

Liability of Transnational Corporations (TNCs) under Contemporary International Law: A Critical Analysis[#]

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Abstract

In this era of globalization, transnational corporations (TNCs) have been able to grow manifold. Their number and their power have increased over the course of time, after the free market economy has come into existence. At present, these corporations are majorly responsible for the Human Rights abuse and environment degradation. It can be easily noticed that, post the Second World War, the phenomenon of transnational corporations (herein referred as TNCs), have emerged and taken over the world economy completely. The issue of whether TNCs could be treated as the subjects of international law has evoked a great deal of doctrinal controversy. The traditional positivist doctrine deems only States as the subject matter of international law. Over the years, there has been a trend to argue for inclusion of TNCs within the purview of international law to bring in some accountability to their actions.

Keywords: Accountability; Transnational Corporations; Corporations; Environment; Pollution; Law; International Law; Court; Human Rights; Norms; Globalization.

Transnational corporations are those types of companies that operate and own assets outside the country in which they are established. "Transnational Corporation," also known as "Multinational Corporation or multinational enterprise," is defined by the UN Norms on the Responsibilities of Transnational Corporations and other Business Enterprises as: "An economic entity operating in more than one country or a cluster of economic entities operating in two or more countries - whatever their legal form, whether in their home country or country of activity, and whether taken individually or collectively [1]."

Characterization of Transnational Corporations

Another definition of TNC is contained in the OECD Guidelines for Multinational Enterprises: "These usually comprise companies or other entities established in more than one country and so linked that they may co-ordinate their operations in various ways. While one or more of these entities may be able to exercise a significant influence over the activities of others, their degree of autonomy within the enterprise may vary widely from one multinational enterprise to another. Ownership may be private, state or mixed [2]." From the above definitions, it is possible to derive certain typical features of TNC:

- An entity having legal status;
- Its motive is to gain profit;

- It performs economic activities in more than one country;
- It consists of more entities that are related to each other.

As per, the International Labour Organization, "The vital character of the multinational ventures lies in the fact that its management headquarters are located in one country (referred for expediency as the home state/nation), while the enterprise carries operation in a number of countries as (host state/nation). Apparently, what is intended is a corporation that control production services in more than one nation, such facilities having been acquired through the process of foreign direct investment. Firms that participate in international business, however large they may be, solely by exporting or by hunting technology are not multinational enterprises."

It can be easily noticed that, post the Second World War, the phenomenon of transnational corporations (herein referred as TNCs), have emerged and taken over the world economy completely. These corporations have revolutionized patterns in international business that has led to extraordinary trans-nationalization of economy of the whole world. Because of the process of globalization and economical evolution, TNCs have become extremely powerful. Although most of the businesses have gone transnational, the accountability of these TNCs remains a major global concern. As the TNCs operate in several nations at one time, they have been able to avoid regulations of both the host country and their own country, easily. Also, the TNCs often seek to operate in countries where the working standards are lower so as to maximise their profit, resulting in violations of basic human rights.

The largest transnational corporations, such as Wal-Mart stores, Exxon Mobil, British Petroleum, Volkswagen and Apple controls the means of production or services in a large number of countries across multiple continents. They play a crucial role in world trade and, as such, are major players in the process of globalization.

A feature that transnational corporation share with each other is their hierarchical organization, which often displays a common spatial dimension. Usually the headquarters and the research and development centers are concentrated in the core areas of the world's advance economies. Some transnational corporation highly centralized command and control functions, based on a single global headquarters, others have decentralized their decision-making to regional markets. Operating multiple headquarters, each in different continent

helps to simplify the organization of the company, and improve its response to regional competition and changing demands. Similarly, the largest transnational corporations may have R & D facilities in different continents to utilize the skills of staff in contrasting geographical areas, and ensure that their product are tailored to the need of regional markets. Transnational corporations serve a global market, and are a major force in the increasing interdependence of national economies through their role in international trade, investment and capital. By helping to build bridges between nations, they have become key players in the process of globalization, and vital ingredient in the success of emerging economies during recent decades. The actions of transnational corporations inescapably lead to social, economic and environmental consequences for their host countries, as well as in their own country of origin. It can be easy to exaggerate either the benefits or the problems created by the rise of transnational corporations.

There are two factors relating to TNCs in relation to their work in other countries: Corporate Social Responsibility (CSR) and corporate social accountability (CSA). Where CSR is related to the voluntary acts done by a company to implement labour, environment and human rights standards [3], the CSA is used in relation to the binding government regulations imposed on the conduct of a corporate in regards to human rights and other standards. Hence, it can be said that through CSA, companies are parties to binding legal contracts to fulfill certain standards.

For some TNCs, the primary attraction of foreign operations lies in the potential to exploit the existence of valuable natural resources that are not available everywhere. This is particularly applicable to oil and gas companies, but even to electronics companies which rely on a variety of rare earth elements. Spreading operations globally also reduces the risks from external factors, such as political upheaval or war, that can arise from a concentration of activities in one country or region. Equally, overseas locations allow companies to respond more quickly to the different tastes and changing demands of regional markets across the world. China's Attraction for TNCs: Cheap and plentiful labor force for semi-skilled work. Large scale, modern and well equipped manufacturing facilities, with the ability to upscale production very quickly to meet high demand. Hardworking mentality of the Chinese workforce, and limited restrictions on working hours. Encouragement from a supportive government, with fewer regulations, easier acquisition of cheap land and lower taxes.

Although TNCs have several advantages for the

host countries where they are established, they damage the host country as well. TNCs can cause economic problems, since they are responsible for creating direct competition with local and national companies in their host countries. The result is that these smaller, and less efficient firms, may lose business and ultimately shed jobs. Nestle is the most successful overseas chocolate manufacturer in Russia, operating 9 production plants today, but its strong performance over several decades has put some Russian chocolate makers out of business. Unilever's advertising was blamed for destroying the local soap industry in Kenya in the 1970s.

Genesis of Corporations with No Accountability

The East India Company is the best example to illustrate the genesis of corporations with no accountability factors. As Edmund Bruke observed at first hand, corporations are not self-correcting. There is nothing in their design to call a halt to further market expansion, or desist from political interventions that rig the market in their favour. In Bruke's age and ours, the need for external mechanisms to bring corporate malpractice is therefore essential. However, when the Company's extensive network of bribe came to light in the 1960's, and Parliament tried to impeach the President of Privy Council, the King simply dismissed Parliament. When Clive's crime of the "blackest dye" were presented to the Commons 70 years later, his misdeeds were offset against his contribution to imperial expansion, and he escaped without censure. Moreover, when Bruke used the impeachment process once more to make Hastings accountable for his actions in Bengal, the House of Lords found him not guilty [4].

For Bruke, the only way to confront this impunity was to recast the Company's charter so that it become accountable once more, speaking to parliament in defense of his India Bill in December 1783, Bruke made clear distinction between political and commercial rights.

The Magna Charta is a charter to restrain power and to destroy monopoly'; but the East India Charter is a charter to establish monopoly and to create power. Bruke believed that he had a strong case for making the company and its executive accountable for actions: 'they themselves are responsible- their body as a corporate body, themselves as individuals- and the whole body and train of their servants are responsible to the high justice of this Kingdom. The grant of a corporate charter carried with it intrinsic duties, according to Bruke, since this nation never did give a power without imposing a proportionable

degree of responsibility. Yet Bruke's passionate rhetoric was insufficient to make these principles of natural law overturn the vested interests and imperial pride that dominated 18th century Britain [5].

International Law and Corporations

International law by definition is the law governing states. In other words, nation-states were and continue to be the primary subjects of international law, and though it does not exclude other players per se, they are broadly categorized as non-state actors. The terminology in itself suggests the secondary nature accorded to such players in international relations. However, the broad nomenclature bestowed upon these entities, which includes within its folds every organized and unorganized body ranging from Transnational or Multinational Enterprises to International Non-governmental Organizations to issue-specific Protest Forums, creates a genuine problem of over-simplification [6].

International law governs the relations between the States and hence the rights and obligations have a bearing only on the 'persons' concerned therewith. The term 'international legal person' is employed for the entities that are "capable of possessing international rights and duties and are endowed with the capacity to take certain types of action on the international plane [7]" and it is they who are the bearers of rights and duties under international law.

The issue of whether TNCs could be treated as the subjects of international law has evoked a great deal of doctrinal controversy. The traditional positivist doctrine deems only States as the subject matter of international law. Over the years, there has been a trend to argue for inclusion of TNCs within the purview of international law to bring in some accountability to their actions. Jurists like Wolfgang Friedman and Lauterpacht have opined that the concept that only states can be subjects of international law was influenced by the western Christian world and with the changing nature of international relations in the post world war era, there was a need to recognize TNCs also, as subjects of international law [8].

Malcolm N. Shaw described transnational corporation or multinational enterprise as another possible candidate for international personality. Various definitions exist of this important phenomenon in international relation. They in essence constitute private business organizations comprising several legal entities linked together by parent corporations and are distinguished by size

and multinational spread. In the years following the *Barcelona Traction Case* [9], an increasing amount of practice has been evident on the international plane dealing with such corporation. What has been sought is a set of guidelines governing the major elements of the international conduct of these entities. However, progress has been slow and several crucial issues remain to be resolved, including the legal effect, if any, of such guidelines. The question of the international personality of transnational corporations remains an open one [10].

In international law, there is no general rule that companies are responsible for their internationally wrongful acts. For obvious reasons it cannot be assumed that companies have the same obligations as states or even as individuals, even if developments appear to go in that direction. In 1998 the Rome Conference that adopted the Statute of the International Criminal Court came close to providing the Court with jurisdiction to try not only natural persons but also legal persons for the offences listed in the Statute. In the end, however, the proposal failed to gather sufficient support [11].

The contracts and investments of transnational corporations are protected by a multitude of norms, treaties, and agreements that make up a new global corporate law, the so-called *lex mercatoria*. There are, however, no adequate counterweights or real mechanisms to control the social, labour, cultural, and environmental impacts of their operations. The rights of transnational corporations are shielded by a global legal framework based on trade and investment rules that are imperative, coercive, and executive in nature, while their obligations are remitted to a fragile international human rights law system and to national legal systems weakened by neoliberalism. In this context, 'corporate social responsibility' and voluntary codes of conduct that cannot be legally enforced have emerged as a form of soft law [12].

Thereafter, the United Nations Human Rights Council on 11th July 2011 went ahead with the 'Guiding Principles for Business and Human Rights' as a new set of guiding norms for international business planned to grant a international standard for avoiding the hazard of adverse impacts on human rights linked to business activity. This outcome was preceded by an earlier unsuccessful attempt by a Sub-Commission of the UN Commission on Human Rights to win approval for a set of binding corporate human rights norms, the so called "Norms on the Responsibilities of Transnational Corporations and Other Business Enterprises with Regard to Human Rights". These norms failed to

survive as it was subjecting TNCs to direct obligations under international law without the express consent of the States. The reasons behind failure of the norms can be generally divided into three groups. Firstly, the novel character and the large scope of new legal concepts within the framework of the Norms broke with traditional roles conferred under international law, thus enabling States and businesses organizations to claim that the Norms were contrary to the positivist foundations of international law. Secondly, the scope of the Norms went too far in blurring the distinction between public and private law legal frameworks, therefore giving room to the argument that the new concepts countermanded the fundamental role of the State as legislator. Finally, the legal vagueness of the Norms and the discussed contradictions within the Norms helped to object to their eventual endorsement and led to their eventual dismissal. Despite the failure of not having become binding law, the Norms did generate a tangible impact on stakeholders at the non-State level [13].

Perhaps, their main novelty, and possibly the main reason for the subsequent controversy over the Norms, was the fact that the obligations were to be imposed directly on TNCs rather than requesting or requiring States to implement legislation to regulate the actions of the TNCs within their jurisdiction. While most of the rules in the Norms represent already recognized obligations, within the existing frameworks of international law, in the vast majority of cases, they are imposed indirectly on TNCs, through the intermediary of the States [14].

The Norms were different from all other frameworks intended to deal with the business and human rights relationship; they were not just moderate adjustments of the inefficient system of state regulation of TNCs. They tried to use the international legal framework as a basis for private law making. This was an attempt to rejoin the public and private legal systems into a single framework of transnational law, similar to the frameworks that existed prior to the Peace of Westphalia. Such a significant alteration of the framework of international law would represent a crucial divergence from the exclusive, state-monopolised international legal system to an inclusive transnational system with various legal subjects. This change was well understood by the (mainly Western) states, an understanding reflected in their extreme criticism of the project [15].

The United States also refuted the claim that TNCs were responsible for widespread human rights abuses in countries where they operate, claiming that

such abuses were the result of 'action or inaction of States'. The United States further alleged that the international community should focus on promoting and enforcing the rule of law by governments and not on 'a drafting exercise geared toward creating "norms" out of whole cloth' [16]. The eminent scholar, Mr. Baxi further argues that the Norms reflect duties that apply to States and may not be automatically transposed to apply to TNCs. In that respect he believes that while the Norms may be a good vision of *de lege ferenda*, or the aspired law, they do not reflect *lex lata*, or positive existing law [17].

As early as 1970s, the thought of crafting a universal code of conduct for TNCs had come into sight. However, as this venture have the benefit of limited success and was never concluded it was superseded by voluntary initiatives aimed at nurturing corporate social responsibility through non-binding standards, moreover "Norms on the Responsibilities of Transnational Corporations and Other Business Enterprises with Regard to Human Rights" were also adopted by the UN Sub-Commission on the Promotion and Protection of Human Rights in 2003. The UN Commission on Human Rights considered the Norms in 2004, but did not approve them and said they had "no legal standing" [18].

The complexity of the TNC regulation issue has its root in the nature of such corporations in the globalized world. Earlier, whereas companies with offshore operations had their parent body incorporated in a country with which they could be identified, the nature of business having changed in the modern era with porous national borders, such identification has become much more difficult [19].

TNCs' rights are protected under bilateral treaties, that they make to attract foreign direct investment and also there are certain WTO/GATT agreements. The WTO/GATT system is mainly focused on creation of such a global economic system which would decrease the trade barriers imposed by individual national governments [20]. Since TNCs act as the main participants in international trade, either as importers or exporters, they are the ones that benefit from such a system. Moreover, certain agreements under the WTO protect corporate rights directly. For instance, the Agreement on Trade Related Aspects of Investment Measures (TRIMs) prohibits investment measures that would distort or restrict trade [21]; and the Agreement on Trade Related Aspects of Intellectual Property Rights (TRIPs) provides protection to trademarks, patents, etc., which are owned by TNCs [22]. Also certain preferential agreements like North American Free

Trade Agreement (NAFTA) [23] or the European Community [24] treaty also help the TNCs to benefit as they create free trade areas [25].

Moreover, recent political and economical changes in Latin America, Eastern Europe and Southeast Asia, together with the large scale privatization, provides TNCs with an opportunity for expanding their field of influence and increasing the market access of their trade and hence, their power worldwide is increased.

As we have already discussed, that there are international instruments that protect the rights of TNCs, they have become powerful and sometimes they neglect the human rights altogether. Because of the process of globalization and increase in economical evolution in the recent times, TNCs have become very impactful. As per the UNCTAD's World Investment Report of 2004 there are currently more than 61,000 TNCs spread worldwide with more than 900,000 affiliates [26]. TNCs account for not less than 70% of total international trade and it can be said that there annual earnings are higher than GDPs of most countries [27].

Propensity of Transnational Corporations

Generally, TNCs tendency is to establish subsidiaries that so manufacturing in countries where the labour and environmental standards are lower. Due to this they are at advantage as the standards at their home countries are higher. As they are highly mobile, TNCs are able to easily move their capital and affiliates out of the host countries where they are imposed with stricter and less convenient legal regulations on their business conduct [28]. This type of loss of foreign investment can have serious damages for a developing country [29]. Subsequently, the governments of these developing countries may prefer lowering the regulations imposed on corporate conduct instead of increasing them, so as not to lose the corporate businesses' investments. This can result easily in violation of rights and regulations by TNCs. The violations done by TNCs is mainly on four grounds, (i) Violation of labour standards, (ii) violation of environment standards, (iii) violation of rights of consumers, (iv) bribing of government officials.

As the rate of payment in developing countries is lower for the labour provided and also TNCs are not legally bound to pay overtime, as well. As we can see through an example that Nike pays its employee \$1.60 a day in Vietnam for making a pair of shoe that is sold for \$180 a pair [30]. There is much exploitation of labour by TNCs in these developing countries as there is no legally binding document for them to meet

the payment standards. They also buy material that is cheaper from suppliers those do not comply with labour standards. TNCs also indulge in abuse of child labour [31], forced labour, insufficient safety regulations [32], poor and unhealthy working conditions [33], underpayment of wages and discrimination [34].

Some companies such as Nike and Gap have accepted these violations and are working on improving the working conditions so as to correct their public image [35].

Repeatedly, oil companies abuse the environmental standards as there is minimum or no framework regarding environment in developing countries. Some examples are Engen in South Africa, which has been polluting the air for years now that has resulted in producing asthma in children [36], and British Petroleum, which is one of the major polluters of the globe [37] and has also been criticized for doing so.

The products sold by TNCs are sometimes below standards and they also provide false information regarding their products. These kinds of violations done by TNCs directly affect the consumers. Genetically modified organisms (GMOs) is the most relevant example relating to this. The main beneficiaries of this technology are U.S.- based companies (e.g., Monsanto and Syngenta), as they are trying to convince the people are around the world that GMOs are the best option to solve the hunger problem, even when there is unsurely about their effect on human health [38].

TNCs violate consumers' rights as they do not give full disclosure about what they are serving to the consumers. It can be noticed that even though TNCs are conducting professional studies to study the harm of certain products they wouldn't disclose such to the consumers [39].

TNCs are mostly found guilty of facilitating corruption and provoking instability in the countries where they operate [40]. This phenomenon is most common in Africa where the US oil companies bribed the Nigerian government to drain all the oil from the country's natural reserves. Another scenario is where Chinese companies provided arms and ammunitions to military rulers of Sudan and Chad to built pipelines and French companies have encouraged the Congolese government to indulge in huge debts as part of an "African Strategy," which has now turned into large debts for the local oil producers.

It is clear that it is insufficient that with minimum local legal requirements corporate compliance can be fulfilled [41]. The power with which TNCs operate

is enormous but is not accompanied by the effective legal control [43]. The disproportion is quite clear between the in numerous rights that are held by TNCs, and the small number of obligations imposed on them [43]. Hence, the need for creating certain binding standards along with an effective enforcement mechanism is very urgent. This mechanism would help in ensuring corporate compliance with least human rights and also, other standards that protect the host countries with inefficient or non-existing legal regulations of the host country of corporate conduct from corporate abuse. Importantly enough, these standards should be created on an international level in order to deter the capacity of transnational corporations to avoid national regulations [44]. Nonetheless, while there have been many attempts to balance rights and obligations of transnational corporate, it still remains a very intricate issue as international rules that concern liabilities of TNCs have been built-in only in codes of conduct or guidelines which bear a form of regulations of voluntary nature, also known as "soft law [45]." Although the issuance of such codes or guidelines is a good step forward, these instruments are lacking effective enforcement mechanisms through which corporate compliance could be realized.

Conclusion

It is time for TNCs to take the rhetoric of globalization and global citizenship seriously in a legal, and not just an economic sense. The distinction is a vital one. While economists have long recognized the modern multi-national corporation as a global economic actor, and political scientists and sociologists have likewise recognized the part that TNCs play in international politics and society, international lawyers have lagged far behind. For the idea of global citizenship to be taken to its logical conclusion, TNCs must be subject to the principles enshrined in international law. One major implication of this would be that in addition to those international instruments they voluntarily sign up to, TNCs should be subject to the same fundamental principles of customary international law recognized universally as binding peremptory norms (*jus cogens* in international law) that states and international organisations are subject to [46].

The hunt for mandatory international human rights norms for transnational corporations has long been one of the most challenging struggles in the existing scenario since the international community

has failed to conquer the human rights abuses by such powerful players. Human rights victims are increasingly seeking recompense against TNCs in the courts of those TNCs' home states. This increased litigation activity has not yet yielded any merits decisions. Hence, certain important issues, such as the extent to which courts will be prepared to pierce the corporate or contractual veil, or to accept arguments regarding direct parent corporation liability, are unresolved. The lack of merits decisions is because cases have been delayed or halted by preliminary litigation concerning various jurisdictional and procedural issues. If a plaintiff succeeds on these preliminary points, cases have tended to settle [47].

Therefore, on the face of it, multinational and transnational corporation might appear to be a large business entity which operates in more than just one nation via its subsidiaries and also controls income-generating assets of not only its home country but also of the country of its operation, i.e. the host country [48]. The phenomenon that is, globalization and the growth trend due to liberalization have made it very easy for these said TNCs to penetrate state borders and establish themselves in more than just one or two countries.

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 31. The India Committee of the Netherlands, in cooperation with its partners in Europe and India, and the International Labor Rights Fund, released a new report saying that "an estimated 12,375 children continue to work under terrible conditions on cottonseed farms" in southern India. The report mentions Bayer, Monsanto, Avanta and Emergent Genetics as some of the TNC's benefiting from these farms, where children work 12 to 14 hours a day and earn around 50 cents a day. Suhasini, *Multinational Corporations Reap Profits from Child Labor in India's Cottonseed Farms*, *One World South Asia*, October 6, 2004, available at <<http://southasia.oneworld.net/article/view/95471/1/>> (last visited July 5, 2005).
 32. Coca-Cola was accused of lack of security for its workers, after a number of labor organizers were murdered at bottling plants in Colombia. The TNC admitted that its bottling plants needed increased security. See Maxine Frith, *The Ethical Revolution Sweeping through the World's Sweatshops*, *The Independent* (London), April 16, 2005, at News-20. A lack of safety standards was also experienced in the Bhopal disaster (1984), where a Union Carbide subsidiary was held responsible for a gas leak in one of its factories, causing an explosion that killed thousands of people and is still the cause of many chronic illnesses. See Justin Huggler, *Bhopal 20 Years On: Polluted Water, Chronic Illness and Little Compensation*, *The Independent* (London), November 29, 2004, at Foreign News-24.
 33. A good example can be found in the banana industry. Shell Chemical Co. and Dow Chemical have been selling dibromochloropropane (DBCP) as a pesticide to banana producers such as Dole Food Co., Chiquita Brands International Inc. and Fresh del Monte Produce Co. DBCP was banned in the U.S. in 1979 due to its sterility effects on males when inhaled or absorbed by the skin, but these TNC's are still using it in Central American banana plantations, causing serious health damages among the banana workers. See Stephen Leahy, *Workers Left Sterile by Pesticide Seek Justice*, *Tierramerica*, November 12, 2004, available at (last visited July 5, 2005).
 34. See, e.g., Joseph, supra note 39, at 76; Centre Europe-Tiers Monde, *Will the UN compel transnational*

- corporations to comply with international human rights standards? 3 (2002), available at (last visited July 5, 2005).
35. "Nike" disclosed that a quarter of its factories were not meeting minimum standards, and pledged to ensure that its codes of conduct on pay, hours and conditions are complied with from now on. "Gap" also published a report revealing terrible working conditions (child labor, working weeks of over 80 hours, etc.) in its factories in Mexico, China, Russia, and India, and therefore, it decided to cancel contracts with 136 factories.
 36. A medical study carried out in 2002 by Durban's Nelson Mandela School of Medicine and a U.S. university, found that an abnormally high 52% of students and teachers at a primary school bordering the Engen plant suffered from asthma. It found that increases in air pollution tended to aggravate asthma symptoms in children. Grant Clark, Durban's Poor Fight For Clean Air, BBC Worldwide Monitoring International Reports, December 14, 2004.
 37. British Petroleum is the world's third largest oil and gas company. It is in charge of the 1,100-mile long oil pipeline running from Azerbaijan down to the Turkish seaport of Ceyhan. The project has taken local people's lands illegally, it has damaged local roads, drainage and irrigation systems, and it has polluted the water. See Hannah Ellis, The Baku-Ceyhan Pipeline: BP's Time Bomb, Corpwatch, June 2, 2005, available at (last visited July 5, 2005).
 38. "The critical forces behind the development of the technology itself are just five companies - Dow, DuPont, Syngenta, Aventis and Monsanto - which control three out of every four patents issued over the past ten years for genetically modified crops." Mark Schapiro, Sowing Disaster?, The Nation, Oct. 10, 2002. "Despite claims from the biotech industry, GM foods cannot end world hunger, and new studies add to the evidence that they may pose a serious threat to human health." Kirsten Schwind and Hoollace Poole-Kavana, We Need GM Food Like a Hole in Our Kidneys, Common Dreams, June 21, 2005, available at (last visited July 5, 2005).
 39. "A recent study conducted by Monsanto itself indicated abnormalities in the kidneys and blood of rats fed MON863, a strain of Bt corn that many Americans eat every day without their knowledge. Monsanto has resisted calls from the European Food Safety Agency to release the full study to the public [...]." See Schwind and Poole-Kavana, supra note 50.
 40. David Leigh and David Pallister, Revealed: The New Scramble for Africa, The Guardian (London), June 1, 2005, at Home Pages-1.
 41. See, e.g., Paul & Garred, supra note 22.
 42. see Kamminga & Zia-Zarifi, supra note 3, at 5-6.
 43. See Transnational Corporations: Impediments or Catalysts of Social Development?, supra note 18; Kamminga & Zia-Zarifi, supra note 3, at 5-6.
 44. See, e.g., Paul & Garred, supra note 22.
 45. Id.; see also Kamminga & Zia-Zarifi, supra note 3, at 9-10; MNCs in Least Developed Countries, supra note 33.
 46. Alice de Jonge, 'Transnational Corporations and International Law' (Massachusetts: Edward Elgar Publishing Limited, 2011) 146.
 47. Muchlinski, 'Holding Multinationals to Account: Recent Developments in English Litigation and the Company Law Review' 23(6) *The Company Lawyer* 168 (2002) commenting on the English cases. Uprendra Baxi has wryly suggested that TNCs opt for settlements to avert any 'precedent creating effects'. See U Baxi, 'Geographies of Injustice: Human Rights at the Altar of Convenience' in C Scott (ed), *Torture as Tort* (Oxford, Hart Publishing, 2001) 197, 209, n 46.
 48. Sunklan Porwal, *Efficacy of Present Legal Framework In Combating Transgression By Transnational Corporation*, available at: <http://www.legalservicesindia.com/article/article/efficacy-of-present-legal-framework-in-combating-transgression-by-transnational-corporation-1854-1.html> (Last visited on December 08, 2015).
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