A treaty on business and human rights

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A Treaty on Business and Human Rights: Promise or Peril?

1. Introduction

Honourable rector magnificus,
Honourable dean,
Dear colleagues, students, family and friends,

Bangladesh

In the morning of the 24th of April last year, the world witnessed the deadliest garment-factory accident in history. Rana Plaza, an eight-story commercial building on the outskirts of Dhaka, the capital of Bangladesh, collapsed. Some 5,000 people worked in Rana Plaza, which mostly housed small garment factories. The day before the disaster major cracks were discovered in the building. Warnings by the police to avoid using the building were however ignored. Garment workers were ordered to return to work the following day. 1,200 people died when the building collapsed, over 2,500 injured people were rescued from the building alive some after having been trapped for days.

The garment workers died or were injured while making clothes for some 30 popular European and American brands. This horrific accident sparked renewed concern about the impact of corporations on human rights and the best way to address this.

The example of Bangladesh is but one of many examples where corporate activity impacts on the rights of people. The importance of effectively addressing the corporate impact on human rights can hardly be overestimated. In

an interdependent world where multinational corporations rival the position of States, it is no exaggeration that international human rights law runs the risk of becoming increasingly irrelevant if it fails to address the corporate impact on human rights. Today I will explore the latest proposal to deal with this challenge.

2. Treaty

Two weeks ago over 2,000 people met at the shores of lake Geneva in Switzerland for the Third Global Forum on Business and Human Rights. During this anual meeting at the United Nations people gather to discuss issues related to business and human rights.
During the Global Forum last year, the American economist and Nobel Prize winner Joseph Stiglitz addressed the audience and argued that there is a need for stronger norms and clearer understandings of what is acceptable and what is not, stronger laws and regulations to ensure corporate accountability.

According to Stiglitz:

"Soft law—the establishment of norms of the kind reflected in the Guiding Principles on Business and Human Rights—are critical; but they will not suffice. We need to move towards a binding international agreement enshrining these norms."

With this statement Stiglitz expressed support for a proposal by the government of Ecuador at the UN Human Rights Council a few months earlier. In September 2013, Ecuador proposed that the Human Rights Council would start negotiationing an international legally binding framework on the issue of human rights and transnational corporations. At the Human Rights Council's session in

June of this year a resolution spearheaded by Ecuador and South Africa was adopted establishing an Intergovernmental Working Group that will start working on an international treaty on business and human rights. Some 85 states, mostly from the Global South and over 600 civil society organizations have expressed their support for this initative.

Today I want to reflect on this idea of a treaty on business and human rights. Is such a treaty a desirable next step in the global business and human rights project? Does the idea hold promise or does it have its perilous downsides?

3. Why this topic?

You may wonder why I chose this as a topic for today's lecture. As I will elaborate upon towards the end of this address, the corporate impact on human rights is but just one of the crises of globalization. Against the backdrop of the economic and financial crisis, international human rights law seemingly is being sidelined as a matter of secondary concern. I intend to focus on such issues in my research in the years to come.
But I decided to seize the opportunity today to discuss the issue of a treaty on business and human rights, as to my mind we have arrived at a decisive crossroads in the journey towards greater corporate accountability for human rights abuse.

The Forum in Geneva was attended by people representing civil society, academics, states and the corporate world. The diversity of participants that wanted to be part of this debate in Geneva is telling. It is telling of the fundamental shift that has taken place over the last decade. The most remarkeable development in the field of business and human rights has been the

growth of a new regulatory dynamic involving many different actors moving beyond the state.
The call for a treaty merits exploring the role for a traditional public international law approach to the issue of business and human rights.

4. Reasons *contra* a treaty

The idea for a treaty has encountered strong critique mainly from Western States.
There are rather obvious reasons, mostly of a practical nature, to be opposed to a treaty on business and human rights. There is a very real danger of the negotiations ending up in a political deadlock. As history learns, treatynegotiations might drag on for decades, moving the debate to Geneva away from where the need to address abuses is the greatest. Moreover, it is argued that such a treaty will be weak due to the expected low number of ratifications. In this respect we can learn from past lawmaking at the United Nations. Take, for example, the Convention on Migrant Workers and Their Families. This treaty spelling out the obligations of migrant-receiving countries opened for signature 25 years ago and to date has only been ratified by 47 mostly non-migrant receiving countries. A Convention on Business and Human Rights it is feared could suffer the same plight.

These arguments have merit. However, the fact that over 85 States are supportive of the idea of a treaty means that it will not simply disappear. The idea therefore merits carefull consideration.

Proponents of a treaty on business and human rights are frustrated with the glacier pace of the developments in light of the continuing examples of

corporate impunity following human rights abuse. Opponents argue that a treaty will be detrimental to the progress that has been achieved.
Progress is an inherently subjective notion. To critically reflect on the argument whether the step towards conventional law would undermine progress achieved requires that we take stock of where the journey has brought us to date. What has been achieved? What are the main outstanding issues? And can a treaty be instrumental in addressing these issues?

5. Journey so far: what has been achieved?

I see two significant achievements over the last 10 years.
Firstly, there is now an emerging global consensus on a common baseline of expected corporate behavior regarding human rights. Secondly, there is a developing new regulatory dynamic to monitor such behavior that moves beyond the state.

To understand why I consider this to be significant achievements it is important to briefly look back at where we have come from.

Where have we come from?

The concern about the negative social impact of business has been on the agenda of the international community for many decades for example in the context of the abolition of slavery and colonialism. But it is only relatively recent that the issue is considered through the lens of international human rights law. In the 1970s and the 1980s calls for greater corporate accountability for human rights violations lead to attempts at the UN to create international standards. These attempts were unsuccesfull and ended up in political deadlock.
In the meantime companies increasingly started to address social issues through their Corporate Social Responsibility, CSR programmes. However, many CSR

initiatives were undertaken selectively, based on what a company voluntary chose to address. We now see Business and Human Rights forking off as a separate stream in the CSR discourse. A human rights approach requires that companies respect all human rights. Taking the individual as the startingpoint and not the corporation and its stakeholders. The standard of corporate behavior is now informed by international human rights standards, a universal binding legal framework.

UN Guiding Principles on Business and Human Rights.

At the epi-center of these recent developments is the UN Framework on business and human rights: the 2008 UN Protect-Respect and Remedy Framework and the 2011 UN Guiding Principles.

The UN framework stress the obligations of states to protect against human rights abuse within their own territory, which includes the obligation to protect against abuses committed by corporations. Furthermore, the UN Framework introduces the concept of corporate responsibility to respect human rights. According to the UN Guidelines this is a global standard of expected conduct for all corporations wherever they operate. In order to meet this responsibility, businesses need to properly analyse and understand their human rights impact and take the necessary steps to prevent and minimize them. This corporate responsibility to respect is far-reaching. The responsibility to respect human rights reaches down the supply chain. In other words, in the example of the Bangladeshi textile industry disaster, corporations that had their products made in Rana Plaza have a responsibility for the human rights of the people working there.

Finally, the framework addresses the role of both businesses and states in ensuring access to an effective remedy, which means that victims of corporate human rights abuse should have equal and effective access to justice, effective

and prompt reparation for harm suffered and access to relevant information concerning violations and reparation mechanisms.

The Protect, Respect, Remedy Framework was unanimously adopted by the 47 member states of the Human Rights Council in 2008. And in 2011, the explanatory Guiding Principles also met unanimous endorsement in the Council.

We have seen other international organisations embrace the UN Framework and Guidelines. For example, the UN Guiding principles have been incorporated in the OECD Guidelines for Multinational Enterprises and into guidance materials for the World Bank. The Council of Europe have also recognized the UN Guiding Principles as the current globally agreed baseline in the field of business and human rights. And there have been similar statements from the regional organizations in African and Asia.

Following a call by the European Commission, several EU member States have adopted national action plans on the implementation of the UN Guiding Principles. The Netherlands were one of the first countries to do so a year ago. A few months ago president Obama announced its plan to develop a national action plan on business and human rights.
The UN Guiding Principles have equally found a lot of support in the corporate world. Many large corporations have incorporated the UN Guiding Principles into their policies.

In sum, this broad uptake by states, international organisations and corporations across the world shows that the corporate responsibility to respect human rights has found acceptance as a global baseline of expected corporate conduct.

The second major achievement is the new regulatory approach to the issue of business and human rights that has been sparked by the UN Guiding Principles.

Corporate responsibility for human rights, the idea that corporations should know their impact on human rights and show what they are doing about it, is not a legal concept but rather is definied by societal expectations. It is not mandatory under international law.
The expectation is that corporations will comply as besides the state, a broad range of other stakeholders, consumers, investors, shareholders can put pressure on corporations to live up to voluntary commitments. This is what is referred to in the UN Guiding Principles as 'the courts of public opinion', which will harden soft commitments.

The UN Guiding Principles have spurred the move towards a novel and specific governance system in the field of business and human rights. International organisations, states, national human rights institutions, NGOs and corporations have increasingly addressed the negative impacts of corporations on human rights. The involvement of many different actors in regulation, including those that are the object of such regulation, corporations, seems to signal a clear move away from traditional international law solutions towards what has been called experimental governance, or polycentric governance.
Polycentric governance refers to the coexistence of several different regulatory regimes around the same issue without a clear hierarchy, where no entity holds the sole rule-making power.

Let me illustrate this with an example. In the aftermath of the Bangladeshi textile disaster several regulatory initiatives were taken. The International Labour Organisation worked with the government of Bangladesh and employers' and workers' representatives on the national action plan on fire and building safety. But we have also seen a variety of regulatory intiatives where the state plays only a marginal or no role at all. The Accord on Fire and Building Safety in Bangladesh is a multi-stakeholder agreement between the signatory

brands and a coalition of local trade unions, global unions and international labour rights campaigns. More than 150 corporations from 20 countries have signed the Accord. This programme includes independent inspections of buildings and the publication of results. Over 1,000 factories have now been inspected. Another international framework is the Alliance for Bangladesh Worker Safety, which brings together 26 North American apparel brands and trade associations.

There are many similar examples around the world and across business sectors. For example, over 700 companies have signed the International Code of Conduct for Private Security Services Providers. A code developed by the industry in close cooperation with NGOs and a number of governments. By signing up to this code, private security providers affirm their responsibility to respect human rights. An elaborate mechanism has been developed to monitor corporate compliance.

This experimental governance in the field of business and human rights holds some clear advantages over a public international law approach. International law is as of yet ill equipped to address the challenges posed by multinationals. Most business activity typically reaches across national borders, sourcing from or investing abroad. Multinational corporations thus operate beyond the reach of any particular national regulatory system.

States have the obligation to protect human rights within their jurisdiction, which is primarily territorial and hence falls short in addressing the transnational impact of business operations that know no borders. Thus, bringing corporate human rights abuse within the realm of international human rights law remains a lot like trying to fit a square peg into a round hole.

The emerging new governance regimes are not hindered by these confinements and arguable holds promise for addressing corporate human rights abuse.

To conclude my overview of the developments in the field of business and human rights I want to underscore that the UN Guiding Principles truly are a milestone. Compared to the political deadlock that existed regarding the issue of business and human rights prior to the adoption of the UN Guiding Principles in 2011, the unanimous adoption and subsequent developments should be seen as significant progress.

Yet, despite the advantages of new governance this has not silenced the call for a more traditional public international law approach to the issue of business and human rights as the initiative to develop a treaty shows.

'Obsession' with treaties

In essence the desire to develop a treaty in the field of business and human rights reflects a lack of confidence in this development towards experimental governance. The idea is that in the end the instrumentalities of the state hold a greater promise of compliance and especially treaties are considered to be standing at the highest pinnacle of effect.

The desire to develop law conventionally understood over and above a soft law approach is something we witness in many areas of international law. To mention an example: with regard to the right to development there have been frequent calls to move beyond a declaration towards a binding treaty.

This, what some have called, obsession with the law and especially treaties follows from the persistent idea that treaties because of their binding nature hold greater promise for compliance. The key advantage of conventional law however lays not so much in its binding nature but rather in its expressive function. Expressiveness is one of the key functions of law. In international human rights law treaties have an important role to play as expressive

commitments by States against which other actors can hold them to account. Moreover, a treaty can help further clarify state duties.

6. Content of the treaty

So let us turn to what could be the content of a treaty on business and human rights?
The resolution calling for a business and human rights treaty is not well articulated. At this stage it is unclear what such a treaty would contain and whom it would address.

The field of business and human rights is vast and complex. Corporate activity can affect all human rights and the current regulatory landschape touches upon many different legal regimes. It is therefore more likely that we should discuss the option of a series of treaties rather than one overarching treaty.

It has been suggested that a treaty should directly address corporations. This is not a viable route. This would try to fit corporations into state-centric international law which would require significant transfer of state powers to which states are unlikely to consent. A treaty concerns the obligations of states. But as I will discuss a treaty can hold promise in further clarifying the duties of stateswhich might prove to be a stick to drive processed to close current governance gaps.

So what should be addressed by means of a treaty on business and human rights in order for it to hold promise?

I identify three main unresolved issues in the business and human rights project.

Firstly, the extraterritorial dimension of the state duty to protect human rights; secondly the access to justice for victims of corporate abuse; and, thirdly, the issue of corporate compliance.

I will now discuss these three outstanding issues and reflect upon the question whether a treaty holds promise in addressing them.

Extraterritorial dimension of the state duty to protect

One of the main outstanding, heavily debated issues is the fact that the traditional regulatory powers of States fall short in light of the extraterritorial reach of corporate activities. Let me give you an example of a corporation based in Germany, which allegedly was involved in human rights violations in Uganda. It concerned the forced eviction of people at gunpoint to make way for a coffee plantation. Subsequently, the evicted continue to live in extreme poverty due to their forced eviction and are unable to obtain a remedy in Ugandan or German courts. Can or should Germany, being the State in which the relevant corporation is domiciled, take a regulatory interest in the human rights impacts arising from these activities of this German company?

The issue of the exercise of extraterritorial jurisdiction is fully discussed but remains unsettled under international law. The approach to this issue taken in the UN Guiding Principles has been criticised for failing to reflect current developments in international law. According to the Guiding Principles 'At present States are not required under international human rights law to regulate the extraterritorial activities of businesses domiciled in their territory and/or jurisdiction.'

This ignores the growing recognition that globalization should lead us to impose an extended understanding of state obligations. In legal doctrine we see a tendency to insist on the need to expand the duty of the State to include the obligation to regulate corporations over which they exercise *de facto* power beyond state borders. This has been confirmed repeatedly over the last decade by UN supervisory bodies. In the example I mentioned of the Germany coffee company, the Human Rights Committee in 2012 concluded that Germany had failed in its state duty to protect. According to the UN Human Rights Committee Germany must set out the clear expectation that all business enterprises domiciled in its territory respect human rights standards in accordance with the Covenant throughout their operations. In a similar vein the Committee on the Elimination of Racial Discrimination has noted with concern the impact of especially extractive companies on indigenous peoples. The Committee has called upon the countries were these mining companies are registered, Australia, the UK, Canada and the US to regulate the extraterritorial activities of these companies.

In sum, there is a growing recognition that states must by means of legislation regulate corporate activity that impacts on human rights beyond their borders.

Anarchic use of national laws with an extraterritorial effect can give rise to unwanted legal uncertainty for corporations. A multilateral treaty could provide clarity to the many questions that arise when expanding the duty of states to control the extraterritorial activities of corporations. A treaty could require a state party to adopt legislation mandating corporations to control their subsidiaries or monitor their supply chain. A treaty could address the division of responsibilities between states, clearly laying out the primary obligation of host states and the subsidiary obligations of home states.

This is not completely unchartered territory. Treaties clarifying the division of responsibilities among states have been concluded in other areas such as corruption. Both the 1999 OECD Anti-Bribery Convention and the 2003 UN Convention Against Corruption provide that a state party may establish jurisdiction over corporate involvement in corruption and bribery abroad.

A much debated option would be to develop a treaty addressing corporate involvement in the gravest human rights violations, such as genocide and war crimes. Reaching agreement on the duties of states to protect against this category of international crimes might be the most feasible given the fact that universal jurisdiction attaches to these crimes. This proposal is the most realistic proposal and requires careful consideration. However we should realize the limited practical use of such a treaty. Corporate activity can affect all human rights and most examples concern other human rights than the small category of international crimes. A treaty limited to this narrow category of rights would thus most likely hold little relevance for most local struggles.

Access to legal remedy

This brings me to the second main outstanding issue, which carries great moral weight: the access of victims of corporate abuse to remedy. Access to remedy includes financial compensation. The disaster in Bangladesh left many injured and families were left without an income. An estimated 30 million Euros is needed to compensate the victims of Rana Plaza. To address this need a Trust Fund was established involving all major stakeholders; the government, the local and international garment industry, NGOs and trade unions. Corporations are asked to donate to the Trust Fund on a voluntary basis. In June of this year when the first compensation needed to be paid, the Trust Fund had only been able to aquire half of the money needed.

This example shows the importance of also providing victims with access to a legal remedy. Seeking compensation through the courts is however beset with problems.

The people evicted for the benefit of a coffee planation in Uganda can again provide an example. The evicted did not succeed in holding the corporation accountable before the domestic courts in Uganda. So, where can they turn to find an effective remedy?

Increasingly, we see victims seeking redress in national courts in home states, states where multinational corporations are domiciled. For example, in January 2013 the District Court in The Hague handed down a judgment holding a subsidiary of the Dutch corportion Shell, liable for the damages following oil leakages in Nigeria. The examples of cases where victims have successfully pursued a claim before domestic courts are few and far between though. The enormous diversity of approaches between different jurisdictions result in multitude of different legal and practical obstacles that victims need to overcome to have their case heard. Questions whether a court has jurisdiction to hear a claim, what the applicable law is combined with complex legal structures of corporations can result in access of victims to legal remedy effectively being blocked.

The Shell case, now on appeal, is truly remarkable: a Nigerian farmer brought the case for damages caused by a Nigerian company in Nigeria before a Dutch court.

From the perspective of corporations, the increased reliance on national tort laws to hold multinational corporations to account for violations committed in other parts of the world is an unwelcome development. It can lead to a significant degree of legal uncertainty. This could weigh in favour of developing a treaty to address this issue.

However, from the perspective of victims we must wonder whether a treaty is the most promising way to go to improve access to justice before national courts. Seeking convergence across jurisdictions may lead to a race to the bottom, stiffeling domestic legal reform and resulting in less choice for victims to bring their claim. Whether and how international guidance can improve access to justice for victims requires further research.

As long as fair and functional civil courts and other institutions are not yet universally accessible to victims, other means to ensure access to justice are worth exploring. It may be argued that national courts simply will not suffice and need to be supplemented by an international instrument.

In this context we see a renewed interest for the proposal to establish a World Court on Human Rights that can directly address corporations. Such proposals are neither realistic nor desirable. In light of the fact that there are an estimated 80.000 multinational corporations with over 800,000 subsidiaries and millions of suppliers it is difficult to conceive how such a court would function. Moreover, there is the unremitting resistance of a range of key states against such an idea. But such practical issues in time might be overcome. More important to my mind is that establishing a World Court to address corporate human rights abuse is undesirable. Such a judicial institution cannot be established in a vacuum without extensive groundwork having been laid beforehand. The leap is simply too big. Efforts should therefore rather be directed at strengthening national judicial systems.

It has also been proposed that arbitration might provide a way forward. By means of a treaty an Arbitration Tribunal could be established that offers mediation and arbitration services to address business-related human rights abuses. Increasingly corporations are inserting clauses into their commercial

contracts designed to prevent human rights abuse at the hands of business partners. Arbitration could be a means to enforce these provisions. The idea of arbitration raises many questions. It may be wondered whether effective access to justice for individuals and groups vis-à-vis multinational corporations should be left to the will of the parties to the dispute. Will victims have access to such procedures? How will the equality of arms be ensured? How to deal with the tension between the need for transparency and requirements of confidentiality ? Should a separate tribunal be created or could the Permanent Court of Arbitration address such issues? It requires further study whether and how arbitration could be part of the solution.

Ensuring compliance with the corporate responsibility to respect human rights

The final outstanding issue where a treaty might have a role to play concerns the issue of compliance. Does a treaty hold promise for improving corporate compliance with human rights?

As I explained, the UN Guiding Principles have sparked the development towards a polycentric regulatory regime. Corporate responsibility to respect human rights is not a legal concept but the idea is that corporations will comply, as a multitude of actors will monitor this compliance.

In such a polycentric regime it is essential that all stakeholders have the tools to monitor compliance. The role of civil society as a counterveiling power is essential. It is exactly this what is currently lacking. Corporations are expected to respect human rights and the UN Guiding Principles rely on others to watch over this but without providing them with the necessary tools to supervise corporate behaviour. In other words, the road towards true polycentric governance has not yet been completed. A new balance needs to be accepted.

It deserves further research how states can strengthen the role of civil society as watchdogs monitoring corporate compliance with human rights. Seeking an

express commitment of states to acknowledge, by means of a treaty, the participatory rights of civil society might hold promise. Again, this would not mean navigating into completely unchartered territory. There are many examples in human rights law where the participatory role of civil society is explicitely acknowledged in conventions. One can think for example of the prominent role provided to civil society in the Convention on the Rights of People with a Disability, CRPD or the Aarhus Convention on Access to information, public participation in Decisionmaking and Access to Justice in Environmental Matters. A treaty could help empower civil society. I argue that in fact we need the state to fulfill the promise that polycentricity holds. If the treaty-negotiations address the position of civil society as watchdogs of corporate behavior this would hold promise.

7. Subconclusion

So what can we conclude? The calls for a treaty on business and human rights should be recognized for what they are: calls for more justice, rule of law in the global economy. Tragedies as occurred in Bangladesh show that for many this remains a distant reality.

How should we regard the initiative towards a treaty on business and human rights? Does it hold promise or do we face peril?

There are several reasons to doubt that a treaty holds much promise in addressing the impact of transnational corporate wrongdoing.
In general, we must be aware of the limitations of treaties when it comes to the responsiveness to the needs felt in daily practice. There is not much use in, to use the words of professor Oomen, simply waiving with treaties. As her research shows referring to treaty obligations in certain areas may even be ineffective and

at times possibly even counterproductive. This is something I can confirm speaking from my experience as a Commissioner at the Dutch National Human Rights Institute. Rights implementation and compliance is a complex process that requires a lot more than the mere adoption of and reference to a treaty. Moreover, the resistance of a range of key States may result in a weak treaty.

For these reasons pursuing a treaty is in my view not the preferred route to pursue. However, reality is that negotiations on a treaty will start next year. The working group has ambitiously stated that a draft treaty on business and human rights will be presented within three years.

The greatest peril lies in the course the discussion is currently taking. The debate is polarizing pitting the treaty initiate against experimental governance approaches. The perception of mutual exclusivity is being created. Either you endorse a polycentric approach as the way forward to address the issue of business and human rights or you chose for the non-viable top down approach of a comprehensive treaty, which will have no effect on the ground. This framing of the call for a treaty runs the real risk of the issue once again of ending up in the North-South trenches in Geneva. Hence, these are critical times for the business and human rights project. The discussion on the need for a treaty should not be an either or debate. Exploring the possibility of a treaty as one of the instruments in the business and human rights governance toolkit does not imply that other routes are cut off. A treaty does not rival the further development of new governance approaches. As global governance theorists have argued it is possible to combine polycentric and centralized mechnisms such as a treaty in the same regime complex. A treaty on business and human rights will not stand in fierce opposition to a new governance approach but may in fact help it to reach its full potential.

It is pivotal that the treaty negotiations explore the right issues. Today I have outlined that there is a need to further clarify the state duty to protect against corporate abuse abroad and the question how to improve access to remedy for

victims. If these issues are addressed in Geneva, the treaty-process may hold some promise.

The road ahead: unchartered territories and new frontiers

Let me in this final part of my address move beyond the discussion on a treaty and offer an outlook on the research that I intend to undertake in the years to come. Central to my research and teaching is the role of human rights in improving the ethics of globalization.

The limits of human rights law: micro approach to macro threats

In the business and human rights debate the focus tends to be on how specific acts of a corporation infringe on a certain right or a certain group of rights. This approach fails in cases where more systemic processes, structures impede the capacity of states to regulate the violation of human rights. The financial and economic crisis in recent years have highlighted the limitations of this what can be called micro approach to macro, systemic threats to human rights where causality between the actor and the harm is hard to establish. The crises have brought to light systemic failures of market, regulation and monetary policy with a devastating human rights impact. Looking at these more systemic crises of globalization, causation is often hard to establish seemingly making international human rights law redundant as a means to address the social consequences of these crises. There is a need to further explore the human rights dimension of these systemic threats.

Compartimentalism

This also relates to one of the root causes of the global governance gaps discussed here today, which is the fragmentation or compartimentalism of

international law. The UN Committee on Economic, Social and Cultural Rights has noted that 'human rights norms must shape the process of international economic policy formulation so that the benefits for human development of the evolving international trading regime will be shared equitably by all, in particular the most vulnerable'. However, in the international and national macro-economic response to the economic and financial crisis international human rights standards have not received adequate attention.

Studies of the interface between international human rights law on the one hand, and laws in the economic sphere on the other hand, such as Bilateral Investment Treaties, Economic Partnership Agreements and WTO protocols, show the that the international trading regime is largely divorced from the human rights discourse. When States enter into negotiations on such rules they often leave their human rights obligations at the door. The interfaces between legal regimes and their consequences for human rights is an issue that deserves further exploration.

Integration of human rights into economic law has however been challenged on the basis that the two bodies of law have different ideological underpinnings. This brings me to a fundamental issue worth further exploration: the compatibility of mainstream economic thinking and human rights.

Compatability of discourses

Against the backdrop of the human rights impact of the economic crisis why is human rights discourse is largely neglected in the policy-measures taken? Are human rights considerations simply not considered relevant? Or does it point to a fundamental problem, a disconnect between economic thinking and human rights? Economics and human rights are two distinct and largely self-contained

fields that seem largely to be disconnected. If we look at basic concepts of economics and of human rights they seem to be two divided worlds.

Aware of the risk of over-generalizing in the little time I have left, let me briefly address this issue. Key terms in economics are scarcity (and thus the need to set priorities), efficiency, competition and usefulness while the key concepts in human rights are equality, non-discrimination. Thus there is no priority; all human rights are equally important. The goal in human rights is to achieve respect for human rights whereas in economic thinking human rights fulfillment would be seen as a means. These worlds seem therefore to be at odds with each other. But is that so? Are there any interfaces that can ensure mutual reinforcement? What is the relevance of international human rights law for economic global governance and policies? I am aware that further exploration of these issues will lead me down the perilous road of multidisciplinary research but I look forward to the promise this holds.
