
INTERNATIONAL & NATIONAL SECURITY LAW

MULTINATIONAL BUSINESSES AND THE MATRIX OF HUMAN RIGHTS GOVERNANCE NETWORKS

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For decades, human rights activists have successfully petitioned state and national governments in developed countries to fund such economic rights as the right to housing, the right to education, the right to a clean and safe environment, the right to work, the right to social security, and the right to health. Just at the time that the bill is coming due for such expenditures and developed countries are facing the resulting global economic crisis, these advocates are pursuing the realization of these economic rights in developing countries. However, a lack of government funding is forcing them to look to transnational corporations and other multinational business enterprises for the funding of their social welfare ambitions. In doing so, they are relying on a matrix of human rights governance networks (the “Matrix”) first described in a 2008 article in this journal.¹ This follow-up article explains 1) how human rights activists and multinational institutions are using the Matrix to govern the operations of multinational business enterprises; 2) how the Matrix has become an “intellectual complex adaptive system” that, after facing initial resistance from the business community, has evolved to increase its scope and effectiveness; and 3) some steps that multinational businesses might take to resist the Matrix.

The Matrix Revisited: The Business and Human Rights Context

International non-governmental organizations (“NGOs”) and national civil society organizations (“CSOs”) are using a matrix of human rights governance networks to bypass national courts, democracy, and the rule of law to develop “soft law” human rights norms, with which multinational business enterprises will have to comply from the early stages of project research, design, and planning through project completion and beyond. As will be described in this paper, this matrix is not a conspiratorial undertaking pursued by a few like-minded, non-transparent NGOs; rather, it consists of an observable and increasingly institutionalized group of interconnected networks through which NGOs and CSOs realize their human rights governance agenda outside the ordinary democratic process.

The ten human rights governance networks comprising the Matrix include:

1. *Advocacy networks*: The networks of international human rights activists that articulate and advocate for human rights, including so-called “emerging” economic and social human rights.
2. *Research networks*: The networks of social scientists and academics that conduct research on how the lack of

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human rights protection negatively impacts individuals and society.

3. *Policy networks*: The networks of government officials and other policy makers that discuss and formulate human rights policies.

4. *Standards-setting networks*: The networks of multilateral international organizations that meet to adopt treaties or declarations listing human rights norms or standards.

5. *Interpretive networks*: The networks of human rights treaty committees and UN-sanctioned expert committees that interpret the norms and standards contained in human rights treaties and declarations.

6. *Explanatory networks*: The networks of international organizations and their NGO and CSO partners that explain the human rights interpretations to members of civil society at the local, national, and regional levels.

7. *Implementation networks*: The networks of national legislatures and government officials that, upon the recommendation of the human rights experts, adopt and implement laws and regulations promoting and protecting human rights.

8. *Assessment networks*: The networks of NGOs and government officials that encourage the use of human rights impact assessments by legislatures and businesses to measure the potential human rights impact of proposed legislation or products.

9. *Enforcement networks*: The networks of local, national, and regional courts; government agencies; and human rights treaty committees that decide cases or rule on alleged human rights violations.

10. *Funding networks*: The networks of governments, multilateral institutions, and private foundations that fund the promotion and protection of human rights by supporting one or more of the other human rights governance networks.

The ten human rights governance networks comprising the Matrix work in successive stages. The advocacy networks generate the idea for an emerging economic right; the research networks conduct the research necessary to support the right; the policy networks design the policy that embodies the right; the standards-setting networks publicly adopt or declare the right as a norm or standard; the interpretive networks determine the nature and scope of the right; the explanatory networks explain the right to the affected parties and their supporters in civil society; the implementation networks adopt the legislation that promotes or protects the right; the assessment networks encourage government and business respect for the right; the

enforcement networks penalize those who violate the right; and the funding networks help sustain one or more of the human rights governance networks comprising the Matrix.

Beginning about a decade ago, NGOs, CSOs, and multilateral institutions began using the Matrix in an attempt to hold multinational business enterprises accountable for 1) assessing their human rights responsibilities in the developing countries in which they operated and 2) funding the fulfillment of the economic rights of the residents therein who, in the opinion of the NGOs and CSOs, are being adversely impacted as a result of such operations. The Matrix produced three primary mechanisms in the area of business and human rights: the Guidelines for Multinational Enterprises produced by the Organisation for Economic Co-operation and Development; the Ten Principles of the United Nations Global Compact; and the Norms on the Responsibilities of Transnational Corporations and Other Businesses with Regard to Human Rights adopted by the United Nations Sub-Commission on the Promotion and Protection of Human Rights.

Pursuant to, or coincident with, these mechanisms, from 2000 to 2008, transnational corporations and other multinational business enterprises were subjected to the Matrix in the following manner:

1. *Advocacy networks*: In 2000, leading activists in the field of economic, social, and cultural rights (“ESCR”) from key human rights organizations in the Americas, Africa, and Asia came together to develop an international network for the promotion of economic, social, and cultural rights. The process culminated in the founding of a General Assembly and the Inaugural ESCR-Net Conference, titled “Creating New Paths towards Social Justice,” held in Chiang Mai, Thailand in 2003. Over 250 human rights activists from fifty different countries came together to launch the network and to elect the first ESCR-Net Board. The ESCR-Net Corporate Accountability Working Group (the “Working Group”) advocates for corporate accountability at the international level.

2. *Research networks*: In 2001, the United Nations Sub-Commission on the Promotion and Protection of Human Rights (the “Sub-Commission”) asked its Working Group on the Working Methods and Activities of Transnational Corporations (the “Working Group”) to contribute to the drafting of relevant norms concerning human rights and transnational corporations and other economic units whose activities have an impact on human rights. In 2002, the Sub-Commission requested that the Working Group’s report and the annexed draft norms be widely circulated in the expectation that comments would be taken into account when the Working Group next considered its draft norms in August 2003.

3. *Policy networks*: In 2000, the Global Reporting Initiative (“GRI”), a network-based organization, released its first sustainability reporting guidelines, which are designed to mainstream disclosure by businesses on environmental, social, and governance performance. GRI’s reporting framework is developed through a consensus-seeking, multi-stakeholder

process, with participants being drawn from global business, civil society, labor, academic and professional institutions.

4. *Standards-setting networks*: Four multinational institutions played an early role in creating (or attempting to create) human rights standards that could be used to hold multinational business enterprises accountable for protecting and fulfilling economic rights.

First, in 1976, after being ratified by the necessary number of States Parties, the International Covenant on Economic, Social and Cultural Rights (“ICESCR”) entered into force. The ICESCR commits its parties to work toward the granting of economic, social, and cultural rights to individuals, including labor rights, the right to health, the right to education, and the right to an adequate standard of living. As of July 2011, 160 States had ratified the ICESCR; however, the United States has not done so.

Also in 1976, the Organisation for Economic Co-operation and Development (“OECD”) adopted the OECD Guidelines for Multinational Enterprises (the “OECD Guidelines”). The OECD Guidelines constitute a set of voluntary recommendations to multinational enterprises in all the major areas of business ethics, human rights, environment, information disclosure, combating bribery, consumer interests, science and technology, competition, and taxation. Adhering governments have committed to promoting the OECD Guidelines among multinational enterprises operating in or from their territories. All of the thirty-four OECD member countries and eight non-OECD countries have agreed to adhere to the OECD Guidelines and encourage multinational enterprises to comply with their provisions.

Third, in 2000, the UN Global Compact was launched to bring businesses together with UN agencies, labor unions, civil society, and governments to advance ten universal principles in the areas of human rights, labor, environment, and anti-corruption (the “Ten Principles”). Although companies are asked to mainstream the Ten Principles within their spheres of influence, the UN Global Compact explicitly denies that it is a regulatory initiative. Instead, it claims to offer a values-based platform for voluntary peer review and institutional learning. Participants are encouraged to share case studies of good practices and to participate in policy dialogues.

Finally, in August 2003, the Sub-Commission approved the Norms on the Responsibilities of Transnational Corporations and Other Businesses with Regard to Human Rights (the “Norms”). In part, the Norms provided that:

12. Transnational corporations and other business enterprises shall respect economic, social and cultural rights as well as civil and political rights and contribute to their realization, in particular the rights to development, adequate food and drinking water, the highest attainable standard of physical and mental health, adequate housing, privacy, education, freedom of thought, conscience, and religion and freedom of opinion and expression, and shall refrain from actions

which obstruct or impede the realization of those rights.²

The UN Commission on Human Rights (the “Commission”) considered the Norms in April 2004; however, it did not approve them and adopted the position that the Norms had no legal standing. At the time, it was obvious that the Sub-Commission had taken a position on the obligation of transnational businesses to respect and fulfill economic rights that exceeded the more limited position held by a majority of UN member states. As a result, the United Nations took no further actions on the Norms. To satisfy disappointed human rights activists and to explore a more independent and reasonable position on the subject of norms on the human rights responsibilities of multinational businesses, in July 2005, then UN Secretary-General Kofi Annan appointed John Ruggie as the Special Representative of the UN Secretary-General on the issue of human rights and transnational corporations and other business enterprises (the “Special Representative”).

5. *Interpretive networks:* Although the Commission did not adopt the Norms, as part of the process of formulating the Norms, the Sub-Commission prepared commentary on them (the “Commentary”). The Commentary, which interpreted each provision of the Norms, provided an in-depth look at the provisions comprising the most ambitious agenda for holding multinational enterprises responsible for realizing economic rights.

Also, since 1991, the Committee on Economic, Social and Cultural Rights (the “ICESCR Committee”) has been developing and publishing General Comments that have interpreted the meaning and scope of various economic rights contained in the ICESCR, including the rights to adequate housing, adequate food, education, the highest attainable standard of health, water, work, and social security.

6. *Explanatory networks:* Since the OECD Guidelines were adopted in 1976 and significantly revised in 2000, CSOs have gone to great lengths to explain them to multinational business enterprises and government officials. In 2003, a group of CSOs meeting in Amersfoort, the Netherlands, established OECD Watch, a network that seeks to strengthen cooperation between CSOs worldwide, build CSO capacity, and promote a corporate accountability framework in the interest of sustainability and poverty eradication. To do so, OECD Watch primarily aims to help facilitate NGO activities around the OECD Guidelines through a membership that consists of a diverse range of national CSOs working on human rights, labor rights, consumer rights, transparency, the environment, and sustainable development.

7. *Implementation networks:* Primary responsibility for implementing the OECD Guidelines rests with National Contact Points (“NCPs”). The NCP is a national government office responsible for encouraging observance of the OECD Guidelines in a national context and for ensuring that the Guidelines are well-known and understood by the national business community and by other interested parties. The NCP gathers information on national experiences with the

OECD Guidelines; handles inquiries; discusses matters related to the OECD Guidelines; and assists in solving problems that may arise in their implementation.

As for the implementation of the UN Global Compact’s Ten Principles, participating companies are required to issue an annual Communication on Progress (“COP”), a public disclosure to stakeholders (e.g., investors, consumers, civil society, governments, etc.) on progress made in implementing the Ten Principles and in supporting broad UN development goals.

8. *Assessment networks:* In 1993, the UN General Assembly adopted Principles relating to the Status of National Institutions (the “Paris Principles”), which led to the creation of national human rights institutions (“NHRIs”) in many countries. According to the Paris Principles, NHRIs must have a broad mandate under national law to promote and protect human rights, including through monitoring and advising home governments, investigating human rights abuses, engaging with international human rights bodies, public education, and research. Also, in 1993, NHRIs established the International Coordinating Committee of National Institutions for the Promotion and Protection of Human Rights (the “ICC”) to secure greater integration of NHRI activities. Presently, NHRIs exist in more than 100 countries.

Also, in 2005, the Commission requested the Special Representative to develop materials and methodologies for undertaking human rights impact assessments (“HRIAs”) for business activity. Although the Special Representative determined that developing such materials and methodologies was beyond his mandate’s time and resource constraints, in 2007, the Special Representative published a report describing the principles and characteristics of HRIAs for business, including similarities to environmental and social impact assessments, and providing updates on current HRIA initiatives (the “HRIA Report”). In the HRIA Report, the Special Representative explained that, prior to engaging in a proposed business activity, a business enterprise should conduct a HRIA to examine whether human rights protections have been adequately considered. In his view, HRIAs should catalogue the relevant human rights standards, including those set out in international conventions to which the home and host countries are signatories, other standards such as indigenous customary laws and traditions, and, in cases of armed conflict, international humanitarian law.³

9. *Enforcement networks:* Until the 2000 revision of the OECD Guidelines, no complaint mechanism existed through which parties could pursue relief from alleged violations of the voluntary recommendations contained therein. Since the 2000 revision, when issues arise concerning implementation of the OECD Guidelines in relation to specific instances of business conduct, the NCP is expected to help resolve them. Under the OECD Guidelines Procedural Guidance, as revised in 2000 (the “Procedural Guidance”), when the NCP receives a complaint, it has to “make an initial assessment of whether the issues raised merit further examination and respond to the party or parties raising them” and where “the issues

raised merit further examination, offer good offices to help the parties involved to resolve the issues.”⁴ The Procedural Guidance did not explain when issues that are raised in the complaint merit further consideration. Under the Procedural Guidance, if a NCP decides to proceed with the complaint, and provided that the parties involved consent, it plays a mediating role in bringing parties together to resolve the issue.

10. *Funding networks*: The United Nations and OECD contribute significant funds to develop and sustain the different networks comprising the Matrix, with the United States of America, in turn, providing the largest amount of the regular funding for those two organizations.

Inside the Matrix: The Matrix as an Intelligent Complex Adaptive System

By 2008, the Matrix provided NGOs and CSOs with a loosely organized framework and mechanism for protecting and realizing (i.e., funding) economic rights in developing and developed countries. Yet, the Matrix had evolved from the primarily independent and uncoordinated efforts of individuals who had been pursuing an economic rights agenda within the context of their individual networks. These NGOs and CSOs were unaware of the degree to which their individual efforts had given birth to a comprehensive, integrated, complex system for holding businesses accountable for protecting and fulfilling economic rights. Thus, it is completely understandable that transnational corporations and other multinational business enterprises were likewise unaware of what had transpired. Until that time, businesses were under the impression that they could satisfy the demand for protecting and fulfilling economic rights by engaging in basic corporate social responsibility or sustainability measures, joining the UN Global Compact, participating in the World Economic Forum in Davos, Switzerland, or contributing to one or two UN-sponsored humanitarian relief programs.

Yet, from the perspective of those frustrated NGOs and CSOs that were seeking greater corporate accountability for protecting and fulfilling economic rights, the following shortcomings in the Matrix existed:

1. The UN Global Compact and the UN Secretary-General were not serious about holding members accountable for complying with the Ten Principles.
2. The OECD Guidelines did not adequately address business and human rights and national governments were not constructing or operating National Contact Points in a manner that could credibly and fairly resolve disputes over whether a multinational business enterprise was adhering to the OECD Guidelines.
3. There was no mechanism whereby individuals could communicate to the ICESCR Committee cases where a State Party was not holding transnational corporations or other multinational businesses accountable for failing to protect or fulfill the economic rights of indigenous peoples or other groups.

4. NHRIs were not being adequately educated about the need for them to monitor the degree to which multinational businesses were failing to protect or fulfill economic rights.

5. Little progress had been made to require businesses to conduct HRIAs prior to launching a new product or project.

6. By failing to adopt the Norms or any comparable internationally-approved standards, the UN had failed to provide the necessary leadership on linking businesses and human rights.

In a historic development having evolutionary significance, within the short span of the past four years, the Matrix has adapted to address all of these perceived shortcomings. In many ways, the Matrix represents a type of “intellectual complex adaptive system” (“ICAS”), a system explained by Alex and David Bennet in their 2004 book, *Organizational Survival in the New World*. A “complex adaptive system” is one composed of a large number of self-organizing components that seek to maximize their own goals but operate according to rules and in the context of relationships with other components and the external world. Examples include ant colonies, cities, the brain, the immune system, ecosystems, computer models, and organizations.⁵ The ICAS is a type of complex adaptive system:

The ICAS, as a complex organization, is composed of a large number of individuals, groups, and human subsystems that have nonlinear interaction and the capability to make many local decisions and strive for specific end states or goals. These components build many relationships both within the organization and external to the organization’s boundaries that may become highly complex and dynamic. Together, these relationships and their constituents form the organization and its enterprise. The word *adaptive* implies that the organization and its subcomponents are capable of studying and analyzing the environment and taking actions that internally adjust the organization and externally influence the environment in a manner that allows the organization to fulfill local and higher-level goals.⁶

The success of an ICAS depends on the competency and freedom of individual participants in the system in terms of learning, decision-making, and taking actions. The ability of individuals to learn, decide, and take actions in an ICAS are leveraged through multiple and effective networks that provide sources of knowledge, experience, and insights from others.

Dynamic networks will represent the critical infrastructure of the next-generation knowledge-based organization. Made available by increased bandwidth and processing power of both silicon and biotechnology, they will offer the opportunity for virtual information and knowledge support systems that connect data, information, and people through virtual communities, knowledge repositories, and knowledge portals. The foundation and grounding of future firms will be strengthened through a common set of strong, stable values held by all employees. Such values

not only provide a framework that enhances empowerment but also motivate and strengthen the self-confidence of the workforce, thereby magnifying the effectiveness of the self-organized teams within the ICAS. To survive and compete in the future world, these organizations will need to possess a number of emergent characteristics that taken together result in resilience, agility, adaptivity, and learning, all well-known traits of survival.⁷

In essence, the Matrix is an ICAS comprised of dynamic networks sharing common values associated with the mission of holding multinational business enterprises accountable for protecting and fulfilling economic rights.

The Matrix Reloaded: Adapting to the Resistance of Multinational Business Enterprises

During the past four years, the Matrix has adapted to the resistance of multinational business enterprises and “reloaded” by enhancing the networks comprising the Matrix as follows:

1. *Strengthened the UN Global Compact.* In order to provide clear benchmarks for corporate adherence to the Ten Principles, in May 2010, officials from the UN Global Compact and GRI agreed to cooperate in amending the GRI Guidelines to include performance indicators that address the Ten Principles. In March 2011, the GRI released version 3.1 of the GRI Guidelines, including two new indicators on human rights that call upon businesses to disclose 1) the percentage and total number of business operations that have been subject to human rights reviews and/or impact assessments and 2) the number of grievances related to human rights that have been filed, addressed, and resolved through formal grievance mechanisms. Meanwhile, in 2010, the UN Joint Inspection Unit published a report that severely criticized the UN Global Compact for the lack of a clear and articulated mandate, the lack of any adequate entry criteria for participants, the lack of an effective monitoring system to measure actual implementation of the principles by participants, the lack of adherence to existing rules and regulations relating to “normal” UN offices, the lack of any representation of either UN Member States or other UN agencies on its Board, and the lack of regular unbiased and independent performance evaluation of its operations. As a result of pressure from the office of the UN Joint Inspection Unit and the NGO community, the UN Global Compact is asking its member businesses to adopt a three-part “leadership blueprint” called the Global Compact LEAD Platform. Under the LEAD Platform, businesses would be expected to implement the Ten Principles into strategies and operations (using the GRI Human Rights Performance Indicators), take action in support of broader UN development goals and issues, and work with the UN Global Compact in creating global and local working groups on issue-based and sector initiatives relating to the Ten Principles. In September 2011, the UN Global Compact’s Human Rights Working Group, composed of representatives of business, civil society, trade unions, the UN, and academia, met under newly-revised Terms of Reference that focus on promoting the business

and human rights agenda in the context of the UN Global Compact.

2. *Amended the OECD Guidelines and Procedural Guidance Relating to NCPs.* In May 2011, the OECD Guidelines were amended to include a new chapter on human rights, which requires multinational enterprises to “carry out human rights due diligence as appropriate to their size, the nature and context of operations and the severity of the risks of adverse human rights impacts.”⁸ At the same time, the Procedural Guidance was amended to clarify and enhance the role of NCPs in contributing to the resolution of issues that arise relating to the implementation of the OECD Guidelines in specific instances of alleged violations by multinational enterprises.

3. *Adopted the Optional Protocol to the ICESCR to Permit Individual Communications.* In late 2008, the UN General Assembly unanimously adopted an Optional Protocol to the ICESCR that permits the ICESCR Committee to receive and consider communications (i.e., complaints) from individual citizens alleging the failure of a State Party to implement the provisions of the ICESCR. While the decisions of the ICESCR Committee in relation to the communications are not formally binding, ratifying States and domestic courts, under pressure from NGOs and CSOs, may treat the decisions as authoritative. To date, the Protocol has been signed by thirty-six states but only ratified by three, well short of the ten ratifications needed in order to enter into force. If and when the Optional Protocol enters into force, it is anticipated that individual communications will be used to pressure States Parties to hold businesses accountable for not protecting or fulfilling economic rights.

4. *Strengthened the Role of NHRIs in Monitoring Business and Human Rights.* In 2009, the ICC established a Working Group on Business and Human Rights (the “Working Group”). The Working Group’s purpose is to promote capacity building, strategic collaboration, advocacy, and outreach by NHRIs in the area of business and human rights. In 2010, at the Tenth International Conference of the ICC, the participating representatives from NHRIs adopted the Edinburgh Declaration (the “Declaration”). The Declaration sets forth the practical functions NHRIs can fulfill in promoting enhanced protection against corporate-related human rights abuse; greater accountability and respect for human rights by business actors; access to justice for victims; and establishing multi-stakeholder approaches.⁹

5. *Increased the Availability of Tools for Conducting Human Rights Impact Assessments.* Beginning in 2007, the International Finance Corporation of the World Bank, the UN Global Compact, and the International Business Leaders Forum engaged in a three-year road-testing process for a guide that provides practical advice to companies on how to identify and assess the human rights risks and impacts of their business activities, integrate the results into their management system, and ultimately improve their performance. In 2010, during the UN Global Compact Leaders Summit, the revised online version of the Guide to Human Rights Impact Assessment and Management (“HRIAM”) was launched.

In 2008, the Danish Institute for Human Rights launched the Human Rights Compliance Assessment (“HRCA”) tool. The HRCA is a comprehensive tool designed to detect human rights risks in company operations. It covers all internationally-recognized human rights and their impact on all stakeholders, including employees, local communities, customers and host governments. The HRCA tool incorporates a database of 195 questions and 947 indicators, each measuring the implementation of human rights in company policies and procedures. In 2010, HRCA 2.0 was released.

6. *Produced a UN Framework and Guiding Principles on Business and Human Rights.* In June 2008, after three years of extensive research and consultations with governments, businesses, and civil society, the Special Representative concluded that one reason cumulative progress in the business and human rights area had been difficult to achieve was the lack of an authoritative focal point around which actors’ expectations could converge—a framework that clarified the relevant actors’ responsibilities and provided the foundation on which thinking and action could build over time. In June 2008, the Special Representative presented such a framework to the UN Human Rights Council. The “Protect, Respect and Remedy” Framework rests on three pillars: the state duty to protect against human rights abuses by third parties, including business, through appropriate policies, regulation, and adjudication; the corporate responsibility to respect human rights, which means to act with due diligence to avoid infringing on the rights of others and to address adverse impacts that occur; and greater access by victims to effective remedies, both judicial and non-judicial.¹⁰ In a June 2011 resolution, the Council endorsed the Special Representative’s “Guiding Principles on Business and Human Rights: Implementing the United Nations ‘Protect, Respect and Remedy’ Framework” (the “UN Guiding Principles”). The UN Guiding Principles explain the implications of existing human rights standards and practices for States and businesses; integrate them within a single, logically-coherent, and comprehensive template; and identify where the current normative and regulatory regime falls short and how it should be improved.¹¹ Each Principle is accompanied by a commentary, further clarifying its meanings and implications. The Council’s resolution also established a Working Group on business and human rights consisting of five independent experts, the mandate of which includes promoting implementation of the UN Guiding Principles; providing advice regarding the development of domestic legislation and policies relating to business and human rights; conducting country visits; making recommendations for enhancing access to effective remedies for those whose human rights are affected by corporate activities; and guiding the work of the Council’s new annual Forum on Business and Human Rights.

The Matrix Revolutions: Businesses Must Choose

Multinational businesses are facing a reloaded Matrix that has high expectations for their protection and fulfillment of economic rights. The Matrix will no longer be satisfied with

“mere” business ethics, corporate philanthropy, corporate social responsibility, or environmental sustainability programs. The Matrix will no longer limit itself to pursuing claims for damages from egregious human rights violations. Instead, the Matrix will expect businesses to assess the impact their normal operations and policies have on the economic rights of others.

Multinational business enterprises need to choose whether to comply with demands of the Matrix. Specifically, businesses must be prepared to:

1. Consider carefully whether to conduct comprehensive and invasive HRIAs that, in essence, make human rights activists partners in corporate strategic planning and operations.
2. Decide whether to embrace the efforts of human rights activists to convert the UN Global Compact from a voluntary program that promotes best practices in the areas of the Ten Principles to a program that requires its members to comply with the detailed GRI Guidelines.
3. Decline offers by government-run NCPs to mediate unfounded NGO-instigated complaints of alleged corporate failures to protect or fulfill economic rights under the OECD Guidelines.
4. Wage effective media and other public education campaigns against NHRIs that engage in hearings, investigations, or reports designed to shame businesses for not protecting or fulfilling economic rights for which they have no legal responsibility.
5. Monitor the degree to which, in promoting the implementation of the UN Guiding Principles at the country level, the Council’s Working Group on business and human rights interferes with national sovereignty.

A long-term objective of human rights activists is to generate court decisions, government agency or quasi-governmental rulings, international human rights treaty committee determinations, international organization instruments, and academic or other commentary that create “soft law” norms that can be used to hold multinational business enterprises accountable for protecting and fulfilling economic rights. Businesses will have to make some tough choices regarding whether to spend time and resources trying to help the Matrix achieve that objective or focus instead on the operation of their businesses in compliance with existing laws, thereby increasing the value of the investments made by their shareholders. In turn, individual shareholders could decide the degree to which, through their private philanthropy, political action, or support for corporate social responsibility, they can help others meet their basic economic needs.

Endnotes

1 James P. Kelly, *The Matrix of Human Rights Governance Networks*, ENGAGE, Feb. 2008, at 92, available at http://www.fed-soc.org/doclib/20080313_KellyGovernanceEngage9.1.pdf.

2 *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>.

