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Human Rights Obligations of Business:

The Case For Reforms And Effective Remedies-Sierra Leone A
Case Study

Author: Raymond Katta
Supervisor: Dr. Shane Darcy

ABSTRACT

The global outcry against the adverse consequences of globalization and its progeny direct foreign investment (DFI) has reached 'hard-to-ignore' proportions. Correspondingly, calls for enhanced corporate governance mechanisms and effective access to remedies have increased to unprecedented levels.

Though a global trend, corporate-related human rights violations are more systemic and egregious in Sierra Leone. The surge in corporate-related human rights violations and the increase in conflicts between host communities and mining rights holders since 2007¹ affirm this.

The overarching hypothesis of this research is, left unregulated; corporations will not voluntarily take evocative steps to mitigate the adverse consequences of their operations.² This research will interrogate the veracity of such a claim.

This research seeks to investigate Jagers' assertion that the core business and human challenges are: (i) persistence in corporate impunity, (ii) susceptibility of particularly fragile states to acquiesce to corporate

¹Human Rights Watch Report: Human Rights Abuses in Sierra Leone's Mining Boom-Whose Development?, Available at www.hrw.org/sites/default/files/reports/sierraleone_2014_ForUpload.pdf(consulted February 15 2015),p.1.

² Jagers, 2002,p.49.

pressure³ and (iii) prevalence of collusion and complicity, under the pretext of so-called trade processing zones.⁴

The recurring questions for which this research seeks answers are: do corporations have human rights obligations? Are their consequences for breach? Do victims have access to remedies? What are the national and international normative groundings? How effective are they? How accessible are they? Do they have global judicial applicability? If this normative machinery is malfunctioning why is it? How can the constraints in accessing remedies be addressed? Are their international best practices on access to remedy provision worth replicating?

This research will investigate the authenticity of Ruggie's claim that the duty to protect does not extend extraterritorially.⁵ This research will also investigate the feasibility of accessing investor

³Jagers, Nicola, M.C.P., *Corporate Human Rights Obligations: In Search of Accountability*. Antwerpen/Oxford/New York: Intersentia, 2002, P.9.

⁴Ibid.

⁵See Knox, John J., "The Ruggie Rules: Applying Human Rights to Corporations", pp.51-83 in Mares, Radu (editor), *The UN Guiding Principles on Business and Human Rights: Foundations and Implications*, Leiden/Boston: Martinus Nijhoff Publishers, 2012. p.79.

liability litigation, in other global judicial arena⁶ aside from The US.

The national normative grounding for business-linked human rights violations in Sierra Leone will be investigated being that it is the principal case study country.

⁶ See Ramsey, Michael, D, 'International Law Limits on Investor Liability in Human Rights Litigation' in Harvard International Law Journal, Vol.50, 2009, introduction page.

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