

“Humanizing Our Global Order”: Perspectives on Globalization, South-North Relations, and International Business Transactions

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Prologue: Humanizing Our Global Order in a Divided World

Let me begin by copiously and generously quoting two prominent international lawyers of our time: Mohammed Bedjaoui, former President of the International Court of Justice, and Richard Falk, Albert G. Milbank Professor Emeritus of International Law at Princeton University and Visiting Distinguished Professor in Global and International Studies at the University of California, Santa Barbara.

Underdevelopment ravages three-quarters of the world. ... [T]he scale of the imbalances is perfectly well-known, and makes the head swim. The disparities are constantly growing. ... To keep in line with the predatory economic order, this international law was thus obliged simultaneously to assume the guise of: (a) an oligarchic law governing the relations between civilized states, members of an exclusive club; (b) a plutocratic law allowing these states to exploit weaker peoples; c) a non-interventionist law (to the greatest possible extent), carefully drafted to allow a wide margin of laissez-faire and indulgence to the leading states in the club, while at the same time making it possible to reconcile the total freedom allowed to each of them... This classic international law thus consisted of a set of rules with a geographical basis (it was a European law), a religious-ethical inspiration (it was a Christian law), an economic motivation (it was a mercantilist law) and political aims (it was an imperialist law) – Mohammed Bedjaoui,¹

Integrative tendencies in international life, combined with the widely imagined future of a cyber world, ensure that a global civilization in some form will take shape early in the twenty-first century. But this probable world is a civilization only in a technical sense of being bound together by a high rate of interaction and real time awareness, with reduced relevance being attached to distance, boundaries, and the territorial features of the domains being administered by sovereign states. ... The current ideological climate, with its neo-liberal dogma... suggest that the sort of global civilization that is taking shape will be widely perceived, not as fulfillment of a vision of unity and harmony, but as a dystopian result of globalism-from-above that is mainly constituted by economic ideas and pressures – Richard Falk²

The above grave charge by Bedjaoui and Falk respectively poses a challenge to scholars of international law to explore the discourse of globalization in the context of glaring South-North asymmetries. Deploring the hegemonic nature of international economic relations, Bedjaoui deploys his thesis of “*international order of poverty*” and “*poverty of the international order*” to argue that the contemporary international system has remained silent and non-responsive to the evils of underdevelopment which ravages three-quarters of the world population.³ As of 1979, when he wrote, Bedjaoui identified **the power of multinational corporations, structural inequality in the international monetary system and the heavy indebtedness of undeveloped countries as some of the chronic issues facing the international system. These structural economic**

¹ *Towards a New International Economic Order*, 1979, pp 24, 26, 49-50

² “The Coming Global Civilization: Neo-Liberal or Humanist”, in A. Anghie and G. Sturgess, eds., *Legal Visions of the 21st Century: Essays in Honour of Judge Christopher Weeramantry* (The Hague: Kluwer, 1998) 15

³ Bedjaoui, *supra*

inequalities – which still confront the world today in many glaring ways - are maintained by hegemonic international law’s posture of complacency and indifference.

Richard Falk’s well-founded indictment of economic globalization challenges, among others, the globalized neo-liberal dogma of free trade to be more protective of public goods and the capacity of the “sovereign state” to facilitate the delivery of these goods to vulnerable populations.

In this paper, I offer four “broad” levels of inquiry on globalization, especially as emerging technologies affect or would potentially shape the health and lives of populations in the “Third World”. In doing so, I would generally remain a student of Bedjaoui and Falk. Globalization, the buzzword of the dusk of the 20th, and dawn of the 21st centuries, is multidimensional, multifaceted and multidisciplinary. It has a litany of multidisciplinary definitions, a dense discussion of its precise dating, a deluge of academic and policy discourses of its multiple dynamics, and how it affects humanity in different parts of the world. In 2000, Jan Aart Scholte observed in the preface to his book *Globalization: A Critical Introduction*⁴,

Not another book on globalization! No doubt many a prospective reader will at first despair that a further title has squeezed onto already overcrowded shelves. Has this hype-propelled bandwagon not already slaughtered to many trees.⁵

Because of globalization’s multidimensional facets and its anchorage on an uneven global landscape, I shall argue, as has been argued by many scholars, that the process of globalization paradoxically presents threats and opportunities across societies. The unequal distribution of these threats and opportunities within and among nations raises a *prima facie* rebuttal that a humane ‘global neighbourhood’ - where the dividends of health security are equitably distributed as a global public good – will likely emerge in the near future. It is therefore fallacious to assume that contemporary global governance architecture, when applied to emerging global health/technological challenges, would have the capabilities to radically re-distribute health opportunities and threats equitably across South-North societies. Globalization, if managed humanely, will likely promote the health of humanity across the world. How best can the fingerprints of equity and fairness be injected into the phenomenon of globalization to promote human health well-being globally? Synthesizing globalization and equitable distribution of the dividends of emerging health technologies raises complex questions for the law of international business transactions. It raises even more questions than answers on the framework for the re-distribution of the global burdens on infectious and non-communicable diseases given the Professor Uppendra Baxi’s paradoxical puzzle of ‘*global neighbourhood and universal otherhood*’⁶ – the developmental apartheid between industrialized and developing countries.

Since the 1990s, aspects of economic globalization, more than ever before, have been premised on the fact that national boundaries are either disappearing or becoming increasingly vulnerable. The implication of this is that investors through their capital

⁴ (New York: St. Martins Press, 2000)

⁵ Ibid

⁶ U. Baxi, “Global Neighborhood and the Universal Otherhood: Notes on the Report of the Commission on Global Governance” (1996) *Alternatives*, p525

exporting multinational corporations in computer, telecommunications, energy, natural resources, pharmaceutical and food industries must confront minimal or no barriers in their bid to penetrate the economies of the Third World. The disappearance of boundaries, especially in the Third World, provides an excellent opportunity for multinational corporations to canvass a “sword and shield argument”. In this dynamic, globalization becomes the sword used by foreign investors who are eager to exploit Third World resources and a shield used by the global North via multilateral institutions against agitation for global economic equity. After centuries of monopoly of global capital and advanced technology by industrialized countries, the developing world of today has no option but to follow religiously the prescriptions given by the developed world that call the shots via the international financial, trade and development institutions.

1st Level of Inquiry: The Globalization of Intellectual Property Rights – TRIPS, Pharmaceutical Technology and the Third World

The tension between trade liberalization and promotion of public health is in no where more apparent than in some of the agreements enforced by the World Trade Organization (“WTO”),⁷ especially the Agreement on Trade-Related Intellectual Property Rights (“TRIPS”). The TRIPS Agreement seeks to harmonize certain aspects of intellectual property rights at the global level. It sets a minimum standard of intellectual property protection for all WTO member states’ national legislation. Patent protection for pharmaceuticals is set for a minimum of 20 years. Although the TRIPS Agreement allows parallel importation and compulsory licensing, legitimate efforts by a few developing countries to pursue these measures even in the face of HIV/AIDS emergency were rebuffed by a few industrialized states led by the United States.⁸

On November 14 2001, after prolonged agitation by developing countries and sustained advocacy by a coalition of civil society groups, the WTO ministerial conference in Doha, adopted the Declaration on the TRIPS Agreement and Public Health.⁹ The Declaration affirmed that TRIPS can and should be interpreted and implemented in a manner supportive of WTO Members’ right to protect public health, and in particular, to promote access to medicines for all.¹⁰ The Declaration recognized that WTO Members with insufficient or no manufacturing capacities in the pharmaceutical sector could face difficulties in making effective use of compulsory licensing under the TRIPS Agreement.¹¹

⁷ For a history of international trade and the evolution of the World Trade Organization including the agreements within the mandate of the WTO, see John Jackson, *The World Trading System: Law and Policy of International Economic Relations* (Cambridge, MA: MIT Press, 1997); M. Trebilcock and R. Howse, *The Legal Regulation of International Trade*, 2nd ed. (London/New York: Routledge, 2001). On the tension between trade liberalization and promotion of human rights in the global economy, see Robert Howse and Makau Mutua, *Protecting Human Rights in a Global Economy: Challenges for the World Trade Organization* (Montreal: Rights and Democracy, 2000)

⁸ See for instance Caroline Thomas, “Trade Policy and the Politics of Access to Drugs” (2002) 23 *Third World Quarterly* 251; Naomi A. Bass, “Implications of the TRIPS Agreement for Developing Countries: Pharmaceutical Patent Laws in Brazil and South Africa in the 21st Century” (2002) *The George Washington International Law Review* 191; Ellen t Heon, “TRIPS, Pharmaceutical Patents, and Access to Essential Medicines: A Long Way from Seattle to Doha” (2002) 3 *Chicago Journal of International Law* 27

⁹ World Trade Organization, Declaration on the TRIPS Agreement and Public Health, Adopted on 14 November 2001, available online <<http://www.wto.org>>. On the legal status of Doha Declaration, see James Thuo Gathii, “The Legal Status of the Doha Declaration on TRIPS and Public Health Under the Vienna Convention on the Law of Treaties” (2002) 15 *Harvard Journal of Law and Technology* 291

¹⁰ Paragraph 4 Doha Declaration

¹¹ Paragraph 6 Doha Declaration

On 30 August, 2003, the General Council of the WTO adopted a decision on the Implementation of Paragraph 6 of the Doha Declaration on the TRIPS Agreement and Public Health.¹² The decision provides for the criteria aimed at facilitating access to essential medicines, including anti-retrovirals for HIV/AIDS, by vulnerable populations in the least developed and developing countries. Despite the WTO General Council Decision in 2003, difficult questions still remain on the best ways to maximize access to essential medicines, especially anti-retroviral drugs for HIV/AIDS. While the Decision imposes certain key obligations on exporting and importing countries for these medicines, only two industrialized countries: Canada and Norway have initiated legislative changes to patent laws to allow domestic production of generic drugs for export to poor countries hit by HIV/AIDS and other diseases. The Decision imposes an obligation on developing countries to notify the WTO of an intention to become an eligible importing member, and to notify the WTO specifically about the products and quantities.¹³

Part of the complexity of the WTO General Council Decision includes the fact that well over 90% of developing countries lack a functional pharmaceutical sector with a capacity for domestic production of anti-retroviral drugs, or even in most cases other pharmaceutical products. As a result, these countries cannot issue compulsory license for domestic production of generic HIV/AIDS drugs simply because they lack the functional capacity to do so. *In one sense therefore, the Decision amounts to offering a pair of shoes to a person whose two legs are amputated, or eye drops to a blind person.* The only option for many such countries remains a dual process that involves importing generics from an industrialized country that is willing to amend its patent legislation to allow export of generics. This would depend on the willingness of such industrialized countries to withstand the pressure, and rebuff the powerful lobby of global pharmaceutical giants that own patent on essential HIV/AIDS drugs. If the experience of TRIPS negotiations in the 1990s is anything to go by, industry lobby remains very influential and powerful international economic relations. The entire gamut of international trade and global economic relations is now shaped, as Falk observed, by the “neo-liberal dogma of minimizing intrusions on the market, and ‘downsizing’ the role of government in relation to the provision of public goods that compose the social agenda”.¹⁴ Thus “the sort of global civilization that is taking shape will be widely perceived, not as fulfillment of a vision of unity and harmony, but as a dystopian result of globalism-from-above that is mainly constituted by economic ideas and pressures”.¹⁵ The establishment of the WTO has challenged the actors in global governance (both states and non-states) to take the task of balancing neo-liberal ideology with the promotion of global public goods seriously.

2nd Level of Inquiry: The Globalization of Trade in Services

As one of the agreements that emerged with the paradigm shift from GATT to the WTO framework, GATS seeks to progressively liberalize global trade in services through four modes of supply: **(i) cross-border supply of services, i.e. from the territory of one WTO member into the territory of another member; (ii) consumption of services abroad, i.e. movement of consumers to the home country**

¹² WTO General Council Decision WT/L/540, 1 September 2003
<http://www.wto.org/english/tratop_e/trips_e/implement_para6_e.htm>

¹³ For a good discussion of the challenges of implementing the WTO General Council Decision, see Carlos Correa, *Implementation of the WTO General Council Decision on Paragraph 6 of the Doha Declaration on the TRIPS Agreement and Public Health* (Geneva: WHO Department of Essential Drugs and Medicines Policy, 2004)

¹⁴ Richard Falk, “The Coming Global Civilization: Neo-Liberal or Humanist”, supra, note 2 p15

¹⁵ Ibid

of the service supplier; (iii) supply of service by a WTO member, through the commercial presence in the territory of another member, i.e. foreign investment and movement of capital; and (iv) supply of service through the movement of natural persons across the territories of WTO members, i.e. cross-border migration of skilled labour. Although these four modes of supply of services under GATS, based on existing literature on services trade, involves aspects of migration, it is Mode Four -“movement of natural persons” that bears the most significant impact on outward migration of skilled health professionals (doctors and nurses) from the developing to the industrialized countries.

In the past two decades at least, outward migration of doctors and nurses from Africa has never been wholly a voluntary decision taken by these professionals in the absence of “inducement” from the West. Highly skilled African nurses and doctors are actively “poached” by Western countries that are eager to address the occupational shortages and deficits in their national health sectors. It is estimated that there are Malawian doctors in the city of Manchester that in Malawi, more Zambian doctors in the city of Birmingham than in Zambia.¹⁶ Data from international organizations, and other scholarly studies on migration of health professionals from developing to developed countries is alarming. Rupa Chanda, an Indian scholar, and one of the leading policy analysts on GATS and health services reported that as a result of the various visa schemes implemented by the United States government aimed at recruiting skilled health migrants from abroad, there were 150, 000 foreign-trained doctors in the U.S in 1993, and 110, 000 foreign-trained nurses living and working in the U.S. in 1996.¹⁷ The World Bank, in 1993, estimated that developing countries accounted for 56% of all outward migration of physicians.¹⁸ Using secondary data and collaborating the World Bank, a joint study published by the United Nations Conference on Trade and Development (UNCTAD) and the World Health Organization (WHO) in 1998 stated that 56% of all migrating physicians come from developing countries, that the figure for nurses is likely to be higher.¹⁹ In Ethiopia, it is reported that between 1984 and 1994, 55.6% of the pathology graduates from the Addis Ababa Medical School left the country.²⁰ In Ghana, of the 65 doctors that graduated from the University of Ghana Medical School in 1985, only 22 remained in the country by 1997.²¹ In South Africa, about 10, 000 health professionals emigrated from the country between 1989 and 1997.²² It is estimated that more than 10, 000 Egyptian medical and biotechnology experts have emigrated from the country.²³ In 1997, it was estimated that there are over 21, 000 Nigerian doctors practicing in the United States.²⁴

¹⁶ Ibid

¹⁷ Rupa Chanda, “Trade in Health Services”, Paper No. WG4:5, Commission on Macroeconomics and Health (Geneva: WHO, June 2001) p64

¹⁸ World Bank (1993) *World Development Report, 1993: Investing in Health*, Washington, DC: World Bank

¹⁹ O. Adams & C. Kinnon, “A Public Health Perspective”, in S. Zarrilli & C. Kinnon, eds., *International Trade in Health Services: A Development Perspective* (Geneva: United Nations/WHO, 1998) 37

²⁰ S. Ababulgu, “Problem of Physician Migration in Ethiopia” (Unpublished Document) cited in O. Adams & C. Kinnon, p37

²¹ Volta Regional Research Team, “The Doctors Are Out – Where are They?”, Accra, Ministry of Health, 1997 cited in O. Adams & C. Kinnon, p37

²² D. Kaplan, J. Meyer, and M. Brown, “Brain Drain: New Data, New Options” (unpublished paper), cited in Rupa Chanda “Trade in Health Services”, p22

²³ A. Khalil, “Unchecked Exodus” (Unpublished Paper, April 1999), cited in Rupa Chanda, “Trade in Health Services”, p22

²⁴ A. Oyowe, “Brain Drain: Colossal Loss of Investment for Developing Countries” (Unpublished Paper), cited in Rupa Chanda, “Trade in Health Services”, p22

Apart from Mode Four of services trade, Mode Three - supply of service by a WTO member, through the commercial presence in the territory of another member, i.e. foreign investment and movement of capital, would, if not humanely negotiated, lead to scenarios where privatized hospitals could be set up in most of the health sectors of the Third World by investors and corporate actors from the industrialized world. Although this will arguably improve health services, the first rule of business is profit. Privatized healthcare and the requirement of user-fees are often difficult to regulate. It follows therefore that transnational business entities could easily capitalize on this mode of services trade to impede universal access to healthcare and the “right to the highest attainable standard of health” which is codified as a fundamental right in the Constitution of the World Health Organization 1946 as well as some domestic constitutions across the world.

3rd Level of Inquiry: Foreign Direct Investment and the Globalization of Unhealthy Food and Other Products

International trade in unsafe and unhealthy food and other products has blossomed astronomically in an age of globalization. Consider the example of tobacco. The World Health Organization has negotiated the Framework Convention on Tobacco Control (FCTC) as a legal and regulatory strategy to control the global epidemic of tobacco. The FCTC is based on infallible scientific and epidemiological evidence that tobacco is harmful to health, and therefore needs to be globally regulated because of the global networks of multinational tobacco companies. The causal links between tobacco and about twenty major categories of disease is now firmly established.²⁵ Tobacco use is now one of the leading causes of preventable deaths, and a leading contributor to mortality and morbidity burdens of disease.²⁶

The epidemic of tobacco addiction, disease, and death is shifting rapidly to developing countries including. Leading tobacco multinationals have targeted growing markets in Latin America in the 1960s, the newly industrialized economies in Asia in the 1980s, and have increasingly targeted women and young persons in Africa in the 1990s.²⁷ As observed by Fidler, “Western tobacco companies succeeded in riding the waves of international trade law, liberal triumphalism, and globalizing Western culture in penetrating the markets and lungs of millions of people in the developing world”.²⁸ In Nigeria, as in many other developing countries, tobacco epidemic constitutes a transnational problem because of the transnational networks of leading tobacco companies.

In Nigeria, British American Tobacco (BAT) is currently one of the largest single foreign direct investment outside foreign investments in the oil and gas sector. As a result of the Memorandum of Understanding signed between BAT and the Federal Republic of Nigeria on 24 September 2001, BAT has recently built and commissioned a \$150 million modern factory for the manufacture of various brands of cigarettes in Ibadan, Nigeria. At

²⁵ P Jha & F. Chaloupka, eds., *Curbing the Epidemic: Governments and the Economics of Tobacco Control* (Washington, DC: The World Bank, 1999)

²⁶ CJL Murray & A.D Lopez, *The Global Burdens of Disease: A Comprehensive Assessment of Mortality and Disability from Diseases, Risk Factors in 1990 and Projected to 2020* (Cambridge, MA: Harvard School of Public Health on behalf of the World Health Organization and the World Bank, 1996); CJL Murray & A.D Lopez, “Alternative Projections of Mortality and Disability by Cause 1990-2020: Global Burden of Disease Study” (1997) 349 *The Lancet* 1498

²⁷ G. N Connolly, “Worldwide Expansion of the Transnational Tobacco Industry” (1992) No.2 *Journal of the National Cancer Institute Monographs* 29.

²⁸ David Fidler, “Neither Science nor Shamans: Globalization of Markets and Health in the Developing World” (1999) 7 *Indiana Journal of Global Legal Studies* 191 at 201

the commissioning of the factory in June 2003, the Managing Director of BAT Nigeria stated that,

this state-of-the-art-factory for which \$150 million has been committed will compare with any other world class factory in the tobacco industry. ...Result of research already conducted shows that products manufactured in this factory are of the highest international quality.²⁹

BAT (Nigeria) claims to be committed to the principles of sustainable development and world class standards of environmental, occupational health and safety as well as helping tobacco farmers through responsible tobacco leaf production.³⁰ BAT (Nigeria) is now actively involved in the sponsorship of major sports and music carnivals. Emerging facts from its recent multi-million dollar investment strongly suggest that BAT has become the dominant player/actor in the production, marketing and advertising of tobacco products in Nigeria. Its billboards adorn the strategic locations in major Nigerian cities. BAT now controls 78% of the tobacco market in Nigeria, its brand of cigarettes, especially *Benson & Hedges*, *Rothmans*, *St. Moritz*, and *Consulate* is the most popular among the soaring number of Nigerian smokers including young people under the age of 15.

4th Level of Inquiry: Foreign Direct Investment, Transnational Corporations and Natural Resource Extraction in the Third World

The decades of the 1960s and 1970s marked the de-colonization and political self-determination for colonies and dependent territories in most of Africa. Soon after de-colonization, the newly politically independent states realized that political independence must be complemented by economic self-determination. This led to agitation by the G-77 for a new international economic order at the United Nations. The passing of resolutions on Economic Rights and Duties of States and Permanent Sovereignty over Natural Resources by the UN General Assembly witnessed an upsurge in foreign direct investment in resource-rich developing countries. These countries lacked the technology to exploit these resources.

In the case of Nigeria, for instance, crude oil was first discovered in commercial quantities in 1957. Prior to 1957, the Anglo-Dutch conglomerate Shell had complete monopoly in oil prospecting 1914-1959.³¹ The 1960s and 1970s witnessed the arrival of other influential oil multinationals like Gulf Oil (now Chevron), Mobil and Texaco, all from USA; Elf and Total from France; and the Italian oil giant AGIP. These corporations joined Shell-BP, an Anglo-Dutch oil conglomerate that maintained exclusive monopoly to prospect for crude oil in Nigeria since 1937. After 50 years of oil discovery and intensive exploitation, the requisite technology for oil operations in Nigeria remain largely in the custody of multinationals. The colossal influence of Shell and other multinationals in Nigeria's oil sector is well-known in literature. This is not peculiar to

²⁹ Speech by Nick Hales, Managing Director BAT, Nigeria, at the Commissioning of the Ibadan Factory of BAT (Nigeria), June 17, 2003 (Copy attached to the hard copy of this proposal)

³⁰ See BAT Nigeria website <<http://www.batnigeria.com>>

³¹ Nigeria being a colony of Britain, section 6(1)(a) Mineral Oils Act 1948 provided that grants to search for and win oil could only be made to British subjects and to those companies which had their principal place of business in Britain or in its dominions and whose chairmen or whose majority shareholders and directors were British subjects. See G. Etikerentse, *Nigerian Petroleum Law* (1985). For a recent account of transnational oil operations in the Niger Delta including their human rights and environmental implications, see I. Okonta & O. Douglas, *Where Vultures Feast: Shell, Human Rights and Oil in the Niger Delta* (San Francisco: Sierra Club, 2001); S. Gbadegesin, "Multinational Corporations, Developed Nations, and Environmental Racism: Toxic Waste, Oil Exploration and Eco-Catastrophe", in L. Westra & B.E Lawson, *Faces of Environmental Racism: Confronting Issues of Global Justice* (Lanham: Rowman & Littlefield, 2001) 167.

Nigeria. All resource-rich countries in Africa and Latin America: Angola, Garbon, DR Congo, Sudan, Cameroun, Chad, Ecuador, and Mexico are in a similar position. Although sovereignty over natural resources rests with the host country, without the requisite technology, transnational corporations will keep calling the shots.

Postscript: An Agenda for Humanizing Our Global Order

It is now widely perceived that economic globalization driven in part by the norms of international trade liberalization is either going, or has simply has gone too far.³² As Malhotra et al rightly observed,

Recent agreements under the trade regime commit members not just to liberalizing trade in goods but also to making specific policy choices on services, investment and intellectual property. These choices can affect human development through their effects on employment, education, public health, movements of capital and labour and ownership of and access to technology.

Both critics and supporters of international trade, according to Mendoza, do not see trade itself as a problem, because they all agree that trade has the potential to benefit developing countries; they only disagree on the structure and arrangements for multilateral trade.³³ It is therefore not as simplistic as saying that globalization and economic integration are inherently bad or innately good, especially given the divergent national policies on public health and the broad social policy agenda as well as the disparities between countries. What is needed first is a policy space to enable weaker nation-states (especially the developing countries) strengthen their institutional capacity to generate and promote public goods given each country's present specific social and economic conditions. The extent to which this would likely occur largely depends on effective proposal for quality control as free trade continues to erode national capacity for the protection of public goods.

Although it is now almost 30 years since Bedjaoui developed his provocative thesis of the *international order of poverty* and *poverty of the international order*, with the widening disparities between developed and developing countries, the exclusion of the world's poor and vulnerable populations from the dividends of economic globalization, and the rising influence of transnational corporations, Bedjaoui's thesis remains infallible in the 21st century discourse on globalization and international business transactions. Deploring the modern-day South-North asymmetry and inequalities with the metaphor of "global apartheid", Falk observed that,

several characteristics of the global political economy shape the tactics and aspirations of progressive social forces: extreme hierarchy and unevenness of circumstances, acute deprivation and mass misery among the poor; erosion of autonomy at the level of the state as a consequence of the play of non-territorial capital forces. ...If these critical differences are appreciated, the global apartheid metaphor seems useful. It confronts the moral and political complacency of the North. ...The metaphor of global apartheid, then, represents a warning as well as a provocative line of

³² Susan Esserman & Robert Howse, "The WTO on Trial" (January/February 2003) *Foreign Affairs* 130

³³ Ronald U. Mendoza, "The Multilateral Trade Regime: A Global Public Good for All", in *Providing Global Public Goods: Managing Globalization*, Inge Kaul, et al, eds., (New York: Oxford University Press/UNDP, 2003) 455

critique, suggesting the urgency of taking far more serious steps to overcome the North-South cleavage.³⁴

Every scholar of international business transactions in an age of globalization should take heed this call.

³⁴ Richard Falk, *Predatory Globalization: A Critique* (Cambridge: Polity Press, 1999) pp13 & 17