

Karin Lukas, Barbara Linder, Astrid Kutrzeba and Claudia Sprenger, *Corporate Accountability: The Role and Impact of Non-Judicial Grievance Mechanisms* (UK: Edward Elgar Publishing, 2016), pp. ix + 397

The big question before us today relates to accountability of transnational corporations (TNCs) for human rights abuses committed abroad. This is the question that many human rights lawyers, members of non-governmental organizations (NGOs), are attempting to solve by seeking the best avenues for legal recourse. In this regard, the response of the international community and international organizations in the late 20th century and beginning of the 21st century is far from satisfactory; no doubt, the sufficient voluntary and legal framework more in the nature of soft law has been adopted by international organizations. The presence of TNCs has increased worldwide in the era of globalization and the traditional role of the State is shrinking day by day; this space is gradually taken by the TNCs. In many Asian and African countries, companies are in a position to dictate to the State in shaping their political economic policies. Thus, the influence of companies is impacting on human rights, the environment and economy of the State, positively and negatively. In this scenario, it is equally important that companies must respect human rights and in cases of violation of human rights companies must be accountable for their acts. Access to a remedy aims to provide victims of human rights violations tools to obtain justice and redress. The same function is expressly recognized, with specific reference to the issue of business and human rights, by the UN Secretary General's Special Representative on the issue of human rights, TNCs and other business enterprises ('the UNSGSR'), John Ruggie. The 2011 Guiding Principles on Business and Human Rights ('the Guiding Principles') specifically address access to a remedy as the third pillar of the tripartite operative framework, as complementary to the States' duty to protect (first pillar) and the corporate responsibility to respect (second pillar). Access to a remedy is the necessary pre-requisite for ensuring justice, when violations of human rights ascribable to corporate activities occur. Thus, it is important that States must ensure its proper enforcement in compliance with the standards provided by the main international legal instruments; it is a cornerstone for the adequate protection of human rights.

The book under review consists of three parts; the first part of the book provides an exhaustive introduction along with the methodology followed in writing this book. The authors highlight the growing influence of companies in each State due to their huge investment. In addition to companies, international financial institutions such as the World Bank or the International Finance Corporation (IFC) also exert a considerable amount of influence at the national level because of their huge investment in development-related projects. The study underlines the difficulties with access to justice by the victims of human rights violations resulting from World Bank and other financial institutions due to financial constraints and in many cases because of a biased judiciary. It has been correctly pointed out by the authors that these days States have a

high interest in attracting foreign investment for economic development and in this process the States ignore their primary responsibility to protect and respect human rights. For this reason, the functioning of the States is heavily criticized by civil society and NGOs. The main thrust of the book is on the importance of non-judicial complaint mechanisms and how this can play an important role in fixing the responsibility of the company and ensuring that companies are not complicit in violation of human rights. The introductory chapter also includes relevant definitions of important terms related to alternative dispute resolutions. This will be very useful for the reader to understand with clarity the terms and their applicability in various situations. A section regarding the aim of the book and methodology in the introductory chapter makes it simple to understand the focus of the entire book and also the methodology followed. The focus of the book is to explore the impact of various non-judicial complaint mechanisms in addressing human rights protection in the business context. The authors have adhered to a very balanced approach while discussing the impact of non-judicial complaint mechanisms; they ensure that assessment must include victims as well as companies' perspectives. The thrust of the book revolves around three major questions, namely: (1) strengths and weaknesses in human rights protection, (2) impact assessment, and (3) criteria of excellence. In addition to this, the book looks into the relevant case laws to understand the approach of non-judicial complaint mechanisms, application of the UN Guiding Principles on business and human rights, and the interplay between judicial and non-judicial remedies.

Part two of the book deals with international mechanisms and begins with the OECD (Organization for Economic Cooperation and Development) guidelines of multinational enterprises ('MNE Guidelines'), one of the most exhaustive international instruments on responsible business conduct in existence currently. The Guidelines are aimed at MNEs by their governments. To implement the Guidelines, each Member State has to set up national contact points (NCPs). At present, 46 countries are adhering to the OECD Guidelines. After analysing a couple of cases decided by the NCP, it looks into the strengths and weaknesses of the OECD Guidelines. The Inspection Panel of the World Bank was established by resolution of the Board of the World Bank Executive Directors in 1999, in response to outside demand for greater transparency and accountability as well as management efforts for improved efficiency. The Panel complaint procedure is a two-step process; the first step is related to the decision of the Inspection Panel about the admissibility of requests, and the second relates to the World Bank's Management response by, for example, proposing Action Plans. A series of cases are analysed and discussed under the Inspection Panel procedure. The interesting facts that emerged under this system that the requesters obtained compensation for being forcibly displaced, secured implementation of environmental protection and mitigation measures, the restoration of their livelihoods and support for social programmes. Interestingly, the Panel reports are genuinely towards the Bank's work in problematic cases and observations of the Panel are followed by on-site investigations and in some cases by follow-up reports on the progress made regarding the respective plans.

This chapter also discusses the Office of the Compliance Advisor Ombudsman (CAO), which was established in 1999. The primary aim of the CAO is to foster the accountability of the IFC and the Multilateral Investment Guarantee Agency (MIGA).

From its inception, the CAO has a much broader role compared with the Inspection Panel; the CAO not only assesses to find out where things went wrong but also adopts a more flexible problem-solving approach based on dialogue and mediation. This section starts with a brief introduction of the CAO, followed by analysis of case laws, and ends by highlighting strengths and weaknesses of the CAO.

The third chapter of the book explores multi-stakeholder mechanisms to determine the effectiveness of these mechanisms. The chapter starts with a description of the Fair Labour Association (FLA), which was founded in 1999 in the United States by the initiative of universities, NGOs, brands and suppliers, with the aim of promoting adherence to international labour standards. The FLA has developed a workplace code of conduct, following International Labour Organization (ILO) standards, and companies joining the FLA sign up to implement the code of conduct, including their supply chains. The FLA follows the Sustainable Compliance Methodology (SCI) and looks at code violations in the context of a holistic picture of the factory's employment practices. This chapter highlights how FLA uses standardized reporting tools that can be used to generate scores for each employment function. The authors review some important cases and analyse these cases to highlight the strengths and weaknesses of the system. The Fair Wear Foundation (FWF) is the second system discussed in this chapter. The FWF is an international independent non-profit organization which was founded in 1999, and work to improve labour conditions in the garment industry and to enhance workers' lives all over the world. The FWF code includes eight labour standards, which are based on a number of ILO conventions, including the core Conventions and the Universal Declaration of Human Rights. This section analyses cases, and based on this analysis describes strengths and weaknesses of the mechanism. The third system covered in this chapter relates to the Ethical Trading Initiative (ETI), a multi-stakeholder coalition of companies, trade unions and NGOs, established in 1998 and committed to supporting and promoting the rights of workers worldwide. ETI's membership constitutes an impressive cross-section of businesses and many of them are based in the United Kingdom (UK). ETI receives funding from the UK Government, specifically from the Department for International Development. This chapter ends with a review of cases and finishes by highlighting the strengths and weaknesses of the ETI system.

The fourth chapter examines non-judicial mechanisms available within a company. The authors have selected four companies for this purpose and they are as follows: (1) Adidas, (2) Hewlett Packard, Mexico and the CEREAL-CANIETI, and (3) Goldcorp Inc. To understand the functioning of the mechanisms in these companies, the authors have followed a similar approach.

The book ends by making an effective conclusion and also suggesting criteria of excellence. The third pillar of the UN Guiding Principles emphasizes remedies, and further elaborates that remedy should include judicial as well as non-judicial mechanisms. This book to a large extent demolishes the myth surrounding the efficacy of non-judicial mechanisms and confirms that these mechanisms are equally effective and less time-consuming provided independence of these institutions are ensured and adhere to the principles developed under international human rights instruments. Civil society and other relevant stakeholders for quite a long time have agitated for strengthening the non-judicial mechanism to address violations of human rights

committed by companies. The non-judicial mechanism discussed in this book to a large extent fulfills the demands of civil society and other similar bodies. The book devotes some pages to well-crafted criteria of excellence which should be taken into account when establishing non-judicial mechanisms by a company. The book will be very useful for lawyers, academics, companies and for those who have an interest in business and human rights.

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