Seduced by cosmopolitan fantasies of a truly global legal order righteously meting out justice against lawless transgressors, the international legal imagination has begun a misguided and risky quest for universal jurisdiction over human rights violations by multinational corporations. Misguided, because the polycentric nature of multinational corporate personality provides multiple opportunities for holding corporations domestically accountable for human rights violations. Risky, because international corporate duties to respect human rights will produce a realm of international corporate liberty that will likely render the international legal order unrecognizable to the apostles and priests who zealously guard its normative mission. Yet, the image of the global corporation as post-modern brigand continually entices those very same guardians to hold corporations directly accountable in international law for international crimes.

No doubt there is reason for concern. Processes of economic globalization are dramatically enhancing technological, commercial and financial integration of national economies. Traditional geographical and political barriers are becoming increasingly irrelevant to the production, placement and sale of goods and services. States are gradually dismantling tariff barriers and actively seeking new forms of direct foreign investment. Multinational corporations, participating in spatially concentrated clusters often referred to as transnational production chains, are cutting across national economic and juridical boundaries, exploiting efficiency gains associated with economic globalization and technological innovation, and wielding unprecedented power and influence in local and global markets, and in domestic and international affairs. The global reach of multinational corporations means that they often operate in jurisdictions in which human rights violations occur, obtain and benefit from subsidized arrangements with governments that commit human rights violations, provide goods or services that result in human rights violations, or organize production in ways that violate the human rights of workers.

International law currently says little, and does less, about human rights violations associated with multilateral corporate activity. Except through and by the force of treaty, corporations in general do not owe international legal obligations to respect...
human rights. Although there are several exceptions,² international treaties impose
direct international legal obligations only on states. The Universal Declaration, the
International Covenant on Civil and Political Rights (ICCPR), and the International
Covenant on Social, Economic and Cultural Rights (ICSECR) make reference to
private actors but only indirectly: they stipulate that they do not authorize ‘any
State, group or person’ to engage in activity that would infringe international human
rights.³ International labour standards promulgated by the ILO obligate states to
ensure that corporations operating within their jurisdiction respect the rights of
workers, but they do not hold corporations directly accountable for any violations
for which they are responsible. Nor does international economic law evince much
concern for corporate human rights violations. Notwithstanding the growing set of
the economic rights multinational corporations possess as a result of bilateral and
multilateral trade agreements, international economic law does not impose express
international legal obligations on corporations to respect human rights.

Domestic law apparently accomplishes little more. Multinational corporations
of course must comply with domestic regulation in their home jurisdictions. And
while economic globalization may heighten capital mobility, the reality for many
companies is that ‘once production plants have been established in a particular
location, it is rarely expedient for headquarters suddenly to uproot such facilities
and transplant them elsewhere simply because conditions have become less
favourable than they were at the time of entry.’⁴ Thus, domestic law remains a
relatively viable form of protecting human rights of individuals in states home to
a potential multinational corporate offender. Where domestic regulation begins
to falter, however, is in relation to human rights violations that occur outside the

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³ See Universal Declaration of Human Rights, art. 30 (‘Nothing in this Declaration may be interpreted as implying for any State, group or person any right to engage in any activity or to perform any act aimed at the destruction of any of the rights and freedoms set forth herein’); International Covenant on Social, Cultural and Economic Rights, art. 5 (‘Nothing in the present Covenant may be interpreted as implying for any State, group or person any right to engage in any activity or perform any act aimed at the destruction of any of the rights and freedoms recognized herein or at their limitation to a greater extent than is provided for in the present Covenant’); art. 5 of the International Covenant on Civil and Political Rights contains similar language.