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Francisco Javier Zamora Cabot /
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Implementing the U.N. Guiding Principles on Business and Human Rights

Private International Law Perspectives

UNIVERSITAT JAUME·I

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Table of Contents

Francisco Javier Zamora Cabot*

Extraterritoriality: Outstanding Aspects

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1. Introduction

For some time, the changing concept of extraterritoriality has been associated in a variety of ways with the international protection of Human Rights. It is, for example, linked to efforts to make the reparation mechanisms of the UN's Guiding Principles accessible.[1] Similarly, the notion is relevant to the States' formal Extraterritorial Obligations (ETOS), which pressure States to fulfil the framework established in the International Covenant on Economic, Social and Cultural Rights. In both cases, the volume and quality of the technical contributions that have been produced are remarkable and worth taking into consideration.[2]

* Chair Professor of Private International Law, Universitat Jaume I-Castellón- Spain. This paper has been conceived as part of the Proyecto Consolider-Ingenio 2010, HURI-AGE-The Age of Rights, CSD2008-0007, the Acción de Dinamización "Redes de Excelencia"-El Tiempo de los Derechos, DER2014-53503-REDT, and the EU Action Grant "Business and Human Rights Challenges for Cross-Border Litigation in the EU", 2014-2016.Translated by Sandra Kingery.

1 See, in general, ZERK, Corporate Liability, and GEORGE & LAPLANTE, Commentary on the Office of the High Commissioner.

2 In general, and regarding ETOS, see ZIEGLER, The Right to Food; GANESH, The Right to Food, p. 1233 *et seq*; COOMANS, The Extraterritorial Scope, p. 1 *et seq*; COOMANS & KAMMINGA, Cases and Concepts and LANGFORD *et al.,* Global Justice. See also, MARCHÁN, La Responsabilidad de los Estados, p. 79 *et seq*; SAURA ESTAPÁ, La Exigibilidad Jurídica, p. 53 *et seq*; MARKS, How International Human Rights Law Evolves, p. 173 *et seq*; VANDENHOLE, Extraterritorial Human Rights Obligations, p. 804 *et seq.* and ESCR-Net, Global Economy, Global Rights 2014, available at http://www.escr-net.org/node/365621 (17.12.2014). See also *General Comment Number 16 (2013) of the Committee on the Rights of the Child, regarding the State's obligations regarding the impact of business on the rights of the child,* particularly Section V.C., United Nations, CRC/c/gc/16 and, of great interest, DE BOER, Closing Legal Black Holes.

In the context of this contribution and its focus on private international law, I will however limit my remarks to this particular field. In Section I, I will address questions that are arising in the United States following the US Supreme Court's decision in the *Kiobel* case. Following that, in Section II, I will introduce a cross section of extraterritorial laws that particularly impact the fields under consideration here – corporations and human rights – before summing up with some concluding remarks.

At the outset, I would like to point out the need to analyze, based on the perspectives and techniques of private international law, how we should interpret the term "extraterritoriality". I believe that debating it within the field of human rights has relegated the Conflict of Laws focus to a secondary position, although this approach is completely indispensable when tackling this complex web of problems that constitutes one of the biggest issues within the sphere of international law. Fortunately however, Professor Anthony Colangelo (Southern Methodist University) has carried out this analysis in a particularly brilliant manner in a recently published article entitled: "What is Extraterritorial Jurisdiction?". I will follow his lead on this issue.[3]

2. *Kiobel's* "Touch and Concern" Imbroglio

In other forums, such as the AEPDIRI conference at the Universitat Pompeu Fabra in Barcelona (September 2013), I have had the opportunity to express strong criticism of the US Supreme Court's decision in the *Kiobel* case and then publish my opinion.[4] I also know that my esteemed friend Professor Henry Dahl will address this question here, with much greater success than I could hope to achieve. I will not, therefore, offer a general criticism of that decision at this point, focusing instead on what most affects the subject of my article, that is, the process of the "Touch and Concern" test. This test was sanctioned by the High Court as a way to regulate the general doctrine of the canon against the extraterritoriality of laws as well as the version updated in the *Morrison* precedent as applied to the Alien Tort Statute.[5] Let me point out that it leaves standing the possibility of litigating offenses that take place outside the US when multinational corporations are implicated. Let me now summarize how this test is reflected within the *Kiobel* ruling:

[3] Available at http://papers.ssrn.com/sol3/Papers.cfm?abstract_id=2363695 (17.12. 2014). See also COLANGELO, International Law in U.S. State Courts.

[4] See ZAMORA CABOT, Las Empresas Multinacionales y su Responsabilidad, p. 4-8.

[5] Commenting on a recent decision of interest in this matter, see, RICHMAN *et al.* United States: So Much for Bright-Line Tests. See also, PELL & HERSCHMAN, Loginovskaya v. Batratchenko. In general, see as well: CHILDRESS, Escaping Federal Law, p. 18 *et seq.*

> "*On these facts, all the relevant conduct took place outside the United States. And even where the claims touch and concern the territory of the United States, they must do so with sufficient force to displace the presumption against extraterritorial application… Corporations are often present in many countries, and it would reach too far to say that mere corporate presence suffices.*"[6]

Even those of us who only know the US legal system superficially can intuit that these few words afford enormous leeway regarding interpretation by the doctrine and, I dare say, with greater repercussions, in the practice of US District and Circuit Courts. In fact, despite the short time that has gone by since *Kiobel,* it is generating a doctrinal body of case law that is very relevant to the matters that concern us here. Contributions like the aforementioned article by Professor Colangelo stand out, along with others that are also of great interest, including articles by Paul Hoffman,[7] Sarah Cleveland,[8] Uta Kohl,[9] Susan Simpson,[10] Jennifer Green,[11] etc.

On the other hand, however, the cases that lead to the application of the "Touch and Concern" test are also already generating significant precedents, including a division among the federal courts, as recently took place in the decisions of the Fourth and Eleventh Circuit Courts of Appeals in the *Al Shimari*[12] and *Chiquita Brands Intl*[13] cases*,* respectively. In both cases and unlike in *Kiobel*, the defendants are American companies accused of serious human rights violations, related to the terrible events at Abu Ghraib. In both cases, the defendants are alleged to have provided material support to the group that calls itself the *United Self-Defense Forces of Colombia*, a terrorist organization, now disbanded, that has been shown to have been connected to thousands of crimes and victims.[14]

Notwithstanding the similar subject matter of the cases, the manner in which the two courts addressed the "Touch and Concern" test could not be more different and neither could the results they deduced from it.[15] Thus, in *Al Shimari*, the Fourth Circuit used an approach stating that *claims* should implicate United States territory, not *conduct*. Furthermore, upon evaluating the circumstances of the case in great detail, through an analysis of diverse factors, it deduced sufficient contact

6 133 S.Ct. 1669 (2013).
7 HOFFMAN, The Implications of *Kiobel*, p. 213 *et seq.*
8 CLEVELAND, After *Kiobel*, p. 551, *et seq.*
9 KOHL, Corporate Human Rights Accountability, p. 672 *et seq.*
10 SIMPSON, *Post-Kiobel.*
11 GREEN, The Rule of Law at a Crossroad, p. 1085 *et.seq.*
12 *Al Shimari v. Caci*, No. 13-1937, US Court of Appeals for the 4th Circuit. For comments on the decision of the District Court, see KATUSKA, Al Shimari v. CACI Int. Inc., p. 201 *et seq.*
13 *Cardona v. Chiquita*, No.12-14898, US Court of Appeals for the 11th Circuit.
14 See the antecedents of this case in ZAMORA CABOT, La Responsabilidad de las Empresas Multinacionales, p. 20-22.
15 See ALTSHULER, United States: Alien Tort Case Developments.

with the United States to deactivate the presumption against extraterritoriality and, therefore, retain jurisdiction on the basis of the ATS.[16]

In contrast, in *Chiquita Brands*, the Eleventh Circuit rejected the need to carry out a detailed analysis of the circumstances, focusing instead on the *foreign nature of the conduct*, which lead to the blanket application of the aforementioned presumption and, therefore, its denial of jurisdiction under ATS. It is also noteworthy, as Judge Martin wrote in her dissenting opinion, how the Court refused to consider the many components of the aforementioned conduct that could be associated with myriad decisions taken at Chiquita's principal headquarters in the US, as well as the fact that, in 2007, the company admitted to federal authorities that it had supported the aforementioned terrorist organization, agreeing to pay a 25 million dollar fine for that support.[17]

So debate about the aforementioned test has been established in relatively short order and in the high courts. This is not surprising because, from the beginning, placing the application of the ATS in the terrain of *extraterritoriality as a conflict* is forced, artificial, and can only generate sterile problems. The Supreme Court, skillfully pushed in this direction by the defense of the *Kiobel* defendants, agreed to unite two aspects of the ATS that should have remained differentiated: the *jurisdiction to adjudicate* and the *jurisdiction to prescribe*.[18] For that reason, the statutory presumption against extraterritoriality is not being applied truly, since the Alien Tort Statute is a *jurisdictional mechanism, not a substantive rule*. Furthermore, the lawsuits that are connected to it are based on *federal common law* rather than a specific legal text. What is being applied instead, according to the High Court, are the *principles underlying that canon*,[19] fundamentally the avoidance of conflicts with other nations. It makes no sense that conflicts would arise when it is a question of protecting the heart of *jus cogens* regarding human rights, something that should be imposed on all States. That is also why the US Supreme Court, based on a very weak position, found itself obliged to adjust its doctrine, allowing exceptions through the repeatedly cited test. But the High Court speaks, on the one hand, about *conduct*, and on the other about *claims*. Without firm guidelines, therefore, the lower courts can and do take opposite paths. It may be that everything is summed up by the acceptance or lack thereof of the idea that atrocious conducts may go unpunished, that access to justice may be restricted, that the Rule of Law may be forgotten. At

16 See also ALTSHULER, Alien Tort Development.

17 For comments on this case, see SIMPSON, The Presumption Against Extraterritoriality. Regarding this same Appellate Court, see their decision in the *Baloco v. Drummond Co.* case, No. 12-15268, 23.09.2014. See also ASSOCIATED PRESS, *Colombians Ask US Supreme Court.*

18 See, e. g., SIMPSON, The Trojan Horse in Kiobel; see also CLOPTON, *Kiobel* and the Law of Nations, e-1, to e-4.

19 133 S.Ct.1664 (2013).

some point, the US Supreme Court will have to review its doctrine. I hope they do so in the manner that is most favorable to the defense of Human Rights and not in the manner of the very broadly and effectively protected interests of multinational corporations.[20]

3. Examples of Extraterritorial Rules

The fact that extraterritoriality and the Alien Tort Statute are in dispute does not mean that extraterritorial norms for human rights cannot or even should not exist. I will offer a few brief examples here, in increasing order of robustness and interest for our current topic. I understand that the first two do not correspond to the idea of extraterritoriality as an *unequivocal affirmation of the normative power of the State in the face of other States, in the international realm.* But the doctrine tends to make mention of them, and they may help us place the issue in context.

The first type corresponds to State rules that establish certain obligations for companies derived from their activities abroad. Since they are not accompanied by robust mechanisms for monitoring and, when appropriate, sanction, these obligations are fundamentally located in the *voluntary* realm, although their effects may afford some degree of relief such as, for example, creating a certain *environment*, a particular *mentality*. Here, among other rules, we can cite what is called the Conflict Minerals Rule, which is found in the Dodd-Frank Financial

[20] I strongly recommend the well documented and lucid overview of STEPHENS, The Curious History, p. 1467 *et seq.*. I also find the contribution by Judge Scheindlin from the Southern District of New York very significant. She makes it clear that she found herself bound to dismiss the complaint in *South African Apartheid Litigation* because of the precedents of the US Supreme Court in *Kiobel* and by the Court of Appeals for the Second Circuit in *Balintulo;* see, Case 1:02-md-01499-SAS, 28.08. 2014. The prestigious Court of Appeals for the Ninth Circuit has already had the opportunity to establish their lack of enthusiasm for the "Touch and Concern" test, although from the characteristics of the case, it was not fully considered in their evaluation; see *John Doe I et al. v. Nestlé USA, Inc., et al.*, No. 10-56739, 04.09.2014, p. 28 and CONGIU, & MARCULEWITZ, Ninth Circuit; see also, *Mujica et.al. v. Airscan et. al.,*9th. Cir. Court of Appeals*,* No. 10-55515. Along similar lines, see the decision of the District Court for the District of Columbia in the *John Doe v. Exxon Mobil Corp.* case, Civil No. 01-1357 (RCL) and Civil No. 07-1022 (RCL), 23.09. 2014, pp. 21-26. Also related to the Ninth Circuit, see the decision of the District Court for the North District of California in *Doe et al v. Cisco Systems*, Case No. 5:11-CV-02449-EJD, 05.09.2014, and, in general, see as well BELLINGER, In Spate of New; BRABANT *et al.,* The Alien Tort Statute; ALFORD, Human Rights After *Kiobel*, p. 1089 *et seq.*; MOE, A Test By Any Other Name, p. 225 *et seq.*; CANTÚ RIVERA, Developments in Extraterritoriality and Soft Law, p. 723 *et seq;* SYMEONIDES, Choice of Law, p. 305 *et seq.*; BOOKMAN, Litigation Isolationism, and SPIELMAN, The Alien Tort Statute as Access to Justice, p 179 *et seq.*

Reform Act, Section 1502,[21] or its counterpart in the recent European Project of Due Diligence Guidance for Conflict Minerals.[22] Another example could be the well-known California Transparency in Supply Chains Act of 2010.[23] All in all, the difficulty of introducing, in certain sectors, criteria for administering businesses in agreement with Human Rights is emphasized, for example, in the appeal brought by three business associations regarding the aforementioned Conflict Minerals Rule, which was partially resolved in their favor, on the basis of what was called a violation of free speech, by the Court of Appeals, D.C. Circuit, in a decision released April 2014.[24]

The second type I will mention here refers to those regulations to which the State conditions its own response to Human Rights problems that arise abroad.[25] One well-known case is the US Consolidated Appropriations Act of 2014, signed into law on January 17 that year. In the terms of Section 7042 (d), it prohibits the use of US assistance to support any activity in the regions of lower Omo and Gambella, Ethiopia, that could *result* "*directly or indirectly*" in forced evictions of the population. The Act also demands that US Executive Directors of international financial institutions oppose the financing of such activities.[26] This positive text, framed within the fight against Land Grabs, honors the United States and is an example for the international community regarding an issue that is, because of its

[21] Regarding the implementation of this legal text, see ONSTAD, Conflict Minerals Law, and LITTENBERG & DAMANIA, Conflict Minerals Compliance. See also, DRIMMER & PHILLIPS, Sunlight for the Heart of Darkness, p. 131 *et seq*.

[22] See the commentary by BULZOMI, The EU Draft Law; see also AEFIN (Africa Europe Faith and Justice Network) *et al*, Ensuring Robust EU Legislation on Responsible Mineral Sourcing, available at http://business-humanrights.org/en/campaign-calls-on-eu-to-strengthen-conflict-minerals-regulation#c103774 (17.12.2014). Regarding the United Kingdom, see the statement of Publish What You Pay Coalition, available at http://business-humanrights.org/en/ uk-govt-announces-mining-gas-oil-companies-will-have-to-report-on-payments-they-make-to-governments-in-all-countries-they-operate-in-from-1-january-2015#c105004 (17.12.2014).

[23] On this issue, see MUÑOZ FERNÁNDEZ & SALES PALLARÉS, Leyes Internas Sobre Transparencia, p. 119 *et seq.* On a specific and important type of supply chains, see, MARTÍN-ORTEGA *et al*. Promoting Responsible Electronic Supply Chains.

[24] See LYNCH & HURLEY, U.S. Appeals Court and RICHMAN, Conflict Minerals. The Court, however, has announced (18.09.2014) a reconsideration of his conflict-minerals decision. See also, in general, DHOOGE, The First Amendment, p. 94 *et seq.*

[25] In terms similar to those raised by environmental protection laws, see NASH, The Curious Legal Landscape, p. 997 *et seq*.

[26] See MARIAM, The Race to Save Ethiopians. Regarding Liberia and OPIC see: Liberia: US Investigates Abuses, *accountability newsletter Summer 2014*, available at http://business-humanrights.org/en/liberia-opic-office-of-accountability-investigates-us-funded-project-after-it-receives-hundreds-of-complaints-of-human-rights-abuses (17.12.2014), p. 3.

centrality, one of the greatest, if not the greatest, problem in the area of Human Rights protection.[27]

Now I would like to mention some examples of the third type of laws I will present. I am referring to powerful regulations that, even if they do not specifically reference Human Rights, can influence their defense in an indirect fashion. These are laws that can provide criminal punishment and civil actions for damages; they are markedly extraterritorial and corporations are also subject to them. This is the case, for example, with the well-known Foreign Corrupt Practices Act[28] or the also familiar Racketeer Influenced and Corrupt Organizations (the RICO Act).[29] Regarding RICO, for example, the recent decision of the US Court of Appeals for the Second Circuit in *European Community v. Nabisco*, written by Judge Leval and issued in April 2014 is worth remembering. In it, the esteemed magistrate and his companions overturned the criteria upheld by the US District Court, allowing the application of the RICO Act and its civil remedies in the face of a global criminal network for drug trafficking and money laundering through legal companies.[30] The international community increasingly assumes the need to act in the face of all these kinds of conducts, and the very negative impact they can have on Human Rights is well known. Applying these powerful laws seems, therefore, opportune. Lastly, the same is true of the Anti-Terrorism Act (ATA),[31] whose civil remedies have also been activated, for example, against foreign financial institutions that have been accused of having provided material support to terrorist organizations, regarding conducts outside of the United States. One example of this is the decision of the US District Court, Southern District of New York in the *Wultz v. Bank of China* case, 2012.[32]

The fourth type of extraterritorial rules, with which I will conclude this part of my discussion before moving on to my conclusions, refers to those that actively address

[27] I had the occasion to study it; see ZAMORA CABOT, Acaparamiento de Tierras.

[28] 15 U.S.C.78dd-1, *et seq*. See on this topic the following blog: http://www.fcpablog.com/#. See also GORMAN, The Origins of the FCPA, and MANDELKER & CARABALLO-GARRISON, Alstom to Pay. Regarding the United Kingdom, see GREAVES, The Long Arm of British Anti-Corruption Laws; also the UK Government's Anti-Corruption Plan available at https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/388894/UKantiCorruptionPlan.pdf (01.01.2015). With references to Canada, see also, ROBIDOUX *et al.,* Anti-Bribery Legislation and also LEIBOLD, Extraterritorial Application of the FCPA.

[29] 18 U.S.C.1961 *et seq.*

[30] See the commentaries on this sentence by BERGER & SUN, International Litigation Update and BAKER & MCKENZIE, Second Circuit Court of Appeals Finds. See also, in general, WALLACE *et al.,* Three Different Approaches to RICO Extraterritoriality.

[31] 18 U.S.C. 2333.

[32] 2012 WL 5378961 (S.D.N.Y. 2012). See the commentary by HALL & VOELKER, Courts Hear Suits. Also, on another case, see SMYTHE Trial Starts in U.S. and CLIFFORD, Arab Bank Liable. See also, commenting a lawsuit against European banks, PROTESS & CLIFFORD, Suit Accuses Banks.

the defense of human rights, subjecting multinational corporations as well. The most noteworthy example would surely be that of the Trafficking Victims Protection Reauthorization Act (TVPRA),[33] endowed with the means for criminal sanctions and civil remedies, as was the case regarding the RICO and Anti-Terrorism Acts referenced above. One example: on the basis of the TVPRA, the US District Court for the Southern District of Texas agreed to move to trial in its 2013 decision in the *Adhikari et al. v. KBR, Inc. et. al.* case.[34] This case concerned human trafficking of some Nepalese citizens who were recruited in their country to work in Jordan and ended up suffering gruelling conditions in a war zone in Iraq, where 12 of them lost their lives in a brutal fashion at the hands of a terrorist group from the cruel Ansar-Al Sunna Army.

We must point out that the TVPRA is just one part of a normative whole in which we could, for example, cite the Executive Order "*Strengthening Protections against Trafficking in Persons in Federal Contracts*,"[35] from September 25, 2012, or the *End Trafficking in Government Contracting Act*,[36] from 2013. These Acts reveal the current US Administration's commitment in the face of the heinous trafficking of human beings.[37] I would also like to point out how events like the catastrophe in Rana Plaza are motivating a growing number of legislative initiatives in the comparative arena, regarding Supply Chains[38] or, with its expressive title, the Modern Slavery Bill[39] of the United Kingdom. The international community's awareness of these and other questions related to Human Rights is ever increasing.[40] There are technical channels to confront them, and these diverse types

33 18 U.S.C.1595.

34 Civil Action No. 09-cv-1237.

35 Exec. Order No.13627, 77 Fed. Reg. 60,029 (Oct. 2, 2012).

36 22 U.S.C.7104 (g). Regarding this and the previous legal documents, see PRELOGAR *et al.*, United States: New Human Trafficking Laws; see also, in general, BUCKLEY SANDLER, FinCEN Offers Red Flags.

37 See, in general, FREEHILLS *et al*, Recent Developments.

38 In general on these, see PAGNATTARO, Labor Rights, p.1 *et seq.* Also of interest, are the series of *Global Horizons* lawsuits, *see* the summary and further documents available at http://business-humanrights.org/en/global-horizons-lawsuits-re-forced-labour (17.12.2014).

39 On this topic, see the presentation by the explanation of the United Kingdom Government, Modern Slavery Bill, available at https://www.gov.uk/government/news/modern-slavery-bill-published (17.12.2014).and the criticism by CORE, Modern Slavery Bill.

40 On the extraterritorial persecution of war crimes, for example, see the important Human Rights Watch study, The Long Arm of Justice, available at http://www.hrw.org/sites/default/files/reports/IJ0914ForUpload.pdf (17.12.2014). See also the Information by the Business and Human Rights Resource Centre on a Treaty with standards connected to business and human rights, available at http://business-humanrights.org/
en/binding-treaty (17.12.2014). See also the Press Release by the European Union:

of extraterritorial laws are good examples of them. The States on their own, or alongside international organizations, must determine *the manner and the intensity* with which these exterritorial laws should be utilized.[41]

4. Conclusions

The field of extraterritoriality can be favorable for the defense of Human Rights, but on its own terms, without distorting it as the US Supreme Court did in the *Kiobel* case, there producing a great weakening of the defense and, on another front, because of its decision in *Daimler*.[42] Until that time, federal courts had, on the basis on ATS, resolved cases of serious Human Rights violations perpetrated abroad as *special* torts. The specifics resided in the fact that the reservation of the courts' jurisdiction was activated for a restricted number of conducts contemplated by treaties and international consuetudinary law, as well as the fact that international law, through *federal common law*, or *a state law designed by rules of conflict,* would provide the substantive content that would determine the solution to the case.[43] Apart from that, it was a question of lawsuits submitted to the full protocol of normal questions and instruments, from the proof of the bases for personal jurisdiction, to the solution of problems related to the *Forum Non Conveniens, Sovereign Immunity*, the *Act of State Doctrine*, etc. Lawsuits that, on the one hand, could take a lot of time and be subject to every type of resource and guarantee, but that were an example for the rest of the world and for the international protection of Human Rights. They were also often the only means of reparation for victims of atrocious acts.

On this point, it is worth advocating for a system of bases of jurisdiction and norms for choosing the applicable law that allows most of the transnational lawsuits on Human Rights to be resolved in the civil order, just as torts are resolved, particularly those that correspond, for example, to environmental protections. Rome II, for example, affords a possible option for the victims of environmental damages that might be useful regarding the lawsuits in question here. Other very similar and

Force Labour: Commission Urges EU Contries to Implement New ILO Protocol, 11.09.2014, available at http://europa.eu/rapid/press-release_IP-14-995_en.html (17.12.2014) and, in general, STOYANOVA, Article 4 of the ECHR, p. 407 *et seq.*

41 It is worth pointing out that even the strong international sanctions laws could play a certain role in these matters; see, KRAULAND *et al.*, New US Sanctions Legislation. The "Venezuela Defense of Human Rights and Civil Society Act of 2014", S. 2142, 113th Cong. (2014), subjects foreign persons and *legal entities organized under the laws of the U.S.*

42 See ZAMORA CABOT, Decision of the Supreme Court of the United States. See also, in general, BORCHERS, The Twilight.

43 Regarding the questions raised in this area by what is called the *cause of action*, and its use in the case by the US Supreme Court, see COLANGELO, The Alien Tort Statute, p. 1342 *et seq.*

important questions would also have to be resolved, such as the possibility of filing class actions suits and lawsuits against parent companies for the actions of their subsidiaries abroad. Also of importance are proper regulations for litigation costs, and encouraging the involvement of civil society, etc. All of that will be addressed, for example, in the development of an Action Grant recently awarded by the European Union. The fourteen participating institutions from six countries are charged with the study, proposals for improvement and diffusion of the means of access for victims for reparations in the EU area of Human Rights violations perpetrated by corporations.[44]

In addition to all this, extraterritorial laws, which highlight a *will for special involvement* on the part of the States, can complement the entirety of means assigned to the international defense of Human Rights. Their creation and utilization will be even simpler when greater awareness exists in the international community about the concrete problem covered by laws. The case of initiatives that extend throughout the world regarding means of reparation, prevention and the punishment of human trafficking, forced labor, etc., are good examples to consider.[45]

I have spoken about extraterritoriality and extraterritorial laws, but also about jurisdiction, applicable law, various technical instruments, and about a lot of things that, in summary, are of interest from the perspective of private international law. I applaud and congratulate the Swiss Institute of Comparative Law, for their wisdom and the opportunity to realize the event that led to these pages, in such an important and groundbreaking arena.

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[44] Their website is available at: http://humanrightsinbusiness.eu/. For general information, see as well REQUEJO, Access to Remedy, p. 79 *et seq*.

[45] Illustrating an opening toward criminal liability, see the excellent article by STEWART, The Turn to Corporate Criminal Liability. See also, in general, STIGALL, International Law and Limitations, p. 323 *et seq*.

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