

# Just Business: Multinational Corporations and Human Rights by John Gerard Ruggie

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*Just Business: Multinational Corporations and Human Rights*, John Gerard Ruggie (New York: W. W. Norton & Company, 2013), 225 pp., \$24.95 cloth.

Any analysis of the role that international human rights law plays—or ought to play—in the decisions of multinational corporations must confront a range of skepticisms. Among the most persistent is that every branch of international law is unenforced and unenforceable, and that, even when it works, international human rights law constrains the conduct of governments, not businesses. In the skeptic's view, if companies have any legal responsibility, it is the obligation to maximize the return on shareholders' investment, and doing well by that measure may have little to do with doing good. On those rare occasions when companies do announce an intention to abide by human rights law, skeptics see it as a public relations move and not as a genuine response to some legal or ethical obligation.

The issue of corporate responsibility has become acute because of some notorious examples of businesses' complicity in human rights abuses in various countries, and more generally because it lies at the intersection of the two most complicated manifestations of "globalization": the expansion and liberalization of international trade and commerce on one hand, and the universalizing effects of the human rights movement on the other. Intergovernmental organizations—including the Organization for Economic Cooperation and Development, the International Committee of the Red Cross, and the World Bank—have increasingly interpreted their public mandates to cover the human rights practices of private corporations.

None of these developments has been uncontroversial, and the debate over the content and enforceability of a corporation's human rights obligations has become polarized. *Just Business*, part of the Amnesty International Global Ethics Series, is a measured response to skeptics and enthusiasts alike. The author, John Ruggie, served as the UN Secretary-General's Special Representative for Business and Human Rights from 2005 to 2011. In that capacity, he undertook an unprecedented consultation, involving representatives from business, government, unions, intergovernmental organizations, civil society, and academia. He then developed the *Guiding Principles on Business and Human Rights*, approved in 2011 by the United Nations. The *Principles* are now the only state-approved global statement of how governments and business are expected to behave with respect to protecting human rights in a commercial setting.

*Just Business* is an insider's account of how the Principles came into being, what they mean, and how they might be used. The essential argument of the book is that the Principles offer "a common global normative platform and authoritative policy guidance" (p. 81) that rests on a three-pronged framework: (1) the duty of the state to protect against human rights abuses by, or involving, transnational corporations and other business enterprises; (2) the corporate responsibility to respect all human rights; and (3) the need for access to effective remedies, including through appropriate judicial or non-judicial mechanisms.



The book makes it clear that these mutually reinforcing “pillars”—Protect, Respect, and Remedy—have weight and authority in ways not captured by the orthodox dichotomy between binding law and purely voluntary aspiration. Ruggie is at pains to demonstrate that the first pillar—the duty of the state to protect against human rights abuses—fits with established doctrines of state responsibility to not do anything that enables private actors to violate human rights with impunity. In articulating the “respect” obligation of companies—the second pillar—Ruggie gives substance to the notion of a corporation’s social license, writing that the “[corporations] responsibilities include due diligence to identify, prevent, mitigate, and account for how they address their adverse impacts on human rights” (p. 172).

From a legal and an ethical perspective, the effectiveness of remedies—Ruggie’s third pillar—tests the efficacy of the other two categories of responsibility. He shows that court proceedings, especially actions in the United States under the Alien Tort Statute (ATS) against multinational corporations, have been instrumental in pushing the corporate human rights project forward. But progress has been far from linear; indeed, mere weeks after *Just Business* was published, the U.S. Supreme Court announced its decision in *Kiobel v. Royal Dutch Shell*, a protracted proceeding to which Ruggie refers repeatedly. *Kiobel* significantly restricts ATS cases against non-U.S. corporations for conduct outside of the United States. The signal contribution of *Just Business* is the demonstration that the most effective venue for enforcing the corporate obligation to respect human rights is not the courtroom but the boardroom, through the internalization of a corporate culture that takes human rights concerns seriously at the planning stages.

The book succeeds as an account of how norms—whatever their legal status might be—can be created within the United Nations bureaucracy. When Ruggie was appointed as Special Representative, the United Nations was a house divided in the effort to articulate the international human rights responsibilities of businesses. On one hand, in July 2000 Secretary-General Kofi Annan had announced his Global Compact initiative, articulating a variety of voluntary principles in the areas of human rights, labor standards, and the environment. At the same time, a different UN institution, the Sub-Commission on the Promotion and Protection of Human Rights, developed *Norms on the Responsibilities for Transnational Corporations and Other Business Enterprises with Regard to Human Rights*. These Norms were created by human rights experts, not government representatives, and they rested on an expansive theory of corporate responsibility, obliging corporations to respect and promote not just civil and political rights but also economic, social, and cultural rights, including adequate food, health, housing, and education. Part of Ruggie’s unspoken mission was to assure that the Norms, whose expansive nature made them a non-starter to many businesses and governments, never saw the light of day outside the sub-commission. In Ruggie’s words:

*My mandate began modestly with the initial task of ‘identifying and clarifying’ things, amid contentious debates and deep divisions reflecting the different interests and preferences of the major players: states, businesses, and civil society. It ended six years later with unanimous Human Rights Council endorsement and widespread uptake of what essentially is a soft-law instrument that enjoys strong support from all (p. 128).*

Although readers may sometimes strain at its mix of heroic memoir and sober argument, *Just Business* contributes profoundly to the next iteration of an ethical *lex mercatoria*.

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