

*Aleydis Nissen, European Union, Emerging Global Business and Human Rights*  
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The role of private transnational corporations within human rights abuses and the appropriate legal response has been a matter of debate for several decades. As the power of corporate actors has grown, so too has the frequency and severity of such atrocities. Whilst there is an abundance of scholarly literature concerning Western transnational corporations, a new threat is being posed by corporate non-state actors from developing and emerging countries – particularly from Asia – who often operate at a considerably faster pace than their older competitors. A prominent example is the South Korean Samsung Group, distinguished by its ‘frugal innovation capabilities and the strength to cope with more evolving government and legal systems’ (2). It is such young, dynamic forces which Aleydis Nissen seeks to analyse the role of within her first book, *European Union, Emerging Global Business and Human Rights*.

The core research questions of the book can be summarised as follows: firstly, what accountability mechanisms currently exist within the EU and its Member States to regulate and remedy human rights abuses by transnational corporations from developing and emerging countries and, secondly, how effective are these measures? Transnational corporations are understood by the author as those with business activity which is undertaken in more than one state, but also where a ‘significant part’ of the preparatory process is achieved through any business relationship in another state or jurisdiction (Intergovernmental Working Group on Transnational Corporations and Other Business Enterprises with Respect to Human Rights, 2021). It equally extends to activity which is undertaken in one State but has a ‘significant effect’ in another State or jurisdiction. Thus, Nissen assigns herself the complex task of considering a wide array of actors, signifying a prioritisation of breadth rather than depth. The legal regulations Nissen explores are similarly broad, encompassing both direct legal obligations imposed by national laws, for example the Dutch Child Labour Due Diligence Act (2019), as well as civil actions which can be brought against corporations, such as those arising from the French Law on Parent Corporations’ Vigilance and Outsourcing Companies (2017).

It is implied by the author within the introductory chapter that the ambitious scope of the text will be tempered through reference to international relations theory. The three models of international law-making - realism, institutionalism and social constructivism - are each unpacked in a manner accessible to a reader unfamiliar with the field. Realist approaches recognise the ‘constant struggle for power’ between states, whereby international law is conceived as tool wielded in the pursuit of control (4). Institutionalism, in comparison, understands that states may cooperate where it is in their interests to do so, largely to preserve their reputation. The final model, social constructivism, places emphasis on the role of actors, both state and non-state, in the formulation of the ideas and norms which underpin the international system.

Nissen firstly investigates the legal parameters of the regulation by, and within, the EU of business activity undertaken by corporations from emerging and developing states. In doing so, the author introduces the controversy within international law scholarship regarding domestic legislative measures with extraterritorial implications. Nissen explains that extraterritorial litigation within the EU over transnational corporations from developing and emerging states would involve ‘foreign-cubed cases’ (OHCHR, 2015: 16), whereby a claim is brought by a foreign claimant against a foreign defendant for foreign activities.

While some rather optimistically argue that extraterritorial remediation can encourage a “race to the top” (Stilgitz, 2011: 21) to address violations, Nissen is more realistic in her anticipation of retaliation by powerful states which remain defiant to human rights discourse.

Indeed, sustained Western interference in alleged human rights violations in China is predicted to be met with economic retaliation in the form of greater protectionist measures (Slawotsky, 2022), legitimising Nissen's concerns regarding the risks of EU Member States exercising extraterritorial jurisdiction. The author also recognises the 'imperialistic' tendencies of national courts who take it upon themselves to act as "world courts" dictating the boundaries of human rights protection (76). The dangers of this are amplified where the extraterritorial court in question is located in a former colonising state, exerting jurisdiction over claims against corporations from its former colonies. Given the research's concern with the regulation of transnational corporations from developing and emerging economies, it is disappointing that greater space was not dedicated to exploring this dimension – specifically against the backdrop of the geopolitical power shifts occurring today. Incorporating critiques of human rights as constructions of the West deployed as a tool of cultural homogenization (David, 2018) could have elevated this discussion - instead of assumes rights to be of value.

Nissen then assesses measures undertaken within Europe to address human rights abuses by corporations, beginning with the mandatory unilateral initiatives adopted by the European Union. Examples include the European Commission's Strategy on Corporate Social Responsibility (2011) and country-by-country-reporting rules (2013), both of which impose legally binding obligations upon corporations. The latter of the two is heralded as a means of exporting EU standards worldwide, in contrast to reporting requirements under the Non-Financial Reporting Directive (2014) which Nissen considers 'so lax' as to be rendered a 'tick box' exercise (130). The failure of non-financial reporting to provide a complete picture of companies' business models is widely recognised (Biondi *et al.*, 2020; La Torre *et al.*, 2020; Fiandrino and Tonelli, 2021), with companies unwilling to disclose any substantive information and thereby obscuring the risks associated with their activities.

A comprehensive analysis is then provided of two different pieces of national legislation as means of curtailing human rights abuses committed by transnational corporations from developing and emerging economies. France and the Netherlands are proclaimed "norm entrepreneurs" (26) for their respective creations - the Law on Parent Corporations' Vigilance and Outsourcing Companies and the Child Labour Due Diligence Act – which Nissen contrasts in terms of both the atrocities targeted and the duties which they establish. The French Law imposes obligations on parent companies to identify and prevent severe violations of human rights, serious bodily injury or health risks and environmental damage within their business activities through the creation and publication of a vigilance plan. In contrast, the Dutch Act focuses on a singular human rights violation, requiring companies to issue a declaration affirming its commitment to conduct due diligence to prevent child labour, as defined by the International Labour Organisation's Minimum Age Convention (1973) and Worst Forms of Child Labour Convention (1999), from being used in the production of those goods and services. Contrastingly, the French Law does not clarify the meaning of severe human rights violations, yet notably was drafted in the wake of the Rana Plaza tragedy in Bangladesh where over a thousand garment workers were killed following the building's collapse (Rana Plaza Arrangement, n.d.).

Whilst the Dutch Act has a much narrower scope in regard to the human rights atrocities it targets, it requires all companies offering goods and services on the Dutch market to issue a declaration regardless of their country of registration. The impact of the French Law upon French and foreign corporations, Nissen underscores, is not commensurate. Direct obligations arise solely for French corporations under the Law on Parent Corporations' Vigilance and Outsourcing Companies; foreign corporations, and only those which are subsidiaries of or controlled by corporations registered in France that satisfy the conditions of the corporate form and the employee threshold, are subject to indirect duties via the French Law. Yet, as Nissen observes, the 'level playing field' created by the Dutch Act is likely to prove 'artificial' (208), for capacity constraints will inevitably see greater enforcement in relation to Dutch corporations in comparison to their overseas counterparts. The institutionalist approach of the Dutch Parliament

and its anticipated adverse effect upon the competitiveness of Dutch corporations is commended by Nissen for its prioritisation of children's rights over economic considerations, further signifying that extraterritoriality is not merely academic.

The final third of the monograph explores the perspectives of developing and emerging states that have established trade relations with the EU, specifically Kenya, which acts as the 'typical' case (14), and South Korea, the 'atypical' (15). The extensive contextual background provided in both cases unfortunately leaves little room for discussion of Nissen's findings from her interviews with workers in the floriculture and electronic industries of Kenya and South Korea respectively. Given the substantial time the author spent in each of these countries conducting fieldwork to understand the experiences of workers, it is puzzling that this empirical work is largely glossed over. As such, Nissen's conclusion that EU and its Member States can, and should, do more to support local capacity building, is somewhat unsubstantiated. In anticipation of such collaboration being perceived as 'foreign interference', particularly in the case of South Korea, Nissen further advocates 'incremental changes that create opportunities to exchange information, disseminate knowledge and facilitate learning' (296) – a pragmatic suggestion in light of the aforementioned global economic risks of the weaponization of rights.

Yet, Nissen also highlights the significance of the ongoing civil liability claim in France which has been brought by UFC-Que Choisir, a French consumer defence association, against Samsung for its engagement deceptive marketing practices. The complaint filed by the UFC-Que Choisir in 2020 before the Paris Judicial Court concerned the conglomerate's failure to keep to its commitments regarding working conditions in its suppliers' factories. Whilst similar claims have been made against Samsung in France under the same legal ground and declared inadmissible, the UFC-Que Choisir's action remains a source of hope for holding corporations to account for human rights abuses. If successful, UFC-Que Choisir's claim could send an unequivocal message that "the world is watching" (296) and hence has the potential to be comparatively more transformative on the global scale than the piecemeal strategy Nissen proposes.

Whilst Nissen's text is rich in content and thus would be a valuable read for those interested in study of the regulation of the activity of transnational corporations orientated towards the threat posed to human rights by non-Western actors, the author's central argument is somewhat buried. Nissen's most concrete claim appears to be that EU and its Member States must do more to regulate and remedy human rights abuses by transnational corporations from developing and emerging economies – a rather simplistic conclusion to emerge from a text exceeding 300 words. The absence of an obvious through-line running from the beginning to the end of the book makes the transition from one case study to the next rather abrupt, meanwhile the sheer volume of material covered precludes a consistently in depth analysis throughout.

A narrower, more definitive focus could have made a stronger contribution to the field. For example, it is claimed that the three models of international relations theory will be used critically, yet in actuality the author reduces realism, institutionalism and social constructivism to labels ascribed to the different approaches adopted by states in their legislative responses to the entanglement of business and human rights. Thorough engagement with these models throughout could have acted as the thread tying each of the case studies together, providing an overall sense of cohesion. Alternatively, the adoption of a postcolonial lens could have enabled the author to deepen the superficial analysis of the dangers of extraterritoriality exercised by courts in developed nations, offering a more nuanced account than is currently presented. Such an approach would equally force Nissen to address the Western orientation of human rights protected within international instruments and make the case for their universality, which her entire argument, that is greater protection of rights worldwide, hinges upon.

In summary, readers hoping to be presented with a powerful stance, or innovative new perspective, regarding the regulation of human rights abuses by transnational corporations

from developing and emerging countries within *European Union, Emerging Global Business and Human Rights* may finish the text disappointed. That being said, the monograph nevertheless provides a strong entry point for academics and students alike to identify specific areas for further research.



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