Human Rights and the Ethics of Globalization

Human Rights and the Ethics of Globalization provides a balanced, thoughtful discussion of the globalization of the economy and the ethical considerations inherent in the many changes it has prompted. The book's introduction maps out the philosophical foundations for constructing an ethic of globalization, taking into account both traditional and contemporary sources. These ideals are applied to four specific test cases: the ethics of investing in China, the case study of the Firestone company's presence in Liberia, free trade and fair trade issues pertaining to the coffee trade with Ethiopia, and the use of low-wage factories in Mexico to serve the U.S. market. The book concludes with a comprehensive discussion of how to enforce global compliance with basic human rights standards, with particular attention to prospects for stopping abuses by multinational corporations through litigation under the Alien Tort Claims Act.

Daniel E. Lee is professor of ethics and director of the Center for the Study of Ethics at Augustana College, Rock Island, Illinois. He is the author of numerous articles and books, including *Hope Is Where We Least Expect to Find It* (1993), *Generations and the Challenge of Justice* (1996), *Navigating Right and Wrong* (2002), and *Freedom vs. Intervention* (2005). He has also published op-ed pieces in *USA Today*, the *Chicago Tribune*, and other newspapers and is a published poet and author of fiction.

Elizabeth J. Lee received her J.D. from Northwestern University School of Law, where she served as a clerk at the Center for International Human Rights. After graduating from law school, she served as a judicial law clerk for Arizona Supreme Court Justice Michael D. Ryan and as Assistant Public Defender in Houston, Texas, prior to accepting her current position as Assistant Public Defender in Tucson, Arizona. Her publications include an article in the *Global Studies Journal.*

Human Rights and the Ethics of Globalization

DANIEL E. LEE

Augustana College

ELIZABETH J. LEE

Assistant Federal Public Defender, Tucson, Arizona

CAMBRIDGE
UNIVERSITY PRESS

CAMBRIDGE

Cambridge University Press
978-0-521-14799-6 - Human Rights and the Ethics of Globalization
Daniel E. Lee and Elizabeth J. Lee
Frontmatter
More information

Contents

Preface

In days that are now part of a distant past, work was a multigenerational experience. Younger generations grew up working with their parents – and sometimes with their grandparents as well – on family farms, in "mom and pop" grocery stores, in family restaurants, and in many other endeavors. Today, that is increasingly rare. We are diminished by these missing threads in our social experiences.

Hoping to regain some of these missing threads, the two of us – a father and a daughter – began exploring the possibility of collaborating on a book addressing issues of mutual interest pertaining to human rights and the ethics of globalization. The result is this volume. We each had particular areas of expertise to contribute to this joint enterprise – one of us from years of experience teaching business ethics and engaging in research leading to numerous books and articles, the other as a recent graduate of a top-tier law school. Both of us contributed to this volume in significant ways. Neither of us could have written this volume without the active involvement of the other. In short, it was a cooperative project in every sense of the term.

We are indebted to the following individuals, who read various portions of the manuscript and shared with us their thoughts and comments: Robert L. Anderson, Meg E. Gillette, Laura Hartman, M. Colleen Kilbride, Peter J. Kivisto, Esteban E. Loustaunau, Thomas F. Mayer, Mwenda Ntarangwi, Gail E. Ohman, Douglas Parvin, Samanta Schmelzer, Joanna Short, Van J. Symons, and Anna Xiao Dong Sun. We are further indebted to the two anonymous reviewers

who evaluated the manuscript for Cambridge University Press and offered a number of useful suggestions, and to Beatrice Rehl, the editor at Cambridge with whom it has been our privilege to work. We wish to acknowledge the sabbatical support that Augustana College, Rock Island, Illinois, provided Daniel E. Lee during the 2008–2009 academic year and the support provided by the Augustana Faculty Research Fund.

Prologue

In front of the Pantheon in Rome, which is the only building from an-tiquity still in use today, is Piazza della Rotonda, a very pleasant plaza with a water fountain topped by one of the Egyptian obelisks stolen from their rightful owners by plundering Romans during a previous era of globalization.[1] And on the side of Piazza della Rotonda op-posite the Pantheon? A McDonald's fast-food restaurant.

McDonald's golden arches have sprouted up throughout much of the world. They can be found in Argentina and Aruba, Bahrain and Bolivia, Chile and Costa Rica, Ecuador and Egypt, India and Indonesia, Jamaica and Japan, Korea and Kuwait, Malaysia and Malta, New Zealand and Nicaragua, Pakistan and Paraguay, Saudi Arabia and Singapore, Tahiti and Taiwan, and in scores of other countries, both large and small.

More than 200 McDonald's restaurants are open for business every day in Beijing, the capital of China. McDonald's, however, is not the leading fast-food restaurant in China. That honor – if indeed it is an honor – goes to KFC, with entrees such as the "Dragon Twister" spe-cially designed for the Chinese palate. KFC, which in 1987 was the first fast-food restaurant chain to enter China, now has more than 1,600 fast-food restaurants in mainland China, spread out among

---

[1] While the Italian government is negotiating with museums throughout the world to secure the return of artifacts from antiquity that have been taken out of Italy, we are not aware of any similar negotiations with the Egyptian government to secure the return of the obelisks to their rightful owners.

ix

350 cities. Pizza Hut, which in 1990 was the first restaurant chain to introduce pizza to China, has more than 200 restaurants located in 50 cities. Taco Bell and Long John Silver's are not far behind. KFC, Pizza Hut, Taco Bell, and Long John Silver's are all owned by Yum! Brands, Inc., based in Louisville, Kentucky.[2]

There are, however, no McDonald's, no KFCs, no Pizza Huts, no Taco Bells, and no Long John Silver's in the Forbidden City, the exclusive residence of the emperor and members of his court until his ouster in the wake of the 1911 revolution but now a tourist attraction open to the public. Starbucks got that franchise. The presence of Starbucks in the Forbidden City, however, became a matter of controversy with half a million Chinese Internet users joining television anchorman Rui Chenggang in calling for its removal. Responding to public sentiment, Starbucks closed its outlet in the Forbidden City on July 13, 2007, after seven years of operation. Starbucks, however, continues to have more than 250 other outlets in mainland China, including at the Great Wall.[3]

Globalization is, of course, a two-way street. Many of the products we buy are manufactured in other countries: RCA television sets in Thailand; Nautica shirts in Mauritius; Florsheim shoes in India; Canon cameras in Taiwan; Dansk stoneware and Epson photo scanners in Indonesia; Bose speakers, Panasonic portable telephones, Dewalt circular saws, Troy-Bilt weed trimmers, and Nortel telephones in Mexico; NorthFace jackets, Magnavox television sets, Hewlett-Packard computers, Kodak digital cameras, Cuisinart food processors, Black & Decker drills, and Char-Broil barbecue grills in China; Leica camcorders and Takamine guitars in Japan; Brooks Brothers shirts and Pioneer multichannel receivers in Malaysia; and much, much more.

---

[2] Information about Yum! Brands' China division can be accessed at http://www .yum.com/about/china.asp.

[3] The Associated Press, "Starbucks Closes Controversial Chinese Palace Outlet," *International Herald Tribune*, July 14, 2007. It is unclear, as Mure Dickie notes in a piece that ran in the *Financial Times*, why the attention was focused on Starbucks in view of the fact that American Express has a larger brand presence in the Forbidden City with its corporate logo appearing on numerous signs providing information about various buildings. Mure Dickie, "Starbucks Faces Banishment from Forbidden City," *Financial Times* (London edition), January 19, 2007.

Globalization, however, is not just the story of where the things we buy were made or which companies have manufacturing facilities or retail outlets in what countries. Globalization is really about people – people whose lives are profoundly affected for better or for worse by the rapidly changing, highly competitive world economy in which we live. People like Yun Liu, a young woman who left the poverty-stricken rural area in China where she grew up and went to work for the Huafang Cotton Weaving Company, one of China's largest textile mills, a mill that supplies the export market.[4] People like John Ester, who worked for twenty-six years making refrigerators at the Maytag plant in Galesburg, Illinois, but saw his job disappear when the company decided to move production of refrigerators to a plant in Mexico.[5] People like Martin Zacatzi Tequextle, who worked at a textile factory in southern Mexico making Tommy Hilfiger, Calvin Klein, Levi's, and Guess jeans but was fired when he started organizing workers to demand better working conditions.[6] People like Austin Natee, who as president of Firestone Agricultural Workers Union of Liberia (FAWUL) succeeded in getting better wages and working conditions for the rubber plantation workers in Liberia the union represents.[7] People like Tadessa Meskela, the general manager of the Oromia Coffee Farmers Cooperative Union, who works tirelessly to get better prices for the coffee beans produced by the farmers he represents.[8] People like Paulette Johnson, who was one of 4,500 workers making Fieldcrest, Cannon, and Royal Velvet sheets and towels at Pillowtex Corporation's plant in Kannapolis, North Carolina, but lost her job when the company shut down the plant.[9] People like Carmen Durán, who lost her job when Sanyo shut down the

---

[4] David Barboza, "From a Poor Village to Job Security," *New York Times*, December 6, 2004, C2.

[5] Steven Greenhouse, "City Feels Early Effects of Plant Closing in 2004," *New York Times*, December 26, 2002, A26.

[6] Susan Ferriss, "Workers Say Rights Denied as Firms Threaten to Pull Out," *Cox News Service*, October 30, 2003.

[7] Quoted in *ibid.*

[8] For an overview of the Oromia Coffee Farmers Cooperative Union, see "About Us" on their website at http://oromiacoffeeunion.org/aboutus.html.

[9] Amy Gardner, "Harsh Realities Close in on Company Town's Workers; 20 Months after N.C.'s Biggest Layoff, Pillowtex Employees Grope for Security," *News & Observer*, March 13, 2005, A1.

plant at which she was working in Tijuana, Mexico, and moved pro-
duction to Indonesia.[10]

Because globalization is really about people, it is ultimately about
ethics. That is where things start to get complicated. In an era in which
what passes for public discourse about issues of ethical significance is
often nothing more than a shouting match, it is a daunting task to
foster thoughtful, balanced discussion of the ethical dimensions of
outsourcing and other "hot button" issues related to globalization. Yet
it is a task we must take on.

And what are these issues? Issues such as the question of whether
Paulette Johnson's job is more important than Yun Liu's job (or vice
versa). The extent to which – if at all – it is appropriate to do business
in countries with blemished human rights records. The question of
whether, and to what extent, domestic guidelines intended to ensure
human well-being should be extended to multinational corporations'
operations in other countries. The question of what constitutes fair
trade, if indeed there is such a thing as fair trade. The question of
when – if at all – it is appropriate to move production facilities to
low-wage countries. The question of what employment practices are
appropriate (or inappropriate) in plants in low-wage countries.

Books have been written about various aspects of all of these
issues, often from a one-dimensional, antibusiness perspective. There
are many piecemeal discussions of cases involving issues related to
globalization. What is missing, however, is a balanced, thoughtful dis-
cussion of these issues firmly grounded in ethical theory. This volume
fills that gap.

In discussions of issues related to globalization, as with so many
other controversies, there is a tendency for those with strongly held
views to paint pictures of those who disagree with them with carica-
tures of the most unflattering sort. It is not unusual for those in the
business world to characterize those who express concern about the
social costs of globalization as "naïve do-gooders" or "trouble makers"
while social critics describe business leaders as "greedy capitalists."

To be sure, as is the case with many caricatures, there is a kernel of
truth that underlies these unflattering stereotypes. There *are* social

[10] "Maquilapolis: About the Film" at http://www.pbs.org/pov/pov2006/
maquilapolis/about.html (last accessed September 26, 2008).

critics who do not have the foggiest understanding of the realities of life in the business world – realities such as the necessity of maintaining profitability if the enterprise is to be viable. And there *are* individuals in the business world who are motivated by greed, some of whom are now under indictment or doing time in prison after having been convicted of fraud and other violations of the law.

But to paint everyone with such broad brushstrokes is to do an injustice to the responsible middle – business leaders with a conscience (and there are many of them) and socially concerned individuals who recognize that market realities based on laws of supply and demand need to be taken into account (and there are many of them as well). It is to those who comprise the thoughtful middle – in the business world, in academia, and elsewhere – that this volume is addressed (as well as those on both extremes, who, it is our hope, might be persuaded to join the responsible middle).

The volume is divided into three parts. Part I, which comprises three chapters, maps out some philosophical foundations for addressing ethical issues related to the business world in an era of globalization. Part II, which comprises four chapters, examines various practical issues, drawing upon the philosophical foundations identified in Part I, while Part III examines various possibilities for bringing pressure to bear on multinational corporations that are not respectful of human rights, and the difficulties inherent in so doing.

Chapter 1 begins by observing that whenever the conversation turns to the ethics of globalization, it is not long before the language of human rights comes into play, language that unfortunately is fraught with ambiguity. If the language of human rights is to play a role in discussions of ethical issues – and we believe that it should – it is essential that it be used carefully and with precision. Drawing upon the work of John Locke and others, as well as contemporary scholars such as Mary Ann Glendon, we advocate a more limited, more carefully defined notion of rights than that reflected in documents such as the United Nations' Universal Declaration of Human Rights, while noting that the Universal Declaration of Human Rights is useful as a statement of ideals identifying goals worth striving to achieve.

At the same time, we suggest that not everything of ethical significance can be subsumed under notions of rights. Chapter 2 tackles the difficult question of what our moral responsibilities might be with

respect to our distant neighbors such as coffee growers in Ethiopia, those who work on rubber plantations in Liberia, and rural villagers in China hoping for a better life. Does it make sense to talk about concentric circles of responsibility, with each of us having greater obligations to members of our families and those living near us than to those living in distant countries? Or is Yun Liu's job every bit as important as Paulette Johnson's job with no distinctions to be made about moral obligations we might or might not have with respect to the two of them? Drawing upon the basic notion of natural rights mapped out in Chapter 1 and rejecting both simple self-interest and utilitarian approaches, we argue that our obligation to refrain from harming others applies equally to our near neighbors and our distant neighbors such as coffee growers in Ethiopia, rubber plantation workers in Liberia, and textile workers in China. However, affirmative duties such as providing education and housing might plausibly be argued to be stronger with respect to our near neighbors, particularly when familial relationships, employer-employee relationships, or other social relationships are present. The caveat to this notion of concentric circles of responsibility, however, is that when multinational corporations build plants in other countries or outsource, what previously were distant neighbors become, for them, near neighbors. Indeed, in many significant respects, globalization has made distant neighbors near neighbors.

All of this sets the stage for the task we take on in Chapter 3, which maps out some ethical guidelines for business in an age of globalization. Many views of what multinational corporations ought to be doing are either too narrowly defined, focusing only on profitability, or so broadly defined that they lack coherence and practicality. We take a middle path, identifying practical guidelines conducive to human well-being, using the second formulation of Immanuel Kant's categorical imperative ("For, all rational beings stand under the *law* that each of them is to treat himself and all others *never merely as means* but always *at the same time as ends in themselves*"[11]) as a central reference point.

Chapter 4, the first of the four chapters that comprise Part II of this volume, begins with an overview of the human rights situation in

[11]   Immanuel Kant, *Groundwork of the Metaphysic of Morals*, tr. Mary Gregor (Cambridge, UK: Cambridge University Press, 1998), 41 (4:433).

China, which is neither as bad as some critics would have us believe nor as good as Chinese government officials would have us believe. We argue the case for constructive engagement and advocate adopting specific, goal-oriented principles, as was done during the days of apartheid in South Africa when a number of companies with operations in South Africa signed the Sullivan Principles and underwent annual reviews to determine if they were making measurable progress with respect to the various concrete expectations specified by the principles. In the case of China, where outsourcing is widespread, we suggest that particular attention needs to be focused on supplier codes of conduct, while acknowledging that monitoring compliance can be difficult, particularly with respect to the performance of suppliers' suppliers.

In the news media and elsewhere, a good deal of attention has been focused on China, and appropriately so, for it is virtually impossible to overstate the magnitude of the role that China plays on the world economic stage. There are, however, also significant human rights issues related to globalization in Africa, Latin America, and elsewhere – issues that unfortunately are often overlooked in discussions of international economic issues. Chapter 5 takes a detailed look at a country that receives little attention in these discussions – Liberia – focusing particular attention on the role that Firestone plays in Liberia, where it is the largest employer. Chapter 6 discusses free trade and fair trade issues pertaining to coffee growers in Ethiopia. Chapter 7 examines the question of whether maquiladoras (low-wage factories in Mexico that serve the U.S. market) exploit those they employ, provide economic opportunity for Mexican workers, or some combination of both.

Part III of this volume addresses the question of enforcement, a complicated and difficult matter in an age of globalization. Though we might prefer that it were otherwise, moral persuasion alone will not ensure respect for human rights. As Reinhold Niebuhr (1892–1971) correctly observed in a book published more than eight decades ago, power must by challenged by power if there is to be any hope of securing a greater measure of social justice.[12] The practical problem

---

[12] Reinhold Niebuhr, *Moral Man and Immoral Society: A Study in Ethics and Politics* (New York: Charles Scribner's Sons, 1932), xiv–xv.

in this age of globalization is finding sources of power of sufficient magnitude to challenge the immense power of multinational corporations. Chapter 8 notes the limitations of options such as economic sanctions and treaty provisions, while the last chapter in this volume – Chapter 9 – explores the possibilities for using the Alien Tort Claims Act (ATCA) to encourage U.S. multinational companies to comply with appropriate human rights standards in their overseas operations, focusing particular attention on environmental cases involving risk to human health and well-being.

The positions we take in these nine chapters and the supporting arguments we make are in no way intended to bring to complete resolution discussions of human rights and the ethics of globalization. Indeed, what is said here is only the beginning. It is our hope, however, that this volume will contribute to thoughtful discussions of these issues in academia, in the business and professional worlds, and elsewhere. If what is said here proves to be a catalyst for thoughtful discussion, all that we have hoped to accomplish will have been accomplished.