

TO WHOM IT MAY CONCERN

I have read through the essay titled 'The Legal Status of Trans-National Corporations in International Law' authored by Mr. Agnidipto Tarafder, LL.M. student of The West Bengal National University of Juridical Sciences, Kolkata. Having been a member of the faculty of the said institution, Agnidipto has been taught several courses in International Law till the last semester by me. I know him to possess an enquiring mind and this essay is a reflection of the same. Overall, the essay exudes of a deep-rooted conceptual understanding of the nuances of the theme and the underlying concerns it poses to the traditional notions of International Law, yet the author does not lose sight of the need for a pragmatic approach in his policy prescriptions in today's globalized world.

Quite appropriately, the author seeks to outline how non-state actors are increasingly becoming more and more important in today's era of economic liberalization and free market economy, and the challenge that it is posing to traditional doctrines of sovereignty (and consequently, sovereign equality) and attribution of state responsibility.

Although the individual as a subject of International Law is quickly gaining momentum especially in the International Human Rights discourse, there are still some unresolved issues about finding a parallel in the International Commercial legal space, primarily because of the reluctance exhibited by the states in attributing an International Legal Personality to Transnational Corporations, possibly with the misconceived fear that such attribution would bring up the status and stature of such corporations to that of the state itself. Evidently therefore, the tight leashes of municipal laws, with the inherent ambiguities in their application from state to state, continue to govern and regulate the activities of the Transnational Corporation in the municipal space. The Transnational Corporation is, as a result, deprived of a right to seek its rights in many places. And, in turn, this denial of rights leads to a legal blockade when one seeks to attribute responsibilities upon these corporations for their acts of misfeasance. This issue has been very lucidly underlined in course of this essay.

The author has very meticulously explored different facets of the argument as to whether such attribution of an International Legal Personality would necessarily ensure compliance. He makes references to the subterranean pressure that interested Transnational Corporations have always

imposed on policymaking, and aptly cites the instance of the UNCLOS III negotiations. Referring to scholarly literature, the author has, in my humble opinion, very correctly come to the conclusion while it would be preposterous to include interested Transnational Corporations in the policy-making process, the Legal Personality would at least make them formally visible, and this visibility would go a long way in making them responsible and compliant to regulations.

In conclusion, let me assert that I find the essay to be an innovative and mature analysis of an issue that is of a lot of contemporary significance. I would therefore strongly recommend this essay for this prestigious essay competition.

Professor (Dr.) Manoj Kumar Sinha
Director, Indian Law Institute,
New Delhi
(Formerly Senior Professor, WBNUJS, Kolkata)
Contact: manojkumarsinha@hotmail.com
: +91 9433602546