

## Review

# Who's who: Transnational corporations and nation states interface over the theoretical shift into their relationship

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Accepted 27 April, 2010

**The complex relationships that occur between countries, market and private actors have been simplified in theoretical approaches such as realism, neo-liberalism and globalization. However, their relationship is not a zero-sum game but one of 'complex governance' where all actors have to be considered to understand the changes in the international system.**

**Key words:** Trans-national corporation, countries, realism, neo-liberalism, private regime, relationship, global governance.

## TEXT

The relationship pattern of Trans-national corporations (TNCs) and different countries of the world gradually shifts from the country centric views towards the non country actors. With the financial, technological and informational power, TNCs have reached a position from where they can also contribute to the international policy framing initiatives. Moreover, by this time, along with the theoretical shift and required strengths, TNCs are related with the creation of international norms to guide the international governance, most particularly, international commercial norm to shape international business transactions. However, the relationship between countries and TNCs is not a zero-sum game; the increasing power of TNCs does not mean the inevitable decline of the power of countries. Countries still remain the ones that have to enforce the norms or use the instruments proposed, if not respected by TNC. Hence, countries' power has not diminished but changed. In fact, owing to the multiple sources of power, there is now a deepened interaction between countries and TNCs. Countries have to negotiate with TNCs, creating a type of

'triangular diplomacy' (Barlett and Seleny, 1998).

In this backdrop, this short essay has been written on a variety of perspectives centering the argument that neither TNCs nor countries are dominating their new relationship, rather they are interlinked more tightly. Evaluating the emerging discourses that paved the ways through which the relationship has shifted, this essay concludes that irrespective of theoretical background or tradition, the role of TNCs and countries need to be crossed over in their present relationship. Independence of the overseas colonies of the major European countries tried to establish a pattern in the regulatory forms of TNCs. Two of the most important political and economic implications of this proposed pattern were: firstly, the political influence of the colonial powers over the independent countries diminished and secondly, most of the newly independent countries considered the foreign TNCs as the extended part of the colonial imperialism, though not through the colonial administrators (Muchlinski, 1999). Therefore, with the sovereign power and separate identity in the United Nations Organizations (UNO), these new countries formed 'Group of 77'- a new international pressure group and earned voting majority in the UNO. One of the important objectives of this group of countries was to come out from the influence of the colonial countries' owned TNCs. This new group of countries also got supports from the then communist block and thereby, the issues of their developmental

**Abbreviations:** NIEO, New international economic order; UNO, United Nations Organization; TNCs, transnational corporations; FDI, foreign direct investment; OECD, Organization For Economic Cooperation and Development.

goals got the top most priority in the UNO's social and economic agenda. Thus, the concept of the "New International Economic Order" (NIEO) (Res, 1974) emerged.

The bases of NIEO were 'equity, sovereign equality, interdependence, common interest and cooperation among all countries...to eliminate the widening gap between the developed and developing countries' (Preamble of the Declaration on the Establishment of a New International Economic Order, 1974). The purpose set forth in the preamble of NIEO is to 'promote the economic advancement and social progress of all peoples through ensuring steady, accelerating economic and social development and peace and justice for present and future generations' (Preamble of the Declaration on the Establishment of a New International Economic Order, 1974). Thus, this attempt of the developing countries showed the necessity of developing a long reaching economic cooperation and they based this cooperation on stable and equitable trade transactions. To establish this economic cooperation through trade transactions, developing countries incorporated the essence of the Charter of the United Nations, International Development Strategy for the Second United Nations Development Decade and the Charter of Economic Rights and Duties of Countries (This charter was adopted but never accepted by many developing countries) in NIEO.

The purpose of NIEO was to develop a suitable trade environment. But in the development process of that environment, TNCs were not included at all, rather, through NIEO, developing countries declared that they must be entitled to regulate and supervise the TNCs operating in their territories (Article 4(e) of the Declaration on the Establishment of a New International Economic Order, 1974). On the one hand, it was clear according to the objectives of the newly independent countries which promoted NIEO that the private transnational corporations were very much related and needed for the economic development; but on the other hand, these countries tried to exclude any role of TNCs in the development of any international economic policy framework.

Thus, the spirit of the newly independent and developing countries through NIEO and related declarations might resemble the underlying philosophical basis of 'realism'. Though there are divergent views about the core concepts of realism, however, power and system are the core analytical concepts among realists. According to this theory, "power" can be static or dynamic, whereas, "system" is characterized in terms of the distributions of powers or capabilities among countries, as a set of interactions among countries or an abstraction or as equilibrium. The used patterns of these concepts also vary – as mere taxonomies or as means of explaining or predicting outcomes of international relations. However, according to this theory the concept

of power and system creates the context of perceived international anarchy in which security dilemma, balance of power, and system stability of a country are highlighted (Viotti and Kauppi, 1999). Therefore, in realism, the role of any non country actor is not vital.

Neo-realism criticised the realist conception of power as the combination of a country's capabilities and is only in the hands of a country. This criticism further extends through the analysis of 'soft power' by neo-liberals, especially by Keohane and Nye. In reality, significant changes in the international system have rendered the analysis of soft power important. Firstly, the invention of weapons of mass destruction and the increasing economic interdependence between countries have made the use of 'hard' economic and military power extremely costly for them (Nye, 1990). For instance, Japan might want the United States to reduce its budget deficit, but threatening to refuse to buy American Treasury bonds would be likely to disrupt financial markets and to produce enormous costs for Japan as well as for the United States (Nye, 1990). Moreover, the significance of less threatening forms of power has drawn attention through this global information age and its influence on domestic constituents (Nye, 2004). Secondly, neo-liberals contend that power is contextual. In other words, different forms of power will be more important during different point in time. For instance, during the eighteenth century, having a large population was a source of power and in the era of industrial revolution, energy- particularly oil and coal- was a source of power. Therefore, power resources cannot be judged outside their historical context. Hence, soft power is an increasingly important source of power (Nye, 2004). Thirdly, as previously mentioned, the discourse of soft power recognises the importance of different actors, and not only different countries of the world. For instance, it recognises the significance of the non-proliferation regime which has altered the 'hard' military policies of nuclear and non-nuclear countries alike by constraining their actions (Donnelly, 2000).

Thus, with Kenneth Waltz, the ignorance of the effects of structure on a country's behaviour and the economic considerations of Morgenthau- a pioneer realist, create the passage to reach neo-realism from realism. Thereafter, the acceptance of non country actors in international policy issues, according to the neo-liberal thoughts, has changed the country centric focus of neo-realism towards non country actors, like TNCs.

Through the liberal approach, non country actors as TNCs have become the agents of change and governance. Changes in the global production and the rise of economic liberalism- financial trade and Foreign Direct Investment (FDI) liberalisation- have been argued to place TNCs in a different type of bargaining relationships (Barlett and Seleny, 1998). Whilst the economic and structural power of TNCs has been difficult to determine precisely, it has rapidly increased in the last

decades. TNCs play an increasing role in the redistribution of resources as a result of privatization in different countries of the world, of TNCs capacity to create employment in developing countries (Strange, 1996), of their role in labour management relations since they employ around 10 percent of the population in developed countries and 21 million in developing ones (Stopford, 1991) and of the fiscal weight in economies (Strange, 1996). Moreover, TNCs have doubled in number, operating in practically all economies (Held et al., 1999), dramatically enhanced their revenues and increased their share of global trade to a third of global exports while representing a quarter of all FDI (Jarvis, 2005). Intra-firm trade, though hard to measure, as well as cross-border inter-firm agreements has also increased precipitously, creating a new division of labour (Held et al., 1999).

However, one should not fall to the extreme and argue as globalizers, that countries' power is decreasing and might even become irrelevant, the situation and power-bargaining relationship is far more complex. The countries still remain a prominent, if not the prominent actors in the international system, even if they are not the only actors anymore and their instruments of authority and power might have changed. Unlike what the globalizers predicted, countries' relative size has increased not decreased in the last decades (Vernon, 2001). Moreover, TNC's production cannot be moved to other countries as easily as suggested (Held et al., 1999). Home countries have the advantage of familiarities, skilled workforce and close to the market targeted (Held et al., 1999). Furthermore, countries also adapt and change their policies to build business relations, economic strategies that take advantage of TNCs (Marsh, 2000). For instance, Hungary has been able to use the European Union (EU) to counter and overturn the particularistic claim of TNCs made before its adhesion into the EU (Barlett and Seleny, 1998). Hence, firms' power decreased relatively to the countries' power. Again, countries also use TNCs to achieve foreign policy, though not always successful. For example, the Secretary of Country Henry Kissinger attempted to control American corporations in its policy of détente with the Soviet Union (Gilpin, 1987). Countries also maintain their 'negative power' (Stopford, 1991) to control their barriers of entry by distorting trade; and their 'positive power' (Stopford, 1991) to take advantage of their national resources by increasing its attraction to TNCs, through business friendly-policies, skilled workforce and influencing where and how international production will take place.

Consequently, the relationships between countries and TNCs are not a zero-sum game; the increasing power of TNCs does not mean the inevitable decline of the power of countries. Owing to the multiple sources of power, there is now a deepened interaction between countries and TNCs. Countries have to negotiate with TNCs

creating a type of 'triangular diplomacy' (Barlett and Seleny, 1998). Moreover, countries and TNCs power often vary over time, issues and cases (Murtha and Lenway, 1994). For example, in projects such as oil exploration, TNC may have an advantage at the beginning but once the project is completed, it loses it (Stopford, 1991). This has been referred to as the 'obsolescing bargain' (Vernon, 2001). Hence, the country-TNC relationship is a complex one that has indeterminate results. This complex relationship becomes very complex when the countries are divided into many groups with different interests. United Nations initiative to prepare a code of conduct for TNCs would be a glaring example in this regard.

To minimize conflicts and to ensure favourable conditions for TNCs and developing countries, UNO attempted to harmonize the activities of developing countries with the objectives of smooth dealings and negotiations with TNCs through a fairly detailed policy framework like a universal code of conduct (Bondzi-Simpson, 1990). It was also felt that activities of TNCs need to be effectively codified with the development goals and objectives of the host countries so that any negative effect of their operations in any particular country can be eliminated or minimized. Thus, in the early 1970s, UNO formally attempted for the Code of Conduct for TNCs (the Code) with the hope that the code would serve as an instrument for promoting world economic growth and well-being by enhancing a positive climate for international trade (ICC, 1983). In 1974, the Commission on Transnational Corporation was set up and the preparation of the draft text of the code was entrusted to an Inter-governmental Working Group of the Commission in January 1977 (On request of the Economic and Social Council, 1982).

The long codification process was not smooth rather full of conflicts amongst the member countries of the UNO. One of the most basic conflicts arose when they wanted to set a standard of international legal norms so that the legitimacy of the conduct of host countries in their treatment of TNCs could be tested. The Group of 77 and the socialist countries questioned the validity of these standards on the ground that, those were established by the practice of the major capital exporting countries at a time when most developing countries were under colonial rule and therefore, they did not command the consent of the majority of the contemporary international community (Robinson, 1986). Again, they argued that national law of an individual country was well enough for dealing these matters and since international law is uncertain and unclear, it could not help. They favoured a compromise proposal referring to international obligations saying that 'the principle of the fulfilment in good faith of international obligations will apply to the code' (Official record of the Economic and Social Council, 1983). In fact, on the one hand, developing countries did not want to take the risk of exploitation mainly by the companies of Western

European countries; and on the other hand, developed countries lost their faith on the quality and integrity of developing countries legal system where their TNCs would operate.

During these conflicts, both the parties' objective was to ensure a favourable guiding norm so that the code could serve more in their individual group interests. For example, developing countries tried to create such a code, which can help them to control TNCs effectively and socialist countries were trying to keep their national enterprises out of the code's jurisdiction. Developed countries, such as Canada, focused mainly upon two main areas following the main underlying objectives of the organization for economic cooperation and development (OECD) Guidelines that are (a) a requirement for national treatment of foreign controlled enterprises by a host country and (b) an attempt to restrain the various incentives and disincentives to foreign investment which the various governments imposed (Arnet, 1980). However, their specific interests for the code were first, liberalize international investments and second, limiting the controlling power of host countries over TNCs (Arnet, 1980).

In accordance with neo-liberal textbook economic reasoning, it was further contended by the developed countries that outcomes of international trade and investment generally need to be market-driven in order to maximize welfare and those interventionist policies, like the draft code, in trade and investment would reduce global welfare. Consequently, the very merit of an international code of conduct for TNCs was questioned ([http://cornerhouse.icaap.org/briefings/26.sidebar\\_1.html](http://cornerhouse.icaap.org/briefings/26.sidebar_1.html), 2008). Furthermore, lack of equally powerful opposition mainly at the beginning of 1990s to counter the position of developed countries into the codification of the code is another reason that ended the negotiation finally. By March 1991, USA quietly built up a consensus against further negotiation on the code and in 1992, the President of UNO reported that 'delegations felt that the changed international environment and the importance attached to encouraging foreign investment required a fresh approach [http://cornerhouse.icaap.org/briefings/26.sidebar\\_1.html](http://cornerhouse.icaap.org/briefings/26.sidebar_1.html), 2008). This codification initiative was declared abandoned in 1992, in spite of over two decades of time and energy expended by the Working Group and other bodies within the UN system.

As mentioned earlier, neo-liberalism extends the core concept of liberalism by liberating individual entrepreneurial freedoms and skills within an institutional framework characterized by strong private property rights, free markets and free trade (Harvey, 2005). This framework often subsumed under the term 'globalization' and particularly has become a vehicle of neo-liberalism to promote free trade (Zacher and Mathew, 1995). Therefore, free trade mostly emerged as a result of globalisation and the increasing economic relationship between countries which make national boundaries less

important for TNCs (Keohane and Nye, 1989). Moreover, there are an increasing number of issues that cross country-boundaries, such as environmental issues, like global warming, and financial issues like monetary control- which needs to be answered on a global basis rather than on a country one (Ronit, 2001). This consideration of new non-country actors has been labelled as 'complex governance' (Hughes, 1995) which is 'an emerging pattern of human governance in which the country continues to play a critical role, but in which many other institutions become increasingly important (Hughes, 1995).

The objectives of the emergence of this complex governance are mainly three. Firstly, administer a global change; secondly, create a changed international regime and finally, change in international organizational patterns along with the spirit of the global governance (Hewson and Sinclair, 1999). However, Hewson and Sinclair argue that the economic globalization argument is a restricted one as it focuses on country market relations alone (Hewson and Sinclair, 1999). Thus, they note four global governance perspectives that explore a comprehensive range of issues relating to global change. Those four perspectives are: firstly, shift in location of authority in the context of both integration and fragmentation. Here, they, in fact, refer to Rosenau's observation that these shifts happen across multiple levels and areas (Rosenau, 1997). Secondly, the emergence-in actuality or in potential-of a global civil society: here, the global civil society is an arena of transnational ideological tendencies, worldwide movements, and international non-governmental associations. Thirdly, the forces that reorient key intellectual, business and political elites in the G7 zone play a key role in the restructuring of the global political economy, and fourthly, the salience of globally oriented epistemic elites and authorities. Thus, global changes recognize the increasing importance of intelligence and communication that support and facilitate the various facets of global governance.

Along with the above mentioned objectives, the concept of 'global governance' is a useful intangible tool for the changing international interdependency regime. It implicates, firstly, no established hierarchy between country and non-country actors (Dingwerth and Pattberg, 2006). Therefore, it attaches equal importance to non-governmental organizations, transnational corporations and scientific actors. These non-country actors enjoy an equal ontological status with country actors. In essence, global governance implies a multi-actor perspective on world politics. Secondly, a multi-level system in which local, national, regional, and global political processes is inseparably linked. Therefore, global governance allows the understanding of the inter linkages between different policy levels and their relevance to real life. Thirdly, the plurality of mechanisms in which the activities of both public and private actors are horizontally linked in the coordination. Fourthly, the multiple spheres of authority

which could foster emergence of private authority.

However, the problems that global governance is expected to address are analytically linked to the process of economic globalization and a resulting loss of national authority. There are two opposing arguments that both consider global governance as a political program. Firstly, this concept is a long-term project of global integration. The goal of global governance lies in regaining society's control over market forces, which has been lost in the wake of globalization. Shared norms and values in the form of a global rule of law or ethic by consensus can address social and political issues beyond countries' capacities. Secondly, it is a highly politicized concept and ideological companion of globalization. Global governance is perceived as an attempt of the elite and privileged to reclaim political influence in order to reshape the institutional landscape of world politics, re-regulating world economy to conceal the ills of capitalism.

In his critique of global governance, Murphy criticizes global governance as being unable to shift resources to the poor. There is an assumption that the exercise of global governance needs to be done for the larger public good. Thus, actors of global governance face an unspoken obligation to act in an egalitarian manner. Further, Murphy argues that the questions of global governance today are linked with the problem of democracy and democratic theory. The problem with unregulated transnational economic activity can be examined through how it has undermined democratic gains (western political theorists concern) and how domestic democratic processes can be strengthening to help to regulate global markets. From a moral perspective, groups like the UNDP are more concerned with the consequences of an unregulated world. However, along with this criticism, Murphy also contends that this concept is a neo-liberal ideology with its world-wide significance, a growing network of both public and private regimes that extends across the world's largest regions.

Despite the huge criticism, one phenomenon is certain that 'global governance' utilizes broad assumptions that generalize actors, conditions and forces in international policy framing initiatives. This flexibility is arguably one of this concept's strengths and weakness at the same time: Strength, because it promotes the idea of the existence of certain intrinsic universal values that are harmonized by greater international cooperation; and weakness, because it overlooks differences that could derail cooperation. Particularly, the conflicts amongst the developing countries and TNCs in trade related issues have shaken the relationship between developing countries and TNC as well as present a serious challenge to global governance (Dingwerth and Pattberg, 2006).

In conclusion, realism has been particularly influential in the last decades, yet there are changes in the international system that cannot be adequately explained. Most of these limitations are the result of realism's narrow definition of power as capabilities and of its country

-centric approach. In order to remedy this limitations, other approaches expanded the concept of power to soft power, authority and structural power, as well extended the number of actors which are agents of change in the international system to include market and private actors, such as TNCs and regimes. In general, liberalism was committed to the notion of gradual but continuous progress in the evolvement of international relations so to 'promote greater freedom by establishing conditions of peace, prosperity, and justice'. Unlike Marxism, most international liberals do not predict the attainment of an ideal end country, nor do they follow the same path. Rather there is a certain harmonization of interests and goals amongst nations that promotes non-coercive bargaining. Scientific and technological progress increase people's expectations of economic welfare and growth which in turn increases the interactions among countries and non country actors.

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