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Global reach of transnational corporations

Domènec Melé,

Professor of Business Ethics, IESE Business School, University of Navarra, Spain

CONTACT INFORMATION

Dr. Mathias Nebel, Director Caritas in Veritate Foundation

CP 28, CH-1292 Chambésy. Contact@fciv.org

www.fciv.org

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INTRODUCTION

Since the 1990s we have witnessed an explosive growth of foreign direct investment in developing countries. This has often been by corporations with headquarters in countries with the world's largest economies.¹ These *multinational corporations* (MNCs) control production of goods or services in one or more nations through subsidiaries. The decision making process in relevant matters is centralized and the parent country employs worldwide strategies. Frequently however, big companies become *transnational corporations* (TNCs), operating in different nations but closely interconnected and without any specific country as home base. They generally adopt a more decentralized decision-making process, close to the local markets and customs. Our remarks here on transnational corporations also refer to multinationals.

The 80,000 or so multinational and transnational corporations worldwide are powerful institutions in our globalized world economy. Anderson and Cavanagh (2000), basing their study on comparison of corporate sales and country GDPs, calculated that 51 of the 100 largest economies in the world are corporations while only 49 are countries. They also concluded that the sales of the world's 200 largest corporations was 18 times the size of the combined annual income of the 1.2 billion people (24 percent of the total world population) who are living in conditions of severe poverty.

Multinational and transnational companies have an enormous economic, social and moral impact, and this can be either positive or negative. Foreign investments are extremely important in developing countries since they provide work and capital and this can foster economic development and allow for certain human rights which require economic resources (education, health care, for instance). Additionally, certain TNCs have taken direct actions to ensure respect for human rights, and even to embed such respect throughout their business operations. However a number of TNCs have been accused of involvement in violations of human rights (MUCHILINSKI 2001; CHR 2006). These include providing wages below subsistence level, unsafe working conditions, harming indigenous populations, engaging in bribery and lack of compliance with local laws. Mining, oil and gas companies are the most frequent offenders, but apparel, footwear, food, beverage and technology sectors are often mentioned in the list of industries which violate human rights.

¹ In 2014, among these economies were China, with \$17.63 trillion in economic output, the European Union producing \$17.61 trillion and the USA at \$17.46 trillion, India, at \$7.27 trillion, Japan, at \$4.81 trillion, and Germany at \$3.62 trillion (Source: CIA World Fact book, Rank Order GDP)



The United Nations and other international organizations have responded to the violation through several initiatives, as we will discuss below. The Roman Catholic Church has also shown a great interest in promoting respect for human rights from business through its social teaching. These teachings go back to at least the late 19th century, when Pope Leo XIII in his encyclical *Rerum novarum* (1891) condemned child labour, inhuman working condition and spoke for a just wage, fair labour contracts, freedom for association (unions), dignity in working conditions and reasonable daily and weekly time to rest.

UN work on human rights and business

The milestone of the UN defence of human rights is the well-known Universal Declaration of Human Rights (UDHR), approved on December 10, 1948. Other documents have since followed furthering the pioneering declaration including the International Covenant on Civil and Political Rights (ICCPR) and the International Covenant on Economic, Social and Cultural Rights (ICESCR). These treaties, known as the International Bill of Rights, codified UDHR into international law in 1966. They require nation-states, not companies, to ratify conventions, protocols, and other human rights instruments.

At that time it was widely accepted that the only responsibility of business was making profits and compliance with the law (Friedman 1962, 1970) while the state was charged with protecting human rights by transforming them into legislation. On the other hand, some probably considered that human rights primarily meant protecting the individual from the state, and under this premise, the moral responsibilities of a firm regarding human rights may not have been clear.

Although the UDHR does not explicitly mention companies, it calls on every individual and organ of society to play a role in realizing human rights. The Preamble of UDHR proclaimed this Declaration as a common standard of achievement for all peoples and all nations, to the end that every individual and every organ of society, keeping this Declaration constantly in mind, shall strive by teaching and education to promote respect for these rights and freedoms and by progressive measures, national and international, to secure their universal and effective recognition and observance, both among the peoples of Member States themselves and among the peoples of territories under their jurisdiction.

In fact, a number of articles of the UDHR are significant for business enterprises, as is the case of treating all people in a humane way (art 1), having high ethical standards (art 3), protecting the environment (art 7), promoting sustainable development (art 9), addressing disadvantage and discrimination (art 10) and using property and wealth fairly and justly (art 11).

UN concern over the responsibility of business, and more specifically transnational corporations, in human rights arrived later. A first step was to establish the Commission on Transnational Corporations by the UN Economic and Social Council in 1974, in the context of the process of decolonization and the emergence of a more international economic order. In 1984, the Commission wrote a draft Code of Conduct on Transnational Corporations, which stated clearly that “TNCs shall respect human rights and fundamental freedoms in the countries where they operate” (United Nations 1984). However this Code was not endorsed nor did it subsequently have any significant impact on business. Previously, the OECD



had produced its Guidelines for Multinational Enterprises in 1976, updated in 2000 (OECD 2000), which contained recommendations to business concerning corporate conduct and affairs to be followed voluntarily, including respect for the human rights of those affected by their activities. Countries were required to establish mechanisms whereby concerns over violations of the guidelines could be reported. While such guidelines were a praiseworthy initiative, their effectiveness can be questioned. In 1977 the International Labour Organization (ILO) endorsed the Tripartite Declaration of Principles Concerning Multinational Enterprises and Social Policy (ILO 1977), updated in 1998, 2000 and 2006 (ILO 2006). This Declaration provides guidance to corporations on labour and related aspects of workers' rights which can be applied on a voluntary basis. *Tripartite* refers to governments, employers and workers' organizations.

In 1994 the Economic and Social Council decided that the Commission on Transnational Corporations should be reconstituted as a Commission on the Trade and Development Council of the United Nations Conference on Trade and Development (UNCTAD), thus abandoning attempts to establish codes over transnational corporations and instead focusing on the contribution of transnationals to growth and development. This position was modified before the turn of the new millennium in response to a new sensibility around the world which had been emerging from the mid-1990s with some antecedents at the beginning of the decade (CHANDER 2003). This was in the context of an increasing globalization (LEE & LEE 2010) and in response to the increasing power of TNCs. Several reports accused transnational corporations of violating human rights, especially in developing countries (FRANKENTAL & HOUSE 2000; MUCHLINSKI 2001; RUGGIE 2013, Chapter 3, where a number of notorious cases on violations of corporate human rights in the 1990s and before are described). The causes of such violations were often attributed to a lack of appropriate legislation, to deficient implementation and monitoring of legislation in force, and even to the existence of weak or corrupt governments in some countries which submitted to powerful corporations.

In this context, Non-Governmental Organizations (NGOs) and other Civil Society Organizations (CSOs), including Amnesty International, the Prince of Wales International Business Leaders Forum, Christian Aid, and Pax Christi International, along with the media called on business to assume greater human rights responsibilities. Amnesty International and Pax Christi International (1998) remembered that the Preamble of the UDHR in mentioning "every individual and every organ of society" includes companies, investors, and transnational corporations.

During the 1990s global codes of ethics for business were proposed by international organizations covering various human rights. At the beginning of the present century some governments embarked on initiatives to encourage companies to address human rights. On their part, a few corporations demonstrated their commitment to human rights in the course of their activities through the voluntary adaptation of codes of conduct and sometimes regardless of the narrow legal requirements of the country in which they operated.

UN Global Compact



In line with this new sensibility, in the late 1990s the UN, which had previously insisted only on the duties of nation-states in defending human rights, began to recognize that corporations should assume responsibilities regarding these rights related with their activities. A new initiative was promoted by Kofi Annan, then UN Secretary-General of the United Nations. In 1999, in an address to the World Economic Forum, he announced a project, now called the “UN Global Compact” (UNGC). The aim was to bring together companies, Labour organizations, UN agencies, and the civil society to support a set of minimum universal principles and to act as a catalyst for initiatives of UN to encourage responsible business around the world. The UNGC was officially launched at UN Headquarters in New York on July 26, 2000, with nine principles regarding human and Labour rights and the environment. In 2003 it was extended with an anti-corruption principle. The Global Compact was presented as a strategic policy initiative for businesses that are committed to aligning their operations and strategies with ten universally accepted principles. In 2015 the UNGC counted with over 12,000 corporate participants and other stakeholders from over 145 countries, making it the largest voluntary corporate responsibility initiative in the world².

The UNGC Ten Principles derive from previous international declarations. The first two principles refer to human rights: “Businesses should support and respect the protection of internationally proclaimed human rights” (Principle 1); and “make sure that they are not complicit in human rights abuses.” (Principle 2) Underlying these principles there is the UN Universal Declaration of Human Rights (1948). The next four principles are about labour rights and are based on “The International Labour Organization's Declaration on Fundamental Principles and Rights at Work” (1998): “Businesses should uphold the freedom of association and the effective recognition of the right to collective bargaining” (Principle 3), “the elimination of all forms of forced and compulsory labour” (Principle 4); “the effective abolition of child labour” (Principle 5), and “the elimination of discrimination in respect of employment and occupation.” (Principle 6)

The UNGC offers a practical framework for the development, implementation, and disclosure of policies related to the Ten Principles. Voluntary adhesion entails that the company should make a clear statement of support and must include some reference in its annual report or other public documents on how the Ten Principles are internalized within its operations and submit a brief description of the compliance with these Principles to the Global Compact website. Failure to make this submission entails being removed from the list of participants.

While the commitment and sensibility to human rights of participating companies mean the Ten Principles can contribute to elevating the moral tone of business throughout the world, the effectiveness of the UNGC can be questioned for the fact that it does not contain any effective monitoring and enforcement provisions.

HRC effort to promote the social responsibility of transnational corporations

² Official UN Global Compact website: <https://www.unglobalcompact.org/AboutTheGC/index.html>. Accessed on May 16, 2015



A different approach was developed by a working group of the Sub-Commission for Human Rights (now, the Human Rights Council, HRC), who in 1998 started a project to establish international standards with a view to preventing and eventually penalizing activities of transnational corporations that contravene human rights. In 2003 the project named “Norms on the Responsibility of Transnational Corporations and Other Business Enterprises with Regards to Human Rights” (CHR 2003), was presented. Basically, it sought to impose on corporations the same typology of human rights obligations as those of the states in relation to certain human rights within their “spheres of influence”, thus bringing business directly under international law, humanitarian law, international labour law, environmental law, anti-corruption law and consumer protection law (HILLMANNS 2003, p. 1070). These *Norms* caused concern and were met with strong resistance from international organizations representing big business and some nation-states, which demanded their withdrawal, which finally happened (ARNOLD 2010). In spite of this setback, a vast majority of this Sub-Commission asked the Secretary General of the UN to appoint a special rapporteur to continue addressing the issue of transnational corporations. In 2005, the Secretary General Kofi Annan nominated John RUGGIE – his principal advisor in the Global Compact– as his special representative to study transnational corporations. Ruggie was also Professor in Human Rights and International Affairs at the Kennedy School of Government, Harvard University, and an Affiliated Professor in International Legal Studies at Harvard Law School.

Over the next two years Ruggie and his team carried out an extensive study to identify and clarify the existing practices through a vast process of consultations, followed by studies and analysis. As a result, an “Interim Report” was presented (CHR 2006) as was a “map” of International Standards of Responsibility and Accountability for Corporate Acts (CHR 2007). In 2007 the mandate of John Ruggie was renewed for one year, and he was invited to submit recommendations. On doing so, his basic proposal was that the HRC supported three overarching principles: State duty to protect all human rights from abuses by, or involving, transnational corporations and other business enterprises, corporate responsibility to respect all human rights, and the need for access to effective remedies, including through appropriate judicial or non-judicial mechanisms. The HRC welcomed the reports of the Special Representative and the framework proposed (HRC 2008, n. 1). The “protect, respect and remedy” (or PPR) policy framework was endorsed by the world’s largest business associations and applauded by some CSOs such as Amnesty International, although others were more critical (MELISH & MEIDINGER 2011). As RUGGIE (2009) himself emphasized this was the first time that the CHR or its predecessors had expressly taken a policy position on business and human rights.

At the same time that the HRC endorsed the PPR policy framework it stressed “the need to operationalize this framework with a view to providing more effective protection to individuals and communities against human rights abuses by, or involving, transnational corporations and other business enterprises, and to contribute to the consolidation of existing relevant norms and standards and any future initiatives, such as a relevant, comprehensive international framework.” (HRC 2008, n. 3) Following this line Ruggie’s team worked to “operationalize this framework” (CHR 2010) by identifying and promoting good practices for companies regarding human rights. This was also encouraged by the International Chamber of Commerce and the International Organization of Employers, the largest global business association, who insisted that the framework should be of a voluntary nature and involve no



compulsory norms (RUGGIE 2013, p. xx). The result of this work, which included a wider consultation process worldwide among companies and stakeholder groups, was a set of guiding principles. In 2011, HRC unanimously endorsed the “Guiding Principles on Business and Human Rights: Implementing the United Nation ‘Protect, Respect and Remedy’ Framework (RHC 2011). The Guiding Principles, which comprise 31 principles (see Appendix), each with a commentary elaborating its meaning and implications, rest on the three pillars – Protect, Respect and Remedy – proposed by Ruggie in 2008, as mentioned above. He summarizes the contents of these pillars in a few words (RUGGIE 2013, pp. xx-xxi):

The first refers to states. It consists of “the state duty to protect against human rights abuses by third parties, including business enterprises, through appropriate policies, regulation, and adjudication.”

The second focuses on companies. It refers to “an independent corporate responsibility to respect human rights, which means that business enterprises should act with due diligence to avoid infringing on the rights of others and address adverse impacts with which they are involved.”

The third regards what to do for those who have suffered violations of the human rights, and establishes “the need for greater access by victim to effective remedy, both judicial and no judicial.”

Ruggie proposes that corporations should respect human rights beyond the requirements of the law in their strategic management and day-to-day operations for the sake of corporate enlightened self-interest, since this respect helps avoid risks for the company from activists and protects, or even enhances, reputation.

In the next phase the CHR appointed an expert working group to oversee the dissemination and implementation of the Guiding Principles around the world, what is now known as the “UN Corporate Human Rights Framework” or simply the “UN Framework”.

Since 2011 the UN has worked in building awareness among companies and encouraging positive incentives for them to act on their responsibilities and in the incorporation of bespoke due diligence requirements in binding rules and regulations. In addition it has provided a growing number of tools for companies, including sector guides and other resources.

The most recent initiative of the UN with certain relation with human rights is its new Sustainable Development Goals to chart the course for the international development agenda to 2030. An initial draft developed by an inter-governmental Open Working Group in 2014 presents 17 goals across a gambit of pressing issues, from poverty eradication (Goal 1) to employment and decent work (Goal 8) to climate change (Goal 13) to access to justice and accountable institutions (Goal 16) (United Nations 2015).

Real social influence and ethical responsibility of transnational corporations in promoting human rights

The main issue today regarding TNCs and human rights is about corporate behaviour in developing countries. While some emphasize the positive impact of TNCs, others stress their negative effects. The former argue that political and civil rights tend to expand as countries develop economically and TNCs promote such development through the transfer of capital, know-how and technology. The latter hold



that TNCs bring about exploitation of labour and the environment, corruption, abuses through transfer price policies (political prices to pay less taxes to the host country) and increased government repression (LETNESS 2004, p. 261).

The topic is complex and is best examined case by case. However, generally speaking and according to Letness (2004), the influence of TNCs and foreign direct investments on human rights is conditioned by three elements: (1) the sectorial composition of investments, (2) the host countries' level of created assets, and (3) the bargaining power of the host countries vis-à-vis the TNCs. Although it depends on the contexts, these authors argue that the aggregate effect of TNCs might be negative when one or more of the following conditions occur: (1) the composition of the investments are located mainly in the primary sector (mining oil, fishing), (2) the level of created assets like human and physical capital in the host country is in such a poor state that it is difficult for the local population or the local corporations to benefit from its presence of a TNC, and (3) political power is dwarfed by the power of the transnational corporations.

In any case, it seems clear that TNCs have responsibility in respecting human rights. One argument proposed (CLAPHAM 2006) is based on the power of TNCs to infringe human rights. They were guilty of human rights abuses by analogy with the responsibilities of natural persons to observe human rights. Beyond this argument there is the consideration of the intrinsic dignity of the human person, strongly defended by the Catholic Church (see below), as a foundation of human rights, and such a dignity deserves universal respect from any actor dealing with people.

In practice, some companies take human rights seriously, but others ignore them. In a study based on the FTSE (Financial Times Stock Exchange) 100 Firms published on 1 July 2009, analysing corporate policies regarding human rights presented on their respective corporate websites, the researchers (PREUSS & BROWN 2012) found that 42.8% of firms do not address human rights at all, and a proportion of TNCs adopt a very limited policy on human rights. In the study mentioned, Preuss & Brown (2012), by focusing on the content of corporate human rights policies, found that shallow commitments dominate. The UDHR contains a total of 37 human rights, and of these, only six are addressed in half or more of the FTSE 100 firms' human rights: no discrimination (95.5%), the right of association (81.8%) and the right to join and form trade unions (77.3%). These are followed by a prohibition of slavery (59.1%), respect for human dignity and a ban on torture or other inhumane treatment (both 50%). Thereafter, inclusion rates fall quickly for issues such as just remuneration (45.5%), the right to life, liberty and security or duties to the community (both 36.4%), right to life, liberty and security (36.4%), and duties to community (36.4%). Others are lower: freedom of expression (22.7%), right to privacy (18.2%), right to leisure, limitation of working hours (18.2%), decent standard of life (food, clothing, housing, and medical care) (18.2%), fair hearing and independent tribunal (13.6%), freedom of thought and religion (13.6%), right to political activity (13.6%), right to work, free employment (13.6%), equal pay for equal work (13.6%), right to education (13.6%), right to cultural life (9.1%), No arbitrary arrest (4.5%), right to own property (4.5%), and protection of intellect property rights (4.5%). Other rights are not considered at all in any company. In synthesis, most companies which take into account human rights focus on a narrow range of negative rights (respecting human rights), rather than positive ones (initiatives to protect or fulfil human rights).



In some cases TNCs limit their policies to a few easy reforms, simulate the implementation of these, or ignore them in their policies. Thus, while some observers are optimistic regarding non-state global governance to respond to collective action problems (e.g., BERNSTEIN & CASHORE 2007), while others are more pessimistic (e.g., FRANSEN (2011) due to competition, which is fierce in some sectors. Some companies adopt formal policies of human rights to avoid action by activists, but actually fail to engage in implementing real policies on human rights when the implementation of these involves certain difficulty or is expensive. Fransen (2011) has documented this situation in the garments industry and Goodman and Jinks (2004) and (Meyer 1998) did so in other industries. In a form similarly to those companies which practice what is colloquially called “corporate greenwashing”, meaning that companies deliberately frame their activities as ‘green’ in order to appear environmentally friendly, some companies try to present themselves as human-rights friendly.

Human rights debate and the position of the Catholic Church

Regarding the responsibilities of TNCs on human rights, several questions have been the object of debate in the last decade, including: “Was it appropriate to bring corporations under the ambit of international law heretofore focused on nation states and to a lesser degree on individuals? Did corporations have human rights responsibilities beyond those set out by law whether domestic or international? If the human rights responsibilities of corporations did extend beyond those required by law, what exactly was the nature of those responsibilities?” (CRAGG et al. 2012, p. 2) What can motivate companies to undertake initiatives in enhancing respect for human rights? How to make more concrete the “due diligence” proposed by the PPR framework? What human rights are more frequently violated by corporations and what rights currently deserve more attention? Is any situation which requires special awareness? It is not our aim to discuss the academic debate in any depth here, but to present the position of the Catholic Church on these questions. However, it may be worthwhile to make a few observations on some significant criticisms.

Underlying the PPR framework there is Ruggie’s philosophical position. Ruggie advocated an “embedded liberalism” (WHELAN et al. 2009), understood as what characterized the state-market relationship in the post-war economic order, arguing that markets work optimally only if they are embedded within rules, customs and institutions. He is in favor of embedding markets, commerce and trade, within ‘social community’ (RUGGIE, 2003, pp. 93–94). Ruggie (1998) shows himself as opposed to understanding international relations based only on economic interests which fail to take account of the broader cultural, institutional and ideational forms and processes that shape social actors. In this sense, he criticizes the neo-utilitarian or rational choice models of international relations, defending instead “social constructivism”, by endorsing a theoretically-informed approach that focuses on how the identities and interests of individual actors, such as corporate entities, but without considering the role of the civil society.

MELISH & MEIDINGER (2011) argued that besides the idea that “states must protect; companies must respect; and those who are harmed must be redressed” (RUGGIE 2013, xxi) – Ruggie’s three pillars– a fourth pillar is necessary: “participate”. This refers to the inclusion of the participatory roles and



responsibilities of civil society organizations and stakeholders initiatives as complementary to those of states and business at all levels of corporate governance. According to Melish & Meidinger, “A fourth ‘participate’ pillar would play a critical legitimization role in this regard by validating civil society requests to access information from business entities about their policies, guidelines, impact assessments and performance tracking systems, while promoting greater business reliance on external, independent and community based monitoring and assessment systems.” (2012, p. 331)

Some scholars (McCORQUODALE 2009; NOLAN AND TAYLOR 2009; SEPPALA 2009; WETTSTEIN 2009; CRAGG 2012; WOOD 2012, MURPHY AND VIVES 2013, and others) have criticized the sharp distinction between duties of States versus responsibilities of business. Murphy and Vives added the lack of attention to perceptions of justice held by stakeholders versus businesses and/or the State. Their research shows the potential for complicity of businesses in human rights abuses from a case study –Marlin Mine in Guatemala–, which shown that in some instances governments deputize their responsibilities to protect human rights to corporations that act on the government’s behalf.

On his part, CRAGG (2012) criticizes corporations that respect human rights out of enlightened corporate self-interest. He qualified this as a serious weakness of Ruggie’s approach and argues that the responsibility to respect human rights is an explicitly ethical obligation.

The Roman Catholic Church, aware that her essentially religious mission includes the defence and promotion of human rights (Pope St. John Paul II 1991, n. 54), supports the identification, proclamation and promotion of universal human rights as a way to respond effectively to the inescapable demands of human dignity (PCJP 2005; Second Vatican Council, Declaration *Dignitatis Humanae*, 1; *Gaudium et spes* –GS hereafter–, n. 41). The Church “holds in high esteem the dynamic approach of today which is everywhere fostering these rights” (GS 41). This support has been expressed by Popes on several occasions, including in their addresses to the General Assembly of the United Nations. Pope St. John Paul II stated that the UDHR is “a true milestone on the path of humanity’s moral progress” (1979, n. 7) and remains as “one of the highest expressions of the human conscience of our time” (1995, n. 2). Benedict XVI (2008) added: “This document was the outcome of a convergence of different religious and cultural traditions, all of them motivated by the common desire to place the human person at the heart of institutions, laws and the workings of society, and to consider the human person essential for the world of culture, religion and science.”

The Roman Catholic Church is aware that some labour and human rights are often infringed, “as is confirmed by the sad fact of workers who are underpaid and without protection or adequate representation. It often happens that work conditions for men, women and children, especially in developing countries, are so inhumane that they are an offence to their dignity and compromise their health.” (PCJP 2004, n. 301). “Among those who sometimes fail to respect the human rights of workers are large multinational companies as well as local producers.” (POPE BENEDICT XVI 2009, n. 22) This certainly requires protection, responsibility and remedy.

The duty of the state to protect was stressed by Pope Benedict XVI in his address to the UN in 2008: “Recognition of the unity of the human family, and attention to the innate dignity of every man and woman, today find renewed emphasis in the principle of the responsibility to protect. This has only



recently been defined, but it was already present implicitly at the origins of the United Nations, and is now increasingly characteristic of its activity. Every State has the primary duty to protect its own population from grave and sustained violations of human rights, as well as from the consequences of humanitarian crises, whether natural or man-made.”

Human rights in Catholic Social teaching are associated with duties and responsibilities, and this includes of business –not only the state– to respect and promote the human rights of others. As Pope John XXIII wrote (1963, n. 30), “in human society one man’s natural right gives rise to a corresponding duty in other men; the duty, that is, of recognizing and respecting that right.” This can be applied to companies who defend their existence based on human rights such as right to private property and the right to freedom to association, hiding and trade. [335] Consequently, human rights should be respected and favoured by all, including business enterprises, since because these rights are inalienable, “no one can legitimately deprive another person, whoever they may be, of these rights, since this would do violence to their nature” (Pope St. John Paul II 1999, n. 3).

Some authors base their interpretation of human rights on a social contract (GRAGG 2012) or on the grounds of being a rational agent (ARNOLD 2010). From the perspective of the Christian faith the deepest roots of human dignity and consequently of human rights are found in the will of the Creator (JOHN XIII 1963, n. 47; GS 22), but these rights are also a rational finding. In the words of Pope Benedict XVI (2008):

“They [the human rights] are based on the natural law inscribed on human hearts and present in different cultures and civilizations. Removing human rights from this context would mean restricting their range and yielding to a relativistic conception, according to which the meaning and interpretation of rights could vary and their universality would be denied in the name of different cultural, political, social and even religious outlooks. This great variety of viewpoints must not be allowed to obscure the fact that not only rights are universal, but so too is the human person, the subject of those rights.

It has been debated whether corporations should only respect negative rights, i.e. acting without violating human rights, but without endorsing positive rights, such as those related with promotion of social welfare (PARKAN (2008). Certainly, business always ought to avoid complicity in violating “negative rights, such as unsafe working conditions, sexual harassment, and so on. Regarding positive rights, businesses should act in fostering them in accordance with their capacities in each situation. This is required by the general ethical requirement of doing well, and not only avoiding doing evil. Thus, beyond poor or unsafe working conditions, business should try to develop working conditions which can contribute to personal growth. However, business does not have the same responsibility to protect and promote all human rights that the state does. In the case of very large corporations, which political power can be greater than some weak states, they can be considered quasi-governmental institutions (WETTSTEIN 2009) with obligations to protect human rights.

The Social Teaching of the Catholic Church is especially sensitive to human rights related to human work and the organization of work within the business firm (PCJP 2004, n. 270), but also to those of people affected by business activities in communities when TNCs carry out their activities. Catholic social teaching emphasizes the “subjective dimension of work” which entails the right to participate (PCJP 2004, 281), and “this awareness must be firmly in place in order to evaluate the proper place of work in



the process of production and to find ways of participation that are in line with the subjectivity of work in the distinctive circumstances of different concrete situations.” (PCJP 2004, 281, cf. GS 9). “The historical forms in which human work is expressed change, but not its permanent requirements, which are summed up in the respect of the inalienable human rights of workers.” (PCJP 2004, n. 319)

Apart from participation, the following human rights in the labour context are particularly defended by the Church (POPE ST. JOHN PAUL II 1981, n. 19; PCJP 2004, n. 301):

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1. The right to a just wage, understanding that remuneration is the most important means for achieving justice in work relationships.
2. The right to a working environment and to manufacturing processes which are not harmful to the workers' physical health or to their moral integrity
3. The right to rest, including the weekly rest which in the Christian tradition is Sunday.
4. The right to work as an appropriate way to give expression to and enhance the worker's human dignity. This is a positive right for the State and for the whole society. Business contributes by creating and maintaining jobs in accordance with its capabilities and possibilities.
5. The right to appropriate subsidies that are necessary for the subsistence of unemployed workers and their families;
6. The right to a pension and to insurance for old age, sickness, and in case of work-related accidents;
7. The right to social security benefits connected with maternity;
8. The right to assemble and form associations, including unions, “whose existence is connected with the right to form associations or unions to defend the vital interests of workers employed in the various professions.” (PCJP 2004, n. 305):

The Church's social doctrine also recognizes the legitimacy of striking “when it cannot be avoided, or at least when it is necessary to obtain a proportionate benefit (POPE ST. JOHN PAUL II 1981, n. 19; PCJP 2004, n. 303).

How can we concretely address compliance with the universal duty of human rights of transnational corporations?

Although it is still too soon to draw solid conclusions about the application and the real impact of Ruggie's PPR framework, and without rejecting the above-mentioned criticisms, it seems a significant advance in promoting respect for human rights.

In order to address compliance with the universal duty of human rights of transnational corporations, we propose the following recommendations:

1. Reinforcing the implementation of the UN Guiding Principles on Business and Human Rights in different countries and especially those in which respect for human rights are at risk.
2. Giving participation to communities and civil society organizations. First of all providing relevant and true information to communities and stakeholders affected by corporate activities in whatever can affect their lives, and in giving them voice and establishing a sincere dialogue.



3. Encouraging companies to find ways of participation that are in line with the subjectivity of work in the distinctive circumstances of different concrete situations (see GS 9).
4. Promoting the creation of jobs in which people can work in accordance with their dignity and in conditions for growing as human beings.
5. Recognizing effectively the rights of women in the workplace especially in the aspects of pay, insurance and social security. (POPE ST. JOHN PAUL II, 181b, n. 24)
6. Fostering conciliation between work within business organization and family life. In this sense, businesses, along with professional organizations, labour unions and the State, should promote policies that, from an employment point of view, do not penalize but rather support the family nucleus (PCJP 294)
7. Working for the definitive abolition of child labour, which constitutes a kind of violence that is less obvious than others but is not for this reason any less terrible. (POPE ST. JOHN PAUL II 1995, n. 5)
8. Watching for and preventing the exploitation of foreign workers, which denies them the same rights enjoyed by nationals, rights that are to be guaranteed to all without discrimination (Pope St. John Paul II 2001, n. 13).
9. Reinforcing the guarantees proper to the *State of law*: a system of public order and effective imprisonment that respects human rights, truly democratic institutions (POPE BENEDICT XVI 2009, n. 41).
10. Paying attention to duties not only rights. “Duties thereby reinforce rights and call for their defence and promotion as a task to be undertaken in the service of the common good. Otherwise, if the only basis of human rights is to be found in the deliberations of an assembly of citizens, those rights can be changed at any time, and so the duty to respect and pursue them fades from the common consciousness. Governments and international bodies can then lose sight of the objectivity and ‘inviolability’ of rights.” (POPE BENEDICT XVI 2009, n. 43).
11. Defending religious freedom as a basic human right and as a condition for peace (Pope John Paul II 1988)
12. Seeking support from religion to develop a conscience of respect and promotion of human rights. “The Christian religion and other religions can offer their contribution to development *only if God has a place in the public realm*, specifically in regard to its cultural, social, economic, and particularly its political dimensions. The Church's social doctrine came into being in order to claim “citizenship status” for the Christian religion. Denying the right to profess one's religion in public and the right to bring the truths of faith to bear upon public life has negative consequences for true development. The exclusion of religion from the public sphere — and, at the other extreme, religious fundamentalism — hinders an encounter between persons and their collaboration for the progress of humanity. Public life is sapped of its motivation and politics takes on a domineering and aggressive character. Human rights risk being ignored either because they are robbed of their transcendent foundation or because personal freedom is not acknowledged. Secularism and fundamentalism exclude the possibility of fruitful dialogue and effective cooperation between reason and religious faith. *Reason always stands in need of being purified by faith*: this also holds true for political reason, which must not consider itself



omnipotent. For its part, *religion always needs to be purified by reason* in order to show its authentically human face. Any breach in this dialogue comes only at an enormous price to human development.” (POPE BENEDICT XVI 2009, n. 56).

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