

CoCon

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Project Title: The Corporation in Context: New Modes of Corporate Governance and Norm Compliance at the Local, National and International Levels

Project Short Name: CoCon

Project duration: 36 months

Project summary

Transnational corporations have gained inordinate influence over international market regulations and national legislative processes. They have also become an important partner to states, intergovernmental agencies, and non-governmental organizations in the development of mechanisms that enforce human rights issues such as adequate wages and leisure time for workers, and environmental protection. These developments raise pressing and as yet unexplored questions: What modes of governance support or hinder compliance with local, national, and international human right regulations? What conditions must prevail in the realms of the market, law systems, culture, and national and transnational regulations for sustainable implementation of human-rights sensitive modes of governance? And what normative yardsticks can be applied to evaluate these conditions? This unique project aims to analyze and evaluate new modes of governance (e.g. private and private-public regulations) and their effects on local and other actors. It will approach this topic by examining the production, manufacture, and trade of cotton in four representative countries: the United States, the world's biggest producer; Greece, one of Europe's largest producers; India, a threshold country; and Tanzania, an emerging African market. The project will also seek out best practices and conditions for corporate norm compliance that can function as models in other countries and, moreover, in other fields, such as anti-corruption, environmental protection, and state compliance in peace talks. The project is interdisciplinary, including perspectives from political science, economics, law, and cultural studies.

B. The Research Project

1. Objectives

The transnational corporation (TNC) became an important international actor during the second half of the twentieth century. There are TNCs today with revenues that exceed the gross national product of smaller European states, and this gives them inordinate influence over international market regulations and national legislative and political processes. At the centre of these developments is the issue of TNC's obligations to respect human rights. Because states, for various reasons, no longer sufficiently control the implementation of human rights law, we are faced with relatively new concerns regarding human rights abuses committed by corporations that can escape national legal responsibilities. At the same time, TNCs have already become an important partner to states, intergovernmental agencies, and non-governmental organizations in the development of mechanisms that enforce human rights issues such as adequate wages and leisure time for workers, and environmental protection. Pressing questions resulting from this are: What modes of governance support compliance with national and international rules that respect human rights? What are the conditions for sustainable implementation of these human-rights sensitive modes of governance? And what normative yardsticks can be applied for their evaluation?

One objective of the proposed project is to explore and critically evaluate the various modes of governance that address corporate responsibilities. Among these modes of governance are the following: First, there are *public regulations*, including full-fledged government regulations and international regulations (e.g. the most prominent binding laws and non-binding recommendations of the UN and International Labor Organization (ILO)). Secondly, there is growing private *self-regulation*. We are currently witnessing a range of market-based initiatives such as social-accountability auditing and verification that are required by unilateral Codes of Conduct as well as "human-rights sensitive" product lines and brands ("Cotton made in Africa). Thirdly, the number of *private-public initiatives* has recently increased. One prominent example of a pact between private actors (TNCs) and a public actor (e.g. U.N.) is the so-called "Global Compact". Along with the UN High Commission for Human Rights and the ILO, about 50 corporations signed on to the compact and agreed to publicly describe on the Global Compact Internet site their progress in implementing human rights, labor standards, and environmental protection.

A second objective of the project is to analyze under what circumstances a corporation will change its practices and agree to human rights-sensitive regulations. The conditions that may hinder or allow successful norm compliance at the national and international level include the following: *International trade*. Regulating influences on the international market include the international trade system and the WTO, various US and EU agriculture policies (e.g. the "Common Agricultural Policies"), and poverty reduction programs for African countries under the auspices of the World Bank. *Legal systems*. Domestic courts have a history of ordering corporations to pay for damages that resulted from their complicity in abuses perpetrated by governments (Zumbansen 2005; Steinhardt 2003). Moreover, in international labor law we find civil liability regulations that address the effects of economic exchange processes. *Policy-making*. Corporations have become an important partner in policy-making. While firms once had to lobby at the national level to influence, for example, the consensus in the Council of Ministers, the European Commission has introduced a reverse process and now seeks to win over firms in order to strengthen the EC's position vis-à-vis third countries (Woll 2006). *Culture*. Corporations' activities and institutions are "embedded" in cultural contexts that influence corporate governance, political rule-setting, working habits, etc.

In its third area of analysis, the project's line of inquiry comes full circle with a normative evaluation of the forms of governance that address the accountability of

corporations. The aim is to determine whether policies meet certain standards of democratic/governance legitimation (Zürn 2004). Therefore, "yardsticks" will be developed to help assess the legitimacy of these modes of governance worldwide and within the EU.

The success and failure of these modes of governance to establish an international institutional context that encourages compliance with human rights-sensitive rules will be investigated through the example of the world cotton market. The cotton industry is both illustrative of the issues at hand and of a manageable scope for our research purposes. It is prominently discussed within international organizations like the WTO and World Bank and yet is very much influenced by national regulations that play an important role in rule-setting and corporate compliance. And, finally, the cotton industry is a prominent object of NGO activity. The project will focus on four of the major national players in the cotton market. Each was chosen for its representative role in the world market system: The United States is the world's biggest cotton producer; Greece, besides Spain, is Europe's main producer and one of the biggest producers worldwide; India is a threshold country and an emerging market; and Tanzania is among Africa's biggest and fastest growing producers. The project therefore has a strong comparative perspective. Moreover, it is interdisciplinary, including perspectives from political science, economics, law, and cultural studies.

2. State of the art and uniqueness of the planned research project

Research projects in this field typically focus on regime theory and address different regimes of corporate responsibility (Braithwaite 2000; Cutler 2003), or they emphasize an actor-centered theory and explore global players' motives for complying with certain norms (Conzelmann/Wolf 2007). Both approaches have their pitfalls. The first more or less ignores the internal structure of a corporation and fails to explore the room corporations have for maneuvering, reacting to external demands, and developing new strategies to address their environment. The second approach often neglects the wider institutional context that, in most cases, has enormous impact on the success and failure of corporate initiatives. Recently, "global regulatory network analysis" has become prominent. This approach views the corporation as one global player among many in a non-hierarchical and widespread system of cooperation (Slaughter 2004). This approach has descriptive strength, but it underestimates the prevailing power relations that shape institutions and affect the norm compliance of global actors. Moreover, most research projects are empirical projects that do no more than comprehensively describe ongoing developments in the field of corporate responsibility. They do not develop evaluative mechanisms with convincing normative tools that can be applied to existing or planned policies and strategies.

The uniqueness of the planned project consists in overcoming these shortcomings through the following three improvements:

First, it offers an in-depth analysis of the complex, worldwide *institutional system* of private regulation and public policies and their *effects* on local actors (workers, merchandisers, costumers). It particularly highlights corporate and private-public initiatives within the broader institutional context that includes WTO agreements, World Bank programs, and other international organizations. Insofar as the project focuses on the effects of international regulation on the cotton industry (e.g. the WTO Appellate Body on cotton subsidies) and how these affect local actors, the project is based on a *structural analysis*. Because it remains linked to the perspective of individual actors, however, it will avoid the one-sided perspective that characterizes traditional structural approaches.

Secondly, the planned project does not see the firm as a "black box" that manages its affairs merely for (short term) profit maximization and is relatively untouched by non-economic external demands. Rather, it aims to explore the *interplay of institutional contexts and the preference changes of the corporation*. This includes understanding the internal decision-making processes within a firm. That is why the project is based on an action-

approach as well, as it is explicitly interested in the question of how corporations react to new external demands, and can even be said to be involved in learning processes. This is an important precondition for responding to “soft forms” of governance that rely on mechanisms such as progress reporting, benchmarking, and peer review.

Thirdly, the project combines an empirical and a normative perspective, thereby relating an empirical analysis of the current instruments of global and EU policies that work towards the implementation of corporate obligations to the normative grounds for corporate obligations. This includes a *normative evaluation of the modes of governance* that address the accountability of corporations and the development of yardsticks that could be used to assess the (democratic) legitimacy of these modes of governance worldwide and within the EU. A prominent aspect of this discussion, not yet systematically explored, is whether, if at all, corporations should resume genuine tasks of the state.

3. Key questions

The innovative aspects of this project, both in terms of its scientific approach and policy implications, become even more apparent in light of the project’s three key questions:

a. What institutional/contractual arrangements and strategies are hindering or supporting the implementation of new modes of governance that aim to establish human rights standards within market processes and beyond? For example, exactly which governance models are actually being utilized (Public Private Partnerships [PPP], private, corporate or full-fledged government regulations)? What are the constraints, problems, and benefits of these models with regard to finances/management, quality of life, and environmental protection? What is the role of international institutional organizations and rules? (*Policy/institutional analysis and evaluation*)

b. How can *best practices in institutional arrangements and corporate strategy* be systematically developed as models for labor and environmental standards at the community level and for cooperation between local, national, and international bodies? Along with identifying well-functioning initiatives of corporate responsibility that occur within a society and transnationally, the project is interested in cross-comparisons and the potential for transnational learning processes: Can the institutional model be applied to sectors beyond the cotton industry and trade, and other legal areas? (*Scope of applicability*)

c. How can these best practices become part of overall international administrative, managerial, and political functioning? How can they impact on human rights awareness, public mobilization, and struggles for human-rights sensitive corporate initiatives? The project evaluates the effects of institutions and corporate accountability models on people’s daily lives with the aim of offering possibilities for enhancing sustainable policy implementation that includes local-level participation by all stakeholders. Therefore a further question is: How can these strategies be anchored in existing administrative, political and social practices on a community level and beyond? (*Improvement of implementation*)

4. Impact for the field

The planned project will offer a comprehensive and not yet existing insight into the limits of and potentials for public, private, and public-private modes of governance that create human rights-sensitive institutions and enhance the public accountability of corporations. Insofar as it combines a structural approach with an action-centered perspective, it avoids sticking with either the regime-perspective or the actor-perspective and will not overlook their interplay within the context of international power relations. Moreover, the project, as a first in its field, will offer a model for implementing and evaluating human rights-sensitive institutions. Institutional incentives for sustainable compliance as well as actor-orientated strategies will

be addressed. This could be of interest for other legal and political areas that deal with rule compliance such as anti-corruption, peace processes, and ecological standard setting processes. Finally, the project has a clear policy-enhancing focus. Identifying successful implementation strategies for corporate responsibility institutions and norm compliance requires -- besides a comprehensive analysis -- close contact with local actors who are affected by the policies within their cultural contexts.

5. Methodology

This research project will conduct field research in close relation to the framework laid out above. The approaches used will be a function of the nature and scope of the respective project steps. In some instances, desk research will be the chosen technique. This may involve interpretative analysis of written sources – published or unpublished, primary or secondary – or the application of quantitative techniques such as content analysis or the analysis of statistical data. In most cases, individual, group or expert interviews will be necessary, including expert interviews with workers and representatives from corporations, international institutions, NGOs, states, confederations of employers and unions, etc. The use of interviews will vary according to the local and international contexts, the consent of the interviewees, and the needs at any given stage of research. The form of the interviews may also vary considerably; they may be open, semi-structured, or fully structured. Surveys, a very expensive research technique, will be conducted sparingly and only to obtain data in response to particular research questions such as reliable data on the working and living conditions.

6. Resources

The research team will consist of four team members: the principal investigator and three Ph.D. candidates with research areas and assigned tasks that fit the project's overall framework. The PI has overall responsibility for the realization and administration of the project. This includes contribution to the theoretical and methodological background of the Ph.D. project, data collection and interpretation, and supervision of the Ph.D. students and their projects. The Ph.D. researchers should have different disciplinary backgrounds (e.g. one in law, one in economy, and one in cultural studies, or an interdisciplinary education) but must also have skills to meet the theoretical and methodological demands of the project. Each researcher, including the PI, will be specialized in one of the regions of cotton production (USA, Europe/Greece, India, and Tanzania), which will ensure in-depth analysis on-site without losing the project's link to the international regulation system and its effect on daily life.

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