Book Review Symposium: What future for the corporate responsibility to respect human rights in Africa?

By:

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The discourse on corporate accountability for human rights violations has been shaped to a great extent by the United Nations Guiding Principles on Business and Human Rights (UNGPs) (UNGPs), resulting from the work of John Ruggie, the UN Secretary-General's Special Representative for Business and Human Rights. The UNGPs were endorsed by the UN Human Rights Council in June 2011 and rest on three pillars: the State duty to *protect* against human rights violations; the corporate responsibility to *respect* human rights in their operations; and greater access by victims to effective *remedy*, both judicial and non-judicial, for human rights violations. While the focus on the second pillar i.e. the corporate responsibility to *respect* human rights is increasingly scrutinized, it has mostly been done in Western academic contexts. A long overdue African perspective on what this second pillar means and entails, is

starting to take shape given that the African continent continues to be the breeding ground for many human rights atrocities attributed to corporations. In this respect, Abe's book is a meaningful welcome contribution from the legal perspective on these issues.

The concern of Abe's comprehensive text is centered around the importance of moderating the activities of multinational corporations (MNCs) in Africa's extractive industries through a rights-based approach. Such an approach is expected to culminate in the integration of standards based on human rights as a matter of a moral duty in view of ensuring sustainable development of an inclusive character. In this connection, it became expedient to present the status quo regarding the practical implementation of business and human rights standards in particular relation to the future of business and human rights in Africa, as effectively captured in chapter 10 of the book. The current situation reveals that, while on the one hand, the UNGP has been incorporated in a variety of "soft law instruments" with global impacts on domestic legislations such as in the U.S and the U.K, globalization has nevertheless also yielded the undesirable effect of MNCs further contributing to an increase in activities that violate the integrity of their host communities. Again, at the point of evaluating the progress made by national governments and the MNCs to curb such violations in African spaces, it becomes important to deploy empirical enumerations and appropriate documentations clearly showing the commitment to the protection of human rights; and thus, minimizing conflicts between local hosts and the MNCs.

In view of sustainable future engagements among host communities, MNCs, and state actors, Abe establishes the importance of the rights-based approach to the extractive resource governance. The role of state actors is extremely important here; particularly as it has to do with providing incentives for corporations while domesticating the UNGPs in the form of laws applicable within their territories. To be sure, the gaps which existing literatures have not addressed regarding the modalities for translating the UNGPs as a rights-based approach into domestic laws is filled by Abe's text through the promotion of the Human Rights-Based Approach framework as a means of integrating human rights principles into development schemes for host communities. Thus, Abe's book helps us in addressing, in a meaningful way, the continuing abuse of African peoples' human rights by MNCs. He makes important contributions on

how the national and continental legal apparatus can make better use and application of the second pillar of the UNGPs.

Beyond these contributions, what I have been mostly interested in his book as a philosopher is where do we take it from here – hence my focus on the last chapter of the book. In this respect, Abe's contribution rightly points to several challenges that lies ahead of the future of business and human rights in Africa: (i) Gender disparities bordering on the domestication of women and the effects of patriarchal structures limiting the access of women to the economy; (ii) the urgent need to develop National Action Plans (NAP) by government actors as a means of monitoring and encouraging corporate accountability; (iii) the need to safeguard political will on the part of government actors so to ensure that they are able to fulfil their duties of protecting the integrity of the host communities within their territories; and (iv) the necessity of democratizing the environment such that all developmental projects are deliberated upon by the host communities within the context of shared understanding enhanced even by convenient language of exchange. In addition to these four challenges, I suggest an additional challenge which is theoretical and points to the need to rethink the concepts of respect and responsibility to better our understanding and applications of the corporate responsibility to respect human rights in African societies. The concept of responsibility has been mostly connected to notion of harm and this has contributed to narrow down the interpretation of the respect to 'do no harm'. Moreover, we know that respect means different things in different cultural and religious contexts and that a 'do no harm' conception is only one of them.

Although there is little systematic work on the notion of respect in African contexts, one can indeed capture a notion of respect in the recognition of social status within the tribe materialized through rituals (ritual) and condemnation (sanction) as it appears in the works of some anthropologists like Max Gluckman's Politics, Law, and Ritual in Tribal Society (1965) or of some African writers like Wole Soyinka's Death and the King's Horseman (2002). Respect for the individual appears to be connected to their full social integration into the life of the tribe and their attainment of status. The idea of respect, thus, means granting and recognizing the status of an individual as a full member of the clan or tribe. Furthermore, respect is opposed to anything that may lead to "social death", which is anything that leads to the exclusion of individuals from

the community outside of which they have no existence worthy of respect, for example, condemnation. In this perspective, the responsibility to respect, also for companies, would be not only to refrain from contributing to social death of individuals inside their communities, but also to take initiatives, in all aspects, that promote and realize their full social integration. We certainly need to explore such avenues to prevent frameworks like the UNGPs succeed in their attempt to address continuing violations of human rights in Africa simply because they cannot be attached to conceptual and normative foundations of African societies.

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