are inviting abstracts for paper presentations and workshops addressing the broad conference themes in these particular areas:

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Conference structure

The conference will be organised around plenary sessions, group discussions, practical workshops, poster sessions, pilot demonstrations and Open Space sessions. We offer platforms for Panel Sponsorships and Exhibitions.

Date and Venue: The Conference will be held on 9 – 11th December, 2015 at the University Auditorium and Faculty of Law, University of Lagos, Nigeria.

For further enquiries and sponsorship, please contact: The Local Organising Team, Office of Dean, Faculty of Law, University of Lagos; email: humanrights@unilagcentreforhumanrights.org and icbhra@gmail.com OR visit: www.unilagcentreforhumanrights.org, www.ihrbafrica.org; Phone: 08052036007, 08023418544, 08170141401, 08108610473



Conference Abstract

What is and What is Not CSR- Reconciling Corporate Philanthropy and Corporate Abuse of Human Rights.

- Nelson Ogbuanya, Esq., Corporate & Investment Law Consultant and Senior Lecturer, Nigerian Law School, Lagos Campus

Abstract

A conceptual analysis of CSR and implicit human rights obligations for corporations would reveal the diametrical approach to CSR by corporations believing that CSR obligations are fulfilled merely by corporate giving/philanthropy. This paper therefore seeks to interrogate what is and what is not CSR, with a view to reconciling the corporate philanthropy and corporate abuse of human rights, and make propositions for reform.

Business Ethics and Human Rights in Africa

- Francisca M. Nkadi Ph.D.

Adjunct Professor

Colorado State University Global Campus

Abstract

Presently, the business landscape of Africa seems marked by the violation of human values like fairness and dignity that are the drivers of commitment to human rights and business ethics. Companies are unwilling to protect the rights to fair salary, safe working conditions, the residence of choosing, healthcare, and whistleblowing all advocated by the UN conventions or business pundits. Profit-oriented companies in Africa, in the mining sector particularly, assign

workers low salaries leading them to protest, terminate them temporary or otherwise, and shut down mines leaving no choice except to live in poor conditions in improvised shantytowns, to commit suicide, or to turn themselves into sex workers. Employees work in unsafe conditions due to decrepit machinery perishing from conveyers. Pollutants released into the ground and atmosphere degrade the environment and human health. Mine companies sometimes relocate people from the place of their residence close to extraction facilities. The compensation of workplace injuries is inadequate and bureaucracy-plagued. Those who dare blow the whistle on unethical violations get the firsthand knowledge of the consequences. Reasons like corruption, the lack of political will, and the unripeness of democratic institutions nurture business unethicality and the violation of human rights to a worthy salary, safe working conditions, food, water, residential place, injury compensation, and whistleblowing.

Keywords: human, rights, violation, ethics, Africa, workers, mines, business

Masculinity, Gender and Social Inclusion in Business environment

Ms Patience Ekpeoba -Output Lead , Voice 4 Change/UKAID- Masculinity, Gender and Social inclusion in Business Environment & Dr Abiola Akiyode-Afolabi , Faculty of Law, University of Lagos

Abstract

The emerging area of business and human rights is yet to adequately investigate existing imbalance of power and gender inequality that have continued to make business environment and the workplace a sphere for social exclusion of women. Human Rights discourse in the area of business is limited to the tension between the developed countries, multinational corporations (MNCs) and developing world societies. In most countries, women have continued to suffer relative lack of access to credit, multiple taxation and have fewer employment opportunities than men which have impacted negatively on their access, voice and participation in business environment. Gender based discrimination remains a pervasive issues and there has been attempt within human rights law and jurisprudence to address issue of gender inequality, while laws exist to promote and protect women's human rights from

the broad context, few corporations submit to the expression of these laws in practical terms. Women therefore experience different forms of discrimination in work place and business environment. This paper therefore intends to discuss the socially constructed rules and norms, regarding 'gender' and the manifestation of this in the lives of women in workplace and business environment, and the extent to which this impede their economic independence and negatively impact upon their human rights. This paper will discuss the role that masculinity plays in the context of business and human rights; Identify the gender norms in workplace that have continued to exclude women and put them at disadvantage and propose ways by which issues of gender inequality can be addressed within the business environment.

ABSTRACT

SUSTAINABLE DEVELOPMENT OF THE RIGHTS OF THE CHILD IN NIGERIAN ENVIRONMENT

- CHINEZELUM OBIANYO ESQ,LLM,FCI Arb, JP.

The use of the word sustainable development makes reference to the fact that there is already an existing structure in place, which needs to be maintained and or improved upon where need be.

However, in practice the laws are not actualised to the satisfaction of the populace which that law is meant for.

The first flaw which is the major problem in the actualisation of these laws is lack of awareness. Many communities in our rural areas are not properly equipped with the advancement of the development of these laws. Thus no effort is made to observe and put them to practice.

However, where these laws are already in the fore front, there is the challenge of some customary beliefs and practices which so many of the illiterates who are resident in the rural areas conform to, with the utmost belief that lack of practice of such norms may or will work psychologically, emotionally, spiritually against them.

In other words, some customary practices which are anti the provisions of these acts is adhered to, because of the belief that non observation of it will bring punitive measures on the recalcitrant party, since it is a norm practiced by their

fore fathers. Such practices that dictate that a particular river demands that any young girl who wishes to fetch water from the river must do so by being naked and should such a person default, punitive measures are taken against her.

Such practices that permit that a young girl who has an early pregnancy should engage in trafficking because both mother and child are not wanted in the community since she is not married. A practice which is believed will help to abate promiscuity.

Thirdly, we may find ourselves with the question of asking, how can the gap between the law and the populace be bridged, if there is need for awareness, who are the stakeholders that will embark on the awareness campaign to educate the general populace. Who are the stakeholders that will fight for the eradication of these obnoxious norms and put in place the actualisation of these laws and empower the children with the rights which the law has endowed them with.

One may begin to look at the way and manner in which these problems we are faced with may be resolved.

There is no doubt that we are faced with many non-governmental organizations, whose primary duty is to reach out to these communities with the objective of solving one angle out of many rights, depending on what the objective of the NGO is all about.

However, we all know that these stakeholders obtain grants to enforce these objectives. What is striking is that while some achieve and fulfil the intentions of the donors of these grants-90%-100%, some of the stakeholders collect these grants and do not make effective and maximum use of it, leaving the people they are supposed to reach helpless without any support in all ramifications.

It is my suggestion that just like the concept of servicom is embraced in all government agencies each with its own charter. There should be created a department in all these government agencies which looks into the general laws-vis-avis these rights to see how they can put things in place, when they are confronted, without waiting for another stakeholder to wade in to interrogate.

A good example is the police force, a department that deals on civil and human rights should be created to enable the police do a day to day management and enhancement of these abridged rights. But the practice as it is today is that these stakeholders are called upon to intervene in these matters at the CPS.

However not all matters attract the invitation of these stakeholders. A good

number go unattended to without proper help being given to it.

Considering that the school is a centre point for gathering the infants and the youths. There should be a wider school curriculum in which these provisions of the laws are made accessible to the young ones as they are developing.

It is believed that where sustainable measures are taken to address the gaps and or problems encountered in the enforcement of these laws/rights, we may begin to actualize and sustain the development of the rights of the child in the Nigerian environment.

**Lost Innocence or Regained Childhood? Imperatives of Socio-Legal Interventions for Eliminating Child Labour in Nigeria -Dr. Iyabode Ogunniran
Senior Lecturer, Department of Public Law, Faculty of Law, University of Lagos**

Abstract

Child labour is a global issue. The results are staggering in terms of the number of children involved in the dehumanizing and exploitative work as well as the range of work they perform. This paper examines the International Labour Standards and the Convention on the Rights of the Child provisions aimed at eradicating child labour. It brings to fore the blurred dichotomy of child labour/child work; the dispute on age of entry into the labour force, often determined by the social and cultural norms of the different countries. Against this backdrop, the paper analyses the legal framework in Nigeria. It considers the National Baseline Survey which traces the root causes of some forms of prevalent but under reported occurrence in the country. The author argues that the incidence of child labour cannot be separated from the context of poverty, unemployment and illiteracy amongst others. Hence, in addition to the political will to implement the laws, social interventions such as education for all children and economic empowerment are imperatives.

**National Security and Human Rights- Yan St-Pierre
CEO and Counter-Terrorism Policy Consultant
Modern Security Consulting Group - MOSECON GmbH, Germany**

Abstract

Overwhelmed by the mobility and quickness of terrorist groups and their networks, states bogged down by bureaucracy and a work culture that is very slow to adapt turn more and more to the private sector to compensate for their problems. These offer many resources that can match the strengths of terrorist organisations.

While this appears to be an ideal situation, several problems emerge. Private security companies often have terrible reputations, especially for human rights; the state loses its grip on the "monopoly of violence"; standards and practices are uneven and accountability is limited. This raises many questions, like: Can private companies operate efficiently within a moral framework? Should the contribution of the private sector be limited to specific fields? Is the private sector's contribution valuable enough to justify growing outsourcing?

This paper will argue that the role of the private sector in security is to complement the state's role, not to replace it, and as such provides the state with security assets that can match those of terrorists, all while operating within a moral and legal framework. Following a brief overview of current security challenges to the state and how the private sector contributes, I will discuss how the latter's main strength lies in its decision capabilities. Using real cases, I will then argue that it is possible to operate while respecting human rights and being highly effective.

Finally, I will suggest solutions on how the private sector can help fight terrorism, while limiting the state's loss of power and prestige.

LINKING CORRUPTION IN INTERNATIONAL BUSINESS TRANSACTIONS WITH HUMAN RIGHTS VIOLATIONS

-S. A. Igbinedion, LL.B. (Lagos); B.L. (Abuja); LL.M., PH.D. (Tokyo)
Lecturer, Department of Jurisprudence & International Law, Faculty of Law,
University of Lagos, Akoka, Yaba, Lagos

Abstract

This paper discusses the connection between corruption in international business transactions and human rights violations. In contemporary proverbial global

village where stiff competition amongst multinational corporations (MNCs) is an article of faith, only the fittest survive. However, because weaker corporations realize that they either sail or sink in the ocean of globalization, they cut corners to garner competitive edge over others by bribing foreign public officials in order to obtain or retain business. Such unholy alliance between private entities and governmental actors is detrimental to the citizens of national states of corrupt public officials. Interestingly, such detriment manifests in the incapacity of citizens to access civil, political and economic rights guaranteed both by domestic law and international instruments. Consequently, the paper evaluates the worth of extant legal regime put in place to combat corruption in international business transactions. The paper finds the provisions to be inadequate and contends that such inadequacy is compounded by the horizontal nature of inter-state relation. Finally, the paper concludes with some recommendations.

THE EFFECT OF AGGRESSIVE TAX PLANNING BY MULTINATIONAL COMPANIES ON HUMAN RIGHTS IN DEVELOPING NATIONS.

Ihuoma k. Ilobinso, Lecturer, Department of Commercial and Industrial Law, Faculty of Law, University of Lagos

ABSTRACT

"Every man is entitled if he can to order his affairs so that the tax attaching under the appropriate Acts is less than it otherwise would be. If he succeeds in ordering them so as to secure this result, then, however unappreciative the commissioners of the Inland Revenue or his fellow tax payers may be of his ingenuity, he cannot be compelled to pay an increased tax."¹

However correct this assertion might be, the aggressive tax planning strategies employed by multinational companies result in these corporations not paying a fair share of tax and, in some cases, not paying tax at all. These tax abuses are not just unfair and wrong, but they also have a negative impact on the enjoyment of human rights. This is especially so in developing nations where aside from revenues from depleting natural resources, a great proportion of their revenue is derived from corporate tax. Such tax abuses starve the governments of substantial resources required to fulfill their international human rights obligations of mobilising economic, cultural and social rights for its citizens. The

¹ *Ayrshire Pullman Motors Services v C.I.R.* (1929) 14 TC 754.

fact that some of these tax planning strategies are technically legal is not a justification for their continuous use. This article analyses tax planning practices which are illegal and also those that are legal but unacceptable because they enable corporations to avoid a fair share of their tax burden thereby impacting negatively on the economies of the tax jurisdictions. It explores the thin line between acceptable tax avoidance, unacceptable tax avoidance and tax evasion. It further considers the connection between tax abuses and human rights. Finally, it proffers solutions on the most effective ways to confront tax abuses and reiterates the roles of the respective stakeholders in tackling this menace.

The Obligation of non-state actors in the promotion and protection of the right to development in South Africa- Dr Rita Ozoemena, Post- Doctoral , Research Fellow South African Institute for Advanced Constitution, Public, Human Rights and International Law (SAIFAC), University of Johannesburg

Abstract

The obligation of non-state actors in protecting human rights violation can be derived from international human rights law. The enforceability can be directly traced to the concept of human rights in international law or through other national regulatory framework and non-state actors. Increasingly, the ever-expanding areas of protection such as the environment, marginalised and minority groups require a pluralistic understanding of direct obligation of human rights. By this means, states and non-state actors such as transnational corporations with the ability to impact the enjoyment of human rights are held accountable for protection of human rights. The right to development is a justiciable right in Africa that places people at the centre of development. As a right-based model, it emphasises accountability and participation as core elements for socio-economic development. Non-state actors such as transnational corporations play a very influential role in political policies as well as the form of development path taken by many countries. This has made the state-business relationship ambiguous, hence, the need to expand the accountability mechanisms. This ambiguity between the state-business nexus is mostly evident in state's capacity to deliver services to many of its communities. This article engages with the law as it is now regarding corporate responsibility

and the possibilities that are available for the development of further mechanisms to ensure corporate accountability for human rights violations.

Key words: Development, non-state actors, business, human rights, obligation, socio-economic development and corporate accountability.

**MINING COMPANY PERCEPTION INDEX
IN RELATION TO THE RIGHTS OF LOCAL COMMUNITIES IN THE DEMOCRATIC
REPUBLIC OF THE CONGO (DRC)**

ABSTRACT

The Business Perception Index (IPE, Indice de Perception des Entreprises) is an essential tool, in relation to the rights of local communities, for monitoring compliance with human rights, as well as for the protection and promotion of human rights. The IPE facilitates the implementation of international instruments, laws and businesses' internal policies concerning human rights. The present analysis examines the magnitude of the problem which businesses may pose to local communities and the limits of existing legal remedies, and it recommends that those concerned should use the IPE as a compensatory or complementary mechanism.

In short, the IPE is designed to be an objective tool which allows local communities to be proactive, form their own judgements, and morally punish transgressing businesses. There are two aspects to the Index under study: (i) it facilitates the promotion of human rights, through positive sanctions for good practices on the part of businesses; and, (ii) it discourages the violation of human rights, through negative sanctions for bad practices on the part of businesses.

In itself, the IPE has value on three levels: First, in the eyes of local communities, it provides a way to determine whether or not a business respects and promotes human rights, in particular economic, social and cultural rights. Then, in the eyes of the authorities, it provides a way to open, or further the progress of, investigations, in order to reach conclusions that may enable administrative or judicial decisions to be made. And lastly, in the eyes of investors and other international financial institutions, the IPE provides a way to evaluate how their

ordinary members view their investments in economic development. Businesses' financial partners thus have the choice between making a socially responsible investment, and doing business for business' sake, as was done during the colonial era, without taking into account the negative impact on the environment and other rights to which local communities are entitled.

In conclusion, the IPE provides a way for civil society to form a moral judgment that could have an impact on the relationship between a business and local communities, public administration, the judicial system, workers and investors.

Beyond CSR – Pro-Active Human Rights Due Diligence, A Mandatory Requirement?

- Eustace Onuegbu Executive Director

De Bernards Institute of Human Rights and Business

Abstract

While the concept of Human Rights has been debated, promoted and even globally institutionalised over the past few decades, it is only recently that we have truly begun to ask the question: "What is Corporate Respect for Human Rights?" Some would simply refer to Corporate Social Responsibility (otherwise known as the return of profit to the social), but they would be wrong.

The focus of business has changed as it is no longer based on return of profit to the social only but on shared value for the community at large. According to the United Nations Guiding Principles Reporting Framework (www.UNGPreporting.org), the first thing that companies should be asking is "What are our salient Human Rights issues". By salient, I mean those Human Rights that are most at risk of causing a severe negative impact. And by severe, I mean the scale – the gravity of the Human Rights that could be potentially violated –, the scope – how many people are actually going to be potentially impacted? – and the remediability – could the lives of the people impacted go back to their previous enjoyment?.

Only when a company has identified what 'Human Rights' actually means to them can they then start to integrate them into their business model. The question then is "should it NOT be mandatory that every business conducts this

internal audit otherwise known as Human Rights Due Diligence?" to be able determine these salient Human Rights issues?

The paper therefore will critically examine the UN Guiding Principles on Business and Human Rights with the view of identifying implementation challenges faced by business operating in Africa.

It will then explore the advantages of a pro-active due diligence approach rather than remedial approach learning lessons from the recent landmark settlement by the multinational oil giant, Royal Dutch Shell to pay a settlement of \$15.5 Million (N3 billion) over the killing of novelist and environmental activist, Ken Saro-Wiwa, and eight other Ogoni leaders.

The paper will further offer recommendations to businesses operating in Africa on Business and Human Rights global best practices while highlighting the role of African Governments in the protection of Human Rights for their citizens.

Finally the paper will provide reasons why businesses should be required by law (local or international) to conduct internal human rights audit.

Human rights obligations of Business: The viability of turning corporate social responsibility into a binding obligation- Serges Djoyou Kamga
Associate Professor The Thabo Mbeki African Leadership Institute
South Africa

Abstract

Originally the human rights regime was established to shield citizens from the might of the states. However, over the years, companies have developed to become more powerful than the states in which they operate and therefore a serious threat to human rights while conducting their activities.

Yet, the international human regime to hold companies accountable is weak as it is generally non-binding. Very often, to bridge the gap between business and human rights, some companies rely on corporate social responsibility (CSR), which is generally voluntary. This raises the question on whether making CSR mandatory is a viable option to compel business to respect human rights where it conducts its operation.

The aim of this paper is therefore to explore the extent to which turning CSR into a binding obligation will shield people from the might of companies. The paper argues that CSR is a viable option, but also cautions about reliance on CSR to exonerate the state from its human rights obligations to its citizens. To this end the paper unpacks the concept of CSR, explores the challenges to its legalisation, but relies on international jurisprudence on the practice to show its feasibility. At the same time it also examines the nature of the state's responsibilities and calls on the state not to use CSR legislations to transfer its human rights obligation to companies which after all are business enterprises.

Taming the Dragon – Exploring Local Options for Greater Accountability of Chinese Multinational Corporations in Zimbabwe- Bellinda R. Chinowawa
Senior Projects Lawyer

Zimbabwe Lawyers for Human Rights 6th Floor Beverly Court, 100 Nelson Mandela Avenue, HARARE, ZIMBABWE

Abstract

“Let her sleep. When the dragon awakes, the world will tremble”² When Napoleon Bonaparte made this proclamation in the 18th century he may well have been envisioning the current global economy. Since China opened its doors to the West there has been a dramatic change in its economic fortunes.³ The economic transformation of China has required, massive resources. To a large degree, China pursues its global acquisition strategy through state funded multinational corporations (MNCs).⁴ The marked presence of Chinese MNCs on the global stage is changing the landscape of international business and politics. Nowhere is this trend more evident than in Zimbabwe where trade with China has steadily risen due to various factors, including the imposition of sanctions and trade restrictions by the European Union (EU)⁵ and the USA.⁶ The Marange

² The Economist, Jul 17th 1997 <<http://www.economist.com/node/151617>> accessed 1 September 2015

³ Teagarden, Mary B.; Cai, Dong Hong Learning from Dragons who are Learning from Us: Developmental Lessons from China's Global Companies

⁴ Available < <http://gdex.dk/ofdi/24%20Kragelund%20Peter.pdf> > Accessed 10 August 2015

⁵ European External Action Service <http://eeas.europa.eu/cfsp/sanctions/docs/measures_en.pdf> accessed 15 September 2015

⁶ US Department of the Treasury

diamond fields in Eastern Zimbabwe, ranked as the world's largest source of diamonds in terms of total carats produced⁷ are dominated by Chinese MNCs, which have subjected locals to numerous human rights violations including forced relocations and environmental degradation. The contracts concluded between the companies and the government are shrouded in secrecy, resulting in a lack of transparency in terms of both revenue and output. By analyzing the Marange situation through the prism of the UN Guiding Principles on Business and Human Rights, an attempt will be made to explore possible avenues for state action to ensure redress for the people of Marange. The paper is premised on the contention that while the Ruggie Principles are not binding, they can inform strategy to hold governments and MNCs accountable

From Predatory to Developmental: Appraising the Role of the African State in Promoting Business and Human Rights- Kehinde Olusola Olayode (M.Phil, Ph.D, Cantab), Senior Lecturer. Department of International Relations Obafemi Awolowo University, Ile-Ife, Osun State

Abstract

At the heart of developmental policy debate since the 1960s independence era, is the contentious issue of the state-market interactions in Africa's development agenda. During the first stage of market reforms of the 1980s, the wholesale abandonment of the state-led mode of development and the rolling back of the state became the dominant paradigm (Lensink, 1996). The African state thus became the objective of punitive actions and various negative terms were used to vilify it by different scholars such as 'neo-patrimonial, prebendal, predatory, criminal, over-bloated; among others (Bayart 1993; Rothchild and Chazan 1988; and Jackson and Rosberg 1982). However, the collapse of centralised planning model of communism in the early 1990s and the crisis of the neo-liberalism as exacerbated by the global economic and financial crises has marked a decisive return of confidence in state-led development. The twenty-first century is witnessing a resurgence of confidence in a new type of

<http://www.treasury.gov/resource-center/sanctions/Programs/pages/zimb.aspx> accessed 15 September 2015

⁷ Resource

Investor, <http://www.resourceinvestor.com/2014/03/13/analyzing-the-worlds-50-largest-diamond-mines> accessed 15 September 2015

'developmental, interventionist state'.

The paper argues that the creation of an enabling atmosphere for promoting human rights and business enterprises in Africa cannot side-track the question of the re-legitimation of the state and the enhancement of its capacity as a key partner in the developmental process. From the World Bank's 'Doing Business Reports', the African state is the most unfriendly environment for doing business. African countries impose the most regulatory obstacles on entrepreneurs and are slower than any other region in implementing reforms to ease constraints on doing business. Similarly, pervasive human rights abuses that cast a dark shadow over 'democratic credentials' litter the landscape of Africa. Regulatory and security agencies of the state have equally become repressive tools in a 'predatory and criminal' model. Among the critical questions explored in the paper are: what kind of partnership can exist between the state, private sectors and civil society in developmental process? How could the African state be reconstituted to be a facilitator of human rights and business development?

**Transparency and Accountability of Businesses in the Africa: Challenges and Prospects in the case of Ethiopia- MAEDOT TESFAYE
Federal First Instance Court of Ethiopia
Addis Ababa, Ethiopia**

Abstract

Africa's natural resources and human capital have been the bedrock of the continent's economy and basis of development. With an annual GDP growth of 4.5% in Africa, Ethiopia has been growing at a rate of 10.1 percent and projects its growth at 11% in the second phase of the Growth and Transformation plan. The manufacturing sector is at the center of the development agenda where private investment, domestic and foreign, is considered crucial to the manufacturing sector. However, Growth and sustainable development have not been able to cross paths due in large part to the lack of Good Governance culture both within the government and private sector. This has led to violations of human rights of stakeholders by both private and foreign corporations and/or businesses. Among those that are identified during this study include violations of the rights of laborers as regards to low wages and occupational health and safety hazards caused predominantly by multinational corporations, violations of the rights of consumers particularly in supply of defective goods and services, lack of sufficient and accurate information and explanation

as to the quality and types of goods and services. Abuse of market dominance is also prevalent particularly with regards to discriminating customers in prices and other conditions in the supply and purchase of goods and services, falsifying information about the goods and services, and drastic impact on the environment by irresponsible practices of corporations within the country and in different parts of the world.

This study is concerned with identifying the cause and impact of current business practices on labor rights, consumer protection and the environment in Ethiopia. The other is to identify and analyze the gaps of good corporate governance from a legal and ethical stand point and draw inferences and provide effective solutions that can be applied at the regional level. Legal and policy documents, data obtained from formal and informal survey procedures which include interview and focus group discussions, and literature review of writings of prominent scholars and data collected from primary and secondary sources have been utilized.

The research has identified that good governance in the cultural practices of businesses with regards to the philanthropic and ethical responsibilities is lacking. Despite some positive development over the years, however, good governance standards and code of conduct as regards to the regulatory functions of the state, competent and responsible authorities and law enforcement officials who can conduct rigorous and effective investigations are absent. Also absent are independent (organizational) and impartial judiciary that deal with the violation of consumer rights, environmental degradation where the judicial functions have been taken over by administrative tribunals.

Profile of some Discussants

Bankole Sodipo

Professor Bankole Sodipo is the immediate past Dean of Law at the Babcock University. He has been involved with Human rights especially religious liberty and the protection of women and children. He has served on the Board of a number of faith based human rights organisations including Advocates Africa.

Adeniyi Olatunbosun

Professor Olatunbosun is the current Dean, Faculty of Law, University of Ibadan, Nigeria. He is a member of several academic and professional bodies including the Nigerian Association Law Teachers, (NALT), Nigerian Bar Association, African Regional Institute, African Borderland Studies, German Technical Cooperation among others. He is also a visiting fellow – British Institute of International and Comparative Law, London 2006 and visiting fellow British Institute of Advanced Legal Studies 2006.

Mr Benjamin Madu

Mr Benjamin Madu is the Chief Executive Officer and Lead Business Consultant of Kulabech Associates Ltd, Lagos. He is a member, Board of Directors of a number of companies and organisations including De Bernards Institute of Human Rights and Business, Africa. Mr Madu is a Chartered Accountant by training and an Akintola Williams award winning accounting graduate. He also holds an MBA in International Business Management. He is an expert in International Business Strategy and a Financial Consultant. He consults for the Federal and State Governments as well as a number of multinational organisations in Nigeria and overseas.

Dr Yemi Oke

Dr. Yemi Oke had his LL.M and PhD degrees from Osgoode Hall Law School, York University, Canada; LL.B from University of Ilorin, Nigeria; B.L. from the Nigerian

Law School, Abuja. He specializes in Electricity Law, Energy Resources and Environmental Law. He is the author of the pioneering electricity law textbook in Nigeria, titled "Nigerian Electricity Law and Regulation". Dr Yemi Oke is an international legal consultant of repute with several publications and presentations. He was at various times counsel in leading law firms in Nigeria including Chief Rotimi Williams' Chambers; Babalakin & Co; Olaniwun Ajayi and KPMG Nigeria. In the course of his graduate studies, he taught at the York University and Ryerson University both in Ontario, Canada before joining the Faculty of Law, University of Lagos

Nneamaka Jennifer Omo

Mrs Nneamaka Jennifer Omo is the Chief Research Officer and Head of the Human Rights Institute, South West Zonal Office at the Nigerian National Human Rights Commission

Mrs Omo holds a bachelor's degree in Industrial Chemistry from Usmanu Danfodiyo University, Sokoto, a master's degree from University of Benin and a Chevening Fellowship from the University of Wolverhampton in United Kingdom. She is a passionate advocate of business related human rights issues.

Ms Fayo Williams- Executive Director NNEW, Lagos

A pharmacist, entrepreneur and trainer. A Certificate in Entrepreneurial Management holder and Goldman Sachs 10,000 Women programme Scholar at the Enterprise Development Centre/ Lagos Business School (LBS); 'Fayo Williams is the Executive Director of Rely Supply Limited – a Health and Safety Supplies company which specialises in the production of First Aid Boxes for individuals and corporate organizations.

She has served as Trainer/Resource Person on various seminars and workshops including those organised by Moneywise, Guinness Nigeria Plc, and Nigeria Employers' Consultative Association (NECA).

Fayo Williams also co-organized & facilitated various public & in-house seminars and workshops. She is a Merit Award holder, Pharmaceutical Society of Nigeria and Columnist/Writer in Moneywise, Vanguard Newspaper and Truhealth Magazine

Mr Kunle Ajagbe, Partner, Perchstone & Graeys

Kunle was called to the Nigerian Bar in 1999 and joined the firm as a Partner in 2008, where he heads its Corporate & Commercial practice and where he additionally heads its India Group.

Since being called to the Bar, Kunle has been involved in several headline transactions spanning the traditional and emerging areas of Corporate & Commercial law.

Kunle has variously acted for and advised Nigerian and foreign businesses, public and private sector entities on legal best practices and strategy. At other times, he has advised on numerous capital market transactions including a recent listing on the European Stock Exchange. He brings to his work an uncommon insight into regulatory, corporate governance, compliance and legal risk issues; working with clients to create value for them and enhance their interests. Recently, Kunle has been advising on a number of electric power projects and M & A transactions.

Listed in the International Who's Who Legal, Kunle is an occasional author and columnist on legal issues, volunteer facilitator and resource person for the Fate Foundation, the Women Advocates Research and Documentation Centre, the Lagos Multi-Door Courthouse and the Consumer Advocacy Forum. He is a Director of the Nigerian Indian Chamber of Commerce and Industry (NICCI) and a member of the Nigerian Bar Association and the International Bar Association.

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Many thanks to all the members of the local organising committee who despite their busy workload at the University worked tirelessly to make this Conference a success. Special thanks to the Dean, Faculty of Law for his inspirational leadership. Please, join us for the 2nd International Conference in 2016.

LOC Members

1. Prof Akin Ibidapo Obe-Chair
2. Eustace Onuegbu
3. Mr. Wahab Shitu- Coordinator, Centre for Human Rights
4. Dr Sope William-Elegbe
5. Dr.Akinola Akintayo
6. Mrs Ifeoma Oluwasemilore
7. Dr Abiola Akiyode- Afolabi
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9. Mrs Anne Awonusi