

## “The Economic Globalisation and its Threat to Human Rights”<sup>1</sup>

Mr. Nisar Mohammad bin Ahmad<sup>2</sup>

Faculty of Syariah and Law  
Islamic Science University of Malaysia (USIM)  
Bandar Baru Nilai, 71800, Nilai  
Negeri Sembilan  
Malaysia

### Abstract

*Throughout the late twentieth and the early twenty first century, the term ‘globalisation’ has been frequently used in contemporary academic and general discourse as well as at the forefront of international economic debate. Globalisation has a fundamental impact on our daily life, and the debate of its good and bad impacts remains unresolved. Although this era has given rise to the significant advancement in various elements such as technological, social, economic, political, cultural, and sociological, the discussions about economic globalisation are much more dominant and commonplace. This is because the process of globalisation itself is mainly driven and engineered by corporate elites as well as the so-called transnational companies (TNCs). This constitutes the idea that globalisation is fuelled by profit-making activities and serving business ends. Having been underpinned by the ideology of neoliberalism and market driven, globalisation is therefore devoid of any normative principle of justice and humanity. In aiming for the profit maximization, social and human rights responsibilities have sometimes been abandoned and sidelined. As consequences of this phenomenon, growing threats and violations to human rights have occurred, such as the inequality in economic growth, poverty, violations of fundamental human rights, and attack to states sovereignty. Considering the negative impacts of globalisation, there have been mounting concerns and calls for a mechanism to ‘manage’ a globalisation as it is a process that cannot be stopped. This includes the attempt to regulate the actions of TNCs so as to ensure that they will not violate human rights principles in their activities. This paper aims at exploring the evolution of globalisation, in particular, the economic globalisation and its potential impacts on human rights. It will also consider the possibility of establishing a regulatory transnational regime which would not impede globalisation but would make its players more accountable and socially responsible.*

### i. Introduction

In recent years, ‘globalisation’ has become an intensely-debated issue at all levels of society across the world. Despite no specific and accurate definition offered to describe this phenomenon, people are all aware of its business-driven character which spills over a tremendous aura that has shaped the global trend to an unprecedented homogenized culture. It further portrays our daily life as living in a world where interactions across borders appear significantly greater and faster than in the past, and which can be attributed to certain advancements in technological, social, and economic organization of humanity.<sup>3</sup> Regardless of its multifaceted character, globalisation has been dominantly associated with economic context which connotes recent evolution in the nature of the global economy reflected in the rapid development in the level and speed of economic transactions, primarily, across geographical boundaries and territorial borders. This evolution has been brought about by a range of factors among which include, mainly, advancement in technology and liberalization.<sup>4</sup> Indeed, too much has been made of the phenomenon of the globalisation in its economic dimensions. It is as if economic dimensions of globalisation have acquired a status higher than human values or even above fundamental human rights, which are going to be seriously affected by current global trends.

<sup>1</sup> This paper was presented at the ‘Postgraduate Conference: Globalisation in the 21st Century’ organized by Department of Criminology, University of Leicester, UK on 26 June 2007.

<sup>2</sup> Nisar has been an academic staff at the Faculty of Syariah and Law, Islamic Science University of Malaysia (USIM) since July 2005. He holds a first class honours bachelor degree in Syariah and Judiciary from USIM and an LL.M in International and Comparative Public Law from University of Exeter, UK.

<sup>3</sup> Peter Thomas Muchlinski, “Globalization and Legal Research”, 37 Int’l L. (2003) p. 221.

<sup>4</sup> ‘Gbenga Bamodu, “Managing Globalization: UK initiatives and a Nigerian perspective”, Human Rights and Capitalism. Edward Elgar Publishing, UK. (2006) p. 145.

Economic issues have, in effect dominated the social, cultural and political ramifications of globalisation.<sup>5</sup> Therefore, it is worth to note that economic globalisation and the emergence of TNCs tend to have significant impacts on human rights. The claims of anticipated growth or, at least, the alleviation of poverty and increased in prosperity always been propagated by its proponents, simply has not happened for the vast majority of world's population. In particular, most developing countries have simply not experienced these claimed benefits or any real benefit from the onset of globalisation.<sup>6</sup> It is like having a big cake but its pieces are not equally shared for all, but dominated by certain 'powerful' people. This was what already happened when the rich is getting richer and the poor become much poorer. Of course, to some extent, while profit maximization has become the core business of the TNCs, human rights are no longer relevant.

It is evident that human rights play important roles to ensure the survival of TNCs and their business ends. One might ask, why bother about the impact of globalisation, in particular the globalisation of markets, on human rights, rather than the impact of some other international trend? It is simply because we presume that "human rights", being in some non-trivial way about "human beings", are therefore likely to be influenced by any important change in human self-understanding and social activity, such as economic globalisation may represent.<sup>7</sup> This manifests the direct relationship between business activities and human rights principles. Similarly, the UN Human Rights Commissioner, Mary Robinson, has been asked; "why should business care about human rights?" She answered by saying that, "business needs human rights and human rights needs business".<sup>8</sup> The rationale behind this, according to her, was twofold; first, business cannot flourish in an environment where fundamental human rights are not respected and, second, corporations or business that do not themselves observe the fundamental human rights of their employees, or of the individuals or communities among which they operate, will be monitored and their reputation will suffer.

Hence, issues about human rights should not be seen as peripheral by business and corporations as compliance to human rights principles will, after all, reflect their reputations. One question to ask, therefore; "how do we manage globalisation?" This question will bring us to the next stage of discussion, that is, the solutions and measures to solve negative human rights impacts posed by economic globalisation. In so doing, the TNCs need to revise their traditional image of private corporations to be recognized as integrated parts of society. They have to have their own 'code of conduct' that underlines an array of conducts they need to comply with, which eventually will ensure that they are socially responsible entities within the society in which they operate. Apart from the code of conduct which is voluntary in nature, another possible measure is by imposing legally binding rules on the TNCs. The direct route to imposing obligations on TNCs can be supplemented by arguing that a state has a duty to control the operations of the TNCs operating within their jurisdictions and/or subsidiaries operating abroad over which a resident company exercise control. This argument is based on the state's responsibility to protect human rights, i.e. prevent violations of rights by private individuals.<sup>9</sup> In addition, there are also some other international treaties and guidelines such as the OECD Guidelines and the UN Global Compact which could be the good reference and guidance for TNCs to instil human rights principle within their working environment.

Above all, managing globalisation is about identifying, establishing and adopting policies and initiatives to minimize the negative effects of globalisation whilst at the same time harnessing its positive effects. In any event, focus on managing globalization also evinces another realisation, which is that, whatever view one holds of it, globalisation is indeed an inevitable and present reality, hence the necessity of developing effective strategies for addressing its consequences.<sup>10</sup> This paper attempts to offer a brief historical background and the evolution of economic globalisation through the emergence of TNCs. It followed by an analysis of significant negative human rights impacts posed by the economic globalisation. Finally, this paper will conclude with a range of propositions, voluntary basis and legally binding alike, which could possibly be the best measures to deal with economic globalisation's negative impacts, as far as human rights are concerned.

---

<sup>5</sup> Richard Welford, "Editorial- Globalization, Corporate Social Responsibility and Human Rights", *Corp. Soc. Responsib. Environ. Mgmt* 9 (2002) p.2.

<sup>6</sup> 'Gbenga Bamodu, "Managing Globalization: UK initiatives and a Nigerian perspective" (n 4) ( p. 147)

<sup>7</sup> Frank J. Garcia, "The Global Market and Human Rights: Trading Away the Human Rights Principle". 25 *Brook. J. Int'l L.* (1999). p. 1.

<sup>8</sup> Mary Robinson, "The business case for human rights", in *Financial Times Management, Visions of Ethical Business* (London: Financial Times Professional, 1998). p. 14.

<sup>9</sup> Janet Dine, "Companies, International Trade and Human Rights". Cambridge University Press (2005), p. 168.

<sup>10</sup> 'Gbenga Bamodu, "Managing Globalization: UK initiatives and a Nigerian perspective" (n 4) ( p. 147)

This would not hamper the rapid advancement of globalisation, but rather will ensure that its players are much more accountable and socially responsible.

### **ii. *The Evolution of Economic Globalisation***

As indicated above, economic dimension of globalisation has been constantly dissolving into all the rest of its dimensions: controlling the new technologies, reinforcing geopolitical interests and, with post modernity, finally collapsing the cultural into the economic and the economic into the cultural.<sup>11</sup> This seems to emphasize that economic globalisation is the major force through which the entire globalisation process is driven. However, we might possibly wonder, when and where all the origins of this movement are rooted in? Theoretically, this process is not new, as the increasing integration through trade and investment has been a feature of the global economy since the Second World War. Then, the fall of the Berlin Wall in 1989 and the subsequent collapse of Soviet communism led to the rapid integration of what became known as the ‘transition economies’ of the former Soviet Union into a seemingly triumphant model of market driven economic change. This development has marked significant trends within ‘globalisation’, the first of which was a shift in power away from the states, driven increasingly by global economic trends that eroded governments’ ability to manage their economies.

The second trend was the rise of the New Right, where, by the early 1980s, the market was seen to have won a definitive triumph over the state, leading to the resurgence of free market ideology. These political developments helped drive the rapid expansion of trade and investment flows. ‘Globalisation’ quickly became the shorthand for this model of expansion—a heady and complex mix of technological, economic, political and cultural change.<sup>12</sup> Indeed, the era of globalisation portrays a magnificent development in economic transformation. The modern corporations and giant TNCs are considered the global players in determining the future directions of the world entirely. The TNCs or simply ‘multinationals’ in the 1970s were the first sign and symptom of the new capitalist development, raising political fears about the possibility of a new kind of dual power, of the preponderance of these supranational giants over national governments.<sup>13</sup> It is not surprising to say that, to date and in future, economic sectors play a vibrant role in our life. The big names like IBM, General Motors, Toyota and Microsoft (just to mention a few) are best to describe as parts of the leading corporations on this planet. Their fortune worth might be as same as a combination of GDPs of 50 third-world countries.

Taking General Motors as an example, its total sales is equivalent to forty percent of Russia’s total national product, which is roughly all of the civilian economy in the 1980’s.<sup>14</sup> It is therefore difficult to deny the fact that TNCs exercise significant influence and perhaps some power over the direction of economic and social policy. Despite cannot be said as officially replacing the State as a political entity with official power, it must be acknowledged that the decisions and activities of TNCs might considerably effect the national and international policy-making.<sup>15</sup> This increasing involvement of TNCs in the public domain has brought them into sharp focus of public attention. The impact of corporate policies and activities is likely to be felt directly by the public as consumers of their product and services, or felt by the wiser society through the environmental consequences or other reason of social concern. The increasingly direct human impact of traditional corporate policies and activities has turned the question of corporate regulation into a topical one.<sup>16</sup> Various impacts of TNCs will be touched in detail in the next part of this paper.

### **iii. *Globalisation’s Impact on Human Rights***

It is evident that, instead of spreading economic growth and wealth, globalisation has brought in its train, great inequities, mass impoverishment and despair. It has fractured society along the existing fault lines of class, gender and community while, almost irreversibly, widens the gap internationally between the rich and the poor nations. This development, being stimulated by the emergence of TNCs, has sparked escalating concerns over its threat to major human rights principles. The TNCs are increasingly subject to high-profile consumer boycotts over their alleged complicity in human rights abuses.

---

<sup>11</sup> Fredric Jameson, “Globalization and Political Strategy” (2000) *New Left Review* 4. p. 53.

<sup>12</sup> Duncan Green and Matthew Griffith, “Globalisation and its discontents” (2002) *International Affairs* 78 (1) p. 51.

<sup>13</sup> Fredric Jameson, “Globalization and Political Strategy”(n 11) (p. 55.)

<sup>14</sup> J. Bradford DeLong. 1997. “The Corporation as a Command Economy”. p.1.

<sup>15</sup> Michael Addo, ‘Human Rights and Transnational Corporations: An Introduction’ in M. Addo (ed.), *Human Rights and Transnational Corporations* (Kluwer, The Hague, 1999), p. 4.

<sup>16</sup> *Ibid.* pp. 7-8.

The resource extraction companies, for example, have been accused of providing logistical and financial assistance to repressive state security forces and relying on those forces for protection in countries such as Burma, Colombia, Nigeria and Sudan.<sup>17</sup> According to Nicola Jagers<sup>18</sup>, TNCs play a threefold part regarding human rights. First, they can be direct violators of human rights. For example, by making use of forced labour. Secondly, they can indirectly violate human rights by supporting a regime that violates human rights. A clear example to explain this was that the violations of human rights by The Royal Dutch/Shell in the Delta Niger, Nigeria. Thirdly, beside the fact that TNCs may threaten an effective enjoyment of human rights, they can also be a positive influence, albeit very little, by raising the standard of living and improve respect for economic, social and cultural rights. In sum, the major threats of economic globalisation can be divided as follows;

**a. Widening the gap between the rich and the poor**

A primary effect of economic globalisation is the exacerbation of gaps between the rich and the poor. Statistics show that this gap is widening both within and between nations and that, in many countries, poverty is both increasing by numbers and by depth.<sup>19</sup> Few studies doubt that the giant transnational corporate enterprises have played their part in creating both strands of this ‘globalisation of poverty’,<sup>20</sup> in particular because of their embrace of the free market classical economic theories, which underpins so much of corporate activity. The weakness of international rules, bad policies and weak governance in developing countries, and corporate practices which prioritise short-term profit over long-term human development are undermining the capacity of poor countries and poor people to benefit from international trade.<sup>21</sup> In many cases, economic liberalisation has been accompanied by greater inequality and people are left trapped in utter poverty. The Human Development Report of 1997 revealed that poor countries and poor people too often find their interests neglected as a result of globalisation.

**b. Violation of fundamental human right**

Economic globalisation has resulted in the violation of the internationally proclaimed human rights underlined by the Universal Declaration of Human Rights (UDHR). The rights most likely to be violated by the TNCs include non-discrimination, women rights, life, liberty and physical integrity of the person, civic freedoms, employees’ rights, child labour, slavery, forced and bonded labour, right to food, health, education and housing and lastly, the environmental rights.<sup>22</sup> On the other hand, in their drive for profits, the TNCs have been restructuring their operation on a global scale. This has resulted in massive unemployment and underemployment, the worst situation since the 1930s. Similarly, in many industrialized countries unemployment has soared to levels not seen for many years and income disparity to levels not recorded since last century. The collapses of the economies of the Asian Tigers are examples of this. Because of this, more people are crossing borders in search of jobs and in most conditions people are forced to work in inhuman conditions for lower wages.

**c. Threatening the states sovereignty and democracy**

There have also been what could be termed normative constraints on state sovereignty. These have come about through the process of globalisation, which to a large extent is a form of Westernization.<sup>23</sup> Some people also have termed this process as “Americanization” or “McDonaldization” due to tremendous participation of TNCs from the United States. This process naturally affects non-Western societies more than Western ones. Globalisation therefore has created a situation where the role and importance of nation-state is becoming irrelevant. In addition, the globalisation of recent decades was never a democratic choice by the peoples of the world. The process has been business driven, by business strategies and tactics, for business ends. Globalisation has also steadily weakened democracy, partly as a result of unplanned effects, but also because the containment of labour costs and scaling down of the welfare state has required the business minority to establish firm control of the state and remove its capacity to respond to the demands of the majority. Another well-known and important antidemocratic force is the power of global financial markets to limit political options.

---

<sup>17</sup> Scott Pegg, ‘An Emerging Market for the New Millennium: Transnational Corporations and Human Rights’ in Jedzej George Flynas and Scott Pegg (ed.) *Transnational Corporations and Human Rights* (Palgrave Macmillan, New York, 2003), p. 1.

<sup>18</sup> Nicola Jagers, ‘The Legal Status of the Multinational Corporations under International Law’ in M. Addo (ed.), *Human Rights and Transnational Corporations* (Kluwer, The Hague, 1999), p. 260.

<sup>19</sup> UNCTAD Report, *The Least Developed Countries Report 2002* (UN, 2002). See ILO, *A Fair Globalisation: The Final Report of the World Commission on the Social Dimension of Globalisation* (ILO, Geneva, 2004).

<sup>20</sup> See United Nations Development Programme, *Human Development Report 1992* (Oxford University Press, 1992).

<sup>21</sup> Oxfam, *Gigged Rules*, p. 175.

<sup>22</sup> International Council on Human Rights, ‘Beyond Voluntarism’, p. 15.

<sup>23</sup> Michael D. Pendleton, ‘A New Human Right--The Right to Globalization’, 22 *Fordham Int'l L.J.* p. 2056.

Financial market effects on exchange and interest rates can be extremely rapid and damaging to the economy.

#### iv. Managing Globalisation

As mentioned above, economic globalisation was tremendously evolved through the activities of TNCs. Thus, there has, not surprisingly, been escalating voice and concerns from various quarters calling for a delimitation of the responsibilities of TNCs to reflect their increasing influence in society. The traditional notion that only states and state agents can be held accountable for violations of human rights is being challenged as the economic and social power of TNCs appear to rise in the wake of the increasing integration of the global economy that they have helped to bring about.<sup>24</sup> Calls for corporate responsibility and accountability have apparently been known throughout the development of TNCs as far back as Cicero in 44 BC.<sup>25</sup> This is to ensure that they are not complicit in human right violations which may happen if there is no specific human rights standard imposed on them. In general, there are two main ways that TNCs can be held accountable for their human rights performance; through legal liability under national or international law, and voluntarily through codes of conduct and self-regulation.

##### a. Regulatory transnational regime

There are a number of potential advantages to the legal approach. As the International Council on Human Rights Policy<sup>26</sup> points out;

Voluntary codes rely entirely on business expediency or a company's sense of charity for their effectiveness. By contrast, legal regimes emphasize principle of accountability and redress, through compensation, restitution and rehabilitation for damage caused. They provide a better basis for consistent and fair judgments (for all parties, including companies).

International legal codes can establish coherent universal standards and can also provide a 'level playing field' for all businesses; something cannot be done by an array of codes of conduct. Finally, there is some evidence that business leaders prefer obligation and clarity instead of voluntarism and confusion.<sup>27</sup> While the extant of international legal framework impose legal obligations to respect human rights mainly on states and intergovernmental organisations (IGOs), there is no logical reason that TNCs cannot bear human rights-related obligations.<sup>28</sup> This is because, the preamble of the UDHR is addressed not only to states but also to 'every individual and every organ of society'. Therefore, it is not possible for non-states actors including TNCs whose action have a strong impact on the enjoyment of human rights by the larger society, to absolve themselves from the duty to uphold international human rights standards. At national level, there are early signs that a degree of direct responsibility for human rights violations on the part of TNCs is being recognized. Thus in recent United States District Court case of *Doe v. Unocal* it was held, for the first time,<sup>29</sup> that TNCs could, in principle, be directly liable for violations of human rights under the Alien Tort Claims Act.<sup>30</sup> Although the case has failed on the facts and is subject to an appeal, the principle that a private non-state actor can be sued before the US courts for alleged violations of human rights was not questioned.<sup>31</sup>

In addition to national governments, IGOs may also provide a basis for creating legal obligations for TNCs. For instance the UN Human Rights Committee found that a French tourism project in Tahiti violated the International Covenant on Civil and Political Rights (ICCPR). Apart from IGOs, regional economic integration can also contribute to developing international standards of behaviour and enforcement mechanisms for prosecuting human rights violations by TNCs. The European Union, for example, have made their best effort, through a resolution in the European Parliament entitled 'EU Standards for European Enterprises: Towards a European Code of Conduct', to extend certain existing legal provisions to cover actions by TNCs. However, there are generic limitations to any legal approach in regulating corporate behaviour.

<sup>24</sup> Thomas Muchlinski, 'Human Rights and Multinationals: Is there a problem?' , 77(1) International Affairs (2001) p. 31.

<sup>25</sup> For an excellent review of the treatment of the subject of the corporate social responsibility over the centuries, see, Joanne Ciulla, "Why is Business Talking About Ethics? Reflections on Foreign Conversations", 1991 California Management Review, p. 67.

<sup>26</sup> International Council on Human Rights Policy. 2002. 'Beyond Voluntarism: Human Rights and the Developing International Legal Obligations of Companies – Summary', Versoix, Switzerland. International Council on Human Rights Policy. p. 5.

<sup>27</sup> Ibid. pp. 6 and 14.

<sup>28</sup> Peter Thomas Muchlinski, 'Human Rights and Multinationals: Is there a problem?' (n 24) (p. 32)

<sup>29</sup> 963 F.Supp. 880 US Dist Ct, C.D. Cal, 25 March 1997, noted in AJIL 92, 1998, pp. 309-14.

<sup>30</sup> 28 USC s. 1350.

<sup>31</sup> Peter Thomas Muchlinski, 'Human Rights and Multinationals: Is there a problem?' (n 24) (pp. 41-2)

As Michael Addo<sup>32</sup> argues, societal expectations of corporate behaviour today ‘far exceed what the law expressly requires of them at the moment’. Legal regulations have a valuable role to play in regulating corporate behaviour. The limits to the legal approach, however, mean that a gap will necessarily remain between what concerned citizens expect from corporations and what the law explicitly requires of them.<sup>33</sup>

## **b. Voluntary basis**

The arguments for extending social responsibility standards to corporation are well known. Suffice it to say, for present purposes, the TNCs have for a long time been expected to observe socially responsible standards of behaviour as expressed in numerous codes of conduct drawn up by IGOs, of which the most significant have been the ILO Tripartite Declarations of Principle Concerning Multinational Enterprises and Social Policy of 1977,<sup>34</sup> and the OECD Guidelines for Multinational Enterprises of 1976.<sup>35</sup> However, these instruments are non-binding, and therefore create no legal duties to observe the standards contained therein.<sup>36</sup> Furthermore, voluntary approaches to improving corporate conduct have taken place at both collective and individual levels. Collectively, there has been a proliferation of voluntary approaches in the past few years. The United Nation, for example, has developed the Global Compact which comprises ten basic principles covering human rights, labour standards, environment and anti-corruption which companies are asked to embrace.<sup>37</sup> These principles are drawn from existing documents such as the UDHR, the Declaration of the ILO on fundamental principles and rights, the Rio Declaration from the 1992 UN Conference on Environment Development and the UN Convention Against Corruption.

On the other hand, numerous individual corporations have also enacted their own codes of conduct governing their employees and business operations. A recent inventory by the OECD, for example, list 246 individual corporate codes of conduct.<sup>38</sup> However, all of these voluntary initiatives suffer from a number of weaknesses. First, meaningful self-regulation is likely to be undertaken only by a small number of companies.<sup>39</sup> Second, public commitments may not always translate into changed corporate behaviour and third, such voluntary efforts depend upon the continued vigilance of concerned citizens, consumers, NGOs and investors. In sum, the proven inability of many TNCs to adhere their own codes of conducts and the vague, unenforceable and poorly-defined nature of most collective efforts, such as the Global Compact, illustrate the limitations to a purely voluntary approach. Given these limitation, a voluntary code of conduct has certain advantages over a binding code. In this regard, Alex Wawryk<sup>40</sup> argues that, in countries where law enforcement mechanism are weak, self-regulation by TNCs under voluntary codes of conduct may actually be more effective than national or international codes forced on TNCs against their will. Second, like the declaratory tradition in international law before it, the corporate declaratory tradition is likely to evolve and develop in the coming years.

## **v. Conclusion**

From the preceding analysis, it is fairly evident that the phenomenon of globalisation, primarily through its economic dimensions has numerous implications for the promotion and protection of all human rights. This implies that there is a need for a critical reconceptualization of the policies and instruments of international trade, investment and finance. Such reconceptualization must cease treating human rights issues as peripheral to their formulation and operation. The institutional mechanisms developed to establish norms and resolve disputes in the context of overlapping jurisdictions and conflicting values will in practice determine whether globalization proves to be a friend or foe to human rights. Additionally, what is also required is a more balanced approach, which ensures that human rights principles are integrated into the rule-making processes from the outset.

---

<sup>32</sup> Michael Addo, ‘Human Rights and Transnational Corporations: An Introduction’ (n15) (p. 13)

<sup>33</sup> Scott Pegg, ‘An Emerging Market for the New Millennium: Transnational Corporations and Human Rights’ (n 17) (pp. 20-1)

<sup>34</sup> ILO, Declaration on Fundamental Principles and Rights at Work (Geneva: ILO, 18 June 1998).

<sup>35</sup> OECD Guidelines for Multinational Enterprises, 27 June 2000 (Paris: OECD, 2000) and on [www.oecd.org/daf/investment/guidelines/mnetext/htm](http://www.oecd.org/daf/investment/guidelines/mnetext/htm)

<sup>36</sup> Peter Thomas Muchlinski, ‘Human Rights and Multinationals: Is there a problem?’ (n 24) (pp. 36-7)

<sup>37</sup> Available at <http://www.unglobalcompact.org>

<sup>38</sup> Gereffi et al. ‘The NGO-Industrial Complex’, Foreign Policy (July/August 2001). p. 57.

<sup>39</sup> Jessica Woodroffe, ‘Regulating Multinational Corporations in a World of Nation States’, in Michael K. Addo, ed., Human Rights Standards and the Responsibilities of Transnational Corporations, (1999) . The Hague: Kluwer Law International. p. 132.

<sup>40</sup> Alex Wawryk, ‘Regulating Transnational Corporations through Corporate Codes of Conduct’ In Jedzej George Frynas and Scott Pegg (ed.) Transnational Corporations and Human Rights (Palgrave Macmillan, New York, 2003), p. 1.

The primacy of human rights law over all other regimes of international law is a basic and fundamental principle that should not be departed from.<sup>41</sup> In addition, the TNCs can also improve their ability to promote human rights by developing an explicit company policy on human rights, providing effective training for their managers and their staff in international human rights standards, consulting non-government organizations, including Amnesty International, on the level and the nature of human rights abuses in different countries and establishing a clear framework for assessing the potential impact on human rights of all the company's and its sub-contractors' operation. Since coming to the fore as one of the most talked-about issues of the new millennium, the phenomenon of globalisation has captured world attention in various ways. There is ongoing debate over whether economic globalisation and structural adjustment policies are good social and economic medicine in the long run. The point here is not to enter that larger debate, but simply to observe that an important instrument of human rights delivery, the national government is no longer what it once was. Its capacity as a delivery vehicle is diminished.<sup>42</sup> The achievement of human rights and social justice is a higher value than the protection of free markets. With these principles in mind, we can help ensure that globalisation will advance human rights.<sup>43</sup>

And of course, "globalisation with responsibility" will be a smart partner to human rights rather than being a foe. Globalisation has its winners and losers. With the expansion of trade, market, foreign investment, developing countries have seen the gaps among themselves widen. The imperative to liberalize has demanded a shrinking of state involvement in national life, producing a wave of privatization, cutting jobs, slashing health, education and food subsidies, etc. affecting the poor people in society. It is therefore important to restate that the most crucial issues with regard to managing globalization from the perspectives of developing economies are the avoidance of marginalization and the eradication of poverty.<sup>44</sup> In the first place, it must be re-emphasized that governments in developing countries bear a considerable share of responsibility with the private actors, especially with regards to good governance and democratic accountability in the quest for economic development and prosperity occasioned by globalization without putting aside the needs to respect human rights.

## References

1. 'Gbenga Bamodu, "Managing Globalization: UK initiatives and a Nigerian perspective", Human Rights and Capitalism. Edward Elgar Publishing, UK. (2006) .
2. "Globalization and Its Impact on the Full Enjoyment of Human Rights" *UN Press Release*, E/CN.4/Sub.2/2000/13, <http://www.globalpolicy.org/socecon/un/wtonite.htm>
3. 28 USC s. 1350.
4. 963 F.Supp. 880 US Dist Ct, C.D. Cal, 25 March 1997, noted in *AJIL* 92, 1998. pp. 309-14.
5. Alex Wawryk, 'Regulating Transnational Corporations through Corporate Codes of Conduct' In Jedzej George Frynas and Scott Pegg (ed.) *Transnational Corporations and Human Rights* (Palgrave Macmillan, New York, 2003), p. 1.
6. Andrew G. McGrew, Human Rights in a Global Age: Coming to Terms with Globalization, in *Human Rights Fifty Years On: A Reappraisal* 188 (Tony Evans ed., 1998).
7. Duncan Green and Matthew Griffith, "Globalisation and its discontents" (2002) *International Affairs* 78 (1) p. 51
8. Frank J. Garcia, "The Global Market and Human Rights: Trading Away the Human Rights Principle". 25 *Brook. J. Int'l L.* (1999). p. 1.
9. Fredric Jameson, "Globalization and Political Strategy" (2000) *New Left Review* 4. p. 53.
10. Gereffi, Gary, Ronie Garcia-Johnson and Erika Sasser, 'The NGO-Industrial Complex', *Foreign Policy* (July/August 2001). p. 56-65.
11. <http://www.unglobalcompact.org>

<sup>41</sup>"Globalization and Its Impact on the Full Enjoyment of Human Rights" UN Press Release, E/CN.4/Sub.2/2000/13, <http://www.globalpolicy.org/socecon/un/wtonite.htm>

<sup>42</sup> Andrew G. McGrew, Human Rights in a Global Age: Coming to Terms with Globalization, in *Human Rights Fifty Years On: A Reappraisal* 188 (Tony Evans ed., 1998).

<sup>43</sup> Jeffrey L. Dunoff, 'Does Globalisation Advance Human Rights?' *Brooklyn Journal of International Law*, April 1999.

<sup>44</sup> 'Gbenga Bamodu, "Managing Globalization: UK initiatives and a Nigerian perspective" (n 4) (p. 163)

12. ILO, *A Fair Globalisation: The Final Report of the World Commission on the Social Dimension of Globalisation* (ILO, Geneva, 2004).
13. ILO, Declaration on Fundamental Principles and Rights at Work (Geneva: ILO, 18 June 1998).
14. International Council on Human Rights Policy. 2002. 'Beyond Voluntarism: Human Rights and the Developing International Legal Obligations of Companies – Summary', Versoix, Switzerland. International Council on Human Rights Policy. p. 5.
15. J. Bradford DeLong. 1997. "The Corporation as a Command Economy". p.1.
16. Janet Dine, "Companies, International Trade and Human Rights". Cambridge University Press (2005), p. 168.
17. Jeffrey L. Dunoff, 'Does Globalisation Advance Human Rights?' Brooklyn Journal of International Law, April 1999.
18. Jessica Woodroffe, 'Regulating Multinational Corporations in a World of Nation States', in Michael K. Addo, ed., *Human Rights Standards and the Responsibilities of Transnational Corporations*, (1999) pp. 131-42. The Hague: Kluwer Law International.
19. Joanne Ciulla, "Why is Business Talking About Ethics? Reflections on Foreign Conversations", 1991 *California Management Review*, p. 67.
20. Mary Robinson, "The business case for human rights", in Financial Times Management, *Visions of Ethical Business* (London: Financial Times Professional, 1998). p. 14.
21. Michael K. Addo, 'Human Rights and Transnational Corporations: An Introduction' in M. Addo (ed.), *Human Rights and Transnational Corporations* (Kluwer, The Hague, 1999), p. 4.
22. Michael D. Pendleton, "A New Human Right--The Right to Globalization", 22 *Fordham Int'l L.J.* p. 2056.
23. Nicola Jagers, 'The Legal Status of the Multinational Corporations under International Law' in M. Addo (ed.), *Human Rights and Transnational Corporations* (Kluwer, The Hague, 1999), p. 260.
24. OECD Guidelines for Multinational Enterprises, 27 June 2000 (Paris: OECD, 2000) and on [www.oecd.org/daf/investment/guidelines/mnetext/htm](http://www.oecd.org/daf/investment/guidelines/mnetext/htm)
25. Oxfam, *Gigged Rules*, p. 175.
26. Peter Thomas Muchlinski, "Globalization and Legal Research", 37 *Int'l L.* (2003) p. 221.
27. Peter Thomas Muchlinski, 'Human Rights and Multinationals: Is there a problem?' , 77(1) *International Affairs* (2001) p. 31.
28. Scott Pegg, 'An Emerging Market for the New Millennium: Transnational Corporations and Human Rights' in Jedzej George Frynas and Scott Pegg (ed.) *Transnational Corporations and Human Rights* (Palgrave Macmillan, New York, 2003), p. 1.
29. UNCTAD Report, *The Least Developed Countries Report 2002* (UN, 2002).
30. United Nations Development Programme, *Human Development Report 1992* (Oxford University Press, 1992).