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Business and Government Interfaces-Prerequisites for Friendly Development

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I. Abstract

There is no doubt that the globalization discourse around human rights issues, businesses, and governments will continue to increase in relevance as new development approaches are devised and tried. For example, those seeking sustained development positions may feel comfortable working within specific forms of partially human rights friendly development while those envisioning sustainability may require nothing less than full human rights friendly development programs. This paper has two goals, to introduce a framework that allow us to state the necessary and sufficient conditions for the existence of long-term full human rights friendly development; and to describe the dilemmas generated when moving away from full human rights friendliness, locally and internationally.

II. Introduction

This paper has two goals, to introduce a framework that allow us to state the necessary and sufficient conditions for the existence of long-term full human rights friendly development; and to describe the dilemmas generated when moving away from full human rights friendliness, locally and internationally.

A. Businesses and human rights interface

Different business environments/motives can have different impacts on human rights, and there is growing interest to ensure that businesses have as much a positive impact on human/social rights as possible or have higher levels of responsibility/ morality/accountability associated with their actions. In other words, there is increasing interest today toward ensuring that the social and human rights dimensions of economic/business development are included in the decision-making/benefit sharing processes. For example, Sacks(2002) indicates that globalisation/ development processes have an unavoidable moral dimension, which may explain why the inclusion of the social interface within the eco-economic decision-making process in OECD Countries is now gaining increasing momentum(OECD, 2000).

It is commonly accepted that sometimes business motives/ environments fail to fulfill any moral, social, and/or ecological dimension and corrections are needed. For example, Saha and Parker(2002) without directly advocating the replacements of markets by state intervention point out that regulation of markets is justified sometimes when markets do not reach the poor. Ensuring that markets reach the poor is relevant to poverty reduction strategies, as it is known

that income disparities affect the environmental quality of production and consumption. For example, it has been observed that rich people have the tendency to demand a healthier environment (Khan 2002) and can afford better technologies as they can afford it, but poor people have to go by what they can buy or get or have. Also, inconsistencies between local and non-local levels of business regulation can lead to moral/ethical dimensions. For example, O'Byrne(2003) points out that mismatches between nation state and international laws are the sources of major human rights concerns.

So markets and therefore, trade, have very strong implications socially, environmentally, and economically for both rich and poor people in developed and developing countries, and lead to moral or ethical dilemmas when the issues of trade flows and the promotion of human rights are considered. For example, the issue of whether or not countries that respect human rights should trade with those countries who do not respect them used to be settled with a policy of no trade, at least officially. However, now trade take place officially between countries regardless of human rights records such as the case of the United States and China shows, which is seen as a clear ethical dilemma around international relations(Morris, 2002). And the globalisation process going on today is apparently bringing the moral dilemmas of trade and social, economic and environmental rights to a boiling point globally where direct confrontation between relevant stakeholders, those who set policy and those who oppose policy, is increasingly becoming the norm. Bigman(2002) indicates that international organizations such as WTO can no longer meet without attracting the forces opposing the globalisation agenda to their meeting places.

The main business and human rights issues pointed out above can be placed in four sources of discourse: Self-interest vrs altruistic action; ineffective vrs effective threats; non-human rights friendly products vrs human rights friendly products; and voluntary compliance vrs inflexible regulation. Below, the main elements of these sources of discourse as well as current tendencies are pointed out in general terms.

1. Self-interest vrs altruistic action

Some people believe that business must follow their self-interest if they are to be profitable while others believe that business activities should be consistent with altruistic and/or regulated actions. For the first groups, only profits matter and for the second group, community responsibility and morality should go hand in hand with profit making. The move today appears to be toward social/local responsibility through among other things including the human rights/concerns of the communities affected by business actions.

2. Ineffective vrs effective threats

Some professionals believe that business behavior is irresponsible in terms of human rights because the legal threats even in countries with human rights laws are ineffective and they are calling for the design and implementation of tougher or new human rights laws. Others believe that consumer pressures can provide more effective threats to the business as usual behavior of corporations than regulation. Today, a trend to use a combination of human rights laws and market pressures on local and global business behavior appears to be developing.

3. Non-human rights friendly products Vrs human rights friendly ones

If the cost of ensuring that the goods and services produced are human right friendly is included in their pricing, then the competitive behavior of businesses is affected and well as the purchasing power of consumers. Businesses that comply with human rights laws would need to

sell their goods and services at a higher price, and therefore, would become less competitive than those businesses that do not internalize human rights related costs if facing consumers not willing to pay or not able to pay for the extra cost. So consumers can have now a very strong say in ensuring the success of companies producing human rights friendly products and services, if they can afford it, by consuming what they produce. Today, people appear to be showing increasingly more concern about the degree of human rights friendliness of the products and services now available for consumption, especially in developed countries.

4. Voluntary compliance vrs inflexible regulation

Some academics and individuals believe that regulatory systems are contra-business profitability so they must be completely scrapped and be substituted by a regime of full voluntary compliance. Others believe that self-regulation cannot be trusted and that flexible regulatory systems more consistent with business cycles/behavior and with poverty reduction goals should replace inflexible ones. Today, preference seems to be given to a combination of voluntary compliance and inflexible regulation as the basis of free trade.

B. Governments and human rights interface

The important role that governments play in regulating social/ human rights and market activity is widely recognized, and when rights and market processes do not work, government intervention is required. Seo(2000) calls upon all governments to work together to help developing countries find sustainable development ways given that markets fail to help them. Countries/governments have the responsibility to seek the protection of human rights and economic/business well-being(Morris, 2002), internally(local accountability) and externally(global accountability); and this responsibility is increasing in importance as the glonalisation of all activities take place. Johansson(2002) indicates based on the freedom house index that political/democratic ideas are increasingly being globalised.

Governments and businesses will probably work even closer in the future as it looks like the path toward sustainability is increasingly making business sense. One indication of this willingness to work closer together may be the fact that there is a clear tendency toward what is being called sustainable banking(Pronk, 2001), and therefore, toward profitable opportunities to all involved in development issues, including governments. The above may explain why governments appear to be working hard at improving their local and international social and environmental images by increasingly showing more willingness to incorporate social and environmental issues/regulations in their decision-making process.

There are four negative images affecting government and human rights issues, which are commonly expressed: the pro-big business image; the corruption prone image; the weak institutional image; and the conservative policy image. These negative images are in one way or another related to the agenda of those seeking a more just global economic system(Broad, 2002) or are seen as problems that may explain why globalisation processes have not reached the poor, specially the rural poor, in some regions of the world(Bigman, 2002). Below, the main factors underlying these negative images and current tendencies to improve them are pointed out in general terms.

1. The pro-big business image

Governments are perceived to be agents of corporate businesses and so they are seen as being too soft on the unfriendly human rights record of corporations either locally or

internationally or both. Today, governments are feeling increasing pressures from political parties, and social, environmental, and economically oriented NGOs to be stricter in terms of corporate behavior.

2. The corruption prone image

Governments, developed and developing country ones, are seen to be prone to fall within the boundaries of corruption, as government officials for greed or for poor pay usually become victims of bribes or kickbacks or favors from those who need their services and can afford it. Corruption news appears to be more common these days due to increased local and global media exposure on such behavior.

3. The weak institutional image

Governments are seen as weak institutions either in terms of law monitoring/enforcement or in terms of lack of proper institutional infrastructure/capacity. Priority is being given today apparently to strengthening the institutional capacity of developing countries, and to the tightening of environmental/ social laws in developed countries.

4. The conservative policy image

Governments are perceived as agents of conservatism as they are seen as always trying to maintain the status quo, be it maintaining corporate rule in developed countries or the keeping of class rule in less developed countries. Today, more liberal policies are being designed and implemented in both developed and developing countries sometimes without the full blessing of corporations or oligarchies in an attempt to move away from this conservative image and to be seen now as more progressive institutions.

C. The need for proactive business-government human rights friendly development

1. Reactive behavior

The perception that businesses and governments had in the recent past that products and services produced in human rights friendly ways could not be profitable put them in a reactive mode every time social, economic, and environmental groups pressed them to include human rights concerns into consideration in their decision-making process. This reactive mode appears to have been justified or encouraged by the perception that pressure groups/ stakeholders were heterogeneous and not very well organized to act effectively and be feared. However, recent concerted and very strong local and international social action through what is being called citizen backlash(Broad, 2002) appears to have convinced businesses and governments that they cannot be in a defense/ reactive mode only forever.

2. Proactive behavior

By incorporating human rights and social concerns into production activities and reflecting them in the pricing of their goods and services, businesses can in one hand escape the attention of pressure groups and in the other hand, they can capitalize on their human rights responsible behavior by using it as a marketing tool. There is a tendency now to see environmental issues as excellent business opportunities(Sainsbury, 2000) and to use environmentally friendly/sustainable behavior as an excellent competitive/financial difference(Jeucken, 2001) or as relevant future cost saving/benefit generating activity, especially

in less developed(Khan, 2002) as it may be cheaper to tackle environmental issue or to avoid them now rather than later.

By showing willingness to enact, monitor and enforce human rights laws, governments can improve their negative images plus they can escape the attention of pressures group full human rights friendly behavior if compliance and monitoring can be made profitable for both businesses and governments. And this raises the possibility of nurturing a profitable business culture/self-interest that is human rights friendly in full.

D. The need for self-interest/regulation consistency

Even when acting proactively, we need to ensure that we create a market system(M) where there is self-interest(S)/ regulation(R) consistency to ensure full human rights friendly development. Such a market system can be expressed as follows:

$$M = S.R$$

The above model simply says that for a market(M) to be sustainable it is necessary and sufficient to have regulation(R) that is consistent with self-interest(S). This is so because if we have no regulation($M1 = S.r$), then self-interest will lead to a market failure; and because if we have regulation that is inconsistent with self-interest($M2 = s.R$), then inconsistent regulation will also lead to a market failure. Therefore, we need to have regulatory systems that are flexible enough to accommodate responsible self-interest.

III. Goals of this paper

This paper has two goals. To show, using qualitative comparative theoretical tools, how business self-interest can be framed to be human right friendly through effective monitoring/enforcement. And to show the dilemmas generated when relaxing local/international monitoring/enforcement mechanisms partially or totally.

IV. Terminology

The qualitative comparative terminology used in this paper is summarized in Table 1 below.

Table 1

M = Market

S = Self-interest

R = Regulation

B = Human rights friendly business

B* = Fully human rights friendly business

b = Human Rights unfriendly business

b* = Fully human rights unfriendly business

BL = Human rights friendly business locally

bL = Human rights unfriendly business locally

BI = Human rights friendly business internationally

bI = Human rights unfriendly business internationally

G = Human rights friendly government

G* = Fully human rights friendly government

g = Human Rights unfriendly government

g* = Fully human rights unfriendly government

GL = Human rights friendly government locally

gL = Human rights unfriendly government locally

GI = Human rights friendly government internationally

gI = Human rights unfriendly government internationally

D = Human rights friendly development

D* = Fully human rights friendly development

D1* = Local fully human rights friendly development

D2* = International full human rights friendly development

d = Human rights unfriendly development

d* = Fully human rights unfriendly development

d1* = Local fully human rights unfriendly development

d2* = International fully human rights unfriendly development

d1 = Local human rights unfriendly development

d2 = International human rights unfriendly development

V. Methodology

First, a simple model that allows us to classify businesses depending on local and international levels of human rights compliance is introduced to point out the conditions for the existence of full human rights friendly businesses. Second, a simple model that helps us to group governments depending on local and international levels of monitoring/enforcement is presented to introduce the necessary and sufficient conditions needed to have full human rights friendly governments; Third, the notion of full human rights friendly and unfriendly development is introduced. Fourth, the local and international dilemmas of relaxing the full human rights friendly development model are described. And finally, some relevant conclusions are provided.

VI. Human rights friendly business model

Based on whether or not businesses comply with human rights locally(BL) or internationally(BI) or both, the following human rights friendly business model(B) can be stated:

1) **$B = BL + BI$**

Four types of businesses can be derived from the formula above:

A. Total human rights unfriendly businesses

When businesses do not respect local and international human rights laws at the same time, they are considered to be total human rights unfriendly businesses, which can be stated as:

2) **$B1 = bL.bI = b^*$**

B. Locally oriented human rights friendly businesses

When businesses do not respect international human rights laws, but respect local laws, they are considered to be locally oriented human rights friendly businesses, which can be expressed as:

3) **$B2 = BL.bI$**

C. Internationally oriented human rights friendly businesses

When businesses do not respect local human rights laws, but respect international laws, they are considered to be internationally oriented human rights friendly businesses, which can be expressed as:

4) **$B3 = bL.BI$**

D. Total human rights friendly businesses

When businesses do respect local and international human rights laws at the same time, they are considered to be total human rights friendly businesses, which can be stated as:

5) $B4 = BL.BI = B^*$

VII. Human rights friendly government model

Based on whether or not governments monitor and enforce human rights violations locally(GL) or internationally(GI) or both, the following human rights friendly government model can be indicated:

6) $G = GL + GI$

Four types of governments can be derived from the formula above:

A. Total human rights unfriendly governments

When governments do not monitor and enforce local and international human rights laws at the same time, they are considered to be total human rights unfriendly governments, which can be stated as:

7) $G1 = gL.gI = g^*$

B. Locally oriented human rights friendly governments

When governments do not monitor and enforce international human rights laws, but monitor and enforce local laws, they are considered to be locally oriented human rights friendly governments, which can be expressed as:

8) $G2 = GL.gI$

C. Internationally oriented human rights friendly governments

When governments do not monitor and enforce local human rights laws, but monitor and enforce international laws, they are considered to be internationally oriented human rights friendly governments, which can be expressed as:

9) $G3 = gL.GI$

D. Total human rights friendly government

When governments do monitor and enforce local and international human rights laws at the same time, they are considered to be total human rights friendly governments, which can be stated as:

10) $G4 = GL.GI = G^*$

VIII. The full human rights friendly development model

By combining formula 5 and formula 10, we can state a full human rights friendly development model(D^*), one where all businesses comply fully with human rights laws and where all governments monitor and enforce effectively those laws at the same time as shown below:

$$11) \quad D^* = B^*G^*$$

Notice that in the model above(D^*), government monitoring and enforcement has to be consistent with business self-interest. Also, it is important to point out here that formula 11 indicates that self-interest can be constrained, regulatory threats are effective, flexible regulated compliance exist, and human rights friendly products would prevail in the market. Moreover, formula 11 implies also that governments could then have a socially responsible image, an anti-corruption image, a strong institutional image, and a progressive policy image.

By substituting $B^* = BL.BI$ and $G^* = GL.GI$ in formula 11, we get:

$$12) \quad D^* = (BL.BI)(GL.GI)$$

The above formula clearly shows that for development to be fully human rights friendly it is required that businesses comply with local and international laws($BL.BI$) and that governments must monitor and enforce local and international laws($GL.GI$) at the same time.

Reorganizing terms in formula 12, we can separate it into a local and an international component as follows:

$$13) \quad D^* = (BL.GL)(BI.GI)$$

The above shows that the sufficient and necessary condition for having full human rights friendly development(D^*) is the presence of local full human rights friendliness($BL.GL$) and of international full human rights friendliness($BI.GI$) at the same time.

By redefining terms, we can simplify formula 13 as follows:

$$14) \quad D^* = D1^*.D2^*, \text{ where } D1^* = (BL.GL) \text{ and } D2^* = (BI.GI)$$

So that we can appreciate clearly that local($D1^*$) and international($D2^*$) full friendliness is needed if the goal is to achieve full human rights friendly development(D^*).

IX. Human rights dilemmas

The formulas shown above can be used to point out the possible different types of human rights dilemmas that can be generated when moving away from full human rights friendly development conditions(D^*). To facilitate the presentation, dilemmas are divided into general and specific; and each of this is separated into institutional and locational led dilemmas as follows:

A. Institutional failure led general dilemmas

Based on formula 11, it can be seen that there can be three types of general dilemmas induced by institutional failure: when businesses are not fully human rights friendly, but governments are; when governments are not fully human rights friendly, but businesses are; and when both businesses and governments are not fully human rights friendly at the same time.

Please, notice that formula 11($D^* = B * G^*$) implies that if we eliminate government human rights friendliness fully or partially from the equation, then there would not be full human rights friendly development(D^*) as local and/or international business self-interest would lead sooner or later toward a total or partial market failure in the absence of regulation.

B. Locational failure led general dilemmas

According to formula 14, there can be three types of general dilemmas caused by locational failures: when there is not full local human rights friendliness, but there is full international friendliness; when there is not full international human rights friendliness, but there is local friendliness; and when there is not full local and international human rights friendliness at the same time.

Please, notice that formula 14($D^* = D1 * D2^*$) implies that if we eliminate international human rights friendliness fully or partially from the equation, then there would not be full human rights friendly development(D^*) as local businesses and governments self-interest would lead sooner or later toward a total or partial market failure in the absence of international regulation.

C. Institutional failure led specific dilemmas

Formula 12 shows that there can be two types of specific institutional failures: business and government led failures. Assuming that full government human rights friendliness prevails(GL.GI), then there can be partial and full business failures. Partial business failures take place when businesses are not human rights friendly locally or internationally. And full business failure takes place when businesses are fully human rights unfriendly. Under the conditions of business unfriendliness described above, it can be expected in one way or another to see voluntary compliance as a difficult task as self-interest under ineffective regulatory threat would be irresponsible leading to the continuation and/or increase production of human rights unfriendly products and services.

If we assume that full business human rights friendliness prevails(BL.BI) in formula 12, then there can be partial and full government failures. Partial government failures take place when governments are not human rights friendly locally or internationally. And full government failure takes place when governments are fully human rights unfriendly.

Under the conditions of government unfriendliness pointed out above, it can be expected in one way or another to see the worsening of negative government's images such as the pro-big business, corruption, weak institutional capacity, and conservative policy images.

Please, see that formula 12[$D^* = (BL.BI)(GL.GI)$] implies that full business human rights friendliness requires full government human rights friendliness if the goal is to achieve full human rights friendly development(D^*).

D. Locational failure led specific dilemmas

Formula 13 indicates that there can be two types of specific locational failures: local and international failures.

Assuming that full international human right friendliness prevails(BI.GI), then there can be partial and full local failures. Partial local failures take place when businesses or governments

are not human rights friendly locally. And full local failure takes place when businesses and governments are both human rights unfriendly locally at the same time. Notice that full or partial local human rights unfriendliness is more likely/very likely to be found in developing countries and dictatorships.

If we assume that full local human right friendliness prevails(BL.GL) in formula 13, then there can be partial and full international failures. Partial international failures take place when businesses or governments are not human rights friendly internationally. And full international failure takes place when both businesses and governments are both human rights unfriendly internationally at the same time. Notice that full or partial international human rights unfriendliness is more likely/very likely to be found in developed countries and democracies.

Please, see that formula 13[(D* = (BL.GL)(BI.GI)] implies that full local human rights friendliness requires full international human rights friendliness if the goal is to achieve full human rights friendly development(D*).

X. Conclusions

It was shown above using qualitative comparative means that businesses and governments can be grouped depending on their level of human rights friendliness. Only when we have businesses and governments interacting in full human rights friendly ways at the same time we have the conditions for reaching full human rights friendly development(D*). Departures from full human rights friendly development(D*) lead to general and specific institutional and locational driven dilemmas where business or governments or both at the same time are in some form of human rights unfriendliness.

Hence, the ideal solution to resolving all human rights dilemmas at the same time is the establishment and promotion of a full human rights friendly development process locally and internationally at the same time; and probably, the United Nations would be the ideal body for taking over this responsibility.

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