



Human rights actors II: The UN human rights system and non- state actors

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Human rights actors: Overview

- The primary role of states (last week)
- **The United Nations human rights system**
 - Human Rights Council
 - Treaty-based bodies
 - Human Rights Committee
 - Committee on Economic, Social and Cultural Rights
 - Further treaty bodies
- Non-state actors
 - Individuals
 - Non-governmental organisations (NGOs)
 - Multinational enterprises (MNEs)



The United Nations human rights system (I)

➤ Human Rights Council

- Successor of the Commission on Human Rights, established in 2006
- Main instruments
 - Continuous peer review: Universal Periodic Review (UPR)
 - Responses to current situations: special sessions, fact-finding missions, reports and commissions of inquiry (e.g. the recent report on the situation in North Korea), special procedures (e.g. the Working Group on the issue of human rights and transnational corporations and other business enterprises)
- Other instruments: Complaint procedure, advisory committee



The United Nations human rights system (II)

➤ The Human Rights Committee

- Responsible for overseeing the implementation of the ICCPR
- Body of 18 **independent** experts meeting three times per year to
 - consider the reports of the 167 states which ratified the ICCPR and
 - examine individual petitions concerning 115 states to the Optional Protocol



Human Rights Committee: Member list

Name of Member	Nationality		
Mr. Yadh BEN ACHOUR (Vice-Chairperson)	Tunisia	Mr. Andrei Paul ZLĂTESCU	Romania
Mr. Lazhari BOUZID	Algeria	Mr. Gerald L. NEUMAN	United States of America
Ms. Christine CHANET	France	Sir Nigel RODLEY (Chairperson)	United Kingdom
Mr. Ahmad Amin FATHALLA	Egypt	Mr. Victor Manuel RODRÍGUEZ-RESCIA	Costa Rica
Mr. Cornelis FLINTERMAN (Rapporteur)	The Netherlands	Mr. Fabián Omar SALVIOLI	Argentina
Mr. Yuji IWASAWA	Japan	Ms. Anja SEIBERT- FOHR	Germany
Mr. Walter KALIN	Switzerland	Mr. Yuval SHANY	Israel
Ms. Zonke Zanele MAJODINA	South Africa	Mr. Konstantine VARDZELASHVILI	Georgia
Mr. Kheshee Parsad MATADEEN	Mauritius	Ms. Margo WATERVAL (Vice-Chairperson)	Suriname

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The United Nations human rights system (III)

- The Committee on Economic, Social and Cultural Rights
 - Responsible for overseeing the implementation of the ICESCR
 - Body of 18 **independent** experts meeting three times per year to
 - consider the reports of the 161 states which ratified the ICCPR and
 - examine individual petitions concerning 12 states to the Optional Protocol (since 2013)

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Committee on ESCRE: Member list

Name of Member	Nationality		
Mr. Aslan Khuseinovich ABASHIDZE	Russian Federation	Mr. Jaime MARCHAN ROMERO	Ecuador
Mr. Mohamed Ezzeldin ABDEL-MONEIM	Egypt	Mr. Sergei MARTYNOV	Belarus
Mr. Clement ATANGANA	Cameroon	Mr. Ariranga Govindasamy PILLAY	Mauritius
Ms. Maria-Virginia BRAS GOMES (Rapporteur)	Portugal	Ms. Lydia Carmelita RAVENBERG	Suriname
Ms. Jun CONG	China	Mr. Renato Zerbini RIBEIRO LEÃO (Vice-Chairperson)	Brazil
Mr. Chandrashekhar DASGUPTA (Vice-Chairperson)	India	Mr. Waleed SADI	Jordan
Mr. Zdzislaw KEDZIA (Chairperson)	Poland	Mr. Nicolaas SCHRIJVER	Netherlands
Mr. Azzouz KERDOUN (Vice-Chairperson)	Algeria	Ms. Heisoo SHIN	Republic of Korea
Mr. Mikel MANCISIDOR	Spain	Mr. Alvaro TIRADO MEJIA	Colombia

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The United Nations human rights system (IV)

- Further UN human rights treaty bodies
 - Committee on the Elimination of Racial Discrimination (CERD)
 - Committee on the Elimination of Discrimination against Women (CEDAW)
 - Committee against Torture (CAT)
 - Committee on the Rights of the Child (CRC)
 - Committee on Migrant Workers (CMW)
 - Committee on the Rights of Persons with Disabilities (CRPD)
 - Committee on Enforced Disappearances (CED)
 - The Subcommittee on Prevention of Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (SPT)

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Non-state actors: Introduction

- Introductory video on the subject of land grabbing:
<http://www.youtube.com/watch?v=s1VkRR8n7qY>
- Human rights actors involved:
 - State actors:
 - The Philippines (host country)
 - (Possibly home country of the investor)
 - Non-state actors:
 - Individuals (indigenous people affected by the project, workers)
 - Civil society (Oxfam)
 - Company (Aurora Pacific Eco Zone / Apeco, foreign investors)
- Human rights impacts of the project? Positive aspects?



Increasing importance of non-state actors (I)

- Privatisation of governmental functions
 - Outsourcing of prisons, schools, public services
 - Are contractors bound by human rights? e.g. private security companies
- Globalisation
 - Possibility for enterprises to outsource different links in the supply chain
 - Competition between states to attract foreign direct investment
- Trade liberalisation
 - Free movement of capital, goods and people
 - Impact on human rights, especially pressure on labour rights?
 - Regulatory competition, race to the bottom?
 - Investment treaties: Possible problematic clauses



Increasing importance of non-state actors (II)

- Shift of competences away from governments to international organisations
- Influence of civil society on state decisions
- Increasing number of internal conflicts
 - Internally displaced persons
 - Protection of minorities
- Growth of international terrorist networks and international organised crime
 - Cannot be attributed to one state
 - Affects more than one state



Non-state actors: Individuals

- Specificities of individuals in international law
- Basic rule: states as duty bearers
 - Primarily: individuals as human rights holders
 - Possibly: acts of individuals acting as *de facto* agents of a state are attributed to the state (cf. Arts. 5, 8 and 11 ILC Draft Articles)
- Exception: individuals as duty bearers?
 - Direct obligations originating in international (criminal) law: Genocide, crimes against humanity, war crimes (cf. Art. 5 ICC Statute)
 - Indirect obligations originating in international law: provisions of domestic criminal law enacted by states to fulfil a corresponding obligation under international law to legislate



Non-state actors: Non-governmental organisations

- NGOs as non-state actors: role and function
 - Increasingly recognized as a “key stakeholders” in many current developments: e.g. “Ruggie Process”, Prohibition of Cluster Munition (Oslo Convention)
 - One of the driving forces within the dynamics of self-regulation: e.g. civil society as one of three pillars in the International Code of Conduct (ICoC) for Private Security Service Providers oversight mechanism
 - NGOs obtaining observer status in selected international organizations: e.g. Convention on the Rights of the Child



Non-state actors: Multinational enterprises (I)

- Generally not recognized as full subjects of international law
 - No direct obligations
 - No direct responsibility
- Indirect responsibility under international law
 - Acts of MNEs can be attributed to a state
 - IG Farben during World War II
 - Private security companies?
 - Acts of MNEs can be attributed to an individual



Non-state actors: Multinational enterprises (II)

- Distinction between responsibility and accountability?
 - Responsibility on a voluntary basis
 - Accountability as legal obligations to implement international standards
- New principles to guide the companies in fulfilling their responsibility
- New concept of accountability influenced by human rights policies
- Legal framework very complex, dynamic and fragmented