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Capitalism and Human Rights

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REVIEW ARTICLE:

CAPITALISM AND HUMAN RIGHTS

Books Discussed in this Article

Amnesty International (Dutch Section) and Pax Christi International, *Multinational Enterprises and Human Rights: a Report.* Utrecht, November 1998.

G.B. Madison, *The Political Economy of Civil Society and Human Rights.* New York: Routledge, 1998.

William H. Meyer, *Human Rights and International Political Economy in Third World Nations.* Westport, Conn: Praeger, 1998.

In the current era of globalization, with the complete triumph of capitalism over all other economic systems, there is renewed concern about the relationship between the capitalist market and human rights. William H. Meyer and Gary B. Madison offer us good news, while the Dutch Section of Amnesty International and Pax Christi International offer, more cautiously, some guidelines to ensure that multinational enterprises respect human rights.

Meyer focuses on United States foreign policy, United States aid and United States foreign investment in the less developed countries in an effort to determine whether such aid and investment contribute to or hinder human rights abroad. He contrasts two economic theories about the relationship between capitalism and human rights. The "engines of development" school reflects orthodox economic theory about the benefits of a free market and international trade, which allegedly promote economic rights through provision of employment, and also promote civil and political rights through the creation of a politically stable middle class. Stephen Hymer was one contributor to the "development of underdevelopment" school of the 1960s and 1970s, which assumed that trade and investment by Western companies with and in underdeveloped countries were bound to worsen, rather than strengthen, the latter's economies.

To test these two schools of thought, Meyer compares levels of direct U.S. foreign investment and aid to civil liberties and political rights in recipient countries, as ranked by Freedom House, and to quality of life indicators, namely the adult illiteracy rate, the infant mortality rate, and life expectancy at age one. He finds that there is a positive relationship between the presence of Multinational Corporations (MNCs) and levels of civil and political rights in the Third World, and that "rising investment is positively associated with increased life expectancy, reduced infant mortality, and reductions in illiteracy."[1] Non-military U.S. aid has the same effect. Unfortunately, Meyer assumes only a three-year time-lag between MNC investment and its effects, which is not enough to show any long-term trend or to suggest any hypotheses about the positive relationships he documented.

Meyer acknowledges that such aggregate data may not make much sense to readers accustomed to thinking about case studies that show particular MNCs have harmful effects on human rights. He therefore includes a chapter discussing several controversial cases to show that MNCs are indeed responsible for some human rights violations in the underdeveloped world. He discusses the Bhopal ecological disaster in India, the role of NAFTA in promoting poor working conditions in Mexico's maquiladoras, and the alleged role of ITT in plotting the Pinochet coup against Salvador Allende in Chile (which he discounts). Meyer chose these three cases because all three countries concerned have experimented with economic nationalism and open economies, however it is not at all clear that any of the three specific cases are related to the switch from the one to the other.

Meyer's quantitative correlations serve the very useful purpose of clarifying that although MNCs can indeed violate human rights, continued sentimental attachment to the Third World anti-capitalist ideologies of the 1970s will do nothing to advance human rights or development. It is a shame, though, that Meyer does not

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1 WILLIAM H. MEYER, HUMAN RIGHTS AND INTERNATIONAL POLITICAL ECONOMY IN THIRD WORLD NATIONS 105,107 (1998).

attempt to explain his findings: he chooses not to attempt "a grand theory of rights and MNCs."[2] Yet this is what the reader wants, not merely a quick, simplified summary of the engines of development and Hymer theses, followed by quantitative correlations that do not show any causative links. One is no better off in understanding the relationship between capitalist investment and human rights after reading Meyer's book than before.

For one theoretical explanation of why capitalist market economies protect human rights better than state-regulated or non-market economies, we can turn to Gary Madison, a philosopher interested in the relationship among human rights, civil society, and the market economy.[3] Much of Madison's book is a discussion of the dangers of the outmoded socialist and Third World models of "development." This model was most fully realized in the 1974 United Nations Declaration on a New International Economic Order, a remnant of which can be found in the reference in the 1986 United Nations' Declaration on the Right to Development to "a new international economic order," without specification of precisely what should be new.

The New International Economic Order assumed that the world market was inherently unfair to poorer countries, and that market relations were actually relations between states which could be ameliorated by state-to-state agreements. By contrast, Madison contends that the only new economic order possible is the spread of free market capitalism over the entire world. The market is not unfair, and it neither can, nor should be regulated by states. Nor is there any "third way," according to Madison, no so-called social democracy that mixes state and private ownership. Only a capitalist market economy can promote development, civil society, or political freedom.

In this new economic order, the right to private property and the rule of law are key economic rights, the former providing

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[2] *Id.* at 201.

[3] Here I must declare my interest in Madison's volume: he wrote it while teaching a course on civil society for McMaster University's now defunct Theme School on International Justice and Human Rights, which I directed.

individuals with incentives to innovate and the latter providing assurance that contracts will be honored and that the state will not nationalize private property. The role of the state is to regulate the market and to organize its infrastructure, but it is not to organize production on its own. Individuals are also possessed of a basic "negative" right to work without state interference, but not a "positive" right to a job provided by the state. The core economic right is "freedom of action in the economic sphere."[4] Individuals are not entitled to welfare, which turns citizens into clients and which is incompatible with human dignity, but Madison, who is influenced by Pope John Paul II, argues that assistance to the (deserving) poor is still possible.

Madison also argues that a market economy is essential to civil and political rights, which can only be protected by liberal democracy. He does not regard the market economy as a tragic necessity with which we have to live, socialism having failed, as do many human rights scholars and activists who are concerned for the promotion of economic rights. To Madison, the market is a form of civil society. The market breeds civility: for example, sellers have to be deferential to buyers (as opposed to the terrible service provided in socialist economies where goods are limited.) The market is also a form of communicative rationality. Money exchange is a form of communication, and for productivity to occur, producers and entrepreneurs must communicate; they do so civilly, in a manner that trains them also to cooperate about political matters. The market also promotes values such as entrepreneurship, tolerance, and willingness to compromise, which are necessary attributes for anyone who wants to make money in a free economy.

Madison argues that "'capitalism' is itself a genuinely 'ethical' economic arrangement."[5] The long-term interest of business people is to act ethically. Rather than short-term "ripping off" of customers (happening now in the Soviet Union, or in quasi-criminal

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[4] G.B. MADISON, THE POLITICAL ECONOMY OF CIVIL SOCIETY AND HUMAN RIGHTS 174 (1998).

[5] *Id.* at 98.

businesses) capitalists' interests are "to act with restraint and in a way which actually best serves the interest of their clients or customers."[6] This contributes to the social trust which is one of the bases of democracy and a rights protective society. For Madison, a functioning, productive economy is a political creature. The market, characterized by the free association of producers, is an aspect of civil society. Liberal democracy requires freedom of expression and association, and free organization of production and market activities — a true *agora* in both the civil and the market sense.

But Madison's rosy picture does not conform to the reality of capitalism "on the ground," where "free" producers are often exploited, unfree workers. While we might all be persuaded both by Meyer's data and by Madison's analysis that capitalism is, in the long run, the best economic system to promote human rights, in the short run, violations of human rights by capitalists abound. Some MNCs may indeed respect and promote human rights, realizing that a prosperous and democratic society is the best long run guarantor of a market and a productive work force. Other MNCs, however, profit from the comparative advantage of locating production in areas such as export processing zones where wages are low and workers' rights are nonexistent. It is very difficult to control such profiting from rightlessness, because underdeveloped economies derive benefits from MNC exploitation of some of their workers. This is why much of the human rights discussion of the past decade has turned to the idea of codes of conduct for MNCs.

Meyer mentions several voluntary codes of conduct, devised by private corporations and NGOs. The Dutch Section of Amnesty International and Pax Christi International have produced a Report on some very useful guidelines as to what should be in such codes. These guidelines were written after consultation with several Netherlands-based MNCs, banks, and accounting firms, as well as two trade unions and one employers' association. The guidelines are proposed for domestic as well as foreign investors, important because workers and consumers can be as abused by local

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[6] *Id.* at 114.

entrepreneurs -- if not more abused -- as by foreign investors.

Referring to the Preamble of the Universal Declaration of Human Rights (UDHR), the Report proposes an interesting legal justification for its contention that multinational enterprises (MNE's, Multinational Enterprises, is The Report's preferred term for MNCs) must behave responsibly with regard to human rights, even if such responsibility is not directly legally binding. The Preamble to the UDHR enjoins upon all individuals and *organs of society* the responsibility to promote respect for rights and freedoms: MNEs are undoubtedly organs of society. "The prime mission of MNEs is not to defend the general interest or play a countervailing role versus state institutions. Still, enterprises are full-fledged parts of society . . . Like every organ of society, they are called upon to behave responsibly and to respect, protect, promote and . . . fulfil human rights."[7] Furthermore, MNEs have already obtained some status as legal persons, for example, under the Law of the Sea.

The obligations on MNEs are threefold, according to the Report. First, MNEs should not directly violate human rights standards; for example, they must restrain their own private security forces and refrain from employing child labor. Second, MNEs should try to influence human rights protection and defend their employees' human rights. Finally, they should try to contribute to an enabling environment for human rights by presenting standards of appropriate behavior; for example, as some companies did in South Africa during the period of apartheid.

Nor, according to the Report, are such voluntary rules merely pie-in-the-sky ideals without any legal influence. Voluntary Codes of Conduct are normative principles that could eventually attain the legal character of custom. Properly formulated Codes will provide for monitoring and audits of MNE behavior, training of personnel to respect human rights, and fair complaints procedures, all contributing to a general transparency not found now in most voluntary corporate

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7 AMNESTY INTERNATIONAL (DUTCH SECTION) & PAX CHRISTIE INTERNATIONAL, MULTINATIONAL ENTERPRISES AND HUMAN RIGHTS: A REPORT 17 (1998).

codes of conduct.

Should such practices become recognizable norms of behavior, they will encourage the "best practices" of capitalism that Madison takes as an ideal, while discouraging the kinds of local level abuses that Meyer documents in his chapter on case studies. Thus will the short run abuses of the international capitalist economy be subject to some control, even as in the long run, we can hope that the spread of capitalism will produce civil societies and prosperous middle classes that both demand and protect human rights.

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