**Book Review**


As the debate continues in the UN Human Rights Council about the merits of an internationally binding instrument on the human rights responsibilities of corporations, this book provides strong and supportive arguments for the necessity for changes in the current system. Specifically, Khoury and White criticize neo-liberal politics with an emphasis on free trade and free markets that have prioritized the economic rights of multi-national corporations (MNCs) over the individuals whose human rights have been violated by corporate actions. At this point, it is difficult to use the legal arena, at the international or the national level, to resolve the lack of corporate responsiveness to human rights violations (p. 23). Even though there are legal channels available such as the Organisation for Economic Co-operation and Development (OECD) guidelines, Alien Tort law in the USA, Inter-American and European human rights courts for examining corporate action (or inaction), they often fall short in terms of curbing harmful corporate actions. Rather than helping to mitigate human rights violations, according to Khoury and White, the current legal approach contributes to a core problem, a world in which ‘corporations are dominant and are effectively granted impunity for human rights violations’ (p. 170). In terms of additional evidence, Khoury and White provide numerous examples of how corporations have successfully lobbied and protected their global economic status through the development of United Nations (UN) agreements such as the UN Global Compact and UN Guiding Principles (Ruggie’s Principles) that rely on voluntary actions, corporate social responsibility, and provide little pressure on corporations to actively address and/or resolve human rights violations. Khoury and White (p. 172) conclude by calling on the UN Human Rights Council to ‘break the mold and seek a system that can channel the demands of the people who are victimized by corporations and not the needs of the corporations of themselves’.

Khoury and White’s book has six chapters covering a wide range of topics, which are used to build their case that the current political initiatives concerning business responsibilities for human rights violations have failed. Chapter 1 provides a historical overview of the debate about corporations and human rights beginning in 1945 through to 2005. The chapter details how human rights shifted to become more about ‘the rights of corporations above the rights of workers, local communities, and indigenous peoples in host countries’ (p. 43). This chapter identifies a pivotal moment in the 1970s, the development of the UN code of conduct for transnational corporations (TNCs), when protecting economic rights and foreign direct investment in developing countries emerges as a more important topic than curbing corporate political power and human rights abuses. The authors emphasize that this outcome resulted from a shift in global power, an increase in power by the countries constituting the Global North who wanted

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to increase their MNC’s foreign access, accompanied by a decline in power by the countries that comprised the Global South. Chapter 2 discusses the Ruggie agenda, with its emphasis on corporate social responsibility, the soft law approach, to increase the responsibility of corporations for human rights concerns. Khoury and White, in discussing both the UN Global Compact and the UN Guiding Principles (UNGPs) in depth, maintain that Ruggie developed a set of policies that appealed primarily to the global elites, USA, UK, Australia and corporations (p. 63). A major concern raised by Khoury and White is that the UNGPs essentially allow the *status quo* to persist, a mix of national regulatory standards and voluntarism. Chapter 3 focuses on the OECD guidelines and the National Contact Points (NCPs), which the authors argue is the only direct approach for addressing business and human rights at the national level (p. 21). These guidelines, aligned with the UNGPs, are one of the key regulatory tools for implementing the UNGPs. However, Khoury and White’s statistical analysis of the cases discovers that only 13 per cent of the cases in the time period from 2002 until 2012 reached some type of settlement. Another important aspect of this chapter is the focus on the role of non-governmental organizations (NGOs), who are one of the primary parties filing cases with the NCPs. Khoury and White (p. 75) express concerns that even though the NGOs have had some success in using this process to curb corporate human rights abuses, these successes may be more symbolic than substantive.

The next three chapters deal with the how the courts have approached business and human rights issues. Chapter 4 examines the use of tort law in both the USA and Europe to deal with business and human rights cases. A significant part of the chapter analyses the role of the US Alien Tort Claims Act (ACTA), which the authors claim has been the most notable legal approach for dealing with corporate violations of human rights and one of the few alternatives available to victims (p. 97). Even though this has been one of the few channels available for victims of human rights abuses, Khoury and White question the amount of energy that lawyers and NGOs have used pursuing this channel given the mixed results of these cases and lack of access for this legal route for many victims. As the authors point out, it is difficult to discern the total impact of these cases; 180 cases have been filed against corporations, but there have only been 13 settlements, and many have not been disclosed due to confidentiality clauses (out of court settlements). Chapter 5 shifts the focus to a discussion of the state’s responsibility for curbing human rights violations by examining the role of regional human rights courts, Inter-American and European, in preventing corporate human rights abuses. Khoury and White identify significant differences between the European courts that have been much more reluctant to embrace the horizontal concept, states having a responsibility for third parties who violate human rights, and the Inter-American courts, who have embraced this concept. The Inter-American courts have been more proactive in providing remedy, more inclusive of NGOs, and more respective of collective rights of communities. Chapter 6 continues the discussion of the regional courts with an emphasis on how corporations have been able to use the law to protect their profitability. The chapter concludes by arguing that the legal characteristics of corporations in the regional courts system protects corporations and provides them with privileges (shareholders are legally immune) (p. 152), but the courts fail to protect victims from corporations. In the conclusion, Khoury and White provide some suggestions about how to create more substantive legal obligations that could curb corporate human rights abuses. One of the main suggestions is the
creation of a people’s tribunal possibly fashioned like the World Social Economic Forum that could counter strong corporate lobbying and lead to more inclusive and deliberative processes in the UN debates about legally binding instruments.

At a basic level, this book is valuable for scholars, practitioners and students who are interested in an overview of the legal channels available for addressing business and human rights concerns. Through summaries of key legal decisions, and descriptive analyses of the NCPs and the regional courts, the book provides an in-depth perspective on the complexities associated with a wide range of political initiatives addressing corporate violations of human rights. Of course, the book through its socio-legal lens gives the reader much more than an overview in terms of its thought-provoking critique of the politics as well as the legal factors driving many of the political initiatives and legal decisions concerning business and human rights. Overall, the themes in this book should resonate with business and human rights scholars from multiple disciplines, business ethics, management, international business, political science, and legal scholars who are debating the role of the home state, the tension between host states and corporations, and the potential of a business and human rights treaty in providing remedy for human rights violations.1,2 In addition, the book’s arguments align with concerns raised by business ethicists (e.g., Wettstein, 20093) about how to curb the structural power of corporations who control and expropriate resources at the expense of the communities where they are located. As Khoury and White maintain, the real problem in many communities is ‘the presence of the corporation’, how can the people in the community regain the rights to make decisions about resources and the investment of profits in their own communities? This book should also appeal to scholars from different disciplines who are concerned about the access to justice, the formal and informal institutions for victims of human rights violations, and the need to shift to a more victim-centred, (human) rights-based outlook. Although the book places the hope for curbing corporate abuses with people’s tribunals and dismisses corporations as having any incentive to pursue a constructive role in addressing human rights, is it possible that there are progressive corporations who are willing to engage with stakeholders to change the system and return power to the communities where they are located? Are there NGOs who also have been more successful in advocating the collective rights of communities, by pressuring and partnering with corporations to address human rights issues? Also, are there corporations who have the incentive and political power to lobby for an international rights treaty? Khoury and White would probably counter that these possibilities are too piecemeal and insufficient; what is needed is much more substantive changes in the legal environment to ensure that corporations’ economic rights are not a priority in human rights law.

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