

Transnational Corporations, Natural Resources and Conflict

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Abstract

Transnational Corporations (TNCs) exploit natural resources, whether renewable as in the case of forests, fisheries and agricultural products or non-renewable as in the case of minerals or petroleum, in developing countries through their subsidiaries. TNCs' exploitation of forests and acquisition of intellectual property rights in plants and animal breeding, based on the traditional knowledge of indigenous peoples developed over millennia, are in conflict with the rights of indigenous peoples to their territories, resources and traditional knowledge. TNCs also profit from conflict by trading natural resources that prolong wars; colluding with repressive governments to pervert political processes within a State; aiding and abetting crimes against humanity; and flagrantly violating human rights. This article explores the areas of conflict outlined above and examines the efficacy of the mechanisms for the control of TNCs whether legally binding or not. It is suggested that the only effective way of making TNCs accountable for their human rights violations and aiding and abetting crimes against humanity is the establishment of an international court with jurisdiction over corporations.

Keywords: transnational corporations, natural resources, conflict, corporate social responsibility, international law

1. Introduction

The history of Transnational Corporations (TNCs) is the history of exploitation of natural resources in developing countries and conflict and the failure to make TNCs accountable for collusion with repressive governments to pervert political processes within a State, egregious breaches of human rights and aiding and abetting crimes against humanity.

TNCs, that is, corporations whether incorporated or state-owned, which own or control production or service facilities outside the country in which they are based are not recent post-World War II creation as some theorists suggest (Vagts, 1970). The first TNC was the Dutch East India Company (or Vereenigde Oost-Indische Compagnie (VOC)) founded in 1602. The company was responsible for the Batavia Massacre of 1740 during the Chinese uprising over prices of sugar. In 1798, the company, weakened by internal deficiencies in the face of its competitors, notable among which was the British East India Company, was dissolved (Kelly, 2018).

The quest for natural resources by European powers in order to benefit the home countries led to widespread colonial activity during the Age of Discovery or the Age of Exploration (early 15th century to early 17th century) and after. For each possession acquired there was a corporation established as an instrument of annexation such as the British East India Company (the largest), Hudson Bay Company and the National African Company founded in 1879, to mention a few. In 1886 the National African Company was granted a Royal Charter under the name of Royal Niger Company, Chartered and Limited, which authorised the Company to administer the district obtained by cession and to exercise sovereign rights over the Protectorate of Northern Nigeria but with the proviso that "[t]he Company shall always be and remain British in character and domicile; and shall have its principal office in England ... and all Directors shall be natural born British" (Cook, 1964; Elias, 1967). It is worthy of note that limited liability was introduced by the Limited Liability Act 1855 and TNCs' accountability for their wrongs is based on the concept of corporate personality – that a corporation is a legal persona (a legal personality) distinct from the personalities of persons who constitute it – enunciated in 1897 in the decision of the House of Lords in the United Kingdom in *Salomon v Salomon & Co* (Note 1). On 1 January 1900, the

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Conflict The Nation-state and Transnational Corporations in Conflict Jon P. Gunnemann, 1975 **The Nation-state and Transnational Corporations in Conflict, with Special Reference to Latin America** Council on Religion and International Affairs, 1975 Based on a consultation organized by the Council on Religion and International Affairs and held at the Aspen Institute Colo Sept 15 19 1973 Corporations and International Lawmaking Stephen Tully, 2007-11-30 The classical model of international lawmaking posits governments as exclusively authoritative actors However commercially oriented entities have long been protagonists within the prevailing international legal order concluding contracts and resolving disputes with governments Is the international legal personality of corporations undergoing further qualitative transformations Corporations influence the State practice constitutive of custom and create refashion or challenge normative rules The corporate willingness to fill legal lacunae where governments do not exercise their full regulatory responsibility is also observable through resort to alternative legal mechanisms Corporations moreover contribute directly to treaty negotiations and occupy crucial roles during subsequent implementation Indeed an analysis of the access conditions and participatory modalities for non State actors could support a right to participate under common international procedural law Their substantive contributions are also evident when corporations participate in enforcing international law against governments through national courts diplomatic protection including the WTO and arbitration including NAFTA However the practice of intergovernmental organizations reveals several challenges including managing corporate interaction with developing country governments and other non State actors Acknowledging corporate contributions also has important implications for national regulatory autonomy the ability of governments to mediate contested policy issues the democratic legitimacy of the contemporary lawmaking process and an understanding of consent as the underlying basis for international law The United States and the Andean Republics Fredrick B. Pike, 1977 Monograph on the role of USA in the present and historical political development of the Andean region treats the rise of corporativism ie The protection of traditional culture and social structure from negative outside capitalistic influences in Peru Bolivia and Ecuador and discusses the effects of race and religion Marxism elites and the CIAP on the formation of political ideology Maps and references

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seventy foreign corporations the book compares investment strategies used to assess risk and exploit business opportunities under conditions of fundamental economic change Case studies describe how and why firms selected different financing management employment production and marketing approaches in establishing or expanding their operations After a brief historical review the book examines key policy decisions in the 1980s that shaped Chile's new economy Case studies are then analyzed by sector covering mining and energy nontraditional exports forestry fishing and agribusiness banking and insurance and other industries including computers telecommunications chemicals electrical goods automotive products foods and beverages and pharmaceuticals Summary chapters relate these learning experiences to broader strategic issues such as ownership and control financing methods technology transfer trade policy labor relations taxation regulatory reform and coordinating global corporate operations This book presents cumulative learning experiences useful for business executives and public officials who must develop new foreign investment strategies as well as scholars and students interested in the role of foreign investment in developing countries *Madison Avenue in Asia* Michael H. Anderson, 1984

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