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**A new report on corporate complicity takes a broad-brush approach**

IMAGINE a company accused of human-rights abuses and you will probably conjure up an image of a mining group or an oil firm operating in some unstable, tropical place where governance is weak and corruption rampant. But a report from the International Commission of Jurists (ICJ), a body made up of 60 leading judges, lawyers and legal scholars from around the world, wants to demolish the idea that only extractive industries need to worry about human-rights violations.

The report, compiled by eight experts from North and South America, Africa, Asia and Europe, and released on September 19th, is meant to clarify what criminal and civil laws say about corporate complicity. It offers a surprisingly broad interpretation of how such laws could be applied. The examples it gives range from a hypothetical software firm that modified generic software to allow a government to track and target a minority group for discrimination, to the loan of earthmoving equipment to a government that used it to demolish homes, to paying taxes to a regime with an unsavoury reputation.

Defining corporate complicity in law is becoming more important as a growing number of companies are accused of involvement in gross human-rights abuses. But although a state's responsibility to protect the rights of its citizens is clear-cut in international law and there are courts where such cases can be heard, it is unclear whether laws designed with sovereign states in mind can be brought to bear on companies, or where to hear such cases. The most frequently used venue is America, where over 40 cases involving companies have been filed under the Alien Tort Claims statute in the past two decades.

The ICJ report set out to answer these murky questions. But the breadth of the panel's interpretation—and the experts' failure to state unequivocally what companies should and should not do to avoid being held liable for such abuses—drew criticism from business. "If everything is complicity, then you are not really giving any guidance," says Adam Greene of the United States Council for International Business. The way the report is written, says Mr Greene, suggests that even supplying a box of pencils could get a company into trouble if they are used to write down which government opponents attended a meeting. Nor did the report please activists seeking a clear explanation of how they might hold firms to account. "That's the void," says Seema Joshi of Global Witness, a British group that successfully campaigned against blood diamonds.

Was such clarity ever possible? Not according to Ralph Steinhardt of George Washington University Law School, one of the eight legal experts. "We couldn't possibly have offered a bright-line rule," he says. What the experts tried to do instead, he says, was suggest areas in which firms might want to manage their risk of liability, which they called the "zone of legal risk". This has raised eyebrows because it is not a legal term. But companies will recognise it, says Mr Steinhardt, because they already think in such terms when assessing product liability, employment law or raising capital. Indeed, a new effort announced on September 23rd by three groups, including the United Nations Global Compact, is intended to help companies see human rights as a business issue that they need to incorporate into their thinking.

So the panel's report is far from being the final word. Meanwhile, the legal landscape is changing. National

governments are being pressed to dust off old laws, or pass new ones, aimed at corporations. The world is inching toward a definition of corporate complicity, but it is not there yet.

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