The Legal Status of Trans-National Corporations in International Law

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Abstract

The impact of Transnational Corporations as an important actor in the globalized era has been a contentious issue in the international legal sphere. This paper seeks to examine how non-state actors like the Transnational Corporations with their burgeoning influence on policy-making create the need for an effective international mechanism to impose legal obligations upon these players, the challenges that such a set-up poses to the traditional doctrines of sovereignty and its attribution to the concept of state responsibility. Issues like reluctance exhibited by states in granting an International Legal Personality to Transnational Corporations which hinder the search for a parallel forum in International Commercial legal space need to be examined in light of recent developments. Further the mechanical application of municipal laws that govern the Transnational Corporations at the state level and the inherent ambiguities in its application across national boundaries seem to necessitate some kind of legal recognition being granted to these players. Recent efforts by the United Nations in this regard might yet go a long way towards affixing responsibility on Corporates at the international arena.

Introduction

International law by definition is the law governing states. In other words, nation-states were and continue to be the primary subjects of international law, and though it does not exclude other players *per se,* they are broadly categorized as non-state actors. The terminology in itself suggests the secondary nature accorded to such players in international relations.[1] However, the broad nomenclature bestowed upon these entities, which includes within its folds every organized and unorganized body ranging from Transnational or Multinational Enterprises to International Non-governmental Organizations to issue-specific Protest Forums, creates a genuine problem of oversimplification[2]. These bodies have separate roles, objectives, and resources and are divergent in their respective ways of influencing International Relations[3].

[1]Peter Willets, 'Transnational Actors and International Organizations in Global Politics' (www.oup.com 2001) <http://fdslive.oup.com/www.oup.com/orc/resources/politics/intro/baylis5e/01student/revision/baylis5e_revision_ch01.pdf > accessed 9 May 2014.

[2] Ibid, at p. 358-9. "While there are less than 200 governments in the global system, there are approximately.

• 60,000 major transnational companies (TNCs), such as Shell, Barclays Bank, Coca Cola, Ford, Microsoft, or Nestlé, with these parent companies having more than 500,000 foreign affiliates;

This paper aims to analyze the impact of one such 'non-state actor', namely, the Transnational Corporations[4], whose undeniable financial power coupled with unprecedented reach in the globalized economy is seen as a growing threat by some scholars upon the sovereign equality among nations in the international order.[5]It attempt to understand the reasons behind the growing importance of such Corporations in the area of International Relations, and what their legal status ought to be, if any. It further endeavors to study the need to 'simplify sovereignty' in order to accommodate such players, and what a viable roadmap could be for future interactions.

I. The Inadequacy Of The 'Sovereign State' Model

The reason behind the adoption of the state-centric concept of sovereignty, and its popularity among scholars is that through this approach, the intricacies of international politics are largely accounted for. The concept of sovereign equality amongst nation-states varying in size, population, resources and influences on world politics, lessens the inherent complexity of their interactions by establishing a manufactured equality among these states. This is often understood to create more problems than solutions as it disregards non-state players exerting their influence in the international arena. Some of the areas are identified as follows:

• 10,000 single-country non-governmental organizations (NGOs), such as Freedom House (USA), Médecins sans Frontières (France), Population Concern (UK), Sierra Club (USA), or the Women's Environmental Network (UK), who have significant international activities;
• 250 intergovernmental organizations (IGOs), such as the UN, NATO, the European Union, or the International Coffee Organization; and
• 5,800 international non-governmental organizations (INGOs), such as Amnesty International, the Baptist World Alliance, the International Chamber of Shipping, or the International Red Cross, plus a similar number of less-well-established international caucuses and networks of NGOs."

[3] Ibid, at p. 360. Also See, Janet Lowe, *The Secret Empire: How 25 Multinationals Rule the World* (1992) See n. 4, at p. 219.

[4] I have chosen in this article to refer to the 'transnational companies', although a number of other names may be used to describe similar organizations, including 'multinational enterprise', 'global corporation', 'multinational corporation', 'multinational entity' or simply 'multinational'. There Seems to be no universally accepted practice in this regard, as different authors have preferred the nomenclature which are most suited to their needs, and pinpoint divergent aspects of such corporations. *See generally*, Tania Voon, 'Multinational Enterprises and State Sovereignty Under International Law' (www.heinonline.com 1999) <https://www.heinonline.com> accessed 9 May 2014.

[5]Larry Backer, 'Multinational Corporations, Transnational Law: The United Nations' Norms on The Responsibilities Of Transnational Corporations As A Harbinger Of Corporate Social Responsibility In International Law' (www.heinonline.com 2005-2006) <www.heinonline.com> accessed 9 May 2014.

- On the different interpretations of 'State'

It has been noted that the lack of uniformity in the usage of the term 'State' is a chief contributor to the problem of including non-state actors within the aegis of international legal order.[6] The juridical personality of a state, as an entity that can sue and be sued is one that is highly abstract. Further, this creates an ambiguity and is often confused with a country with a clear and precise political structure in place. Where state is used to indicate a theoretical part of governance, it has a completely different connotation.[7]

Legally, there is little or no distinction between the concept of civil society and the political unit that is the state, though they are sociologically speaking, separate entities. Different players therefore, can seldom be accommodated within the perimeter set by the legal terminology. It draws no distinction between members of the state and the state itself, and hence creates the air-tight compartment which forms the basis of our current predicament in according legality to status of specific non-state actors.

- A 'manufactured equality'

Some scholars[8] from the very inception of international fora like the United Nations, pointed to the large dissimilarities that exist between the realities of nation-states which became subsequently, the members of such bodies, and posited that the doctrine of sovereign equality was purely theoretical, and shall have little or no practical repercussions. They argued that though legally, this step was necessary in order to combat with the possibility of one or more nations attempting to rise to supremacy on the basis of military power and create a World War

[6]See n. 2, at p. 362.
[7] Ibid.
[8]Vagts' objection to the same, as an example. See n. 25, at p. 772-4.

II-like situation[9], yet the realities of these nations with vastly different capacities tends to add to the complexities of granting them equal legal status than simplify it.[10]

The obvious conclusion one reaches from this analysis is to understand the incapacity of most countries of the world to stand up to the massive challenge posed by the sheer economic power of such corporations.[11] This creates a problem of a void in international law, allowing political maneuvering by such corporations, without contemplating any facility to check the same.

- Acknowledging the differences: State and Nation

The simplified understanding of nationalism and national identity being the sole driving factor behind the supremacy of nation-states in the international arena furthers the problem of not being able to correctly identify the varied factors that influence intra-national (and sometimes spill over to) international relations. The National liberation movements, national cultural groups, and national minorities making political demands are transnational actors, which may impact the institutionalized setup of governance in states or regions thereof. "Ironically," Wellet notes, "nationalism is one of the many sources of transnational relations."[12]

[9] The Preamble, a much later addition to the UN Charter, iterates its objective to be: '…protect succeeding generations from the scourge of war…'

[10] As Willets puts it: "Orthodox analysis does acknowledge differences in size between 'the superpowers' and middle and small 'powers'. Nevertheless this does not suggest that at the end of the Cold War the United States economy was twice the size of the Soviet Union's economy, nor that at the end of the twentieth century the US economy was nine times China's, 55 times Saudi Arabia's, more than 1,000 times Ethiopia's and 78,000 times greater than Kiribati's. In terms of population, the divergences are even greater. The small island countries of the Caribbean and the Pacific with populations measured in tens of thousands are not comparable entities to ordinary small countries, let alone China or India: they are truly 'micro-states'. Alternatively, comparing the governments of the world reveals a diverse range of democracies, feudal regimes, ethnic oligarchies, economic oligarchies, populist regimes, theocracies, military dictatorships, and idiosyncratic combinations. The only thing that the countries have in common is the general recognition of their right to have their own government. They are legally equal and politically very different."

[11] Ibid. "The 50 largest transnational industrial companies have annual sales revenue greater than the GNP of 132 members of the United Nations. Using people as the measure, many NGOs, particularly trade unions and campaigning groups in the fields of human rights, women's rights, and the environment, have their membership measured in millions, whereas 40 of the 188 countries in the UN have populations of less than one million."

[12] Ibid.

Post World War II, the importance of international and intergovernmental bodies was felt[13] and this gave rise to the establishment of bodies like the United Nations, whose incorporation in the international legal system was followed with immediacy by according them full legal personality. Though these structures were controlled to a large extent by nation states as such, yet their distinct legal personality helped give sanctity to the actions taken by them, as also in the regulation of such actions. Herein lay the problem of not according a similar status to corporates and other players, whose influence has only grown since.

In attempting to regulate such actors without them falling within such definition, raises the obvious doubt as to the efficacy of such regulations, and the consequential compliance from them.

> "Gradually a consensus of opinion is evolving to the effect that although it is States which are the normal subjects of international law, there is nothing in international law which is fundamentally opposed to individuals and other legal persons becoming subjects of international rights and duties, i.e., subjects of international law."[14]

II. On The Need For A Legal Status For Transnational Corporations

The complexity of the TNC regulation issue has its root in the nature of such corporations in the globalized world. Earlier, whereas companies with offshore operations had their parent body incorporated in a country with which they could be identified, the nature of business having changed in the modern era with porous national borders, such identification has become much more difficult[15]. This essentially leads to municipal laws becoming ineffectual in attempting to regulate corporate behavior, its impact being limited by territorial constraints.

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[13]Jonathan I. Charney, 'Transnational Corporations and Developing Public International Law' (www.heinonline.com 1983) <www.heinonline.com> accessed 9 May 2014.

[14]H. Lauterpacht, Ibid, at p. 79; accord in *France v. United States of America* [1952] I.C.J 176.

[15]According to Wellets, "Through the globalization of companies, the nature of the transnational companies has changed. Originally there was a clear demarcation with production occurring at the headquarters and secondary activities occurring in the subsidiary branches. A TNC such as IBM could be regarded as an American company with many foreign branches. Now the companies can be truly global, with the headquarters merely being a convenient site for strategic decision-making. Global communications are so efficient and sales can be so widely spread that production does not need to be located at the headquarters." See n. 1, at p. 362-4.

This problem is further intensified by what scholars opine as the unwillingness or inability of states in pursuing corporates violating international obligations.[16] The need to attract investment, especially from the bigger players in the market 'necessitates' the lax nature of governmental intervention in dealing with such violation. As aforementioned, some of these players have a turnover substantially larger than the income of the state in question. Recent international developments show that increasingly such companies are indulging in attempting to influence the geopolitics of certain regions with a view to destabilize 'unfriendly' governments in support of those in opposition to them, favorably disposed towards the transnationals.

The growth in the number of TNCs, the scale of their activities and the complexity of their transactions has had a major political impact. We will now see how TNC have the ability to evade government attempts to control financial flows, to impose trade sanctions or to regulate production. TNCs also make intergovernmental relations more complicated. The sovereignty of most governments is significantly reduced.

The business operations of these enterprises themselves has grown to such a massive extent that the impact they have on socio-politics at a national, regional and international levels, and their influence on key policy issues can no further be ignored. Some scholars[17] however, continue to believe that the increased power of TNCs being majorly economic, its status cannot be equivalent to nation-states in terms of power and influence. Charney for e.g. argues[18] for inclusion of TNCs and posits that the balance of power has shifted considerably at the international arena and the TNCs economic might be able to be seen to overrule the capacities of various international fora.

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[16] Menno T. Kamminga, 'Corporate Obligations under International Law', (www.google.co.in 2004-2005) <https://www.google.co.in/url?sa=t&rct=j&q=&esrc=s&source=web&cd=1&ved=0CCsQFjAA&url=http%3A%2F%2F198.170.85.29%2FKamminga-Corporate-Obligations-under-Intl-Law.doc&ei=xdNzU9eMB8XQrQeorICIAQ&usg=AFQjCNGN1M4maY1ZDbRWe5dXBCXvdqqmOQ&sig2=B_4-CWAIrV3ix8QKsWNMiw> accessed 9 May 2014. In the given circumstances, self-regulation seems the only alternative, since no effective remedy can be sought from the states in question. Kamminga denounces soft laws and self-regulation as equally ineffectual means of creating corporate legal obligations.

[17] Georg Schwarzenberger believes that no change in practical terms on key policy issues is manifest, despite the TNCs having greater influence. Nation-states control military and political power and hence dictate policy at the international arena. However, this postulate seems flawed and oversimplified. See n. 14, at p. 770-71.

[18] Ibid, at p. 771-2.

The main argument, however, remains that international law due to its non-binding nature may yet be incapable of regulating activities of such a power, and hence reliance needs to be pressed on municipal laws, which have so far dealt with this issue[19]. Further, as nation-states continue to be the most significant actors in the international sphere, to accord international legal personality to another player would seem a subjugation of their authority, and may even pave the way in helping such a body escape municipal regulation.

However, what seems more important to note at this juncture, instead of focusing on purely theoretical concerns about the classical notions of sovereignty and state supremacy[20], is the inadequacy of municipal legislations for regulating this rising power in the global circuit. It is undeniable that in the current scenario, such a problem is likely to deepen with time and hence the time to act on the issue has arrived. The nature of capital is not likely to become more nationalistic in the foreseeable future. Thus the divergence will increase, unless necessary action is taken, and a starting point for such action may be in acknowledging the presence and importance of these corporations for the purpose of identification and in order to impose effective regulatory control.

III. The International Legal Personality: an effective remedy?

The main contention of states not in favor of according a legal personality to TNCs is that it would bring the status of TNCs at par with that of the states, which is an unwarranted scenario. However, by adopting the doctrine of sovereignty of states, there seems to the researcher an unnecessary denial of such legal status granted to corporations[21]. While the researcher contends that status be granted to the corporates, he agrees that their stature in the eyes of law needs to be limited to maintain the basic tenet of international law, that of state supremacy. Thus, the

[19]KarstenNowrot, 'Legal Consequences of Globalization: The Status of Non-Governmental Organizations Under International Law' (www.heinonline.com 1998-1999) <www.heinonline.com> accessed 9 May 2014.
[20]Fleur Johns, 'The Invisibility of Transnational Corporations: An analysis of International Law and Legal Theory' (www.heinonline.com 1993-1994) <www.heinonline.com> accessed 9 May 2014.
[21]Tania Voon, 'Multinational Enterprises and State Sovereignty under International Law' (www.heinonline.com 1999) <www.heinonline.com> accessed 9 May 2014.

researcher argues for the inclusion of the same, subject to limitations envisaged to ensure their status remains below that accorded to sovereign nations. Unless this is done, however, effective regulation of actions by the international community would not be possible. To quote Prof. Jenks,

> "Every legal system as it develops must grapple with the problem of placing an effective restraint upon power and insuring responsibility; this is the essence of the whole concept of due process of law."[22]

Thus, the point of initiation of any such measure ought to be the recognition of their existence as important political and economic players in the international arena, for the obvious impact they have and have had on domestic and international policy making[23]. This would solve the further problem of bestowing upon them the responsibilities that the international community hopes to, and bring them within the folds of whatever regulatory framework that is envisaged. That said, care may be taken to ensure their status is not equivalent to nation states as such.

It is only when the following recognition is granted to the corporations, can they be effectively brought under the umbrella of imposed regulations, and may be accorded rights and corresponding duties, after granting them 'international legal personality'. At the primary level, the following basic postulates can be enforced:[24]

(a) the right to sue and be sued;
(b) the ability to assert a right; and
(c) the acceptance of legal responsibility in a judicial forum.

Working upon this basic premise of granting a 'minimum' personality model to TNCs may be done in accordance with corporate registration models used across the world, where the

[22] Jenks, quoted in See n. 14, at p. 774-5.
[23] Larry Backer, 'From Moral Obligation To International Law: Disclosure Systems, Markets And The Regulation Of Multinational Corporations' (www.heinonline.com 2007-2008) <www.heinonline.com> accessed 9 May 2014.
[24] See n. 21, at p. 247.

municipal law requires businesses to be registered.[25] Registration benefits can become the incentive required to ensure compliance to regulations, give rise to rights and responsibilities under such a regulatory regime. However, the problem of categorization of a TNC may continue to create difficulty, and hence needs clarity. The researcher concludes that though greater clarity may be sought on a number of issues, it is apparent that the only solution to regulation of major international players seems to be the international recognition of their existence, albeit in a limited way.

IV. Can Regulation Ensure Compliance: New Strategies

One of the chief concerns that have been established by scholars regarding the compliance of TNCs to international regulations is with regard to whether such regulations can be implemented and enforced effectively. There is enough evidence to suggest that under the international order, if TNC accountability is to be ensured, as has been discussed already legal status has to be granted to these bodies which will bring them within the folds of international law, so that proper enforcement can be guaranteed. However, there is skepticism about whether even such a measure could help ensure accountability, due to the very nature of international law having a less binding effect than most municipal laws. Thus, a number of solutions have been put forward in this regard, of which some of the more prominent ones form the basis of the discussion under this chapter.

A chief example of how the TNCs exert their influence on world politics can be seen in the case of the Deep Seabed negotiations at the Third United Nations Conference on the Law of the Sea (UNCLOS III). Since the structure of these negotiations excluded any possibility of the participation of such TNCs, which were involved in the deep-sea mining industry, the governments of the countries concerned became the spokespersons for the same, being the only representatives of the business houses, which were eager to join these talks. As a natural consequence, they depended on government support for their claims to be voiced, and as Prof.

[25]See n. 23, at p. 604.

Charney argues,[26] this led to the process ending in a stalemate. Ten years of negotiations became quite futile and ensured that there was no prospect for the international community benefitting from valuable industrial information, and to ensure the Transnational Corporations from being committed to the goals set forth by the discussions. They merely used their political clout to delay the process of negotiations and some even successfully opposed their governments from adopting the UNCLOS III. In Charney's opinion, this approach of limiting TNC participation cannot help resolve the problem of compliance effectively, and merely adds to complex matrix of issues regarding the same. He believes the solution lies in increasing their participation in the legislative process, which would result in the outcome having greater acceptability amongst all parties to such negotiations, and ensure its viability in the long run. To do otherwise, in his opinion, is a mere attempt to delay the inevitable and serve no real purpose for the future.

However, scholars continue to bear extremely divergent views on this subject. Some scholars[27] are in agreement with Charney with regards the inevitability of the TNCs one day taking an active role in law-making. They are of the opinion that had it not been for the state-centric approach of traditional international law, the inclusion of TNCs would not have had to wait this long. Some even go further in asserting that the TNCs are the 'real' seats of power in the globalized economy and hence, their inclusion is warranted. It is their opinion that TNCs influence politics to extract favorable policies from governments, as they lack the status to represent themselves before the international for a. They believe that once such inclusion is effected, the latent political power struggles and corruption shall decrease, as the direct participation will give such bodies the voice they need.

[26]Charney reaches this conclusion basing his study on Detlev Vagts' analysis on dealing with the problem of regulating TNCs. Vagts suggests that either an autonomous space be allowed to such Corporations outside state-control enabling individual states to perform the regulatory functions in accordance with their municipal laws; or, creating an international agency for the purpose of such monitoring, along the lines of the WTO; in alternative, to continue with the current system of checks and balances and pursue the same more vigorously. In the opinion of the researcher, the second solution may yet be found more suitable, as the municipal laws seldom can be Seen to have extra-territorial application, and in any case such the major issue of locating the country in which the corporation is based does not get addressed through the former method. The problem of continuing with the current system has been established already and needs no reiteration, and is hence discarded. See n. 14, at p. 772-4.

[27]See n. 6.

There are those, however, who are skeptical[28] of according such status to TNCs which may enable them to directly make their claims, as the basis of such claims seldom rest on equitable principles and have a singular focus on profit making instead. Fleur John, for one, is unsure whether such a move, from the perspective of international law, would be welcome. Along with Voon[29], one of the most vociferous in claiming legal personality for TNCs, he is skeptical about the future of any enterprise, which would provide an opportunity for TNCs to deliberate on discussions, which may involve prospective profit maximization. In examining another aspect of TNC behavior, David Kinley and Junko Tadaki cite examples from various MNCs, which openly flout Labor standards set by the ILO, with an aim of profiteering from them.[30] They suggest a dangerous trend could be seen from this, wherein once these players and their roles are legitimized, their corporate interests may begin to take central role and hence international policy may be framed on that basis, and would risk reducing the value of other groups, which Voon suggests may be included as a result of such status being granted in the first place.[31]

Formal international responses to such questions have been slow in coming. In August 2003 the UN Sub-Commission on the Promotion and Protection of Human Rights adopted the pioneering document in this regard, titled 'Norms on the Responsibilities of Transnational Corporations and Other Business Enterprises with Regard to Human Rights'.[32] These Norms, which attempt to institutionalize and codify principles pertaining to the identification of the areas for affixing legal responsibility of corporates,[33] pertain to a great extent to a reestablishment of settled principles of International law subjecting the corporates to an efficacious international legal regime. However, as contended earlier, scholars continue to differ greatly on the utility of soft law

[28]See n. 20.
[29]See n. 21.
[30] Corporations like Nike, etc are openly flouting labor standards, See n. 2.
[31]See n. 21, at p. 252.
[32] Responsibilities of transnational corporations and other business enterprises with regard to human rights, Sub-Commission on the Promotion and Protection of Human Rights resolution 2003/16, 13 August 2003.
[33]David Weissbrodt and Muria Kruger, 'Norms on the Responsibilities of Transnational Corporations and Other Business Enterprises with Regard to Human Rights', 97 AJIL (2003) 901, 903. This document suggests that companies have an obligation to respect human rights, labour law, environmental protection, consumer protection, prevention of corruption and the like and derives its basis from established international law sources, and as such, are considered to be 'soft law' by the authors.

measures in regulation of transnationals and whether compliance can be ensured by these means[34].

Finally, perhaps the most noteworthy effort came from the United Nations Human Rights Council, which adopted a resolution[35] imposition of legal obligations upon States and TNCs alike, towards the protection of human rights and punishment in cases of violation. This document[36] sets for itself the lofty mandate of ensuring states take adequate measures in terms of municipal legislations to protect against TNC excesses, as well as to ensure that TNCs respect and regard human rights obligations in their overall functioning. In order to effectuate this mandate, the UNHRC further creates a supervisory authority in terms of a 'Working Group'[37] to monitor the states performance in this regard. Despite this clarity of intent however, the resolution suffers from the inherent defect of the former document, and its efficacy continues to remain questionable. In spite of these and other shortcomings, there is little sense in denying that this may yet be the most positive step taken by an international body with regards the regulation of TNCs at the global level.[38]

Thus, the researcher is forced to conclude that although according an international legal personality for corporations may be the need of the hour, yet it would perhaps be presumptuous to include them in policy making, especially in cases where they are interested parties. In the absence of an effective mechanism for ensuring their accountability in place, and in an era where government policy in even the third-world nations are dictated by corporate concerns and motives, to allow such a tool of prospective exploitation in the hands of an unscrupulous few would indeed go against general prudence and practice.

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[34] See generally Alicia Grant , 'Global laws for a global economy: as case for bringing multinational corporations under international law' (https://journal.lib.uoguelph.ca/index.php/surg/index 2013) <https://journal.lib.uoguelph.ca/index.php/surg/article/view/2573/2953 > accessed 9 May 2014.

[35] Resolution A/HRC/17/31.

[36] United Nations Human Rights Council, 'Guiding Principles on Business and Human Rights HR/PUB/11/04' (www.ohchr.org 2011) <http://www.ohchr.org/Documents/Publications/GuidingPrinciplesBusinessHR_EN.pdf> accessed 9 May 2014

[37] United Human Rights Council , 'Resolution A/HRC/17/4: Working Group on the issue of human rights and transnational corporations and other business enterprises' (http://www.ohchr.org 2014) <http://www.ohchr.org/EN/Issues/Business/Pages/WGHRandtransnationalcorporationsandotherbusiness.aspx> accessed 9 May 2014

[38] See n. 16

Conclusion

The issue regarding legal status under international law being accorded to Transnational Corporations is a by-product of the realization that the unregulated power of TNCs in the open market economy has severe socio-political repercussions. Its massive economic power has, as Johns notes[39], the power to subjugate and control human lives across the international arena on an unprecedented scale, owing to its limitless reach across national boundaries. Further, with the municipal laws proving to be inadequate, and without their legal recognition by the international community it becomes quite problematic to regulate their acts and omissions, creating a complexity of great potential harm associated for the future. It is this lacuna in international law from which these corporates may draw enormous benefit, while their profiteering motives, often at huge human cost, remain unchecked.

The attempt to control such corporations by imposing restrictions and responsibilities under municipal law only serves a limited purpose. As noted earlier by the researcher, it may become difficult, even by the 'management and control' test to locate exactly where such corporations are based for the purpose of imposing municipal regulations. These bodies corporate are increasingly becoming *more transnational* in nature, and thus an effective international remedy is required to address this issue.

The invisibility of such transnationals from the aegis of international legal order is identified as the initiating point for such discussion. The rigidity in the concept of sovereignty, a status which the nation states so zealously protect, may yet be the most important problem in this regard, as Voon observes[40]. She believes, an opinion the researcher finds good reason to agree with, that by according international legal personality to corporations, diluting the principles of sovereignty may be the only way of bringing these actors squarely within the folds of International law, and this may act as a precedent in acknowledging other non-state actors and their importance in the international arena.

[39]See n. 20, at p. 922.
[40]See n. 20, at p. 252.

It is further contended that by granting international legal personality, the status of such TNCs shall not be elevated to that at par with the states. This status is a limited one, of which the primary objective would be to effectively regulate such bodies, where identification of those who fail to comply with such a regulatory framework and its mandate may be brought to book. This to the researcher seems to be the most credible solution to our current predicament, and needs to be effectively pursued to counter the problem of non-recognition brought forth by traditional international law theories of state supremacy, clearly in need of modification to cope with the complexities of the changing times.