

## BOOK REVIEWS

*Corporate Social Responsibility and Natural Resource Conflict*, by Kylie McKenna  
Routledge, 2016, 240 pp, £95 hb, ISBN 9781138783287

Competition for natural resources is a primary cause of contemporary global armed conflict.<sup>1</sup> An abundance of natural resources has been somewhat paradoxically associated with ‘poverty, corruption, state weakness, authoritarianism and repression’,<sup>2</sup> all of which increase the possibility of armed conflict.<sup>3</sup> As big corporations have tended to invest in sectors that are environmentally sensitive in natural resource rich areas, they are increasingly being called upon to respond to and potentially resolve resource conflicts. In *Corporate Social Responsibility and Natural Resource Conflict*, Kylie McKenna examines the growing power of such extractive corporations and their increasing impact on natural resources and local communities in host countries. Covering aspects of post-colonialism, law, revenue distribution, security, the environment and customary reconciliation, McKenna proposes that the engagement of extractive corporations should not simply focus on the theorization and practice of corporate social responsibility (CSR). She argues that these corporations should also aim to understand the causes of resource conflict and design new frameworks for CSR to better respond to risks and conflicts relating to natural resources extraction.

*Corporate Social Responsibility and Natural Resource Conflict* offers an empirical analysis of the business activities of three extractive companies – Bougainville Copper Ltd, PT Freeport Indonesia, and British Petroleum – all of which operate in Bougainville (Papua New Guinea) and West Papua (Indonesia). With long histories of conflict over natural resources, these two regions are particularly suited for considering how CSR might be reconceptualized to contribute more effectively to peaceful development. McKenna draws on first-hand accounts of corporate executives and affected communities to illuminate and interrogate key challenges of CSR in preventing environmental and social disruptions caused by large extractive projects.

A key argument that runs throughout the book is that the scope of CSR should be widened to include a proactive role for businesses in the promotion of peace during their natural resources extraction activities. In this regard, McKenna develops a new framework informed by principles of mutuality, reflexivity, engagement, and

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<sup>1</sup> United Nations Environment Program (UNEP), *From Conflict to Peacebuilding: The Role of Natural Resources and the Environment* (UNEP, 2009), available at: [http://postconflict.unep.ch/publications/pcdmb\\_policy\\_01.pdf](http://postconflict.unep.ch/publications/pcdmb_policy_01.pdf).

<sup>2</sup> K. McKenna, *Corporate Social Responsibility and Natural Resource Conflict* (Routledge, 2016), p. 2.

<sup>3</sup> P. Collier & A. Hoeffler, ‘Resource Rents, Governance, and Conflict’ (2005) 49(4) *Journal of Conflict Resolution*, pp. 625–33; M. Ross, ‘The Natural Resource Curse: How Wealth Can Make You Poor’, in I. Bannon & P. Collier (eds), *Natural Resources and Violent Conflict: Options and Actions* (World Bank, 2003), pp. 17–42.

flexibility for the design of more effective CSR in conflict areas. This so-called ‘Interdependent Engagement Framework’ takes place-oriented approaches, which acknowledge the primacy of local empowerment and the importance of all stakeholders working together towards shared goals’ (p. 216). McKenna elaborates on the framework throughout the book.

*Corporate Social Responsibility and Natural Resource Conflict* starts by introducing the geographic, cultural, economic, and environmental backgrounds of the case studies in Bougainville and West Papua. Here McKenna illustrates how the natural resource conflicts in these regions were caused primarily by the processes of colonization and decolonization. Colonial legacies have continued to influence and impact on resource exploration in recent times.<sup>4</sup> For legal scholars, her work is a timely reminder of the utility and importance of considering the socio-cultural and historical contexts of natural resource conflicts, as opposed to crafting legal frameworks and theories that do not take into account the unique circumstances of each conflict. Specifically, McKenna shows how the historically unequal distribution of resource revenue and compensation, as well as communication gaps and misunderstandings between government, companies and local communities, has exacerbated the latter’s political, cultural and economic marginalization, and further escalated conflict. McKenna uses her case studies to call for greater transparency in the distribution of resource wealth and a better recognition of community identity and cultural values to achieve effective and meaningful stakeholder dialogue.

In many existing cases of natural resources extraction, land compensation and resource revenue distribution have been long-standing grievances. The acquisition of community and private land results in many conflicts over involuntary resettlement. These conflicts between state ownership rights and rights governed by customary law illuminate the subtle power relationships between states, local authorities and landowners that underpin the inequitable distribution of resource revenue and the inequitable compensation of displaced communities. These inequities further destabilize relationships and cause new internal divisions over access to wealth, creating a vicious cycle that ignites, prolongs and exacerbates further conflict between interested parties. McKenna makes a significant contribution in that regard by reminding local governments in a resource conflict area of the importance of a legal framework that can ensure more equal distribution and transparency of resource revenue and compensation throughout extractive projects.

Besides grievances over revenue and compensation distribution, the social and environmental consequences of companies’ business practices are identified as important factors that contribute to conflict. McKenna concludes that large corporations were limited in their ability to predict the likely social impact of their business activities as a result of population growth, conflicts between central government and the local community, the heterogeneity of communities, and the transformations of traditional forms of authority. She emphasizes the importance of

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<sup>4</sup> A. Anghie, *Imperialism, Sovereignty and the Making of International Law* (Cambridge University Press, 2007).

empowering the local community in assessing the environmental impact of resource development, so as to shift from a 'top-down' to a 'bottom-up' approach to resource exploitation. Her new framework for the design of CSR in areas affected by natural resource conflict is elucidated in the very last chapter. The Interdependent Engagement Framework presents an integrated and holistic scheme that encourages companies to explore the root causes of resource conflict, and provides insights for the development of future regulatory frameworks to better deal with the risks of resource extraction conflict.

Scholars who work on corporate governance, natural resources governance and conflict resolution will find *Corporate Social Responsibility and Natural Resource Conflict* a useful and interesting empirical case study. It makes an invaluable empirical contribution to the existing literature on CSR theory. The latest CSR literature encourages corporations to evaluate the full range of environmental, public health, social-cultural, and economic impacts that may result as a consequence of corporate activities.<sup>5</sup> McKenna's extensive fieldwork findings, together with the resulting Interdependent Engagement Framework, support and complement these existing theoretically grounded works. Hence, the book is a solid example of how the legal theory of CSR could benefit from the analytical scrutiny of empirical research and field-based case studies.

Furthermore, the Interdependent Engagement Framework can help to resolve natural resource conflicts caused by the downsides of CSR. Foreign investors engaging in natural resource exploitation are facing complex challenges in their relations with host countries. The CSR activities of corporations are often criticized as being pursued only for public relations rather than the long-term development needs of a community, which results in conflict between corporations and local communities. McKenna painstakingly unravels the complex set of agents, relationships and factors that underpin natural resource conflict. She offers a comprehensive framework for extractive companies, local communities, and state actors to recognize their mutual dependence in actively contributing to environmentally sustainable economic development and peace building.

Environmental conservation and social interest protection have become global concerns with the dramatic increase of foreign investment activities by corporations. McKenna's framework is not only applicable in Bougainville and West Papua, but could also be applied to overseas industries in other conflict-affected societies, especially where economic development has to be balanced with environmental sustainability and the well-being of local communities. The framework offers an appealing impetus and practical directions for businesses to cooperate with other stakeholders to promote sustainable development in investment recipient countries, hence improving relations between investors and local communities and ensuring environmental and social justice. One suggestion to extend McKenna's framework

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<sup>5</sup> D. Mele, 'Corporate Social Responsibility Theories', in A. Crane (ed.), *The Oxford Handbook of Corporate Social Responsibility* (Oxford University Press, 2008), pp. 47–82; D. Levy & R. Kaplan, 'CSR and Theories of Global Governance: Strategic Contestation in Global Issue Arenas', in Crane, *ibid.*, pp. 432–51.

would be to consider other potentially important stakeholders. For instance, banks are a less visible group of players involved in financing economic development and industrial activities overseas. They, too, can play an important role by integrating environmental sustainability and social risk into their credit assessment and procedures to better influence the environmental and social performances of corporations during natural resources extraction overseas. In spite of this minor issue, McKenna's book is a highly readable and valuable contribution.

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*Transnational Environmental Law*, 6:2 (2017), pp. 378–382 © 2017 Cambridge University Press  
doi:10.1017/S2047102517000164

*Whaling and International Law*, by Malgosia Fitzmaurice  
Cambridge University Press, 2015, 418 pp, £79.99 hb, ISBN 9781107021099

Few marine issues have generated the sustained controversies associated with the directed hunting of whales. Initially developed as a form of coastal subsistence in antiquity, commercialized whaling commenced in earnest in the Basque region in the 12<sup>th</sup> century, via the legendary New England industry immortalized by Melville's *Moby Dick*, before technological developments in Finnmark facilitated whaling on an epic scale. The early 20<sup>th</sup> century saw the emergence of innovative legal prototypes to regulate whaling before the adoption of the 1946 International Convention for the Regulation of Whaling (ICRW)<sup>1</sup> and the subsequent inauguration of its constituent management body, the International Whaling Commission (IWC). While initially visionary, in recent years the IWC has become steadily mired in political and operational difficulties as the whaling question has become increasingly polarized. This was exemplified most recently in the extensive judgment of the International Court of Justice (ICJ) in adjudicating the merits of continued Japanese whaling for scientific purposes.<sup>2</sup> Whaling continues to present a plethora of legal, institutional and political challenges, not least in determining the overriding regulatory philosophy for the regulation of cetaceans (whales, dolphins, and porpoises), accommodating the needs of indigenous peoples and reconciling the future relevance of the IWC in an era of proliferating regulatory institutions for the conservation of marine species. In *Whaling and International Law*, Malgosia Fitzmaurice presents a compelling account of the competing interests at stake in the future regulation of whales – in terms of both their exploitation and their preservation – and the institutional dynamics incumbent in governance of these iconic species.

<sup>1</sup> Washington, DC (US), 2 Dec. 1946, in force 10 Nov. 1948, available at: <https://iwc.int/convention>.

<sup>2</sup> *Whaling in the Antarctic (Australia v. Japan: New Zealand intervening)*, Judgment, 31 Mar. 2014.