

Observations on the Final Report of the Special Representative of the UN Secretary General on the issue of human rights and transnational corporations and other business enterprises, John Ruggie¹

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Alejandro Teitelbaum has devoted many years to work on the issue of human rights in the realm of global corporations and other business enterprises. As the former Permanent Representative to the United Nations Office in Geneva, for the American Association of Jurists –based in Buenos Aires, he spent time toiling with the bureaucracies of the UN and member States, in his pursuit of an international legal framework that would harness business activity so that it would stop violating a wide array of human rights in its sphere of influence, as is customarily the case today. As such, he witnessed how, time and time again, the bureaucracies succumbed to the will of the leading economic powers, who were adamant at maintaining the preeminence of corporate interest over their responsibility for their infringement on human rights.

In recent years, Teitelbaum has assessed the extremely pro-business slanted work of John Ruggie, appointed, arguably, to design a framework that would “increase the stakes” for corporations when infringing upon human rights in their daily operations. Teitelbaum has consistently criticised Ruggie’s clear inclination for neoliberal ideology at the service of transnational economic power, which clearly opposes any kind of instrument that would govern, in a binding manner, business practices concerning human rights.

Background	3
Observations on the 2011 Final Report	5
Realated links:	8

In this brief, Teitelbaum provides his final observations on the perspective that Ruggie attempts to advance in his Final Report. The author incorporates into his assessment the consistent laissez faire course followed by Ruggie since the time when he was the UN Secretary General’s principal advisor for the Global Compact; a public relations instrument –now even derided inside the UN– to allow companies to look good without really doing the public good. In his previous assessment,² Teitelbaum succinctly concludes that Ruggie puts up an act to change so that, at the end, everything remains the same. That is, he advances no binding rules to ensure that business activity does not infringe on human rights, but only an encouragement to voluntarily incorporate into business culture a consideration for respecting human rights. Thus, the author’s recommendation to really address the issue was that “the UN Human Rights Council should make an about turn of 180 degrees on this issue to be in sync with the gravity of the social and economic situation in which the world is living”.

Yet, as could be expected, Ruggie’s Final Report remains consistently on the same course and constitutes merely a meek orientation, wrapped as “Guiding Principles,” that lacks a binding nature for both States and corporations. It is on this respect that the author makes his main observation, conspicuously pointing at the central fault of Ruggie’s laissez faire non-binding premise. His argument is that Ruggie takes advantage of a past mistake made in the Norms Draft for Business and Human Rights “to create the confusion between the inherent obligation of the State to promote, guarantee and ensure respect for human rights and the obligation –and the corresponding direct responsibility in case of violation– of corporations

¹ (A/HRC/17/31, 21 March 2011)

² Alejandro Teitelbaum: A Dialogue with Ruggie? To change so that everything remains the same... An assessment of John Ruggie’s 2009 and 2010 Reports. The Jus Semper Global Alliance, TLWNSI Issue Brief, September 2010.

*(as of all moral and physical private persons) of respecting the human rights upheld in international norms.” For Ruggie, the author argues, “human rights would constitute a special category of rights that can only be violated by States and their civil servants **and not by private persons**, except in certain war crimes and crimes against humanity”. However, the author asserts, “there is no doubt that transnational corporations, as all private persons, have the obligation to respect the law, and if they do not do it they must suffer the civil and penal sanctions at an international level as well, which clearly*

emerges of a relatively attentive examination of the current international instruments”.

In this way, Teitelbaum’s conclusion is that if transnational corporations benefited when the Norms Draft was buried, Ruggie’s Final Report sinks again any attempt to create an instrument of binding nature to enforce respect for human rights in the realm of business activity. Consequently, and as could be foreseen, Ruggie’s work is once again a ploy so that everything remains the same.

❖ Background

To address effectively the activities of transnational corporations infringing on human rights, the need for creating a specific institutional and normative framework to complement the current general framework was advanced a fairly long time ago. To this objective, the UN's Economic and Social Council (ECOSOC) created in 1974 the Transnational Corporations Commission, with 48 Member States, which endeavoured itself to, among other activities, two priority tasks: to investigate the activities of transnational corporations and to prepare a Code of Conduct for them.³ This code was discussed for ten years but it never saw the light of day due to the opposition of the world's powers and of transnational economic power. ECOSOC also created in 1974, within the UN's Office of the Secretary General, the Centre for Transnational Corporations, an autonomous organism operating as the Secretariat of the Commission on Transnational Corporations.

However, in 1993-1994 both organisms were practically dismantled and their objectives changed. The UN's Secretary General decided to transform the Centre for Transnational Corporations into a Division for Transnational Corporations and International Investment at the seat of the United Nations Conference on Trade and Development (UNCTAD). As for ECOSOC, it decided to transform the Transnational Corporations Commission into a Commission of UNCTAD's Council on Trade and Development, taking into account the « change in orientation » of the commission (consisting of abandoning the attempts to establish societal control over transnational corporations and endeavour it in lieu to the « contribution of transnationals to growth and development »).

In 1998 the question of establishing international norms aimed at regulating the activities of transnational corporations was advanced, once again, in the seat of the United Nations; when the Sub-Commission on the Promotion and Protection of Human Rights adopted a resolution to assess the TNCs' activities and business practices in relation to the enjoyment of the economic, social and cultural rights and the right to development. **One of the paragraphs in the resolution remarked that one of the obstacles against the exercise of those rights is the concentration of the economic and political power in the hands of large transnational corporations.** Also, in that resolution, the Sub-Commission resolved the creation –and established the mandate– of a Working Group that would execute the aforementioned assessment. The first Draft of the project was a sort of voluntary code for TNCs, which they could adopt or set aside; what is usually called a “soft law” or a “non law”. It was an attempt to change so that everything would remain the same.

The American Association of Jurists (AAJ), through our mediation, and the Europe-Third World Centre (CETIM) strove strongly to improve the Draft, proposing fundamental reforms to it so that it acquired some judicial consistency and some enforceability. After four years of debates, of the organisation of an international multidisciplinary seminar,⁴ and of a two-day session with the members of the Working Group, the AAJ and CETIM achieved the improvement of the Draft. Yet many essential issues were left out, such as the civil and criminal responsibility of business officers, the solidary liability of transnational corporations with their suppliers and contractors, the precedence of the public service over the private interest, the prohibition of patenting life forms, etc. In its sessions of August 2003, the Sub-Commission approved the Draft in a resolution and turned it over, under the terms of process, to the Human Rights Commission.

Notwithstanding that the Draft approved by the Sub-Commission was far from being a panacea for controlling and providing a legal framework for TNCs, they reacted vigorously against it, through a 40-some pages document, signed by the International Chamber of Commerce (ICC) and the International Organisation of Employers (IOE), the institutions grouping big corporations globally. In said document they asserted that the Sub-Commission Draft undermined human rights and the rights and legitimate interests of private enterprises, that human-rights obligations are to be met by the States and not by private actors, and they exhorted the UN Commission for Human Rights to reject the Draft that the Sub-commission had approved.⁵ Finally, in 2005, the Commission for Human Rights, completely disavowing the Draft Norms

³ Nations Unies, Conseil économique et social, Commission des sociétés transnationales: Rapport sur la première session, document E/5655; E/C.10/6 (New York, 1975, paragraph 6 et 9).

⁴ American Association of Jurists. Centre Europe-Third World: “The activities of transnational corporations and the need for their juridical framing”. International and interdisciplinary seminar held in Celigny, Switzerland, on 4th and 5th May 2001. Brochure published in Geneva on June 2001.

⁵ International Chamber of Commerce, Organisation Internationale des Employers, Joint views of the IOE and ICC on the draft “Norms on the responsibilities of transnational corporations and other business enterprises with regard to human rights”. www.iccwbo.org. See also Corporate Europe Observatory (CEO), Shell Leads International Business Campaign Against UN Human Rights Norms. CEO Info Brief, March 2004

adopted by the Sub-Commission in 2003, approved Resolution 2005/69, where it invited the UN Secretary-General to appoint a special rapporteur for whom it suggested a mandate inspired in the Global Compact.⁶

In approving said resolution, the Member States of the Commission on Human Rights surrendered to the TNCs' pressures, clearly expounded in their document. And, so no one would think that the Draft of the Sub-Commission could be invoked as an international norm in force, the Human-Rights Commission took good care to have the last paragraph of its Resolution 2004/116 state precisely that such Draft "...as a draft proposal, has no legal standing, and that the Sub-Commission should not perform any monitoring function in this regard."

In July 2005 Secretary-General Kofi Annan appointed Mr. John Ruggie, his principal advisor concerning the Global Compact –organism to whom we will refer to ahead– as his special representative in charge of studying the issue of transnational corporations.

In 2006 John Ruggie wrote his first report for the Commission on Human Rights (E/CN.4/2006/97). However, it was never discussed, because the Commission was dissolved without holding, as it should have, its last session. In said report he develops arguments attempting to demonstrate that transnational corporations are not bound by international law, and that the most appropriate thing is to bring corporations and "civil society" (via the *Global Compact*) into the UN to establish declarations of goodwill in the form of soft law, codes of conduct, etc.; the application of which to be controlled by the same corporations and by representatives of "civil society".⁷

In his April 2008 Report (A/HRC/8/5), albeit there are no concrete proposals (the author claims he is presenting a conceptual framework), Ruggie comes up with an amazing 180 degree turn in relation to previous reports, maybe influenced by the world's financial crisis' devastating effects. He underscores and differentiates between three issues: the State's duty to protect human rights; the corporate responsibility to respect them, and "the need for more effective access to remedies" in the face of violations. He overcomes the confusion created over the role of business as responsible – along with the State– of ensuring respect for human rights.

In May 2008 Ruggie submitted an Addendum Report (A/HRC/8/5/Add.2) entitled "Corporations and Human Rights: A Survey of the Scope and Patterns of Alleged Corporate-Related Human Rights Abuse", wherein he acknowledges the negative effect of multinationals' activity over the enjoyment of human rights, whether labour-related or not.

Nonetheless, Ruggie seems unable to infer from his own 2008 Report the obvious conclusions: on 28 January 2009 the news website of the UN's Office in Geneva (UNOG) divulged a note by Ruggie himself announcing he had obtained the voluntary services of fifteen international law offices (list provided), specialised in counselling big corporations, to review the corporate legislations of 40 nations and their effect in promoting a pro-human-rights culture among their clients. One cannot think, even for a second, that such counsel will perform a study objective and unbiased enough as to oppose the interests of their affluent clients, sworn enemies of any national legislation that could regulate or restrict their activities.

In his 2009 Report Ruggie kept unchanged the thesis imposed by transnational corporations: no proposal, whatsoever, of binding international norms for business enterprises.

⁶ It is interesting to give account of the result of the voting session, for no State member of the Commission opposed the elimination of the Sub-commission Project on the Norms. Voted in favour: Germany, Saudi Arabia, Argentina, Armenia, Bhutan Brazil Canada, China, Congo, Costa Rica, Cuba, Ecuador, Egypt, Eritrea, Ethiopia, Russian Federation, Finland, France, Gabon, Guatemala Guinea, Honduras, Hungary, India, Indonesia, Ireland, Italy, Japan, Kenya, Malaysia, Mauritania, Mexico, Nepal, Nigeria, Netherlands, Pakistan, Paraguay, Peru, Qatar, United Kingdom and Northern Ireland, Republic of Korea, Dominican Republic, Romania, Sri Lanka, Sudan, Swaziland, Togo, Ukraine, and Zimbabwe.
Voted against: Australia, United States, South Africa.
Abstained: Burkina Faso

The U.S. and Australia voted against arguing that the Commission should not meld with the issue whatsoever. South Africa voted against and Burkina Faso abstained because they did not agree with the text.

⁷ We wrote a commentary on Mr. Ruggie's first report of 2006, a summary of which can be found at: <http://alainet.org/docs/13433.html> and another one on the second report that was presented by the Centre Europe Tiers Monde with the code A/HRC//4/74 to the March 2007 session of the Human Rights Council. A synthesis of the same was published by the Transnational Institute in English and Spanish (http://www.thirdworldtraveler.com/United_Nations/UN_TNCs_DeadlyAssoc.html). The full text of the observations to the 2007 Report can be found at <http://alainet.org/active/16462&lang=es>

In his 2010 Report, it merits to stress that under the appearance of an all-encompassing consultation with various social sectors, Mr. Ruggie's true interlocutors have been big corporations, business organisations such as the International Chamber of Commerce and the International Organisation of Employers, as well as the legal counsels of those big corporations. In contrast, the other participants in the numerous meetings organised by the Rapporteur, have been mere figureheads whose opinions have been complete disregarded. The axis of the 2010 Report's juridical focus could well be summed up as: corporations do not have duties or obligations but solely responsibilities. The end result is that, in Mr. Ruggie's report, there is no proposal of binding rules for companies. This is fully in accordance with what the International Chamber of Commerce and the International Organisation of Employers demanded in the document they issued on March 2004 against the Norms Draft approved by the UN Sub-Commission on Human-Rights in 2003.

❖ *Observations on the 2011 Final Report*

The Final Report includes a Project of Guiding Principles on Business and Human Rights. In paragraph 2 of the Introduction to the Guiding Principles, referring to the Norms on Transnational Corporations and Other Business Enterprises, approved by the Sub-Commission on Human Rights in 2003, it says that it sought to impose on companies the same range of human rights duties that States have accepted for themselves under international treaties they have ratified: "to promote, secure the fulfilment of, respect, ensure respect of and protect human rights". The Rapporteur repeats a criticism of the Norms Project that he had already formulated in earlier reports, which we shared and conspicuously pointed at before the Working Group that prepared the Project.

Indeed, in the Project for the Norms of the Sub-Commission, after stating that: "*even though States have the primary responsibility to guarantee, respect and protect human rights...*" it adds on that: "*TNCs and other business enterprises also have the responsibility for promoting and securing the...*" We pointed out this error to the Sub-Commission's Working Group, and proposed to leave out the phrase "*also have the responsibility for promoting and securing...*" in order to have that paragraph state: "*(they) must respect and contribute to make respect, protect and promote human rights...*".⁸

There is no doubt that the State has an **untransferable** responsibility for the prevalence of human rights in its realm of jurisdiction and must impede that they be violated, whether by the same State and/or its own civil servants **as well as private persons**. And, if the State does not fulfil said obligation, it incurs in an international responsibility.

Indeed, the term responsibility holds two tangential, yet different, meanings, which are conveyed in English with two different words: *responsible and responsibility and accountable and accountability*. One responsibility is that of «in charge of...». For example, the civil servants in charge of enforcing the law. It can also be said that a company's management is in charge (is responsible) for the respect for labour rights within the realm of the company. The other meaning consists on each person (either physical or juridical person/entity, the latter one through their decision makers) being responsible for their acts, for which they must be accountable. For example, those who violate labour rights must be accountable before the relevant public institutions (of the State's administration and the courts of justice), and provide remedy for the harm caused (liability).

Sometimes the first meaning is extrapolated to attribute corporations, especially large corporations, a general responsibility of «being in charge» of enforcement of respect for human rights. In this case, there would be a transfer or cession of the inherent responsibility of the State to corporations of enforcing respect for human rights in general; or it would be a responsibility of the State proper shared with corporations.

Mr. Ruggie uses this mistake of the Project of the Norms of the Sub-Commission to create the confusion between the inherent obligation of the State to promote, guarantee and ensure respect for human rights and the obligation –and the corresponding direct responsibility in case of violation– of corporations (as of all moral and physical private persons) of respecting the human rights upheld in international norms. Indeed, in paragraph 60 of his 2006 Report he writes «*If the*

⁸ See AAJ-CETIM, "Proposal of Amendments to the Draft Norms on the Responsibilities of Transnational Corporations and Other Business Enterprises with regard to Human Rights", 28 pages, Geneva, July 2003.

Norms merely restate established international legal principles then they cannot also directly bind business because, with the possible exception of certain war crimes and crimes against humanity, there are no generally accepted international legal principles that do so.»...⁹

In this way, according to the Rapporteur, human rights would constitute a special category of rights that can only be violated by States and their civil servants **and not by private persons**, except in certain war crimes and crimes against humanity.¹⁰

According to the 2006 Report referenced, crimes committed by the latter may constitute human rights violations only when the State appears as complicit by action or omission. That is, there is a violation of human rights only when, in one way or another, the responsibility of the State emerges. Thus, the same action committed by a State, which materialises its responsibility for a human rights violation, if committed by a private entity, according to the Rapporteur, would also materialise its responsibility, but as a crime according to the corresponding national law and not as a human rights violation.

There is no doubt that transnational corporations, as all private persons, have the obligation to respect the law, and if they do not do it they must suffer the civil and penal sanctions at an international level as well, which clearly emerges of a relatively attentive examination of the current international instruments.

The acknowledgement of the obligations of private persons concerning human rights and their responsibility in the case of incurring in their violation was upheld in article 29 of the Universal Declaration of Human Rights¹¹ and it gained strength in the doctrine in numerous international covenants, particularly concerning environmental protection¹² and in jurisprudence. We refer in more detail to this issue in our Commentary on Ruggie's 2006 Report.¹³

With this approach, the Rapporteur diligently complies with the demands of transnational corporations: no binding international norms for large corporations, as he himself conveys in paragraphs 11 and 14 of the introduction to his Final Report:

*11...The Guiding Principles **addressing** how Governments should **help** companies avoid **getting drawn** into the kinds of human rights abuses that all too often occur ...*

That is, the Guiding Principles are not nor do they aspire to become binding norms but mere indicators of how Governments should **help** (not controlling or sanctioning) corporations to avoid **getting drawn** to commit¹⁴ all kinds of abuses against human rights that too often occur. **This paragraph excludes the deliberate will of corporations of**

⁹ Commission on Human Rights, Sixty-second session; Promotion and Protection of Human Rights: Interim Report of the Special Representative of the Secretary-General on the issue of human rights and transnational corporations and other business enterprises, E/CN.4/2006/97 – 22 February 2006.

¹⁰ Given that after the Courts of Nuremberg and, particularly, after the approval in 1998 of the Statute of the International Criminal Court, it is impossible to assert in a general manner and with a minimum seriousness that private persons cannot violate human rights and be directly penalised for their violation, Mr. Ruggie must concede: “with the exception of war crimes and crimes against humanity”. But he establishes an important limitation to this exception, reducing the forms of participation of corporations only to complicity, excluding therefore, the other forms of participation, such as, for example, instigation, authorship and collaboration.

¹¹ Which is binding and not only an ethical principle, as was asserted in the paper of transnational corporations against the Project of the Norms.

¹² There are international binding instruments for private persons, which mostly refer to environmental protection, such as principle 21 of the Stockholm Declaration on Human Environment of 1972, reaffirmed by General Assembly resolutions 2995 (XXVII), 3129 (XXVIII), 3281 (XXIX) (Charter of Economic Rights and Duties of States), the Rio Declaration on Environment and Development of 1992, which is regarded to have a jus cogens character, the United Nations Convention on the Law of the Sea (Montego Bay, 1982), the Convention on the Protection and Use of Transboundary Watercourses and International Lakes (Helsinki, March 1992), the Basel Convention of 1989 (142 ratifications and adherences in October 2002) and Bamako of 1991, regarding the transboundary movements of hazardous wastes and their disposal, of Helsinki of 1992 over the transboundary effect of industrial accidents, of Lugano of 1993 on civil liability for damage resulting from activities dangerous to the environment, the Rotterdam Convention of 1998 on pesticides and other hazardous chemical products (126 firms and 5 ratifications) etc. which establish the responsibility of those causing the damage and, generally, the subsidiary responsibility of the State, if it did not adopt preventive measures to avoid the harmful effects of such activities. In December 1999 the States who were parties to the Basel Convention of 1989 approved a protocol on the responsibility and indemnification for the damage caused by the transportation and disposal of hazardous waste (www.basel.int). Article 16 of the Protocol states: “The Protocol shall not affect the rights and obligations of the Contracting Parties under the rules of general international law with respect to State responsibility.” In May 2001 the Stockholm Convention on Persistent Organic Pollutants (POP) came into force in May 2004.

¹³ See footnote 7.

¹⁴ “getting drawn to commit” and not “to avoid committing”, as it is erroneously translated from the original in English language to the official Spanish-language version.

committing violations and these are made to appear as induced to commit them by an external factor, alien to the company's will, and not as main actors whose fundamental motives are to obtain the maximum benefit.

14. The *Guiding Principles' normative contribution* ***lies not in the creation of new international law obligations...***

It is clear: the normative contribution of the guiding principles **does not lie in the creation of new obligations in international law.** The underlinings are ours.

The guiding Principles of Mr. Ruggie are, therefore, mere orientations. They lack a binding nature for both States and corporations; complying in this way with the demand, reiteratively displayed, of large transnational corporations.

Mr. Ruggie has been the main architect (main advisor to Kofi Annan) of the Global Compact, and his work as a special Rapporteur has followed the ultraliberal ideological orientations and practices of said organism.

In 1978, the non-governmental organisation «Bern Declaration» published a brochure entitled *L'infiltration des firmes multinationales dans les organisations des Nations Unies*, where it explained in a rather documented manner the activities staged by large transnational corporations (Brown Boveri, Nestlé, Sulzer, Ciba-Geigy, Hoffmann-La Roche, Sandoz, Massey Ferguson, etc.) to influence the decisions of a variety of organisms of the United Nations system.

Since the creation of the Global Compact, it is no longer about «infiltration» but about the unabated aperture of the UN doors to transnational corporations. The project to create the Global Compact was announced in 1998 by then UN Secretary General Kofi Annan, in his report for the General Assembly entitled "Entrepreneurship and privatisation for economic growth and sustainable development" (A/52/428).

The Secretary General said in that report that... «deregulation... has become a watchword for government reforms in all countries, developed and developing» (paragraph 50 of the report) and advocated selling all State companies trusting... «ownership and management to investors who have the experience and skills to upgrade the performance, even if that means, at times, selling the assets to foreign buyers.» (paragraph 29). It was the legitimisation of the policies practiced on a global scale to undersell profitable State companies (sometimes through various clearly corrupt procedures) to privatise benefits and socialise losses.

In May 2000 the World Congress of the International Chamber of Commerce (ICC) convened in Budapest. In a recorded speech, Kofi Annan spoke to the Congress asserting that the UN and the ICC were "good and close associates". But ICC's President, Adnan Kassar, defined the limits establishing what he called an important condition: there must not be proposals to endow the Global Compact with binding norms (prescriptive rules). "We will resist any trend in that direction, he added.¹⁵

The Global Compact was officially launched on 25 July 2000 with the participation of 44 large transnational corporations and some other "civil society representatives". Among the participating corporations, at the launching of the Global Compact, there were, among others, British Petroleum, Nike, Shell, Rio Tinto and Novartis, with a "curricula" dense in human and labour rights violations or environmental damage; Lyonnaise des Eaux (Suez Group), whose activity concerning the corruption of civil servants in its pursuit of the obtainment of monopolies in drinking water is well known worldwide, etc. This alliance between the UN and large transnational corporations created a dangerous confusion between an international political institution, such as the UN, which, according to its Charter, represents "the peoples of the United Nations..." and a group of entities representative of the private interests of an international economic elite.

On 27 April 2006, the UN Secretary General, Kofi Annan, from the New York Stock Exchange, invited the world of finance to adhere to the Principles of Responsible Investment. This new proposal was developed by the Global Compact and The United Nations Environment Programme Finance Initiative (UNEP FI) with the end of providing a framework to integrate social and environmental issues into investment.

¹⁵ www.iccbo.org/home/news_archives/2000/buda_global.asp, 18.05.2000.

“Today it is increasingly clear that the objectives of the United Nations –peace, security, development– go hand in hand with the prosperity and growth of markets. If corporations fail, markets fail”, Kofi Annan said in Wall Street. He explained the characteristics of the Principles: “To offer a guideline to attain better returns on long-term investments and more sustainable markets.” He also praised the Global Compact, an agreement that “has become the broadest initiative in the world for corporate responsibility”. “It is a sign that the step we take today is really meaningful, the leaders of some of the largest, more influential investment institutions in the world have joined us”, the Secretary General expressed (Source: UN News).

The peoples of the world are still suffering the effect of the crises provoked by the “responsible investments” of financial capital.

Ban Ki-Moon, persisting on the same orientation of his predecessor Kofi Annan, declared on 29 January 2009 at Davos’ World Economic Forum: “Well understood self-interest is the essence of corporate responsibility and the key for a better world”.¹⁶ The UN Secretary General follows the footprints of ultra neoliberal Milton Friedman when he said: “The social responsibility of business is to increase its profits”.

We have said in a variety of opportunities that the Global Compact is a mere instrument of large transnational corporations.

This praise was confirmed in some way by the Joint Inspection Unit (JIU) of the United Nations in its report on the role and functioning of the Global Compact: **United Nations corporate partnerships: The role and functioning of the Global Compact** (JIU/REP/2010/9) published in 2010.¹⁷

In the decade of the 1980s, transnational corporations benefited when the Project of the Codes of Conduct for them was buried. In 2011 they won again with Mr. Ruggie’s Final Report, which sank again the attempt to create norms of a binding nature for transnational corporations, initiated by the Sub-Commission on Human Rights in 1998.

Lyon, 11 April 2011

Related links:

- <http://www.jussempor.org>

¹⁶ Cited by Pedro Ramiro, *Multinationals and corporate social responsibility: from ethics to profitability*, in *The business of responsibility. Critique of Corporate Social Responsibility of transnational corporations*, Hernández Zubizarreta, Juan y Pedro Ramiro (editors.). Icaria Editorial, Colección Antrazyt, Barcelona, June 2009.

¹⁷ In the executive summary of the report it is said that its goal is to “examine the role and degree of success of the Global Compact and the risks associated with the use of the United Nations brand by companies that may benefit from their association with the Organisation without having to prove their conformity with United Nations core values and principles.”... It says that the Global Compact functions “within a “special regime,” but lacking a proper regulatory governmental and institutional framework.” It continues saying that it has “contributed to legitimising the Organisation’s engagement with the private sector over the years. Yet, the lack of a clear and articulated mandate has resulted in blurred focus and impact; the absence of adequate entry criteria and an effective monitoring system to measure actual implementation of the principles by participants has drawn some criticism and reputational risk for the Organisation, and the Office’s special set up has countered existing rules and procedures. Ten years after its creation, despite the intense activity carried out by the Office and the increasing resources received, results are mixed and risks unmitigated.”

The Report of the Joint Inspection Unit elaborates what it advanced in the executive summary:

- The mandate and organisation of the Global Compact are ambiguous (paragraphs 13-15). (Businesses are unwilling to have any kind of organic ties or concerning their objectives. This is a clear violation of the United Nations Charter, where who are its members, how they participate and what are their rights and obligations is defined).
- Corporations do not accept monitoring and much less binding norms (paragraph 52). (Mr. Ruggie has said it: the Global Compact “is not a code of conduct and the United Nations has no mandate for this endeavour nor the capacity to verify its application”).
- Corporations participate predominantly for trust (image) reasons (paragraph 50).
- The report warns about the fact that companies activities belonging to the Global Compact may damage the United Nations image (paragraph 17 in fine). See also paragraph 66 of the report.
- In the Global Compact, large corporations are clearly predominant (many of them with a large record of human rights violations and corruption), with almost no labour organisations and no farmers organisations (paragraphs 37-39).-----

- ❖ **About Jus Semper:** The Living Wages North and South Initiative ([TLWNSI](#)) constitutes the sole program of The Jus Semper Global Alliance (TJSGA). TLWNSI is a long-term program developed to contribute to social justice in the world by achieving fair labour endowments for the workers of all the countries immersed in the global market system. It is applied through its program of Corporate Social Responsibility (CSR) and it focuses on gradual wage equalisation, for real democracy, the rule of law and living wages are the three fundamental elements in a community's quest for social justice.
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