Symposium Introduction: Due Diligence in the Business & Human Rights regime: A Latin American view

By:

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On May 21, members of the Latin American Branch of the Global Business and Human Rights Scholars Association organized the webinar “Due Diligence in the Business & Human Rights regime: A Latin American view”. The purpose was to analyze the potential impact that the implementation of due diligence norms and policies may have in advancing the business and human rights field in the region.

The motivation to carry this activity, which will hopefully trigger a series of discussions, had another goal: the need to foster a debate in our languages as well as a discussion that takes into account our socio-legal contexts. We do not intend to undermine or ignore what is being discussed in Europe or North America. Those are insightful debates and as academics, we don’t and can’t

ignore them. But we also believe that we need to think the business and human rights field from our realities, both within a national context and within the Inter-American Human Rights System.

As contributing authors to this symposium, we are grateful for the invitation that we received from Afronomicslaw to write about due diligence from a Latin American perspective. It its short amount of existence, Afronomicslaw has become a reference for “Global South” voices. As part of its expansion process, the editors have accepted the challenge to publish our texts in Spanish and Portuguese.

The symposium will have six a total of six pieces, summarized as follow:

- Nicolás Carrillo Santarelli starts the symposium analyzing the figure of due diligence in Public International Law, providing some insights to contribute its development in the business and human rights field. The author makes a call to think about corporate responsibility regimes that go beyond due diligence requirements.

- In the second text, Danielle Anne Pamplona assesses the OECD Guidelines for Multinational Enterprises and its potential influence in Latin America. The author identifies some of the challenges to implement a responsible business conduct, including the lack of reliable data to assess impact of corporate policies.

- The post from Florencia Wegher Osci focuses on the principles of Private International Law applicable to jurisdiction. The author concludes that there is a need for this field to re-visit this concept so that it is not used by businesses as a tool to avoid their corporate responsibilities.

- In the fourth contribution, Salvador Herencia Carrasco examines the different understandings of due diligence in corporate law and human rights. He emphasizes on the need for the business and human rights field to develop its proper concept to assure that victims have access to remedies and reparations.

- The fifth post is from Judith Schönsteiner, who analyzes the recent report of the Inter-American Commission of Human Rights on business and

human rights. She focuses on the need for states to adopt due diligence legislations in order to fulfil their obligations established under the American Convention on Human Rights but also as a means to anticipate responsible business requirements from different countries.

- Finally, the last contribution to this symposium is from Humberto Cantú Rivera, who focuses in the draft treaty on business and human rights being discussed in the United Nations. The author considers that this process represents an opportunity to refine and to reinforce state obligations to regulate business activities as well as to improve access to justice for victims.

The webinar that originated this symposium was organized by the Business and Human Rights Institute of the Universidad de Monterrey (Mexico) and the Human Rights Clinic of the Master's Program in Law from the Pontifícia Universidade Católica do Paraná (Brazil) and was supported by the Konrad Adenauer Foundation.

One of the main concerns that we had in the planning of this activity was to have a gender parity of speakers as well as a regional representation. In this case, there were six speakers from six different countries (Argentina, Brazil, Chile, Colombia, Mexico and Peru) and we hope to keep this practice in future events.

Finally, we would like to thank Prof. James Gathii, Prof. Olabisi Akinkugbe and the Afronomicslaw team for inviting us to participate in a symposium about due diligence in Latin America. We hope that these contributions are a small step towards a deeper reflection from friends and colleagues in the Global South.

Contributors

Nicolás Carrillo Santarelli: ¿Qué luces nos puede brindar el análisis general del estándar de debida diligencia en el derecho internacional en el campo de los derechos humanos y las empresas?

Danielle Anne Pamplona: A devida diligência nos instrumentos da OCDE e alguns desafios para sua implementação na América Latina

Florencia Wegher Osci: Apuntes sobre debida diligencia en materia de empresas y derechos humanos desde la perspectiva del derecho internacional privado

Salvador Herencia Carrasco: *La Debida Diligencia en el régimen de Empresas y derechos y sus implicancias en los mecanismos de reparación*

Judith Schönsteiner: *La debida diligencia en el nuevo Informe sobre Empresas y Derechos Humanos de la Comisión Interamericana de Derechos Humanos*

Humberto Cantú Rivera: *Refinar y reforzar: sobre la misión del proyecto de tratado en materia de empresas y derechos humanos*

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