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THE CORPORATION IN COLONIAL AND DECOLONIAL PERSPECTIVES¹

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Abstract

The ‘threat of recolonisation’ is a key concern to TWAIL scholars and activists, as evidenced by BS Chimni in the TWAIL Manifesto.²

This chapter shows how the corporation, having played a key role in the colonization of much of the Global South, currently functions as a vehicle for recolonisation through (amongst other, more obvious forms of corporate recolonisation) the transplant of hegemonic metropolitan models of corporate governance law into Southern legal systems. These transplants, occurring at the behest of the OECD, which intervenes in Third World lawmaking as part of the International Financial Institutions’ debt-bondage system, not only shape the internal affairs of local Global South corporations, but also fundamentally reshape (neoliberalise) Third World and so-called Emerging Markets’ economies. This reshaping allows for the recolonizing entry of First World investors

¹ Baars, Grietje and Simge Haznedaroglu The Corporation, in Anghie, Anthony, Bhupinder Chimni, Michael Fakhri, Karin Mickelson and Vasuki Nesiah (eds.) Handbook of Third World Approaches to International Law, Edward Elgar, prospective publication: 2020.

² BS Chimni: Third World Approaches to International Law, *International Community Law Review* 8: 3–27, 2006.

(investment banks, pension and hedge funds, corporations seeking takeovers, etc.), hollowing out third world economic sovereignty as a condition for survival in the global market.

Part A of this chapter describes the role of the (metropolitan) corporations in colonizing most of the Global South, as well as the corporate foothold maintained in decolonized Third World States. It incorporates TWAIL Scholars' key writings on both these processes.

Part B of this chapter describes through the example of the OECD's involvement in Turkish corporate governance reform, the Turkish economy has been opened up to predatory (recolonial) foreign investment. It places this example in the context of broader IFI involvement in Third World and so-called 'Emerging Markets' economies in the service of western capital, through the vehicle of the corporation.

A short Part C outlines various forms of resistance against such corporate recolonisation, while acknowledging, with Balakrishnan Rajagopal, that it is easier to organise resistance against, for instance, a dam leading to displacement (as an example of a more obvious form of corporate violence) than against the 'background norms' that are as powerful, all the more insidious, and invisible to most people. A key task therefore is for TWAIL scholars to unearth, make visible and offer challenge to the background norms structuring contemporary corporate recolonisation.