

# **Corporate Power and the Protection of Human Rights in Equilibrium<sup>1\*</sup>**

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## Abstract

Corporate power reaches beyond land frontiers and holds sway over the lives of billions of individuals throughout communities and living environments all over the world. Regrettably, this power is not always exercised in a responsible manner when we look at the amount of violations of human rights in which corporations have been involved through their international business affairs. In order to prevent an abuse of corporate authority to the detriment of human rights, the impact of corporate power should be balanced with a matching responsibility towards all members of society. This article examines how corporate power and the protection of human rights are currently out of equilibrium. Subsequently, it explores solutions in the field of corporate law and best practices such as the emergence of social entrepreneurship to restore this equilibrium.

## Keywords

business corporations; human rights; law; social entrepreneurship

Business needs human rights and human rights needs business

Mary Robinson, (former) UN High Commissioner for Human Rights

Nil magnum nisi bonum

(No greatness without goodness)

In: Life of Pi

by Yann Martel

### 1. Out of Equilibrium: Corporate Power versus Human Rights

Multinational corporations are the empowered leaders of financial markets on a global scale. To an increasing degree, we have become aware that corporations have also gradually taken over control of society over the course of time.<sup>3</sup> Nowadays, corporate power reaches beyond land frontiers and holds sway over the lives of billions of individuals throughout communities and living environments all over the world. Regrettably, this power is not always exercised in a responsible manner when we look at the amount of violations of human rights in which corporations have been involved through their international business affairs.<sup>4</sup> In order to prevent an abuse of corporate authority to the detriment of human rights, the impact of corporate power should be balanced with a matching responsibility towards all members of society. Corporate power and the protection of human rights need to be in equilibrium.

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3 See e.g., J.E. Parkinson, *Corporate Power and Responsibility*, Clarendon Press 1995, and C. Handy, *Beyond Certainty: The Changing World of Organizations*, Harvard Business Press 1996.

4 Human rights organizations are increasingly making efforts to raise acute public awareness on such human rights violations, see e.g. Amnesty International's humanitarian work on the issue of business and human rights: <<http://www.amnestyusa.org/our-work/issues/business-and-human-rights>>. Other organizations promoting human rights include the United Nations Global Compact and the Business Leaders Initiative on Human Rights.

According to international law, state governments have a duty to protect against human rights abuses by third parties, including business enterprises, within their territories or jurisdictions.<sup>5</sup> Yet, one of the most important issues in the current discussion on business and human rights is not primarily about the primacy of the state's duty to protect human rights. Rather, the question which remains to be considered concerns the potential scope of a duty on the level of business enterprises, i.e. the question whether corporations – in their capacity as non-state actors – can or should actually be required to protect human rights while carrying out their commercial activities apart from the state governments' duty.<sup>6</sup> Can corporations be held responsible and accountable in an effective manner for the negative consequences their activities may have on the lives of human beings all over the world? This question can be approached from a moral viewpoint as well as a legal perspective.<sup>7</sup> The socially acceptable answer would undoubtedly be: yes. Unfortunately, in the context of law, the quest for an undisputed answer is more complex. There are numerous examples in practice providing a clear indication that matters of business and society do not necessarily run parallel to each other. Rather, the two (interdependent) superpowers of business and society clash because the goals to be pursued are often of a different and contradictory nature.

Corporations use their power to realize the goal of satisfying their self-interest along with the interest of their shareholders in a financially profitable manner, while society is concerned with the broader goal of preserving a safe living environment where the rights of all individual human beings can be maintained.<sup>8</sup> This clash becomes apparent in practice when looking at various situations where corporations have subordinated human rights for the benefit of their own interests. An example of such a situation is the involvement of large multinational corporations which indirectly finance human rights violations while buying conflict minerals for the manufacture of their products – mostly consumer electronic products – in the war zone of the eastern Democratic Republic of Congo.

### ***Case Study: Conflict Minerals and Consumer Electronics***

One of the deadliest wars in history is currently ongoing in the eastern Democratic Republic of Congo and it has been partly created and financed by large corporations which seek a variety of natural resources in this region.<sup>9</sup> Armed groups have taken over natural resources mines where they commit severe human rights abuses. These armed groups have unfortunately become a part of the supply chain and as such they profit

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5 UN Special Representative of the Secretary-General, Protect, Respect and Remedy: A Framework for Business and Human Rights, (April 2008), available at: <<http://www.business-humanrights.org/SpecialRepPortal/Home/ReportstoUNHumanRightsCouncil/2008>>.

6 See e.g., P.T. Muchlinski, Human rights and multinationals: is there a problem? 71 *International Affairs* 1 (2001), pp. 31-47.

7 For recent handbooks and studies related to the business and human rights debate from the viewpoint of law, see e.g., W. Cragg (ed.), *Business and Human Rights*, Edward Elgar Publishing 2012, S. Joseph, *Corporations and Transnational Human Rights Litigation*, Hart Publishing 2004, R. Sullivan, *Business and Human Rights: Dilemmas and Solutions*, Greenleaf Publishing 2003, S. Deva, *Regulating Corporate Human Rights Violations: Humanizing Business*, Routledge 2012, and L.F.H. Enneking, *Foreign direct liability and beyond: Exploring the role of tort law in promoting international corporate social responsibility and accountability*, Eleven International Publishing 2012.

8 Managers have to weigh the conflicting interests of shareholders, employees and customers in everyday decision-making procedures. The efforts to strike a balance between these different stakeholders do not always pan out in favour of safeguarding human rights in an international context, even if corporations claim to do so. For example, in early 2012 Apple was once again accused of breaching its own Supplier Code of Conduct as Chinese workers in one of Apple's supply-chain companies are alleged to be working under poor human conditions to produce products for Western markets, see *In China, Human Costs Are Built Into an iPad*, *New York Times*, 26 January 2012. Yet, public outrage and the importance of a good corporate reputation seem to have led to the implementation of reforms, see *Signs of Changes Taking Hold in Electronics Factories in China*, *New York Times*, 26 December 2012.

9 A. Mooney, *The new blood diamond is your cell phone*, *Duke Research Blog*, 28 December 2012, available at: <<http://sites.duke.edu/dukeresearch/2012/12/13/the-new-blood-diamond-is-your-cell-phone/>>.

from the exploitation of Congo's raw material resources.<sup>10</sup> In order to address the humanitarian crisis in Congo, law reforms have taken place in the United States.

In August 2012, the U.S. Securities and Exchange Commission (SEC) adopted a new rule in the securities law – mandated by section 1502(b) of the Dodd-Frank Wall Street Reform and Consumer Protection Act – amending the Securities and Exchange Act of 1934 to add section 13(p) according to which corporations are obliged to publicly disclose their use of conflict minerals – including tantalum, tin, gold, or tungsten which are used in most consumer electronic products – that originated in the Democratic Republic of Congo or an adjoining country, if those minerals are “necessary to the functionality or production of a product” manufactured by those corporations.<sup>11</sup> These conflict minerals are used in the manufacturing process of power electronics such as laptops, digital cameras and mobile phones, mostly for consumers in Western markets. It is perceived that the exploitation of and the trade in such conflict minerals adds to financing the conflict in the eastern Democratic Republic of the Congo, leading to the maintaining of an emergency humanitarian situation.<sup>12</sup> Various existing global initiatives, such as the OECD Due Diligence Guidance for Responsible Supply Chains of Minerals from Conflict-Affected and High-Risk Areas<sup>13</sup> and the United Nations Group of Experts Due Diligence Guidelines<sup>14</sup> may provide corporations with practical guidance on how to identify the source of conflict minerals in their supply chains in order to respect human rights. As yet, the EU does not have a legal provision similar to the one in the US but it is increasingly urged by human rights organizations to adopt comparable legislation.<sup>15</sup>

However, the beneficial consequences of the US disclosure rule regarding conflict minerals are limited. This rule will inevitably lead to an increased awareness on the part of consumers and corporations about the direct link between human rights violations and the supply chain of consumer products but the rule does not forbid corporations from using conflict minerals as such.<sup>16</sup> Furthermore, many electronics manufacturers have stated that they are unprepared for the new SEC conflict minerals disclosure rule as they do not have information available on their usage of conflict minerals.<sup>17</sup> Also, companies have complained about the compliance costs as the rule requires them to look into complex supply chains and in some cases they have to find new suppliers.<sup>18</sup>

This situation exemplifies how corporations have a calculative mind-set which is primarily linked to their financial self-interest. As a result, corporate power and the protection of human rights are not in equilibrium.

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10 Bloomberg, Hang Up the Phone on Congo's Warlords, 22 August 2012, available at: <<http://www.bloomberg.com/news/2012-08-21/hang-up-the-phone-on-congo-s-warlords.html>>.

11 SEC, SEC Adopts Rule for Disclosing Use of Conflict Minerals, 22 August 2012, available at: <<http://www.sec.gov/news/press/2012/2012-163.htm>>.

12 SEC, SEC Adopts Rule for Disclosing Use of Conflict Minerals, 22 August 2012, available at: <<http://www.sec.gov/news/press/2012/2012-163.htm>>.

13 OECD (2011), OECD Due Diligence Guidance for Responsible Supply Chains of Minerals from Conflict-Affected and High-Risk Areas: Second Edition, OECD Publishing, <<http://dx.doi.org/10.1787/9789264185050-en/>>.

14 UN Security Council Sanctions Committee Concerning Democratic Republic of Congo, Due diligence guidelines for the responsible supply chain of minerals from red flag locations to mitigate the risk of providing direct or indirect support for conflict in the eastern part of the Democratic Republic of the Congo, available at: <[http://www.un.org/News/dh/infocus/drc/Consolidated\\_guidelines.pdf](http://www.un.org/News/dh/infocus/drc/Consolidated_guidelines.pdf)>.

15 EurActiv, EU's soft power in Congo toothless on 'conflict minerals', 15 February 2013, available at: <<http://www.euractiv.com/development-policy/campaigners-press-eu-conflict-mi-news-517784>>.

16 Bloomberg, Hang Up the Phone on Congo's Warlords, 22 August 2012, available at: <<http://www.bloomberg.com/news/2012-08-21/hang-up-the-phone-on-congo-s-warlords.html>>.

17 Electronic Makers Unprepared for “Conflict Mineral” Rules, Wall Street Journal, 25 October 2012.

18 Electronic Makers Unprepared for “Conflict Mineral” Rules, Wall Street Journal, 25 October 2012.

Corporations are not inclined to promote human rights on a voluntary basis when costs are involved. Consequently, this article explores solutions to restore the equilibrium by examining to what extent corporate law (section 2) and best practices (sections 3 and 4) are able to exert influence on corporations to pay attention to the relationship between business and human rights on a wide basis.

## 2. Corporate Law and Human Rights

The relationship between corporate law and human rights has recently become a more significant part of the broad public debate, largely due to the findings from an extensive research carried out by the UN Special Representative of the Secretary-General on the issue of human rights and transnational corporations and other business enterprises, John Ruggie, as part of 'The Corporate Law Project of the UN Special Representative of the Secretary-General' carried out in 2009 and 2010, aimed to identify the existing standards and practices regarding business and human rights worldwide. After conducting a ground-breaking survey in over 40 individual jurisdictions,<sup>19</sup> the efforts were carried onto a further level and eventually resulted in the Guiding Principles on Business and Human Rights endorsed by the UN Human Rights Council in April 2011. For business corporations, the Guiding Principles include the corporate responsibility to respect human rights, which means that 'business enterprises should act with due diligence to avoid infringing on the rights of others and to address adverse impacts with which they are involved'.<sup>20</sup> This principle may prove to be an influential tool for change management as it strongly appeals to corporations to take initiatives in the avoidance of human rights violations while carrying out their business activities. Such a triumphant milestone in the area of business and human rights may be especially helpful for vulnerable countries with emerging or underdeveloped markets which often seem to be overpowered by foreign multinational corporations.

The Guiding Principles have established an encouraging global guideline for corporations to take human rights into account. Yet, the Guiding Principles embrace a form of self-regulation and do not have the effect of a binding legal duty. Corporations are merely burdened with the responsibility – referring to corporate integrity, moral commitments and societal expectations – to respect human rights. This implies that corporations are still not confronted with a legal obligation to ensure that human rights are protected. The effectiveness of a voluntary regime is questionable because of the lack of an independent monitoring of corporate behaviour with regard to human rights. Corporations may choose to remain obscure and to merely mention the Guiding Principles for purposes of public relations as part of their self-organized corporate social responsibility programmes. Consequently, the question remains how a corporate responsibility toward human rights could be translated into enforceable legal norms. International law provides no basis as yet for the direct liability of corporations when they breach obligations with regard to human rights. On a domestic level, tort law can play an important role for victims to hold the parent company of a multinational corporation accountable in the country where it has its seat for violations of human rights by means of foreign direct liability cases, when victims are not able to take action against a subsidiary in the courts of the state where they live and where the

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19 UN Special Representative of the Secretary-General, Corporate Law Project: Overarching Trends and Observations (July 2010), available at: <<http://www.reports-and-materials.org/Ruggie-corporate-law-project-Jul-2010.pdf>>. The research carried out by the UN Special Representative of the Secretary-General on the link between business and human rights on such a large and international scale is unprecedented. In the report, it is claimed that "this project is the first in-depth, multi-jurisdictional exploration of the links between corporate and securities law and human rights."

20 UN Special Representative of the Secretary-General, Guiding Principles on Business and Human Rights: Implementing the United Nations 'Protect, Respect and Remedy' Framework (March 2011), available at: <<http://www.business-humanrights.org/media/documents/ruggie/ruggie-guiding-principles-21-mar-2011.pdf>>.

alleged violation has actually occurred.<sup>21</sup> Might corporate law be able to bridge this gap any further?

A relevant aspect in corporate law – also mentioned in the UN Corporate Law Project – to be considered in this regard is the potential of reforms to corporate directors' duties with regard to human rights. In a recent essay, I have stressed the deplorable state of the art in current corporate law where Anglo-American countries facilitate the narrow-minded idea of shareholder wealth maximization through directors' duties by allowing corporate directors to act predominantly in the interests of shareholders' interests as shareholders are considered to be the essential risk-bearing financiers of the corporation.<sup>22</sup> In the aftermath of the financial crisis it has become even clearer that society – consisting of billions of individual human beings – is saddled with the heavy social and economic costs of managerial risk-taking in building up economic profits of which the benefits are eventually solely reaped by a select mass of corporate directors and shareholders. The costs of risky business should not bear disproportionately upon the individual rights and the quality of life of powerless bystander human beings. In order to overcome this alarming state of play, I have argued that the law of corporations needs to be humanized with the aim being to bring forth good management practices which are aligned with the needs of society. Elaborating on the theme of corporate law and human rights, I would suggest that corporate directors should be held responsible for the protection of human rights by striving for the expansion of corporate directors' duties towards non-shareholders' interests on a European level. A European agenda<sup>23</sup> for the protection of human rights supported by corporate law could be considered desirable to maintain the competitive advantages of a level playing field by ensuring that the enactment of domestic legislation in EU jurisdictions is in line with corresponding regulatory efforts by their European counterparts. Given the many situations where business activities and human rights intersect and affect each other, corporate directors in Europe should be increasingly forced to grapple with the issue of human rights and include non-shareholders' interests in their decision-making procedures.

Another beneficial role that the law in general – besides corporate law – can play in this matter is to provide incentives for corporate directors and corporations, by means of encouragement to carry out conduct in compliance with human rights. Legal incentives are able to strengthen market based incentives for good corporate conduct by implementing cost-sensitive measures. An example of such a practice can be found in the United States where the amended U.S. Federal Sentencing Guidelines provide that the fine payable by a corporation found guilty of a federal crime will be substantially reduced if the corporation is equipped with an appropriate compliance and ethics programme at the time of the offence.<sup>24</sup> This legal measure serves as a financial incentive for corporations and their directors to maintain internal mechanisms for preventing, detecting, and reporting criminal conduct, also in relation to human rights.

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21 L.F.H. Enneking, *Foreign direct liability and beyond: Exploring the role of tort law in promoting international corporate social responsibility and accountability*, Eleven International Publishing 2012.

22 W. Khan, *Humanizing the law of business corporations for good management practices*, essay for the 3rd Global Peter Drucker Forum (Vienna), 3-4 November 2011. Available at SSRN: <<http://ssrn.com/abstract=1992636>>.

23 At present there is no strict coherence of EU policies regarding business and human rights. The European Commission has taken up this subject as a future challenge and intends to implement the UN Guiding Principles on a European level. See European Commission, *A renewed EU strategy 2011-14 for Corporate Social Responsibility*, COM (2011) 681, 25 October 2011. The European Commission has already published an introductory guide to human rights for small and medium-sized enterprises, as well as a study on the existing legal framework for human rights and the environment applicable to EU companies operating outside the EU and a study on responsible supply-chain management issues, all available at: <<http://ec.europa.eu/enterprise/policies/sustainable-business/corporate-social-responsibility/human-rights/>>.

24 Par. 8C2.5.f. 2011 U.S. Federal Sentencing Guidelines.

### 3. Best Practices and Human Rights: The Emergence of Social Entrepreneurship

Can legal reforms provide a panacea for keeping business and human rights in equilibrium? The law in itself may not be sufficient to spur business leaders towards a sustainable shift in behaviour and culture for including the promotion of human rights in corporate decision-making procedures. Cultural and behavioural changes may come from best practices formed outside the legal environment. Consequently, we need to ask ourselves: are there perhaps ‘too many laws, too few examples’?<sup>25</sup> Besides changes to the law, we also need business leaders and entrepreneurs who are able to create best practices which set an example in changing the way we do business. One such best practice connecting business with the pursuit of societal goals is developing and manifesting itself in business communities in the form of social entrepreneurship.

Social entrepreneurship is a form of business which connects with society by means of social value creation<sup>26</sup> exhibiting three core characteristics: social innovation, accountability, and sustainability.<sup>27</sup> Social entrepreneurs use business methods to pursue societal goals, thereby diminishing the clash between the powers of business and society. On a European level, social entrepreneurship is encouraged to create a social economy in which social enterprises can contribute to social cohesion, employment and the reduction of inequalities.<sup>28</sup> Looking at the rapid developments in this revolutionary business model in the past decade, it seems that social entrepreneurship is the way forward. I would like to highlight a Dutch example of innovative social entrepreneurship with a case study of a social enterprise which is keeping business and the protection of human rights in equilibrium: the case of Tony’s Chocolonely.

#### *Case study: Tony’s Chocolonely*

In 2004, Teun van de Keuken, a.k.a. Mr. Tony Chocolonely, became the first Dutchman ever to press criminal charges against himself for committing the crime of eating chocolate. Tony is a Dutch broadcast journalist who became an innovative social entrepreneur a few years ago when he founded Tony’s Chocolonely,<sup>29</sup> a Dutch fair trade chocolate company on a mission to produce slave-free chocolate bars. Tony Chocolonely’s story<sup>30</sup> began more than a decade ago as one man’s lonely crusade against child slavery in the cocoa industry. Tony became inspired by Oprah Winfrey’s efforts to raise awareness of slavery and he decided to take action by starting a year-long probe into slavery in the chocolate industry. In 2003, the lonely hero displayed the results of his research on human rights abuses at cocoa plantations in West Africa on TV. In a Dutch TV consumer advocacy programme (Keuringsdienst van Waarde), Tony uncovered shocking malpractices in Burkina Faso revealing how child slaves are mistreated and sometimes forced to work up to sixteen hours a day. As a matter of bitter irony, many of these children labouring in the cocoa fields had never tasted the sweet goods they were producing until Tony gave them bits of chocolate to try.

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25 Louis de Saint-Just (1767-1794). Saint-Just’s aphorism can be seen quoted on the front of a modern building at 21 Davies Street in Mayfair, London.

26 The European Commission defines social business as an enterprise: a. whose primary objective is to achieve social impact rather than generating profit for owners and shareholders; b. which operates in the market through the production of goods and services in an entrepreneurial and innovative way; c. which uses surpluses mainly to achieve these social goals, and d. which is managed by social entrepreneurs in an accountable and transparent way, in particular by involving workers, customers and stakeholders affected by its business activity.

27 A. Wolk, *Advancing Social Entrepreneurship: Recommendations for Policy Makers and Government Agencies*, Aspen Institute, April 2008, p. 1. This report is available at: <<http://www.aspeninstitute.org/sites/default/files/content/docs/pubs/AdvSocEntrp%20FINAL.pdf>>.

28 European Commission, *Social entrepreneurship*, see <[http://ec.europa.eu/internal\\_market/social\\_business/index\\_en.htm](http://ec.europa.eu/internal_market/social_business/index_en.htm)>.

29 For the website of Tony’s Chocolonely, see: <<http://www.tonyschocolonely.com/en/>>.

30 A compilation of the Tony’s Chocolonely story is available on YouTube at: <<http://www.youtube.com/watch?v=kgwYcEabBl8>>.

When the first shock waves have ebbed away after seeing and hearing these images and stories, an important question starts to pop up: what next? Change your own life and stop consuming chocolate? Or rather change the lives of thousands of children by putting an end to contemporary child slavery while pushing forward to produce clean chocolate? Tony, eaten up with feelings of guilt, decided to opt for the latter solution. He raised much controversy when he followed up on his idea and handed himself over to the police in Amsterdam claiming that he was complicit in slavery as a consumer of chocolate, thereby buying and using products that were illegally produced. Initially, slavery charges were successfully brought against Tony but the Amsterdam Court eventually withdrew his case in 2007.

In the meantime, Tony had not been sitting around doing nothing. Frustrated by the lack of progress in his protest against child slave labour, Tony decided to take the matter into his own hands according to the principle ‘if you can’t beat them, join them’. In 2005, Tony started his very own fair trade chocolate brand and began producing Tony’s Chocolonely chocolate bars which became the first on the world market to be labelled slavery free. It turned out to be a huge success on a national level. Tony’s Chocolonely chocolate bars are now sold in stores throughout the Netherlands. In 2006, Tony’s factory opened its doors to respond to the enormous demand for Tony’s Chocolonely chocolate bars. In due course, Tony’s Chocolonely has changed its slavery-free label. Unfortunately, not every cocoa bean in the production cycle of the chocolate bars can be proven to be slavery-free but Tony’s Chocolonely remains committed to its foundational principles with the slogan: “on our way to 100% slavery-free chocolate”.

What impact does this social entrepreneur’s initiative have on the future of the broader issue of business and human rights? It may be true that the small-scale Dutch business of Tony’s Chocolonely is not able, as yet, to compete with the powerful large commercial chocolate brands operating on a global level. Yet, this does not mean that the social entrepreneur’s efforts are in vain, for it seems that Tony is no longer so Chocolonely in his efforts to end child slavery in the cocoa industry. More recently, CNN’s Freedom Project<sup>31</sup> has put this contemporary issue under the spotlight as part of its ongoing mission to end modern-day slavery. The world’s largest chocolate makers seem to be responding. Last year, Nestlé,<sup>32</sup> Ferrero<sup>33</sup> and Hershey<sup>34</sup> announced their plans to put efforts into cleaning up their supply chain in order to eradicate child labour. A bitter tale with a sweet ending after all...? Only time will tell, but along with Tony’s Chocolonely we are finally getting many steps closer and are well on our way.

The next question is how the business art of social entrepreneurship can be encouraged and supported to further the advancement of social goals through entrepreneurial endeavours. In the next section, I examine why and how state governments should and can play a major role to accommodate social entrepreneurship.

#### **4. Restoring the Equilibrium: Governmental Encouragement of Social Entrepreneurship**

Through their social business activities, social entrepreneurs can be more powerful than governments when promoting human rights. Indeed, the case study of Tony’s Chocolonely reveals how social entrepreneurs

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31 CNN, Chocolate’s Child Slaves – The CNN Freedom Project: Ending Modern Day Slavery, see: <<http://thecnnfreedomproject.blogs.cnn.com/category/chocolates-child-slaves/>>.

32 Nestlé, Nestlé sets out actions to address child labour in response to Fair Labor Association report on the company’s cocoa supply chain, 29 June 2012, see: <<http://www.nestle.com/media/newsandfeatures/fla-report-cocoa>>.

33 Ferrero, Ferrero Cocoa supply chain, 12 April 2012, see: <<http://www.ferrero.com/group-news/Ferrero-Cocoa-supply-chain>>.

34 Hershey, Hershey Expands Responsible Cocoa Community Programs in West Africa, 30 January 2012, see: <<http://www.thehersheycompany.com/newsroom/news-release.aspx?id=1653877>>.



are able to make a difference in the pursuit of humanitarian goals – albeit to a limited extent – within underdeveloped regions where local governments or market efforts have failed and remain ineffective. As such, social and environmental<sup>35</sup> problems which have traditionally been tackled by governments in their central role of protecting the public interest of society are now being increasingly solved by means of innovative social entrepreneurship instead. Especially in times of financial crisis, governments may benefit from the fact that social enterprises are easing the burdens on governments by taking over a portion of the traditional government tasks to pursue goals for the benefit of society.

Subsequently, one might question how state governments are able to return such complaisance through the encouragement and support of social entrepreneurship. In practice, it seems that there are various possibilities to provide such governmental encouragement. Governments may aid social enterprise start-ups in obtaining access to financial resources by providing regional funds for incubators to provide investments to start-up social enterprises<sup>36</sup> or providing financial grants directly through a governmental funding programme. In addition, (regional) governments might mediate in the encouragement of a partnership and collaboration between social enterprise start-ups and mature established conventional businesses in order for them to explore ideas together on how to tackle social problems.<sup>37</sup>

A recent report by the Aspen Institute defined the importance of collaboration between governments and social enterprises in an eloquent manner with the following statement: “In partnership with government, social entrepreneurs can augment their ability to generate and implement transformative, cost-effective solutions to the most challenging societal problems facing our nation and the world.”<sup>38</sup> In sum, the collaborative efforts of governments and social entrepreneurs may just prove to be the key solution for restoring the equilibrium of corporate power and societal goals, such as human rights.

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35 See e.g. the case study of a social entrepreneur who wishes to solve the global plastics waste problem through the commercial production of biodegradable bags, W. Khan, A 4P Future: People, Planet, Profit, And Plastics, Huffington Post, 4 April 2013, available at: <[http://www.huffingtonpost.com/student-reporter/cassava-plastics\\_b\\_2997005.html](http://www.huffingtonpost.com/student-reporter/cassava-plastics_b_2997005.html)>.

36 See e.g., Gov.uk, Regional social enterprises to receive support from £10 million government fund, 5 April 2013, available at: <<https://www.gov.uk/government/news/regional-social-enterprises-to-receive-support-from-10-million-government-fund>>.

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