

TRANSNATIONAL CORPORATIONS AND HUMAN RIGHTS VIOLATIONS: FOCUS ON COLOMBIA

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Since the 1980s, American businesses have been investing in countries all over the world on a large scale. In doing so, these businesses hope to offer the best products at the lowest prices to earn the most profits. These types of international businesses are called transnational corporations (“TNCs”).¹ TNCs are businesses backed by international investment with multi-country locations that have different sources of stages of productions and offices in different countries.² In fact, hundreds of billions of dollars in annual investment are linked to TNCs.³

While TNCs may be financially wise for the business savvy, they are not without criticism. TNCs, especially those located in third world countries such as Colombia, are sometimes accused of human rights violations.⁴ International law and organizations play a key role in setting the standard for human rights recognition and compliance. Despite their initiatives, however, implemented policies to safeguard human rights are not addressing this concern to the degree necessary – nor are policies as effective as they could be.

Part I of this paper explains how sources of law define human rights and shape and TNC behavior. Part II highlights the relationship between TNCs and human rights and illustrates three cases studies of human rights violations in Colombia, a third world country that hosts well-known TNCs. Part III explores how various factors, such as TNC structure, the amorality of business “ethics,” and the day-to-day challenges for developing countries contribute to the prevalence of human rights violations by TNCs. Part IV analyzes different types of abuses, using Colombian case studies. Part V evaluates solutions for achieving

¹ TNCs are also known as multinational corporations (MNCs).

² Paul Redmond, *Transnational Enterprise and Human Rights: Options for Standard Setting and Compliance*, 37 INT’L LAW 69, 76–7 (2003).

³ See, e.g., UNITED NATIONS CONFERENCE ON TRADE AND DEVELOPMENT, THE WORLD INVESTMENT REPORT 2004, U.N. Doc. UNCTAD/WIR/2004, U.N. Sales No. E.04.II.D.36 (2004), Overview available at http://www.unctad.org/en/docs/wir2004overview_en.pdf.

⁴ Bennett Freeman et al., *A New Approach to Corporate Responsibility: The Voluntary Principles on Security and Human Rights*, 24 HASTINGS INT’L & COMP. L. REV. 423, 423–24 (2001).

TNC compliance with international human rights law and standards. Finally, Part VI concludes with a recommendation of the most effective way of gaining compliance from TNCs in the area of human rights.

I. SOURCES OF LAW DEFINING HUMAN RIGHTS AND SHAPING TNC BEHAVIOR

A. HUMAN RIGHTS DEFINED

Defining human rights on an international level is not easy. Attempting to outline human rights in the international context is an ongoing process. The U.N. has been a leader in recognizing human rights and incorporating them into various documents; however, the rights defined are numerous and quite broad in scope. There is no consensus as to which human rights are the most important, making enforcement of human rights difficult.

The U.N. International Bill of Human Rights (IBHR) is a three-part document consisting of the Universal Declaration of Human Rights (UDHR); the International Covenant on Civil and Political Rights; and the International Covenant on Economic, Social and Cultural Rights.⁵ These documents consist of a declaration of rights, a binding treaty, and a mechanism by which the treaty can be enforced.⁶ Each document emphasizes different human rights.⁷ The UDHR defines human rights as rights that every human possesses by virtue of being born human, such as the rights to freedom, life, liberty, and security.⁸ The International Covenant on Economic, Social and Cultural Rights includes rights to employment, medical and health care, and to share cultural life.⁹ This covenant, which has been signed by over 140 countries, protects the right to form and join trade unions and protects the rights of children.¹⁰ The Covenant on Civil and

⁵ WILLIAM H. MEYER, HUMAN RIGHTS AND INTERNATIONAL POLITICAL ECONOMY IN THIRD WORLD NATIONS: MULTINATIONAL CORPORATIONS, FOREIGN AID, AND REPRESSION 9 (1998).

⁶ *Id.* at 9–10.

⁷ *Id.* at 9–12.

⁸ Universal Declaration of Human Rights, G.A. Res. 217A, U.N. GAOR, 3rd Sess., at 71, U.N. Doc. A/810 (Dec. 12, 1948) [hereinafter Declaration], available at <http://www.hrweb.org/legal/udhr.html>.

⁹ International Covenant on Economic, Social and Cultural Rights, G.A. Res. 2200, U.N. GAOR, 21st Sess., Supp. No. 16, at 49, U.N. Doc. A/6316 (1966), available at <http://www.hrweb.org/legal/escr.html>.

¹⁰ *Id.*

Political Rights recognizes, among other rights, that everyone has a right to freedom of association, to be free from torture or cruel, inhumane treatment or punishment, and a right to hold opinions without interference.¹¹

While these covenants represent an ideal standard of achievement toward which all countries and people should strive,¹² it seems nearly impossible to attain this goal. The scope of the rights is broad, which makes practical monitoring of every single right impractical. Countries, therefore, must prioritize rights. This complicates the matter, as different countries value different human rights.¹³ For example, definitions of human rights vary in terms of scope and importance among the eastern and western cultures.¹⁴ To date, there is no universally agreed-upon consensus as to human rights.¹⁵ One of the main reasons for the failure to establish effective enforcement and monitoring for human rights¹⁶ is because the definition of human rights is complex and varied.¹⁷ Laws define social expectations; rights covered by international law touch upon aspects of millions of people's lives. In order for human rights to be promoted and protected, there must be a clear agreement of how they are defined. In the international arena, it is not easy because of diversity of value.¹⁸

B. SOURCES OF LAW SHAPING TNC BEHAVIOR

As seen, a number of documents attempt to define human rights. Different laws define and outline standards of operation for TNCs when operating in host countries. The problem is that many of those laws do not address human rights and those that do are often vague. In order to gain the consensus of big business

¹¹ International Covenant on Civil and Political Rights, G.A. Res. 2200, U.N. GAOR, 21st Sess., Supp. No. 16, at 52, U.N. Doc. A/6316 (1966), available at <http://www.hrweb.org/legal/cpr.html>.

¹² See generally Declaration, *supra* note 8.

¹³ MEYER, *supra* note 5, at 16.

¹⁴ *Id.* at 10–19.

¹⁵ *Id.* at 16.

¹⁶ *Id.* at 16–19.

¹⁷ Patricia Stirling, *The Use of Trade Sanctions as an Enforcement Mechanism for Basic Human Rights: A Proposal for Addition to the World Trade Organization*, 11 AM. U. J. INT'L L. & POL'Y 1, 4 (1996).

¹⁸ Sita C. Amba-Rao, *Business Social Policy in the Third World: Response of Multinational Corporate Management*, in DEVELOPMENT AND DEMOCRATIZATION IN THE THIRD WORLD: MYTHS, HOPES, AND REALITIES 253, 257 (Kenneth E. Bauzon ed., 1992) [hereinafter DEVELOPMENT AND DEMOCRATIZATION].

players, codes are often voluntary making adherence to and enforcement of these codes practically impossible.

First and foremost, laws that define human rights and those that shape standards for TNCs historically have not overlapped.¹⁹ Corporate law primarily governs the actions of corporations but does not explicitly address the problem of corporate compliance with human rights standards.²⁰ International law, which defines human rights, lays out codes of conduct that should be followed by states, not corporations.²¹ In terms of human rights law, documents such as the IBHR do not specifically address TNCs and their role in the recognition of human rights.²² These three areas of law fail to address the issue of TNCs and their responsibility to host countries. The disconnectedness of the different spheres of law affect decision-making and human rights at all stages from the framing, application and adjudication of policies and rules, which negatively affects human rights.²³

As TNCs have increasingly played an important role in business, committees have formed to address dually human rights and TNCs. The U.N. Commission on Transnational Corporations oversees efforts aimed at dealing with the conduct and treatment of TNCs.²⁴ The organization worked to develop a code that set out the rights and obligations of both the TNCs and states.²⁵ It called on TNCs to respect human rights by abstaining from involvement in and subversion of domestic politics in host nations, practicing non-discrimination, and respecting host government priorities on employment, the environment and socioeconomic policy.²⁶ Developing a code that many states will adopt has, however, been difficult, even among those countries that are thought to have similar interests.

One problem is that provisions of codes are vague in terms of defining human rights and procedure for violating them.²⁷ This

¹⁹ Redmond, *supra* note 2, at 75.

²⁰ *Id.* at 73.

²¹ *Id.*

²² See, e.g., Human Rights Web, A Summary of United Nations Agreements on Human Rights (July 8, 1994), <http://www.hrweb.org/legal/undocs.html>.

²³ Surya Deva, *Human Rights Violations by Multinational Corporations and International Law: Where From Here?*, 19 CONN. J. INT'L L. 1, 33 (2003).

²⁴ Redmond, *supra* note 2, at 96.

²⁵ Deva, *supra* note 23, at 33.

²⁶ MEYER, *supra* note 5, at 84.

²⁷ Redmond, *supra* note 2, at 89-92.

is not unusual. International treaties and codes are often very “diluted” or vague and thus non-binding or voluntary.²⁸ The same has been true for most codes of conduct drafted by businesses or international organizations as they rarely address expectations about human rights in a specific way. Recently, however, a sub-commission of the U.N. adopted a resolution called “U.N. Norms on the Responsibilities of Transnational Corporations and Other Business Enterprises with Regard to Human Rights.”²⁹ The resolution states that TNCs, as organs of society, are responsible for promoting and securing the human rights set forth in the Universal Declaration of Human Rights.³⁰ This resolution adopted by the U.N. should be applauded because the provisions directly address some of the major sources of human rights abuses.³¹

When there is no clear standard for human rights to which TNC behavior can be applied, holding TNCs accountable for compliance of human rights is difficult and confusing.³² Even when the international community agrees on treaties affecting human rights, countries such as the U.S., arguably with the greatest resources to raise awareness of and compliance with human rights, opt for a less accountable solution.³³ Similarly, some TNCs

²⁸ STATUS OF U.N. CODE OF CONDUCT ON TRANSNATIONAL CORPORATIONS: HEARING BEFORE THE SUBCOMMITTEE ON HUMAN RIGHTS AND INTERNATIONAL ORGANIZATIONS OF THE COMMITTEE ON FOREIGN AFFAIRS 33–36 (1989). For example, the U.N. Code of Conduct on Transnational Corporations calls on TNCs to respect human rights and fundamental freedoms. Due to the vague nature of the code, it would be difficult to hold any country to that standard, know when they are violating it, and even know what the consequences would be since this is not addressed in the code. Perhaps that was one of the reasons it was never adopted. See United Nations Draft International Code of Conduct on Transnational Corporations, 23 I.L.M. 626 (1984).

²⁹ Norms on the Responsibilities of Transnational Corporations and Other Business Enterprises with Regard to Human Rights, U.N. Doc. E/CN.4/Sub.2/2003/12/Rev.2 (2003), available at <http://www1.umn.edu/humanrts/links/norms-Aug2003.html>.

³⁰ *Id.*

³¹ The resolution states that “[t]ransnational corporations and other business enterprises shall not engage in nor benefit from war crimes, crimes against humanity, genocide, torture, forced disappearance, forced or compulsory labour, hostage-taking, extrajudicial, summary or arbitrary executions, other violations of humanitarian law and other international crimes against the human person as defined by international law.” *Id.*

³² Freeman et al., *supra* note 4, at 433.

³³ BUSINESS AND HUMAN RIGHTS 90 (Harvard Law School Human Rights Program 1999). For example, as Henry Steiner, the chair of Globalization, Development and Human Rights: Clarifying the Terms of the Debate, says the U.S. has been

refuse to be bound by treaties that would hold them accountable. The problem is compounded when TNCs rarely suffer formal consequences of treaty violations because no enforcement agency exists.³⁴

II. THE RELATIONSHIP BETWEEN TNCs AND HUMAN RIGHTS

Having defined human rights and examined the laws that shape TNC behavior, the issue is why TNCs should care about human rights. First of all, TNCs have a fiduciary duty to the host country and its people to acknowledge human rights.³⁵ Business and society are interdependent and co-existent, as business uses the country's resources and in turn fulfills an economic need.³⁶ Transnational corporations have social obligations to states and their people because the formation of capital is a social process that depends on the labor of others.³⁷

In the corporate world, businesses recognize that there are incentives to respect human rights.³⁸ Most TNCs' public relations offices promote the company's image and maintain its reputation by highlighting activities such as donating to, investing in, or sponsoring events. Corporations give millions of dollars to different organizations each year. These sorts of activities contribute to the company's sense of legitimacy. Businesses, managers, shareholders, and employees know that the company is socially responsible in investing. Educated consumers take note of these companies and reward them with sales.³⁹ Complying with human rights means avoiding bad press and having fewer product boycotts.⁴⁰

Third-world countries, aware of the benefits derived from foreign investment, heavily promote themselves. A country rich in resources is particularly attractive for TNCs that need raw

willing to sign up on a fair number of human rights treaties, yet it remains extremely cautious in accepting power of enforcing situation and the processes to which the U.S. will subject itself to others.

³⁴ *Id.*

³⁵ DEVELOPMENT AND DEMOCRATIZATION, *supra* note 18, at 256.

³⁶ *Id.* at 253.

³⁷ Marjorie Cohn, *The World Trade Organization: Elevating Property Interests Above Human Rights*, 29 GA. J. INT'L & COMP. L. 427, 438 (2001).

³⁸ BUSINESS AND HUMAN RIGHTS, *supra* note 33, at 78-79.

³⁹ *Id.* at 79.

⁴⁰ *Id.* at 74.

materials make their products.⁴¹ Investing in developing countries like Colombia is also a means by which to seek new markets.⁴² Labor is cheaper. Business often finds more favorable trade standards, and investment rules may be more lax or profitable for investing companies.⁴³

Investment in Colombia is particularly attractive. Colombia is rich in natural resources. It has the largest coal reserves in Latin America and is second to Brazil in hydroelectric potential.⁴⁴ The country's principal legal exports are crude oil, coal, coffee, and cut flowers.⁴⁵ Colombia has a convenient location near both the Atlantic and Pacific coasts, allowing economic access to the Gulf of Mexico, the west coast of North America, and East Asian markets.⁴⁶

Foreign investment and TNCs can do much to improve the quality of life for the citizens in countries like Colombia. TNC advocates say they help developing countries improve their standards of living, build a middle class, bring about a more accountable government, and strengthen the rule of law.⁴⁷ TNCs promote human rights and development by creating jobs, bringing new technology and providing employee benefits.⁴⁸ In fact, life expectancy, literacy, and infant survival rate all tend to increase with TNC investment in less developed countries.⁴⁹ On the international level, there is a positive relationship between direct foreign investment and better human rights in Third World Countries.⁵⁰

However, in many ways TNCs still have a long way to go in recognizing the importance of human rights. Corporations have

⁴¹ Ping Deng, *Foreign Investment by Multinationals from Emerging Countries: The Case of China*, 10 J. LEADERSHIP & ORGANIZATIONAL STUD. 113, 114–15 (2003).

⁴² *Id.*

⁴³ *Id.*

⁴⁴ Colombia Trade News, Colombian Government Trade Bureau, *The Colombian Economy in Brief*, <http://www.coltrade.org/tradedata/index.asp> (last visited Aug. 31, 2005).

⁴⁵ U.S. Department of State, Bureau of Democracy, Human Rights, and Labor, *Colombia: Country Reports on Human Rights Practices - 2003* (Feb. 25, 2004) [hereinafter *Reports*], <http://www.state.gov/drl/rls/hrrpt/2003/27891.htm>.

⁴⁶ Colombia Trade News, Colombian Government Trade Bureau, *About Colombia*, <http://www.coltrade.org/about/index.asp> (last visited Aug. 14, 2005).

⁴⁷ MEYER, *supra* note 5, at 90–91.

⁴⁸ *Id.*

⁴⁹ *Id.* at 108.

⁵⁰ *Id.* at 198.

participated in massive exploitation of natural resources, corruption of national governments, and the violation of human rights.⁵¹ In South America, TNCs on many occasions have eliminated more jobs than created them, and have absorbed local capital without bringing in external funds while harming local entrepreneurs.⁵²

III. TNCs AND HUMAN RIGHTS VIOLATIONS IN COLOMBIA

This article focuses on three case studies of human rights violations that are the result of direct actions or inactions of various subsidiaries of parent TNCs. These violations, all affecting Colombia, include discouragement of unions, product liability concerns, and displacement of populations. A close examination of what violations occur provides a better understanding of what is happening and ideas for how future violations can be addressed.

Colombia provides a good example of human rights violations issues for several reasons. First, it is known as a third-world country that often serves as a host of TNCs. It exemplifies challenges not only within the host country, such as human rights abuses committed by the government, but also those challenges TNCs face while operating in such countries.⁵³ The following examples show how corporations have responded to alleged human violations and suggest possible solutions for compliance of human rights standards.

Case #1: Killer Coke?

Colombia is infamous for its human rights violations.⁵⁴ It is also known as the murder capital of the world of union organizers.⁵⁵ Much of the violence has been directed at union leaders working for TNCs.⁵⁶ Coca-Cola has been heavily implicated in this scandal. In fact, by 2001 the number of union workers at Coca-Cola plants in Colombia had dropped to 450 from 1,300 in

⁵¹ Beth Stephens, *The Amoralty of Profit: Transnational Corporations and Human Rights*, 20 BERKELEY J. INT'L L. 45, 51-52 (2002).

⁵² MEYER, *supra* note 5, at 93.

⁵³ 3 Terry Collingsworth, *The Key Human Rights Challenge: Developing Enforcement Mechanisms*, 15 HARV. HUM. RTS. J. 183, 191-92 (2002).

⁵⁴ *Id.* at 191.

⁵⁵ *Id.* at 191, n.40.

⁵⁶ *Id.* at 191-92.

1993.⁵⁷ In response, the International Labor Rights Fund (ILRF) brought a lawsuit against Coca-Cola for violating the right of freedom of association.⁵⁸ Additionally, a worldwide boycott started against Coca-Cola.⁵⁹

The ILRF lawyers sought a remedy from the parent company in the U.S for violations committed in Colombia, filing the case in the Southern District of Florida in 2001 under the Alien Tort Claims Act (ATCA).⁶⁰ The suit alleged that bottlers of Coca-Cola “contracted with or otherwise directed paramilitary security forces that utilized extreme violence and murdered, tortured, unlawfully detained or otherwise silenced trade union leaders.”⁶¹ Specifically, the suit claimed paramilitary forces murdered a man attempting to organize a union, and then presented employees with an ultimatum to either resign from the union or risk their lives.⁶² Subsidiaries of Coca-Cola had hired the paramilitaries for protection for them.⁶³ In response to this claim, Coca-Cola did what most parent TNCs try to do: disassociate themselves from subsidiaries by arguing it could not be held liable for incidents that happened in the subsidiary bottling plants.⁶⁴

⁵⁷ Juan Forero, *Union Says Coca-Cola in Colombia Uses Thugs*, N.Y. TIMES, July 26, 2001, at A6.

⁵⁸ David Corn, *Corporate Human Rights*, THE NATION, July 15, 2002, available at <http://www.thenation.com/doc.mhtml?i=20020715&s=corn> (last visited January 11, 2005).

⁵⁹ See, e.g., *Boycott Killer Cola*, Colombia Action Network, <http://www.colombiaactionnetwork.org/luis.html> (last visited Jan. 11, 2005).

⁶⁰ Collingsworth, *supra* note 53, at 192. ATCA is short for the Alien Tort Claims Act, which allows aliens to sue on the basis of tort claims that are in violation of the law of nations or a treaty of the U.S. See 28 U.S.C. § 1350 (1982).

⁶¹ Juan Forero, *supra* note 57.

⁶² *Sinaltrainal v. Coca-Cola Co.*, 256 F. Supp. 2d 1345, 1348, 1350 (2003).

⁶³ It appears that the company had a relationship with the Colombian Army. According to case documents, after the episode, the ex-manager of the plant told investigators that he had an agreement to pay the army the equivalent of about \$500 a month for protection. He said that the man they dealt with was General Rito Alejo del Río, a notorious human rights violator who managed to surpass even what the military would tolerate, and he was he forced to resign in 1999. Aram Roston, *It's the Real Thing: Murder*, THE NATION, Sept. 3, 2001, at 5, available at <http://www.thenation.com/doc.mhtml?i=20010903&c=1&s=roston> (last visited January 11, 2005).

⁶⁴ Collingsworth, *supra* note 53, at 192.

#2: *H.B. Fuller Company (Fuller) and the Resistoleros*

While some might find Coca Cola's connection to the paramilitaries tenuous, other companies have a clearer relationship to human right violations. The case of the "resistoleros" is a different human rights violation - product liability. Once again, the parent company is based in the U.S., and its subsidiaries operate in Colombia and other South American countries. In contrast to the Coca-Cola situation, it was easier to influence Fuller to change its practices, but it still required many years of work.

Fuller, a Minnesota-based glue company, has manufacturing plants throughout Central and Latin America,⁶⁵ as well as in Colombia. Among other products, Fuller manufactures the glue Resistor.⁶⁶ Fuller was one of the main companies in the region, selling glue containing toluene, a toxin.⁶⁷ Short-term effects of sniffing glue include lightheadedness, nausea, and loss of appetite.⁶⁸ It is highly addictive and leads to neurological damage or death.⁶⁹ Because the glue was inexpensive and widely available,⁷⁰ street children in Colombia and elsewhere were able to buy it and abuse it on a large scale.⁷¹ Street children are often called Resistoleros because of their addiction to the Resistol glue.⁷²

In the 1980s, human rights and children's activists joined forces and demanded that Fuller address the problem.⁷³ They wanted Fuller held accountable for manufacturing a product it knew was abused.⁷⁴ Activists urged Fuller to follow the example of another U.S.-based company that added mustard oil to their glue to make it more difficult to inhale, leading to a decline in

⁶⁵ Charmaine J. Comprosky, *The Plight of the Street Children of Latin America Who Are Addicted Sniffing Glue and the Role and Responsibilities of Transnational Corporations*, 8 ILSA J. INT'L & COMP. L. 599, 603 (2002).

⁶⁶ *Id.* at 601.

⁶⁷ *Id.* at 603.

⁶⁸ *Id.*

⁶⁹ *Id.*

⁷⁰ *Id.*

⁷¹ Paul McEnroe & Susan E. Peterson, *H.B. Fuller Sued in Teen's Death*, STAR TRIBUNE, Jan. 4, 1995, available at http://pangaea.org/street_children/latin/strib1.htm.

⁷² Monika Bauerlein, *It Sticks and Sticks*, CITY PAGES, Apr. 17, 1996, available at http://pangaea.org/street_children/latin/mb.htm.

⁷³ Comprosky, *supra* note 65, at 604.

⁷⁴ Diana B. Henriques, *Black Mark For A 'Good Citizen': Critics Say H. B. Fuller Isn't Doing Enough To Curb Glue-Sniffing*, N.Y. TIMES, Nov. 26, 1995.

abuse rates among street children.⁷⁵ The corporation could thus address the abuse problem in the manufacturing stage.⁷⁶ While the cost of the process was small, Fuller refused to make the change as it had affected the other corporation's sales.⁷⁷

Aware of the product abuse and that a tested solution was available, Fuller still refused to comply with requests and change the glue.⁷⁸ Consequences followed. In 1993, a boy died as a result of sniffing the glue, and the mother of the boy brought a lawsuit against the company for wrongful death.⁷⁹ Similar to the situation of Coca-Cola and the paramilitaries, lawyers were faced with the difficult task of bringing a company into court that was not a "monolithic entity."⁸⁰ With the parent company based in the U.S.,⁸¹ lawyers for the victims faced the challenges of civil procedure.

It was not until 1992, with the help of large-scale media attention, that Fuller announced it would discontinue selling the glue in areas where it was being abused.⁸² Fuller's response may have been prompted by news that NBC Dateline, an investigate newsmagazine program, would be filming an investigation into the corporation's role in the abuse of glue.⁸³ At that point, Fuller declared it would stop producing solvent in areas where it was abused; however, as time passed and media attention dissipated, critics alleged Fuller continued to sell the toluene-based glue in the region.⁸⁴ It was not until 1999 that the company decided to stop selling solvent based glue in Latin America and began concentrating on developing water-based glue.⁸⁵ These actions were a major step in taking measures necessary to remove its products away from street children.

⁷⁵ Comprosky, *supra* note 65, at 604.

⁷⁶ *Id.*

⁷⁷ *Id.*

⁷⁸ *Id.*

⁷⁹ See *Polanco v. H.B. Fuller Co.*, 941 F. Supp. 1512 (1996).

⁸⁰ *Id.* at 1514.

⁸¹ *Id.* at 1514–15.

⁸² Comprosky, *supra* note 65, at 604–05.

⁸³ *Id.*

⁸⁴ *Id.*

⁸⁵ *Id.* at 606.

Case #3: British Petroleum (BP) in Colombia: The Price of Security

The examples cited above regarding the anti-union climate in Colombia and the street children who are abusing the glue illustrate that TNCs operating in foreign countries cannot ignore the realities of the country's situation. Colombian representatives themselves recognize the host country's challenges,⁸⁶ but TNCs with substantial resources and investment power can do more to ensure that human rights are respected. The scandal British Petroleum has in Colombia is another example of the difficulties TNCs face when doing businesses in other countries.

British Petroleum ("BP"), a transnational oil company has operated in Colombia in partnership with the state-owned Ecopetrol for years.⁸⁷ Due to social unrest in the country, BP has hired security forces to protect its property interests from the guerillas.⁸⁸ Despite U.S. State Department reports that Colombia's armed forces have committed and continue to commit grave human rights violations, BP knowingly contracts with them.⁸⁹ Admittedly, BP wants to protect its interests.⁹⁰ BP, however, signed a contract worth millions of dollars with the army without insisting on compliance with human rights.⁹¹

BP's size and influence in Colombia as well as its business collaboration with powerful actors signifies it is in a unique position to meaningfully express human rights concerns to the government and military.⁹² Oil companies such as BP that pay for security forces to protect their interests should bear responsibility of the actions of the group they hire.⁹³ Although the situation is challenging, BP could attempt to make a difference.

⁸⁶ See, e.g., Colombia Trade News, Colombia Government Trade Bureau, The Situation in Colombia, <http://www.coltrade.org/about/situation.asp>, where representatives acknowledge that Colombia is a country with problems stemming from a complex and difficult history of violence and armed conflict "between guerrilla organizations, illegal self-defense forces, narco-traffickers and the Government."

⁸⁷ See, e.g., *Colombia: Human Rights Concerns Raised By The Security Arrangements Of Transnational Oil Companies*, HUMAN RIGHTS WATCH (April 1998) [hereinafter *Concerns*], available at <http://www.hrw.org/advocacy/corporations/colombia/Oilpat.htm>.

⁸⁸ *Id.*

⁸⁹ Stephens, *supra* note 51, at 52.

⁹⁰ *Concerns*, *supra* note 88.

⁹¹ *Id.*

⁹² *Id.*

⁹³ *Id.*

BP has huge financial power. Not only is it the largest foreign investor in Colombia, but also its investment is the biggest of any British multinational in Latin America.⁹⁴ BP is also one of the top ten corporate spenders influencing US-Latin American policy,⁹⁵ and it recently signed a contract in Colombia for US\$350 million.⁹⁶ Because of its power, BP could take many actions to promote human rights. For example, it could insert a clause into a security agreement signed with the government that, as a condition of the contract, the security force used must conform to human rights obligations.⁹⁷ BP could screen military and police and conduct background checks on them to ensure no one implicated in human rights be engaged in their protection.⁹⁸ It could also make clear that human rights are important and the company will be the first to press for investigation if abuses occur.⁹⁹

Case # 4: Other TNCS

While these cases highlight a few of the TNCs behavior affecting Colombia, the record of many other TNCs on human rights is unclear because there is scant research,¹⁰⁰ due to under-reporting, little documentation and closed records.¹⁰¹ Available data must be collected and analyzed so that accurate conclusions may be drawn about the behavior of TNCs in the world economy.¹⁰²

It is important to understand how TNCs interact with the people of the host countries and the extent of human rights violations by them to promote compliance.¹⁰³ Awareness of past abuses can help companies to avoid recurrences, develop appropriate measures to respond, and promote accountability.¹⁰⁴ By

⁹⁴ Colombia Solidarity Campaign, *BP and the US-Colombia Business Partnership*, available at <http://www.colombiasolidarity.org.uk/Solidarity%2010/bpandus.html>.

⁹⁵ *Id.*

⁹⁶ BP Signs Seven Year Natural Gas Deal In Colombia, *OIL & GAS MAGAZINE* (Apr. 7, 2004), available at <http://www.oilworks.com/New/i041204.html>.

⁹⁷ *Concerns, supra* note 88.

⁹⁸ *Id.*

⁹⁹ *Id.*

¹⁰⁰ SIGRUN I. SKOGLY, *THE HUMAN RIGHTS OBLIGATIONS OF THE WORLD BANK AND THE INTERNATIONAL MONETARY FUND* 126 (2001).

¹⁰¹ *Id.*

¹⁰² *Id.* at 213.

¹⁰³ MEYER, *supra* note 5, at 213.

¹⁰⁴ Freeman et al., *supra* note 4, at 443.

assessing the situation and utilizing the countries' resources with a clear understanding of the limitations and strengths of the political and social economy, human rights compliance can become a reality.¹⁰⁵

IV. WHY HUMAN RIGHTS VIOLATIONS PERSIST

Having identified what sorts of human rights violations are affecting Colombia, an examination of the factors that contribute to the prevalence of human rights violations is appropriate. Difficulties in holding TNCs accountable for human rights violations include challenges in the legal system, few mechanisms and motives for enforcement on behalf of government, lack of media attention, and the ways that corporate decisions are made.

A. STRUCTURAL CHALLENGES

How TNCs are set up presents a typical challenge. TNCs' legal entities are usually located in different countries.¹⁰⁶ Consequently, when human rights violations occur, it can be difficult to decide where to seek remedies due to different laws addressing the violations.¹⁰⁷ Another problem is that courts in host countries are often ill equipped or are unable to address abuses because government agencies do not seek remedies for violations.¹⁰⁸ As a result, it is usually preferable to pierce the corporate veil and sue where the parent company operates.¹⁰⁹ An American corporation will often be implicated in human rights violations yet, since the abuses are not actually occurring on U.S. territory, there are jurisdictional challenges to overcome. As a result, U.S.-based TNCs often argue that they should be protected from their subsidiaries' and affiliates' bad acts despite parent corporation knowledge and awareness that such violations are occurring.¹¹⁰ The structural complexities of TNCs make corporation accountability elusive even if traceable.

¹⁰⁵ *Id.*

¹⁰⁶ Deva, *supra* note 23, at 6–7.

¹⁰⁷ *Id.* at 7.

¹⁰⁸ *Id.* at 8–9 (citing Anita Ramasastry, *Corporate Complicity: From Nuremberg to Rangoon an Examination of Forced Labor Cases and Their Impact on the Liability of Multinational Corporations*, 20 BERKELEY J. INT'L L. 91, 92 (2002)).

¹⁰⁹ Collingsworth, *supra* note 53, at 201.

¹¹⁰ *Id.* at 192.

B. BUSINESS ETHICS

At first glance, it is easy to understand why human rights may not be at the forefront of business objectives. Those companies who violate regulations can save money and gain an advantage over more socially responsible competitors.¹¹¹ Firms who care less about human rights thus become free riders in the international context.¹¹² They conduct business as they please without absorbing costs that other human rights-friendly firms incur.¹¹³ Businesses value cost-saving initiatives,¹¹⁴ as their main goals are to protect the development of investor's money.¹¹⁵ Human rights are essentially outside of corporate culture.¹¹⁶ As a result, business managers may not understand the necessity, opportunity, or potential to run their operations in a way that respects human rights.¹¹⁷

Although human rights promotion may not come from business, recognition and respect come from ethical and moral obligations on the part of TNCs. This can be somewhat tricky for companies because issues in business ethics do not always represent shared common ethics.¹¹⁸ For example, profit maximization emphasizes expediency and ignores morality.¹¹⁹ In instances such as these, corners are cut and violations occur. Yet, businesspersons, consumers, and stockholders have a sense of what is right and wrong. One could argue, "ethics is not dictated by laws, but by a higher standard of respect for people, the environment and what is best for the common good."¹²⁰ For businesses that

¹¹¹ BUSINESS AND HUMAN RIGHTS, *supra* note 33, at 49–50.

¹¹² *Id.*

¹¹³ *Id.*

¹¹⁴ For example, this relates directly back to the H.B. Fuller case, in that the company was aware that the glue was being abused by street kids, knew that there was an ingredient to make the glue safer, and knew that another US company was using the ingredient but H.B. Fuller refused to do the same. Comprosky, *supra* note 65, at 604.

¹¹⁵ Redmond, *supra* note 2, at 73.

¹¹⁶ *Id.*

¹¹⁷ BUSINESS AND HUMAN RIGHTS, *supra* note 33, at 79.

¹¹⁸ ETHICS AND THE FUTURE OF CAPITALISM 9 [hereinafter ETHICS] (László Zsolnai & Wojciech W. Gasparski eds., 2002).

¹¹⁹ *Id.* at 10.

¹²⁰ Bruce Harris, *Ethics and Economics*. CASA ALIANZA, Mar. 15, 2001, available at <http://www.casa-alianza.org/EN/lastminute/speech.htm>.

transcend national borders and affect millions of people worldwide, ethics is essential to “monitor, audit, and assess solutions and behavior of actors” in a capitalist system.¹²¹

C. INEQUALITY OF RESOURCES

It would seem the host countries themselves would have an interest in ensuring that TNCs respect the rights of their people and land, but they are often unable to enforce against violations. “”. Corporations are often formally unaccountable in the wake of apparent human rights violations because host countries have few mechanisms of control over the company.¹²² Most TNCs have significant financial resources and power;¹²³ the resource differential between TNCs and host countries is tremendous.¹²⁴

Many Third World host governments do not have the resources to monitor TNCs’ human rights compliance. Even when governments try to fight back against TNCs, corporations use the power to quash government action.¹²⁵ Moreover, it is often not in host countries’ best interests to engage in human rights monitoring because they are competing with other countries for foreign investment. There is little incentive to strictly enforce human rights when large sums of money are at stake.¹²⁶ Thus, the reality is that human rights vigilance whether intended or not, falls to the side.

Enforcing human rights compliance among large TNCs who heavily invest in the country is an unlikely priority. Colombia has

¹²¹ ETHICS, *supra* note 120, at 9.

¹²² Courts are often ill equipped to handle cases and host government often will not pursue enforcement. Deva, *supra* note 23, at 8–9 (citing Ramasastry, *supra* note 109, at 92).

¹²³ Redmond, *supra* note 2, at 72–73.

¹²⁴ *Id.*

¹²⁵ *See, e.g.*, Comprosky, *supra* note 65, at 604. For example, the Honduran Congress passed a law that required the addition of mustard oil to toluene-based products so that it was more difficult to inhale. This would reduce the prevalence of abuse. H.B. Fuller then inundated shoemakers with claims that mustard oil would be bad for their health and lobbied incessantly for a new law. Eventually the Honduran Congress succumbed and recommended that toluene products need not contain mustard oil at all. *Id.*

¹²⁶ Redmond, *supra* note 2, at 78–80 (mentioning that governments feel considerable pressure to attract investment by lowering the cost of local production, which often leads to cost cutting pressures that often affect areas such as labor conditions, environmental protection, occupational health, and safety regulation).

been plagued with internal conflict for over 40 years.¹²⁷ As of 2003, reports show the Colombian government's own human rights record is poor. The government is known to commit serious human rights abuses, such as murder and torture, against its citizens.¹²⁸ Even when the government is aware of high-ranking security officers' human rights offenses, authorities rarely bring them to trial.¹²⁹ As such, it is even less likely that large TNCs, whose offices are scattered all over the world, will be held accountable.

D. LACK OF MEDIA ATTENTION IN THIRD WORLD COUNTRIES

Media attention plays a significant role in exposing human rights violations of corporations in the U.S., but often there is little publicity of these sorts of events in host countries. Many reporters in Colombia fear retaliation.¹³⁰ In 2003, Colombia was featured on the Committee to Protect Journalist's' list of the "World's Worst Places to Be a Journalist."¹³¹ A significant number of journalists have been murdered, assaulted,¹³² threatened, and kidnapped.¹³³ In the U.S., on the contrary, the atmosphere is much safer for journalists and as a result, companies can be held accountable for unethical violations because this exposure often leads to a public outcry.

Media attention can bring about changes. The higher the public profile a corporation has, the greater its vulnerability to adverse publicity and consumer sentiment.¹³⁴ For small corporations, the relationship is not so strong. As powerful as media attention can be, however, it does not always help to solve the

¹²⁷ Stentor Danielson, *Colombians Struggle for Stability Amid Civil War*, NAT'L GEOGRAPHIC NEWS, June 5, 2002, http://news.nationalgeographic.com/news/2002/06/0605_020605_colombia.html.

¹²⁸ *Reports*, *supra* note 45.

¹²⁹ *Id.*

¹³⁰ *See, e.g.*, Committee to Protect Journalists, *Attacks on the Press 2003, Colombia*, [hereinafter Committee], available at <http://www.cpj.org/attacks03/americas03/colombia.html>.

¹³¹ *Id.*

¹³² *Reports*, *supra* note 45.

¹³³ Committee, *supra* note 131.

¹³⁴ Redmond, *supra* note 2, at 88. Although media attention alone often will not suffice. Even in the case of H.B. Fuller, large corporation media attention did not affect the business practice of the country for some time. Media attention must be

problem and implement long-term solutions.¹³⁵ Often media publicity comes in the time of crisis, demands an immediate solution, and does not provide the corporation for an analysis of the consequential effects.¹³⁶ As a result, short-term solutions may be implemented, often not much better than the first solution.

Unless journalists have the right to freely disseminate information about human rights violations and workers have the right to freely express themselves and their interests, there is not an adequate means of enforcing human rights.¹³⁷ Unfortunately, many people in Third World countries do not always know their rights.¹³⁸ “Many journalists who remain in Colombia feel that the pressure of working in a hostile environment, as well as the concentration of media ownership among businesspersons with ties to the government, has kept them from reporting openly on the grave problems facing Colombia.”¹³⁹

In sum, various factors contribute to why human right violations are more prevalent in developing countries. First, the uniqueness of TNCs’ structure makes it difficult to sue the parent company. Second, the media in countries like Colombia do not have the liberty and security to write about human rights violations. In the U.S, the political situation allows journalists to explore human rights violations by TNCs in depth.

V. SOLUTIONS TO TNC COMPLIANCE

Since TNCs are often implicated or associated with human rights violations, the goal should be to get these businesses to comply with basic standards. The question is exactly how to do this if current solutions are not sufficient to effectively address the situation. What follows is an evaluation of ideas for compliance. Ideas for compliance include voluntary compliance, legal

on a large scale, and citizens must be concerned enough to care about the problem in order to put pressure on companies to change their behavior.

¹³⁵ BUSINESS AND HUMAN RIGHTS, *supra* note 33, at 79.

¹³⁶ *Id.*

¹³⁷ *Id.*

¹³⁸ For example, in the majority of cases with human rights violations, victims are from developing countries that are developing not only economically, but also in terms of the level of education, legal regulation and legal institution. Potential victims are often either ignorant of their rights or do not have a means of enforcing them. Deva, *supra* note 23, at 8–9 (citing Ramasastry, *supra* note 109, at 92).

¹³⁹ 41 Committee, *supra* note 130.

remedies, and collaboration among existing institutions. Advantages and disadvantages will be examined to suggest solutions that will most effectively and realistically address this problem.

A. VOLUNTARY COMPLIANCE

Many TNCs have drafted contractual agreements and codes of conduct.¹⁴⁰ By doing so, there is a “reputational investment”¹⁴¹ at stake, and consumers expect companies to maintain those standards. Public Commitment is likely to promote compliance of larger corporations within the media spotlight.¹⁴² Codes also create a “transnational obligation” which operates independently of host countries, extending the reach of international standards of human rights to countries that may have declined to ratify them.¹⁴³

While voluntariness is a viable solution to the problem of TNCs and human rights violations, there are some serious concerns. While companies draft codes and seem to be holding themselves accountable, that may not always be the case.¹⁴⁴ First, the codes are voluntary, meaning companies may not follow them.¹⁴⁵ If the codes are not followed, there are often few consequences. Many codes lack detailed provisions for implementation and monitoring,¹⁴⁶ making them more like “dream” documents for public relations officials.¹⁴⁷ As such, they are vastly under-regulated as to their content, enforcement, and impact.¹⁴⁸

For TNCs who have brands, products or services in the public, codes of conduct with regards to human rights can improve the company’s market image.¹⁴⁹ Market-based strategies allow the consumer to take responsibility for making choices on which

¹⁴⁰ Freeman et al., *supra* note 4, at 429.

¹⁴¹ Redmond, *supra* note 2, at 90.

¹⁴² *Id.*

¹⁴³ *Id.*

¹⁴⁴ *Id.* at 89.

¹⁴⁵ Mark B. Baker, *Tightening the Toothless Vise: Codes of Conduct and the American Multinational Enterprise*, 20 WIS. INT’L L. J. 89, 138 (2001).

¹⁴⁶ Redmond, *supra* note 2, at 89.

¹⁴⁷ Baker, *supra* note 147, at 137–38.

¹⁴⁸ *Id.* at 138.

¹⁴⁹ Redmond, *supra* note 2, at 87–91.

products to buy.¹⁵⁰ The public has influenced TNC behavior.¹⁵¹ Activist groups have successfully attacked TNCs on the Internet with email and web-based campaigns.¹⁵² With increased vigilance of their behavior, there is greater pressure for TNCs to comply with human rights standards in order to avoid damaging headline stories.¹⁵³ Market-based strategies are limited though, because substantial pressure must be put on TNCs to make a difference. These strategies depend on consumer awareness of the company's human rights record return.¹⁵⁴ Consumers must also be willing to take their business elsewhere. This suggests market based compliance is rather weak due to the whimsical taste of the consumer base.¹⁵⁵

B. LEGAL REMEDIES

Legal remedies are another enforcement mechanism available to hold TNCs accountable for the human rights violations. The Alien Tort Claims Act, states "the district courts shall have original jurisdiction of any civil action by an alien for a tort only, committed in violation of the law of nations or a treaty of the United States."¹⁵⁶ Under ATCA, plaintiffs can sue TNCs for crimes committed in other countries.¹⁵⁷ It is a means of direct enforcement of human rights norms¹⁵⁸ and gives people a remedy they might have not had otherwise.

ATCA has important limitations that weaken its potential. One of the biggest challenges it poses relates to jurisdiction. Jurisdictional rules under corporate law have a cumulative effect to restrict legal action against individual members of a corporate group.¹⁵⁹ TNCs, therefore, are often able to disassociate themselves from the direct consequences of investment and as such

¹⁵⁰ BUSINESS AND HUMAN RIGHTS, *supra* note 33, at 74–81.

¹⁵¹ Baker, *supra* note 147, at 136.

¹⁵² *Id.* at 135.

¹⁵³ *Id.*

¹⁵⁴ *See e.g., id.* at 136–37

¹⁵⁵ *See id.* at 137.

¹⁵⁶ 28 U.S.C. § 1350 (1982).

¹⁵⁷ L. Kathleen Roberts, *The United States and The World: Changing Approaches to Human Rights Diplomacy Under the Bush Administration*, 21 BERKELEY J. INT'L L. 631, 635 (2003).

¹⁵⁸ Collingsworth, *supra* note 53, at 203.

¹⁵⁹ Redmond, *supra* note 2, at 84.

shield themselves from liability.¹⁶⁰ The narrow scope of the remedy, which effectively only sanctions TNCs in relation to action undertaken on behalf of or in complicity with host governments, also poses a significant challenge.¹⁶¹

Practical concerns of bringing a claim under ATCA also play a role in possibly limiting the number of suits brought under the act, or invoking a claim at all. Victims of human rights violations are often scared to make claims or testify.¹⁶² They may fear retaliation by the company or by the government.¹⁶³ It can be difficult to gather evidence, interview witnesses, and even find a lawyer.¹⁶⁴ Plaintiffs are rarely able to gather money to afford to pay the legal fees.¹⁶⁵ Many people who take a stand against human rights by TNCs or governments often have their lives endangered.¹⁶⁶

C. DEMANDING COMPLIANCE FROM EXISTING INSTITUTIONS

While the previous three groups of solutions have been somewhat successful in bringing about change, human rights violations continue to persist on a disturbing level. A more powerful mechanism of enforcement is needed and for business, what speaks louder than money?

1. *World Bank*

Some people suggest that enforcement of human rights compliance should come from the World Bank.¹⁶⁷ The World Bank is one of the most powerful international financial institutions.¹⁶⁸ It has the power to provide direct loans and financial assistance to

¹⁶⁰ Collingsworth, *supra* note 53, at 189.

¹⁶¹ Redmond, *supra* note 2, at 83.

¹⁶² Collingsworth, *supra* note 53, at 202.

¹⁶³ *Id.*

¹⁶⁴ Human Rights Watch, *Defend the Alien Torts Claim Act* (July 29, 2003), available at <http://www.hrw.org/campaigns/atca>.

¹⁶⁵ *Id.*

¹⁶⁶ See Collingsworth, *supra* note 53, at 202.

¹⁶⁷ Halim Moris, *The World Bank and Human Rights: Indispensable Partnership or Mismatched Alliance?*, 4 ILSA J. INT'L & COMP. L. 173, 174–76 (1997).

¹⁶⁸ *Id.* at 176.

states for development purposes.¹⁶⁹ The decision whether to provide a loan comes from the board of directors of the organizations, all which have a vote according to the shares of stock owned by a particular state.¹⁷⁰ Proponents believe the World Bank as an international financial institution can use its power and resources to enforce or monitor human rights.¹⁷¹

This proposal may be a good one, but it assumes a number of factors. The first is that the World Bank can and will make a solid commitment to human rights, which means establishing a concrete definition as to how core human rights are defined.¹⁷² While the World Bank has verbally expressed its commitment and recognition of the existence of human rights,¹⁷³ in practice the organization falls short of a systematic evaluation of human rights in its programs.¹⁷⁴ The World Bank often funds activities without taking a clear stance on the human rights issue¹⁷⁵ and has been accused of violating human rights. Second, the proposal assumes that the World Bank has the expertise in evaluating projects and their human rights consequences; however, it is mainly staffed by economists, who are not trained in the complex area of human right.¹⁷⁶ Some critics also say withholding economic aid from developing countries has a differential effect on first and third world countries.¹⁷⁷ Denying loans to recipient countries will hurt the people of the country rather than the government.¹⁷⁸ Policies like these suggest infringement on sovereignty. Additionally, critics argue the World Bank has no authority to use economic aid as a weapon, and that it would be impractical and possibly even detrimental to the World Bank and its members to do so.¹⁷⁹ The legality of whether the World Bank could even engage in this sort of behavior is questionable. If the

¹⁶⁹ The World Bank funds projects, which include anything from hydroelectric plants, to highway construction to irrigation facilities. SKOGLY, *supra* note 100, at 17.

¹⁷⁰ Moris, *supra* note 169, at 179.

¹⁷¹ See, e.g., *id.* at 176–78.

¹⁷² Deva, *supra* note 23, at 39.

¹⁷³ SKOGLY, *supra* note 100, at 39.

¹⁷⁴ *Id.*

¹⁷⁵ *Id.*

¹⁷⁶ Moris, *supra* note 169, at 192.

¹⁷⁷ *Id.* at 185–90.

¹⁷⁸ *Id.* at 188.

¹⁷⁹ *Id.* at 177.

World Bank began taking a proactive role in promoting human rights, it may be going beyond its purpose and as an organization become too political.¹⁸⁰ Threatening to withhold aid may be a form of coercion.¹⁸¹ Also, practically speaking, since donor countries serve on the executive board, it is hard to imagine that they would not vote for suspending aid to recipient countries because they are putting their own interests at risk.¹⁸²

2. World Trade Organization

The WTO is another international economic institution that could play a powerful role in human rights compliance. Advantages of incorporating the help of the WTO are that it is the largest organization of the regulation of trade and includes the majority of nations in the world.¹⁸³ International trade is essential for the development and economic survival of nearly every country, and the WTO could exert its power by using trade sanctions to help with the international enforcement of human rights.¹⁸⁴

While this idea may work in theory, getting the WTO's cooperation could be a challenge. In the past, the WTO had not established formal methods of cooperation or communication with the U.N, the U.N.'s human rights organizations or non-governmental organizations.¹⁸⁵ Recently however, the 2002 WTO' Annual Report suggested that certain adjustments are needed for WTO rules to better reflect changing economic, political and social conditions of the world.¹⁸⁶

Even if the WTO were willing to back human rights, the difficulty would be incorporating its line of work with that of human rights. Critics of the plan suggest that WTO is not a suitable forum to enforce human rights and further point out that it may lack the expertise to evaluate trade agreements with respect to

¹⁸⁰ See SKOGLY, *supra* note 100, at 103–09.

¹⁸¹ Moris, *supra* note 169, at 183–84.

¹⁸² *Id.* at 189.

¹⁸³ Stirling, *supra* note 17, at 33–34. Stirling suggests that the WTO create a Human Rights arm of the organization for the purpose of enforcing human rights. See generally, *id.*

¹⁸⁴ See *id.* at 34.

¹⁸⁵ Christiana Ochoa, *Advancing the Language of Human Rights in a Global Economic Order: An Analysis of a Discourse*, B.C. THIRD WORLD L.J. 57, 91–92 (2003).

¹⁸⁶ *Id.* at 92–93.

human rights, since trade experts comprise the panel.¹⁸⁷ Others view the WTO aiding in human rights compliance as an interference with state sovereignty.¹⁸⁸ Moreover, there are practical concerns with how successful the WTO would be in sanctioning another country.¹⁸⁹

VI. CONCLUSION

Having evaluated a number of solutions, one of the best ideas involves a fusion of different groups. The WTO could have a human rights wing that is responsible for receiving reports of abuse of any of the core human rights by any member of the WTO.¹⁹⁰ This special group could then investigate the matter and make recommendations to the WTO as to how to remedy the situation.¹⁹¹ Likewise, human rights institutions should be conversing with trade institutions, to get a realistic idea of business practices of TNCs, what can be expected from TNCs, and information as to effective ways to work with corporations not complying with human rights.¹⁹²

Ultimately, the coordination between the international, financial, and human rights institutions will promote the interests of both. The UN helps to pave the way to maintain peace and security while the WTO and World Bank make it possible to sustain developments and improve the quality of life. With both these interests in mind, monitoring TNCs in the international community will be more successful for all.

TNCs are playing an increasing role in the international markets. They have tremendous resources and financial power. While investing in third world countries can be very beneficial for them, TNCs also need to act responsibly. As important as human rights are there are no actual binding international legal obligations that require TNCs to promote or protect them; therefore, enforcement mechanisms need to continually be reevaluated to find the most effective ways to shape TNC behavior in relation to human rights. Legal and non-legal entities with an interest in protecting human rights can join forces and pool resources and expertise and together hold TNCs more accountable.

¹⁸⁷ Deva, *supra* note 23, at 27.

¹⁸⁸ See Stirling, *supra* note 17, at 4-5.

¹⁸⁹ *Id.* at 42-45.

¹⁹⁰ Ochoa, *supra* note 187, at 93.

¹⁹¹ See *id.*

¹⁹² See, e.g., Deva, *supra* note 23, at 32-33.