

***Reflections on Globalization and its impact
On the Law of International Business***

By:

*Tesfay Kumenit, Faculty of Law, University of Gondar, Ethiopia,
2008*

The term globalization did not become popular until the 20th century. Then onwards, it has become a typical issue understood to affect the whole socio-economic and political life of states throughout the world. Besides, the discourse on globalization is complex with far-reaching effects on national and international laws and policies pertaining to the social, economic and political matters.

It is commonsense knowledge that issues related to globalization are open to debates, as various people have varying perceptions about it. At one extreme, we have those who see globalization as an irresistible and benign force for delivering economic prosperity in economically underdeveloped areas. On other extreme, we have those who blame it as a source of all contemporary ills.

Those people taking the latter line of argument emphasis on the negative impacts of globalization from various dimensions. Specially, they make frequent reference to the difficulties faced by small enterprises in underdeveloped areas in taking advantage of the benefits of globalization. As the result, the rural and informal economies remain on the margin, which in turn leads to persistent poverty. Besides, the industrial restructuring in force of competitive markets is highly probable to insecure jobs and dramatically affects the working conditions and rights of workers in some countries.

In most developing countries, globalization has undermined traditional livelihoods, changed the traditional social security systems and increased rural-urban and intra-regional inequalities. Moreover, some multi-national investment have been exacerbating environmental degradation and generated pressures for cheaper and more flexible labor in order to retain competitiveness which in effect could erode the values of democracy and social justice. In relation to this, the accountability of these institutions engaged in business is debatable. In reality, some people feel that transnational bodies are unaccountable which usually disregard the local perspectives of cultural, linguistic, and other diversities.

The other extreme argument is on the positive impact of globalization. To this effect, it is widely accepted that the key characteristics of globalization have been the liberalization of international trade, the expansion of FDI, and the emergence of massive cross-border financial flows. This resulted in increased competition in global markets. It is also widely acknowledged that this has become about through the combined effect of different understanding factors mainly policy decisions, to reduce national barriers to international economic transactions and the impact of new technology. Due to the effect of the latter, the natural barriers of time and space have been vastly reduced. At present, the cost of moving information, people, goods and capitals across the globe has fallen dramatically which in turn vastly expanded the feasibility of economic transactions across the world. As to this, people believe that markets can be global in scope and encompass an expanding range of goods and services.

With the intention to benefit international communities on equal footing, various institutions were created. Among others, UN, ILO, WTO, GATT and IMF are the most influential ones. These institutions set certain preconditions that states shall fulfill to get membership. Beyond that, a number of laws are issued to liberalize international business transactions. By this, it is sought that regional cooperation in trade and finance could increase stability.

As it is mentioned above, globalization can have both direct and indirect impact on states. It would also inevitably affect the laws of international business transactions either negatively or positively. As to the former, the challenges against globalization may dictate the revision of these laws in a manner which may equally benefit the poor and the rich. The question that must be capitalized is whether these laws are in positions to treat the north and the south as there is unbridgeable gap between them. If states are to be benefited from the globalization, most argue that there must be fair laws which consider the local realities in developing countries.

Hence, some argue that the present laws to this end do not take the realities at ground in to account specially in third world countries. the fact that the market is highly competitive, the poor would be pushed out of game and this would even increased income disparities with in the industrial countries .the multi-national institutions which

have small capital in industrial countries, may transfer to the countries with lower cost. These institutions would easily make profits in the expense of the poor. Then power would be shifted from local institutions to trans-national ones.

Many agree that globalization by itself is not a problem. But, laws which are designed to regulate the global transactions shall consider the existing realities the failure of which may rise various impediments against globalization. Institutions like IMF, The World Bank, The WTO, The ILO, and other specialized agencies as well as business, trade unions and other NGOs are in a lead to guide the process to this effect.

To be beneficiaries of these institutions, states have to revise their domestic laws in conformity with the guiding principles and regulations of the above institutions. In the due course, they are expected to enhance social infrastructures and respect human rights. The other face of this achievement would enable poor countries to get assistance and donations from these powerful donor institutions. As a result, limitations on free trade would be minimized and this in turn may lead to the flow of foreign direct investment which directly or indirectly add to efforts of poverty eradication and promote sustainable development. These measures would make states to think of common laws regulating business transactions. By this, there would be free trade with no or little barriers across the borders.

But this does not mean that multinational corporations are free to exploit resources for the sole purpose of profit maximization. Rather, they have to have social responsibility as well. In fact, it is debatable as to what responsibilities these institutions assumed to have. The debate in this regard largely revolve around the conduct of multi-national corporations and other large private companies which ,due to their sizes, have the ability to significantly influence domestic and international policy and the communities in which they operate. Central to the debate is the perceived deficiency of national and international law remedies regarding corporate accountability, particularly the ability of available regulations to successfully regulate a corporate's conduct in jurisdictions outside their home state. Moreover, most people agree that the efficient functioning of the global markets depend on socially responsible business conduct. To this end, organizations, such as UN, the International Labor Organization (ILO) have developed compacts,

declarations, guidelines, principles and other instruments that outline norms for acceptable corporate conducts.

To sum up, though there are the divided idea as to how all states benefit from globalization, at present, most agree that issues in relation to human rights, environmental matters etc are the common concerns of international communities which have to be respected and promoted by the joint efforts in every corner of the world. Moreover, since international business transactions directly or indirectly related to these common concerns, it is believed to be a common concern as well. Therefore, laws of international business transactions have to be in a position to respect and promote principles and guide lines provided to regulate other global concerns. From this, it is easy to understand, how much the laws of international business directly or indirectly are under the influence of globalization.

References

- 1) Globalization and Its Impacts, www.ilo.org
- 2) Thomas L. Friedman, *The World is Flat, a Brief History of the Globalized World in the Twenty-First Century*, Allen Lane, 2005
- 3) The African Economist. Vol.11, No. 35.2005
- 4) The Eye on Ethiopia and the Horn of Africa, Vol. xxxv, No. 128, 2006
- 5) Kim Kercher, Corporate Social Responsibility-Impact of Globalization and International Business, Bond University.2006