

TNC codes and national sovereignty: deciding when TNCs should engage in political activity

John M. Kline*

Codes of conduct for transnational corporations (TNCs) largely ignore the dilemmas presented by increasing pressures on TNCs to engage in political activities that support human rights objectives in foreign countries. Civil society groups often turn to TNCs for action when governments fail to respond effectively to serious, systematic violations of human rights. However, such TNC actions will often contravene traditional standards calling for TNC non-interference in a nation's internal affairs. This article offers a conceptual "connection continuum" as a taxonomic device to help identify and evaluate key factors that determine the nature and degree of a TNC's responsibility to undertake such political involvement. Ranging from TNCs as proximate causal agents to distantly unaware yet potentially capable actors, the continuum concept provides a way to develop and apply TNC conduct standards that weighs possible corporate complicity in human rights violations with the desire to restrict TNC interference in a nation's domestic political affairs.

Key words: codes of conduct; human rights; national sovereignty; TNC political activities; complicity; "sweatshops"; environment; non-governmental organizations (NGOs); supply chain responsibility.

* Professor of International Business Diplomacy, Walsh School of Foreign Service, Georgetown University, Washington, D.C. The comments of anonymous referees are gratefully acknowledged.

Introduction

A barrier is falling but few people notice. Rather than the proverbial tree that fell in a quiet forest with no one around, this barrier's collapse is being missed by a surrounding world whose sensory perceptions are overloaded by globalization's noisy change. The collapsing barrier is the long-standing admonition by governments against TNC involvement in domestic political affairs. Pressured by civil society activism and social responsibility campaigns, TNCs increasingly engage in political activities related to international human rights, labour rights, and environmental protection standards. The danger lies less in immediate TNC involvement to promote specific goals than in the failure of governments to recognize and set guidelines for such private political actions. The longer governments maintain the illusion that national sovereignty effectively precludes TNC political activities, the greater the likelihood that TNC activities will supplant proper governmental functions. Coherent core principles should inform both public and private sector codes of conduct to guide appropriate TNC political activity.

The growth in TNC political involvements derives from generally laudable objectives. Nation-state governments often prove unable or unwilling to act effectively to address systematic violations of human rights, labour rights and environmental protection standards in countries with unrepresentative or ineffective governments. Expanded cooperation among civil society groups internationally, coupled with the more effective use of media and market pressures, draw proximate and/or capable TNCs into activities that can influence political change in these countries. This type of TNC involvement differs in orientation, magnitude and impact from traditional corporate actions to promote national policies that benefit local operations. Newer TNC political activities are connected to strategies that require cultivating the corporation's reputation and image in an interconnected global marketplace rather than nurturing disassociated corporate citizenships in separate host countries.

The path to progress does not lie in rebuilding the national sovereignty barrier against outside influences. Unrepresentative national governments abusive of their own citizen's rights should be subject to international sanction, including actions by private sector entities responsive to global community values. This approach will provoke conflicts between international codes and some host government policies, but such clashes are inevitable in an emerging global community where international norms begin to take precedence over assertions of inviolate national sovereignty. The important concern should be how codes will develop to guide TNC actions. New international principles are required to inform guidelines or processes that shape the appropriate role for TNC involvement in political activities.

This article explores how normative concepts and principles might be used to evaluate when and why TNCs should become involved in a host country's internal affairs, focusing particularly on issues related to human rights. A proposed "connection continuum" offers a taxonomic instrument to help organize factors linking TNCs to human rights abuses, suggesting how to assess the relative responsibility among various TNCs to take actions with clear political impacts. The continuum's potential use is illustrated through the discussion of contemporary issues that have generated pressure for increased TNC political involvements. The article aims to promote renewed discussion on the topic of TNC political action, offering an initial proposal on how TNC codes and procedures might address such activities.

The context and the challenge

Political involvements by TNCs in the 1960s-1970s, headlined by ITT's support for the military coup overthrowing President Salvador Allende in Chile, stirred debate about limiting the expanding influence of these new private actors on the international stage. In the academic community, the debate helped spark emerging studies of international business-government relations that crossed traditional disciplinary lines, integrating elements drawn from international politics,

economics and business (Boddewyn, 2004). These analyses focused largely on the interactions of TNCs with host and home countries, examining how TNCs might alter traditional international affairs theory dominated by nation-state relations. Internationally coordinated and boundary-spanning TNCs appeared able to exploit “gaps” between territorially-bounded national laws and the minimalist coverage provided by international agreements. Within countries, foreign affiliates linked to foreign control and resources appeared to challenge and perhaps threaten national government sovereignty, at least for many smaller developing countries.

Governments responded by reasserting the inviolability of national sovereignty, with political authorities in both host and home countries endorsing the principle of TNC non-interference in domestic political affairs. Occasionally, strong home countries attempted to extend their political influence extraterritorially through TNC channels, such as United States assertions of extraterritorial export controls over foreign affiliates, but such cases did not envision TNCs acting on their own, absent home government direction. By contrast, unanticipated pressures emerged from non-governmental organizations (NGOs) that sought increased TNC involvement in domestic political affairs, exemplified by calls for TNCs to oppose and help dismantle the apartheid regime in South Africa. This development set up a dynamic tension between governments and NGOs, with TNCs often caught in the middle (Gladwin and Walter, 1980, pp. 130-257).

Voluntary codes of conduct emerged principally as “soft law” alternatives to the continued inability of governments to achieve sufficient consensus for binding international law standards. As detailed in a prior article (Kline, 2003), most intergovernmental codes embraced the political non-interference principle embodied within broader enumerated guidelines for “good corporate citizenship”. Individual company and industry codes of conduct also generally endorsed non-interference standards, proclaiming corporate “neutrality” on political issues.

By contrast, a growing number of NGOs, coalescing into a broad civil society movement, developed more nuanced positions. Few NGOs would endorse abandoning the general principle of TNC non-interference, but an examination of NGO positions nevertheless finds strong advocacy for selective TNC actions that would clearly constitute involvement in a host country's internal affairs. Under this bifurcated approach, NGOs encourage TNCs to cross the "bright line" standard proscribing political activities when such actions advance important favoured objectives, particularly the promotion of human rights (*ibid*).

Many codes of conduct, including some adopted by individual TNCs, call for companies to "respect" and sometimes to "support" or even "promote" human rights, generally making reference to the United Nations Universal Declaration of Human Rights. This formulation offers little practical guidance while providing fertile ground for case-by-case disagreements over whether the standard has been met. Actions urged on TNCs as part of a commitment to human rights have included defiance of local law, intervention in judicial and legislative processes, breach of contract, and coercive denial of sales and service. Related goals involved the overthrow of national governments, promotion of political movements, damage to a country's economy, and the alteration of domestic policy and regulations (*ibid*). Such goals and actions address core political issues that lie too far outside a TNC's basic societal role to represent desirable corporate conduct unless undertaken within more explicit, politically-sanctioned international guidelines.

Ideally, public institutions should lead rather than lag issues raised by the global community's expanding economic and social integration. The preferred, first choice option remains for governments to meet their own role responsibilities by addressing important global problems, devising international law and accompanying political arrangements to enforce agreed norms. However, the practical application of international legal documents, such as the United Nations Universal Declaration of Human Rights, exceeds the international community's current

ability to interpret and enforce global standards through a sanctioned political authority.

If responsible national and international public sector actors fail to address serious, systematic violations of basic human rights, a response by non-governmental actors, including TNCs, may be ethically justified and perhaps morally required as a second- or third-best option. However, the challenge lies in developing agreed principles in advance that can guide such business conduct within reasonable boundaries. Without soundly reasoned principles, urgent pressures from specific cases will bring *ad hoc* responses where neither the justification nor potential impacts of TNC political involvements are clear or assured.

Delimiting the core issues

Before exploring potential code of conduct guidelines for TNC political involvement, two assertions will help simplify and focus the examination. The first assertion posits that legally chartered foreign affiliates normally should possess both responsibilities and rights to participate in a nation's political processes, as governed primarily by that nation's laws. Ethical theory links rights and responsibilities; TNCs cannot be held responsible for political outcomes but denied rights associated with political participation. The second assertion favours the establishment of general guidelines while allowing the possibility for unusual exceptions if a clear burden-of-proof standard is met. This position focuses on proactively guiding TNC conduct rather than waiting for individual case judgments. These assertions help avoid digression into either debate that denies any TNC rights to political involvement or raises anecdotal objections to general guidelines.

The primary issue examined in this article relates to possible TNC political involvements in cases where host country governments engage in serious and systematic violations of human rights. The analysis considers various normative principles and concepts that could help determine the nature of

a TNC's responsibility in such cases as well as guide appropriate responsive actions. After exploring possible code guidelines for these cases, the article then briefly assesses how such guidelines might apply on three other types of issues where NGOs seek increased TNC actions to address: (1) unjust allocations of revenue from national resources due to governmental corruption or discrimination against minority groups; (2) "sweatshop" labour conditions where national law standards are low and/or unenforced; and (3) environmental degradation where national law standards are low and/or unenforced. These four types of cases do not cover all politically-relevant issues, but they do address a range of important high-profile examples from which basic code guidelines might be derived.

In cases in which host country governments systematically violate their citizens' human rights, a beginning proposition holds that the principal responsibility for action should fall on other governments, acting individually or (preferably) collectively through international organizations. This locus of responsibility designates peer public sector actors with comparable powers and roles to address an issue of governmental misconduct that will inherently challenge the principle of national political sovereignty. Serious violations of world community norms could cost a national government the political legitimacy from which sovereignty claims are derived and/or justify interventions that override national sovereignty, but such determinations are best made by public sector authorities.

International legal documents also place some duties regarding human rights on non-governmental actors, including TNCs. The United Nations Universal Declaration of Human Rights proclaims generally that "every individual and every organ of society" should respect and help promote human rights (United Nations, 1948). The Guidelines for Multinational Enterprises, adopted in 1976 by the Organisation for Economic Co-operation and Development (OECD), was amended in 2000 to add a provision calling on TNCs to respect human rights (OECD, 2002). More recently, the "Draft norms on the

responsibilities of transnational corporations and other business enterprises with regard to human rights”, being developed and debated in the United Nations Economic and Social Council’s Commission on Human Rights, seeks to elaborate TNC responsibilities with much greater specificity (ECOSOC, 2003). However, such international instruments lack effective legal enforcement; even advocates of greater TNC responsibilities in this area generally acknowledge that States bear the primary responsibility for human rights (van der Putten, Crijns and Hummels, 2003, pp. 82-91; Sullivan, 2003, pp. 286-287).

Nevertheless, when national governments and intergovernmental institutions fail to act effectively, and serious, systematic human rights violations continue, other organizations and individuals, including TNCs, hold some degree of responsibility to act. One step, of course, could involve increased advocacy for more effective government actions, but failing a satisfactory and timely response, other alternatives may also be considered. The global reach and substantial resources controlled by TNCs offer the potential for influence within other countries. TNC actions can arise from a self-recognized sense of voluntary corporate responsibility. More often, civil society groups, stymied in the public arena, turn towards TNCs in search of more responsive, effective leverage. TNC political involvements generally arise in such cases when NGOs organize campaigns to target particular companies for media and marketplace pressures (Kline, 2005).

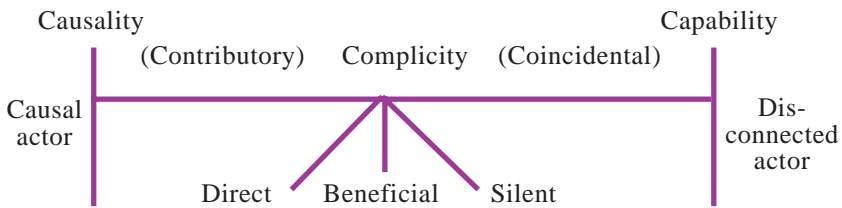
In such circumstances, and where governmental directives are absent, should TNCs respond by engaging in activities that will inherently constitute involvement in the domestic political affairs of host countries? If so, what principles or responsibility standards could guide proper TNC conduct?

Devising a connection continuum

A conceptual connection continuum provides one way to consider possible justifications for TNC political involvements. As illustrated in figure 1, the continuum establishes an array of

rationales for TNC action based on the nature of a corporation's connection to the human rights violation. The continuum could apply to any form of long-term foreign direct investment (FDI), covering equity as well as low or non-equity forms ranging from fully-owned subsidiaries through joint ventures, strategic alliances or even significant subcontracting or licensing arrangements (UNCTAD, 2003). The two essential tests for the continuum's relevance to any particular case are that (1) a TNC's identity can be associated with a corporate entity or business function linked to a human rights abuse; and (2) the TNC possesses some degree of control over the business entity or function, creating a capacity to influence actors or outcomes related to the abuse. Identifiable FDI linkages and some capability to act therefore constitute prerequisite conditions before the connection continuum can be used to assess the nature and degree of a TNC's responsibilities related to potential political involvements.

Figure 1. Connection continuum



Source: author.

At the extreme left of the continuum, a TNC is causally linked to human rights violations, perhaps provoking or urging host government actions. Possible examples might involve TNCs collabourating with a politically repressive government to plan and execute projects involving forced relocations, seizure of property and violent suppression of dissent. In such cases, the TNC's actions already constitute political involvement and create a direct causal connection to the harm.

These types of causal activities epitomize a type of TNC political involvement that simply should never be undertaken.

Corporations bear a *prima facie* responsibility to assess and avoid such involvements prior to initiating business relationships. If recognized after the fact, responsible TNC conduct would demand cessation of the activity coupled with maximal efforts towards restitution for the victims.

The notion of complicity rests at the centre of the continuum. Drawing on a distinction suggested by the United Nations Global Compact, complicity might be further differentiated between direct, beneficial and silent complicity (United Nations, 2003). Direct complicity suggests TNC actions towards the left on the continuum that support or contribute to government human rights violations. For example, TNC activities that could be termed contributory might range from close collaboration by supplying armaments, training or support sites for repressive military actions, to providing more general products or financial support that contributes significantly to the government's ability to maintain power and carry out repressive actions. While perhaps not intentionally causal in nature, these contributory activities still involve TNCs in the human rights violations. Once aware of direct complicity, TNCs should sever or at least minimize the contributory linkage in line with the directness and significance of their involvement.

Beneficial complicity suggests less TNC involvement, intentional or unintentional, in a host government's human rights violations, but asserts that the TNC will benefit from the results of the government's actions. For example, political repression may enforce a degree of stability that enhances immediate commercial prospects for at least a short-term investor. The TNC is not responsible for the government's violations but its indirect beneficial connection could create a rationale for responsive corporate behaviour. TNC steps might include passively refusing the potential benefit or more actively redirecting beneficial resources to the victims and/or using the resources to oppose government violations.

Silent complicity ranges to the right of the continuum's centre point as a TNC's relationship to human rights violations becomes more distant, ambiguous and primarily coincidental.

This concept's basic notion implies the TNC is at least aware and perhaps knowledgeable about the violations but has no substantial linkage to the action or the results. For example, a TNC may simply be aware of a host country's government violations connected to a project completely unrelated to the TNC's own sphere of operations. At greatest distance, the TNC may not even conduct business in the country. TNC action in line with such a coincidental connection might still indicate some responsibility to inform relevant appropriate actors regarding the violations and perhaps to encourage a response.

Capability anchors the right side of the continuum. At this extreme, disconnected TNCs may have no substantive ties to the human rights violations, perhaps lacking knowledge or even awareness regarding the actions. For example, TNCs may be uninformed regarding such matters in countries where they maintain no equity investments or significant trading interests. However, these TNCs could still possess resources giving them potential influence to help protect or assist the victims, directly or indirectly. If unintentionally unaware, such TNCs have no responsibility to act. However, if informed about both the situation and their potential capability to act, these TNCs may incur some degree of responsibility, albeit at the far end of the continuum arranged by the nature of causal or complicit connections to the human rights violations.

Developing TNC code guidelines

The concept of a connection continuum, anchored at the two extremes by causality and capability, calls attention to crucial determinative elements for evaluating TNC involvement in a host country's domestic political affairs. For example, the continuum can help distinguish between cases involving TNC acts of commission and omission. When TNCs are linked to host country government violations of human rights on the left side of the continuum through causal or significant contributory connections, the involvements constitute acts of commission and TNCs face a *prima facie* duty to undertake corrective and restorative actions. TNC connections that fall on the right side

of the continuum describe potential rather than actual involvement, where decisions and judgments must weigh trade-offs between proactively initiating political involvement and opting for an act of omission. Generally TNCs face a clearer and stronger moral imperative when connected to a problem by an act of commission versus omission, although responsibility may still attach to the latter in cases marked by both critical need and the failure of other parties to respond effectively.

Considerations of proximity, tied to the principle of subsidiarity, can also be used to evaluate relative degrees of TNC responsibility along the continuum (UNCTAD, 1994, pp. 314-315). The actors most proximate to a problem normally bear the greatest responsibility to respond, which corresponds to the TNCs linked to host government human rights violations through causal and contributory connections on the left side of the continuum. The subsidiarity principle, which favours action at the lowest level closest to a problem, presumes that the most proximate actors are best positioned to understand the situation and select the most effective response. However, if the proximate actors lack either the capability or willingness to respond, then responsibility passes to the next most proximate, capable and willing actor. Hence, responsibility for action may travel along the continuum towards the right side, encountering progressively more distant but capable TNCs that then confront decisions about whether to become involved in the country's political affairs in order to respond to human rights violations to which the company has neither a causal nor contributory connection.

The task of developing TNC code guidelines might begin on the extreme left with strong negative injunctions against TNC activities that establish direct causal connections to a government's human right violations. This level of involvement implies acts of intentional commission that should attract broad international reprobation, not due to national sovereignty concerns but because such actions breach minimum "do no harm" standards. As factual circumstances move to the right away from direct causality through progressively less significant contributory connections, the strict negative injunction against

TNC involvements might be relaxed in favour of assessments of cost/benefit ratios.

Weighing the cost/benefit ratios of TNC impacts suggests a type of modified “Sullivan Principles” approach.¹ If TNC operations conform to good conduct standards that help prevent or off-set harm from human rights violations, some minimal level of firm contribution to a repressive host country regime might be acceptable, such as legally-required payment of taxes. However, a difficult question embedded in this approach requires deciding whether to measure TNC impacts at the micro or macro level. In essence, this issue led Rev. Leon Sullivan to disavow his own Principles in South Africa after concluding that ending racial discrimination in individual companies did not achieve sufficient progress in overthrowing the apartheid system in the country. Case circumstances may dictate whether TNC cost/benefit impacts on human rights violations should be measured only within the immediate micro sphere of corporate operations or judged more broadly as linked to political conditions in the host country.

Once across the continuum’s centre point, arguments for TNC involvement in a host country’s domestic political affairs become more problematic, even in cases of serious human rights violations. When TNC connections are coincidental or assertions of responsibility arise from estimates of some potential TNC capability to exert influence, the burden of proof rests heavily on the advocates of TNC action. Factors supporting the subsidiarity principle now work in reverse. Actions undertaken by TNCs with limited knowledge and understanding of local circumstances face diminished chances for success while increasing the potential for unanticipated, counterproductive side effects. In short, assigning responsibility to TNCs based on capability factors without proximate connections may reduce confidence in assessments of the likely impacts and outcomes of TNC actions.

¹ The Sullivan Principles enumerated business conduct standards for TNCs operating in South Africa during the apartheid era, essentially endorsing an approach where the benefits created for the black population were thought to outweigh harm caused by the continued TNC presence.

Use of the continuum draws attention to the various types of connections that could link TNCs to a host government's human rights violations. TNCs may avoid risky connections by identifying and evaluating in advance the potential implications of a project's ties to the government. For example, entering into joint venture arrangements with government enterprises establishes a clear and close partnership connection that constitutes collaborative if not direct causal ties to related government violations. Product use or project benefits that significantly support the government also connect TNCs to potential abuses of governmental power. The more that a product relates directly to abusive use, or that projects confer benefits difficult for host governments to otherwise obtain (such as scarce hard currency), the more closely the TNCs are connected to governmental misdeeds.

Recognition of these critical elements can help TNCs take steps to structure and implement code mechanisms to avoid or manage governmental connections that might render them directly complicit in human rights violations. One preventive step would be to adopt an explicit ethical human rights risk assessment for any new investment or other significant business operation in a country, particularly if a project involves close connections with the government and/or human rights violations have been reported in the country. TNCs conduct political risk assessments, incorporating them into normal business risk evaluations. Ethical human rights risk assessments merit at least an equal commitment of time, attention and resources to devise and employ measures that evaluate a project's relationship to potential human rights violations (Frankental and House, 2000, pp. 30-36; Sullivan and Seppala, pp. 102-112).

Risk assessments must be gauged against some standard, so TNCs also require a code of conduct that clearly establishes the company's position regarding the relationship between business projects and potential human rights violations. Rather than issuing endorsements of broad principles, TNCs should develop more practical self-identity codes that link standards to business operations in a manner that can serve both as a meaningful internal guide to conduct and a transparent external

expression of corporate values (Kline, 1985, pp. 100-101). Transparency should also govern relations between TNCs and host governments. In dealings with public authorities, TNCs should maximize public access to information so that external groups can ascertain if a TNC's conduct conforms to its own code standards as well as evaluate the host government's stewardship of its public interest obligations.

The Voluntary Principles on Security and Human Rights illustrate many elements of this approach (United States, Department of State, 2000; Freeman and Hernandez Uriz, 2003, pp. 241-259). The Principles set forth standards designed to guide natural resource TNCs in investment projects where operations may require special security arrangements. Informed by past events during which TNCs faced charges of collabouration or contributory involvement in human rights violations by security personnel, including government forces, these principles address TNC responsibilities in selecting and monitoring security personnel as well as reporting possible human rights violations. The Principles were drafted cooperatively and endorsed by the Governments of the United States and the United Kingdom, many large natural resource TNCs and several NGOs. In defining practical TNC responsibilities, the Principles outline limitations on both collabourative TNC involvements with host country government forces as well as TNC obligations for proactive responses in cases of possible violations. The Principles' precedent is limited by the narrow scope of issues addressed, sectors encompassed and governments involved, but at least this exercise demonstrated a willingness to tackle standards for TNC conduct that can involve matters closely linked to a country's internal political affairs.

Guidelines for other political involvements

The connection continuum may provide conceptual guidance for TNC codes of conduct on other types of involvements in domestic political affairs. This section briefly considers how the continuum might apply to three other issues

on which NGOs commonly call for TNC actions that would involve political activities. One such topic relates to a host country government's allocation of revenue derived from TNC activities. This issue generally arises in the context of large natural resource projects where an unrepresentative and/or corrupt central government misappropriates public funds and, in particular, returns little revenue to people (often indigenous minorities) located in regions from which the resources are extracted. The allocation of central government revenue indisputably constitutes a central political function of governmental authority, so TNC activity to alter the distribution certainly constitutes involvement in the country's domestic political affairs.

Cases linking TNCs to issues of government revenue allocation typically find these firms in close contractual relationships with the government, often including joint ventures with State enterprises. Negotiations over the allocation of project revenues between joint venture partners is expected business practice, but a TNC attempting to influence how a government chooses to spend its own share of project revenue steps far beyond business practice and into the arena of domestic politics. If a TNC somehow becomes causally linked to government misappropriations, such as engaging in bribery, corrective and restorative action is required. More generally, causal or contributory connections should simply be avoided through advance ethical risk assessments.

Transparency provides another mechanism that can help avoid or minimize contributory connections to governmental misappropriation of project revenue. Whether or not TNCs hold equity ownership or maintain effective control over project operations, a minimal condition for venture participation could require a transparent public accounting of revenue generation and distribution from the project. Although some traditionally confidential business information with potential competitive implications could be disclosed under such procedures, such a precautionary step would be valuable and competitive impacts could be minimized if widely adopted as a standard in TNC

codes of conduct. The “Extractive Industries Transparency Initiative” reflects this type of approach (Woolfson and Beck, 2003, pp. 123-124). TNCs might also participate in revenue allocation arrangements negotiated through joint government, business, NGO and international organization schemes such as the unusual agreement forged for an oil project in Chad (Useem, 2002, pp. 102-114; Wax, 2004, p. A16), but this venture is too new to assess its relative success or its possible replication elsewhere.

Sometimes NGO advocates urge TNCs to compensate directly disadvantaged populations, in effect providing revenue or socioeconomic benefits that should come from an effective and representative government. TNCs can certainly provide community support as a philanthropic activity; however, this type of discretionary action should be dealt with separately and not confused with operational code of conduct standards that carry normative obligations. In fact, pressuring TNCs to substitute for governments in providing needed community resources invests TNCs with public responsibilities that might legitimately require corollary rights (such as deciding fair distribution questions) that go beyond a business role and risks granting private enterprises inappropriate public powers.²

TNCs connected to revenue misallocation through beneficial complicity could refuse or redirect unwarranted gains, although active reallocation steps again bring TNCs close to making public policy decisions regarding the disposal of what should be public revenues. The farther TNCs fall to the right on the connection continuum, the less knowledgeable and capable the companies will be to evaluate and determine appropriate allocation decisions regarding public revenues. If a TNC at least maintains a legally incorporated presence in the host country, open advocacy within local political processes might be pursued as part of a general corporate citizenship role. Lacking such a substantive connection, other TNC political

² An illustration of TNCs confronting such public sector tasks can be found in descriptions of Shell’s role in Nigeria. See Farah, 2001, p. A22; White, 2004, p. 5).

involvement would probably reflect instances in which foreign governments or NGOs are simply using TNCs as a tool to influence a host country's policies.

Labour issues present another challenge for evaluating responsible TNC activities that could lead to involvement in a country's internal political affairs. Causal connections clearly exist when TNCs own a majority stake in factories with "sweatshop" conditions. A TNC's code of conduct should set and implement practical standards to improve labour conditions, operating above local legal and industry practices when necessary. Contributory connections also exist across a range of activities, from TNCs functioning as minority partners to contractual purchase agreements if an unrelated TNC knowingly sets terms that will likely necessitate labour abuses under competitive conditions. If purchase contracts provide local suppliers with sufficient profit margins that "sweatshop" conditions are not required, the TNC shifts to the right side of the connection continuum, probably beyond the point of beneficial complicity.

TNCs on the continuum's right side may still possess capability to influence labour conditions at supplier factories, leading NGOs to target large retail firms connected to foreign labour abuses only through subcontractors in a sometimes long international supply chain. Although capability fosters a temptation to use TNC influence, the distant relationship to the "sweatshop" site can also present a conundrum. Without proximity, retailers at the end of a subcontractor supply chain likely lack knowledge and understanding of local conditions, with equally limited aptitude for follow-up actions. External monitors and assessment agents could be hired to manage implementation activities, but such a step simply underscores that the targeted TNC's only real involvement arises from its capability to fund the actions of others.

If a remote retailer's capability provides the best hope to address foreign labour abuses, serious failures must be occurring among the many potential intervening public and private sector actors arrayed along the supply chain. The critical need barrier

should be high for case exceptions where the capability factor alone connects a TNC to foreign abuses, particularly if the firm bears no causal, contributory or perhaps even beneficial complicity link to the abuses. Not only would corporate action involve resource expenditures, but the firm's involvement would imply new social responsibility for resulting impacts that may lie beyond the TNC's capacity to reasonably predict or control.

For example, a retailer's decision to terminate supply contracts with a foreign "sweatshop" factory, or even to impose minimum employee age requirements higher than local standards, could cost current factory employees their jobs. The retailer's action now establishes a major contributory if not a causal connection to the workers' job loss, increasing the firm's responsibility to assess and perhaps help ameliorate resultant harm, despite little local knowledge, understanding or proximate capacity for action.

The issue of political involvement on labour issues can arise through both direct and indirect actions. TNC activities could promote labour rights that conflict with national standards, particularly on issues involving unions and collective bargaining procedures. Relatively clear International Labour Organisation (ILO) principles can help guide normative decisions in this area, but many governments have not adopted all ILO conventions and local law and practice may differ from international standards in substance and/or enforcement. TNC activities that support union activities different from national standards, such as the creation of unions independent from government unions or control, could easily involve companies in the dynamics of domestic politics because unions often constitute important political as well as economic actors. The potential role of unions in domestic political change is illustrated historically in the fight against apartheid in South Africa as well as in more contemporary cases ranging from Chile to China.

The growth in TNC supply-chain involvement on labour issues injects particular sensitivities into the political dynamic. In these cases, the TNC may lack local equity investments that establish a legal national citizenship tie to the host country. Yet

such non-citizen corporations are urged to require local citizens to act in ways that may be contrary to their national law, policies or practices. The point here is not whether such national standards should change but whether foreign TNCs, lacking even domestic legal incorporation, should serve as the capable mechanism to change local practice through private commercial requirements. Such intentional use of TNC influence arguably constitutes involvement in a host country's internal affairs regarding the effective implementation of the national government's laws and policies.

More broadly, TNC actions can also affect the achievement of priorities chosen by national governments where trade-offs may exist between relative improvements in labour conditions and other economic growth objectives. The more TNCs impose detailed labour requirements through supply chain contracts, the more those standards will influence the level and distribution of economic benefits resulting from a country's comparative advantage factors. TNC requirements that simply adhere to broadly accepted minimum international norms may still conflict with a national government's policy choices. Where agreed international norms are absent, or TNC requirements stand significantly above internationally-accepted minimums, TNC actions will play a more independent role in shaping a country's effective standards. This impact raises basic questions about who should determine policy-related trade-offs within each country, and whether certain types of supply chain influence may effectively involve TNCs in such domestic political choices.

Environmental issues pose similar risks of TNC involvement in domestic political affairs. TNC connections to disputed environmental practices can range from directly causal to implicitly capable of potential influence. The relationship to a country's internal affairs depends primarily on whether national law and practice differ substantially from non-national standards that TNCs might seek to require in local business operations. As with labour issues, TNC supply chain pressures can affect national policy choices and outcomes even where a TNC lacks local legal incorporation. In such cases, the TNC may be serving essentially as an instrument to advance the

normative preferences of another government or a foreign NGO. Without broad international agreement on applied environmental principles and practices, along with clear guidelines for TNC conduct where national priorities may differ, TNC actions to promote particular environmental standards may interject the firm into a nation's internal affairs.

Conclusions

A new dimension has opened in the evolving study of international business-government relations where TNC actions derive from motivations and objectives distinct from the pursuit of traditional corporate interests. In the twenty-first century, TNCs are called upon to withdraw from countries to undermine abusive governments or to work actively for political reforms within undemocratic host countries. If a country's labour laws are deemed insufficient or ineffective, global retailers employ supply-chain leverage to impose labour standards on factories in countries where the firms lack even a local legal presence. TNCs face pressures to use the highest environmental standards in all global locations, however a host government views trade-offs between current economic development and longer-term environmental protection.

These TNC actions exert influence on national political processes and outcomes and often constitute involvement in a nation's domestic political affairs. Home country governments seldom require such TNC activities, but those governments can support, acquiesce, regulate or prohibit such involvement. Generally, the determination of a governmental response occurs reactively case-by-case, directed by the prevailing winds of political expediency rather than any enunciated principle or established process that could serve prospectively to guide proper TNC conduct. This article suggests the possible use of a conceptual connection continuum to help evaluate TNC responsibilities where actions could bring involvement in a nation's internal affairs. Rather than promoting the continuum concept as a finished product, the intention is to draw renewed attention to these issues and stimulate discussion on developing more systematic code guidelines for determining the normative

rationale and appropriate response options for responsible TNC activities.

As presently formulated, the connection continuum offers a potential aid to the difficult challenge of formulating and applying TNC codes. The central concept posits ways to differentiate among TNCs by determining relative levels of responsibility along a sliding scale that considers key factors shaping a firm's relationship to human rights abuses or other serious problems. Perhaps in a future design, the construct might become multidimensional, better reflecting different types and degrees of TNC capability to influence outcomes in diverse countries, or even the potential for collective action among business actors. The composition of potential cost-benefit trade-offs from TNC political involvements might also be measured along the array, although these assessments would depend critically on which actors are making such evaluations. For now, the continuum presents a rather simple taxonomic tool to identify and organize important factors that can help evaluate potential TNC actions where social responsibility may lead to political involvement in a nation's internal affairs.

Political cooperation among the world's nation states has failed to keep pace with the burgeoning global web of economic and social interactions occurring among private sector entities. When governments decline to intervene in another nation's affairs, TNCs can be thrust into the breach between emerging international standards and national political sovereignty, using corporate economic capabilities to influence political change. This approach has been pragmatic rather than principled, succeeding primarily against relatively small and weak nation states located in the developing world. This disparity often advances the perspectives and priorities of advanced industrialized nations, home to the vast majority of TNCs, rather than reflecting broadly agreed values of an emerging global society.

Current international codes are being shaped principally by private sector entities based in developed countries that represent a privileged minority of the world's population.

Greater leadership must emerge from public authorities, acting through globally inclusive institutions, to provide more fully representative leadership and legitimacy to the international code process. Proper governmental leadership is especially crucial during the unfolding tentative transition from a world system dominated by isolated nation-state sovereignty towards a global community linked by shared values and normative principles of action.

Initiatives such as the United Nations Global Compact represent positive steps towards the identification and elaboration of core global standards and TNC “best practice” responses. Nevertheless, the issue of TNC involvement in domestic political affairs remains the ignored giant amidst the crowd of TNC code issues. Whether encountered directly on human rights violations or indirectly on policies dealing with revenue allocations, labour conditions or environmental standards, TNC involvement in political activities merits a reexamination of guidelines for TNC conduct relative to national sovereignty principles. ■

References

- Boddewyn, Jean (2004). “Early U.S. business-school literature (1960-1975) on international business-government relations”. Paper presented at a seminar on “Together, Government and Business Equal Success”, The American Graduate School of International Management, Glendale, Arizona, mimeo.
- Farah, Douglas (2001). “Nigeria’s oil exploitation leaves delta poisoned, poor”, *The Washington Post*, 18 March 2001, p. A22.
- Frankental, Peter and Frances House (2000). “Human rights: is it any of your business?” (London: Prince of Wales Business Leaders Forum and Amnesty International), mimeo.
- Freeman, Bennett and Genoveva Hernandez Uriz (2003). “The challenge of implementing the Voluntary Principles on Security and Human Rights”, in Rory Sullivan (ed.), *Business and Human Rights*, pp. 243-259.

-
- Gladwin, Thomas and Ingo Walter (1980). *Multinationals Under Fire* (New York: John Wiley & Sons).
- Kline, John (1985). *International Codes and Multinational Business* (Westport, C: Greenwood Press).
- _____ (2003). "Political activities by transnational corporations: bright lines versus grey boundaries", *Transnational Corporations*, vol. 12, pp. 1-25.
- _____ (2005). *Ethics for International Business: Decision Making in a Global Political Economy* (London: Routledge).
- Organisation for Economic Co-operation and Development (OECD) (2002). *OECD Guidelines for Multinational Enterprises: Revision 2000* (Paris: OECD).
- Sullivan, Rory (ed.) (2003). *Business and Human Rights* (Sheffield, UK: Greenleaf Publishing).
- _____ and Nina Seppala (2003). "From the inside looking out: a management perspective on human rights", in Rory Sullivan (ed.), *Business and Human Rights*, pp. 102-112.
- United Nations (1948). "Universal Declaration of Human Rights", available at: <http://www.un.org/Overview/rights.html>.
- _____ (2003). "Guide to the Global Compact: a practical understanding of the vision and nine principles", available at: http://www.unglobalcompact.org/irj/servlet/prt/portal/prtroot/com/sapportals.km.docs/documents/Public_Documents/gcguide.pdf.
- United Nations Conference on Trade and Development (UNCTAD) (1994). *World Investment Report 1994: Transnational Corporations, Employment and the Workplace* (Geneva and New York: United Nations), United Nations publication, Sales No. E.94.II.A.14.
- _____ (2003). *World Investment Report 2003. FDI Policies for Development: National and International Perspectives* (Geneva and New York: United Nations), United Nations publication, Sales No. E.03.II.D.8.
- United Nations Economic and Social Council (ECOSOC) (2003), Commission on Human Rights, "Economic, Social and Cultural Rights", section on "Draft norms on the responsibilities of transnational corporations and other business enterprises with regard to human rights", E/CN.4/Sub.2/2003/12, p. 4, mimeo.

-
- United States, Department of State (2000). "Voluntary Principles on Security and Human Rights", Statement released by the Governments of the United States and the United Kingdom, 20 December 2000, mimeo.
- Useem, Jerry (2002). "Exxon's African adventure", *Fortune*, 15 April 2002, pp. 102-114.
- van der Putin, Frans-Paul, Gemma Crijns and Harry Hummels (2003). "The ability of corporations to protect human rights in developing countries", in Rory Sullivan (ed.), *Business and Human Rights*, pp. 82-91.
- Wax, Emily (2004). "Oil wealth trickles into Chad, but little trickles down", *The Washington Post*, 13 March 2004, p. A16.
- White, David (2004). "Shell tries to repair troubled Delta relations", *The Financial Times*, 24 February 2004, p. 5.
- Woolfson, Charles and Matthias Beck (2003), "Corporate social responsibility failures in the oil industry", in Rory Sullivan (ed.), *Business and Human Rights*, pp. 114-124.

