

# Natural disasters: A fresh look at corporate accountability

## NATURAL AND FINANCIAL DISASTERS

The recent oil spill in the Gulf of Mexico has become the largest environmental disaster to hit the United States. Despite efforts to contain the impacts of the spill, it continues to cause great damage in the environment and in the livelihood of local fishing communities. A parallel can be drawn between this disaster and the global financial crisis unleashed by the subprime meltdown in the United States. Both incidents started in the United States under Barack Obama's administration and exposed the fragility and harmful consequences of a global economy driven by unregulated and powerful transnational corporations (TNCs). It is a likely expectation that the BP case will open space for the redefinition of policy options and debates concerning the regulation of transnational business and corporate accountability. This has implications for hemispheric relations.

Latin American economies continue to be based largely on the exports of natural resources. Oil, minerals, forestry, fishing, biodiversity, land for agricultural production, and biofuels are all seen as strategic for development prospects at a time when there are high prices for these commodities due to the growing demand of China and India. This has reinforced historical foreign direct investment patterns in these sectors. Canada and the United States have become key investors in these sectors in Latin America, in addition to European countries and increasingly China.

In addition to the old development challenges associated with deepening an economic model for the region based on extractive industries, the production of natural resources is also often linked with socio-ecological conflicts. The BP disaster is hardly an isolated incident. In recent years, there have been a number of cases throughout Latin America link-

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## STIFF SOCIAL RESPONSES TO CORPORATE POWER

Over the last 20 years, social responses to the consequences of extractive industries throughout Latin America have intensified. During the 1990s and early 2000s, civil society initiatives that confronted the impacts of TNCs in extractive industries were mobilizing against free trade projects such as the Free Trade Agreement of the Americas (FTAA), Central American Free Trade Agreement (CAFTA), and bilateral free trade agreements (FTAs). Likewise, the movement against the privatization of water provision services that began in Cochabamba, Bolivia inspired many grassroots initiatives throughout Latin America. An example of this is the campaign in Uruguay that in 2004 resulted in a constitutional reform to make access to water a human right.

With increases in mining activity, violence against community leaders has increased. During 2009 alone, an anti-mining activist was assassinated in Mexico, allegedly in connection with his advocacy for the closure of the mining operations of Blackfire, a Canadian company. Likewise, the Pacific Rim Mining Company is suspected of being responsible for the murder of an activist in El Salvador. In Argentina, there are questions about the environmental impacts of Barrick Gold investments, particularly the binational Pascua Lama mining project on the Andean border between Argentina and Chile. Self-organized citizen assemblies have been created in several provinces of Argentina to oppose large mining projects. This has led to the introduction of provincial legislations to ban this kind of contested mining activity.

There are similar social initiatives by peasant movements in response to agribusiness, particularly on disputes over land ownership, environmental degradation, and the use of genetically modified seeds. The clashes of the Landless Movement with Monsanto and Syngenta in Brazil have been a recurring feature of this conflict over the consequences of competing agricultural models. Throughout the region, communities affected by corporate-related rights violations have organized sessions of the Permanent Peoples' Tribunals. These tribunals denounce the complicity of TNCs in the violation of economic, social, and cultural rights.

## BOTTOM-UP LEGAL ACTIVISM

Some of the cases presented at these forums have subsequently been filed in legal courts abroad. In 2009, Colombian farmers filed an unprecedented case at the High Court in London against BP for allegedly causing serious damage to their land, crops, and animals following

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the construction of pipelines in Peru. The same court also accepted a claim against the mining company Monterrico Metals in relation to a case of the torture and murder of indigenous and community leaders in Peru who were members of the National Coordination for Communities Affected by Mining. Two lawsuits were also filed in the US federal court against the mining firm Drummond for complicity in the killings of trade unionists in Colombia with links with paramilitary forces. Evidence of links between Chiquita Brands and paramilitary groups, which was produced at the Peoples' Tribunal process in Latin America, had probative value in a trial against Chiquita in a US court.

This is all part of a growing corporate accountability movement in the region, which increasingly highlights the negative development implications and social entitlements related to natural resource extractions. The thousands of lawsuits that BP currently faces in US courts is only the latest chapter of a long-standing situation in Latin America.

## DIVERSE STATE RESPONSES TO TOUGH POLICY CHALLENGES

The BP oil spill in the United States is giving momentum to an ongoing debate about the nature of corporate responsibility for human and environmental rights violations. A policy response by governments—and international organizations such as the United Nations Development Programme, Inter-American Development Bank, and Organization of American States—has been to embrace the agenda of corporate social responsibility (CSR). Canada's Department of Foreign Affairs and International Trade created a \$170,000 CSR fund to assist Canadian offices, domestic and abroad, to engage in CSR-related activities.

The promise of the CSR agenda is that business will play a role in overcoming the main social and ecological challenges associated with neoliberal globalization. As a model of corporate voluntary, self-regulation, CSR accommodates

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and offsets growing pressure for greater corporate accountability in the form of binding and enforceable obligations with human rights. CSR provisions are also entering a new generation of FTAs. Corporations are expected to take responsibility voluntarily for the impact of their actions in several social and environmental domains. This will have profound regulatory implications insofar as it redefines state–market relations; however, as a form of privatization of public state responsibilities, CSR instruments often have inadequate means of enforcement.

Another policy response has been labour and environmental side agreements in bilateral FTAs. This was the case with NAFTA in the mid-1990s and, more recently, with the FTAs of the United States with Chile, Peru, and Central America under CAFTA. Canada's ratification of an FTA with Colombia incorporates a controversial system of assessment of human rights compliance.

Relations between South American neighbours have not been without tension on the subject of natural resources either. The pulp mill diplomatic dispute between Uruguay and Argentina over the shared use of a river is enough evidence of the potentially pernicious political consequences of a lack of common standards and policies when dealing with the treatment of investments in natural resources.

## A COMING BREAKTHROUGH IN HEMISPHERIC RELATIONS?

A different language is emerging in South America with potential implications for regional politics surrounding sustainable development and citizenship. The recent "World Peoples' Summit on Climate Change and the Rights of Mother Earth," hosted in April 2010 by the Bolivian government, saw the participation of hundreds of social and indigenous movements and organizations from 140 countries. Climate debt and the rights of the earth and indigenous peoples were among the core concepts of a consensus that reinterpreted "nature" as organically linked with human activity. The summit's conclusions were supported by regional groupings such as the Bolivarian Alliance for Our America and the Union of South American Nations.

Although it may be too soon to have a clear view of the implications of social and state transformations in the Americas, they will nevertheless have an impact on the role that natural resources play in relation to development policies, state–market relations, and investments. 

## Income distribution

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productive structures. These strong policies must support small-sector firms and their links with larger enterprises.

## KNOWLEDGE NETWORKS A FINAL CRITICAL ELEMENT

So then, it is important that knowledge-generation networks like the Latin American Trade Network reinforce their efforts to stimulate dialogues between diverse points of view on whether and how trade can reduce poverty. Dialogue is also needed around what complementary policies can be adopted to support a more equitable distribution of the gains from trade, in order to generate new ideas for redistributive policies that are compatible with export-led growth strategies for the region. 