

Controlling Transnational Corporations: The Role of Governmental Entities and Grassroots Organizations in Combating White-Collar Crime

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***Abstract:** Controlling transnational corporations is problematic because of the absence of powerful international regulations and inconsistent national legislation. Corporations that conduct business in several countries can therefore often engage in corporate behaviors that are illegal in one country but not in others. However, efforts to control these corporations are undertaken in spite of such difficulties. Insights from state theory and social movement/problem theory are used to explain the relative successes of efforts to control corporations active in the infant formula, pharmaceutical, and tobacco industries.*

More than half a century ago, Sutherland (1940, 1949) drew attention to the existence of what he termed *white-collar crime*. Most criminologists up to that time viewed crime as a lower class phenomenon. Sutherland changed this with his presidential address to the American Sociological Association in 1939. He identified a new subject area and provided a definition for it. He focused in his definition on the behavior of individuals from relatively privileged backgrounds who committed crimes on their own behalf (“a crime committed by a person of respectability and high social status in the course of his occupation” [Sutherland, 1949, p. 2]), but the tenor of his writings indicates clearly that he was concerned about the behaviors of corporations, not individuals. His primary concern was not with white-collar criminals who, for instance, embezzled money from their employers, but rather, it was the behavior of the corporations that concerned him. Most of the chapters in his classic book were case studies of corporations and industries, not individuals. In this context, a definition that treated offenses committed by corporations as a subtype of white-collar crime, and developed much later, would have been more appropriate for his writings: corporate crime “consists of offenses committed by corporate officials for their corporation and the offenses of the corporation itself” (Clinard & Quinney, 1973, p. 188).

Beginning with Sutherland, and continued by numerous criminologists who have followed him, there has been a concern with the control of corporate crime. It

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is almost universally accepted that its control poses problems that are much greater than those encountered by street crime. The most important of these problems includes the power of corporations (particularly, the power of exit, the ability of corporations to leave a particular area and relocate to one that is seen as more business friendly) and the fact that historically, white-collar crimes were seen as being less serious than street crimes. These problems were then magnified by the emergence of transnational corporations (TNCs). They have sales that rival the gross national products of some nations. They are also by definition transnational: They transcend national borders and conduct business in several nations. Because of inconsistent national legislation and the absence of effective transnational regulation, they are extremely difficult to control (Michalowski & Kramer, 1987). This is especially the case in so-called Third World nations, or, in the terminology of world-systems theory, peripheral nations. Quite often, the corporations are more powerful than the nations that attempt to control them. This situation, combined with an interest in maximizing profits, may lead to the temptation to engage in unsavory, unethical, and dangerous corporate practices. Textbooks on white-collar crime are filled with examples. Corporations have sold products abroad that were banned in their countries of origins. Corporations have relocated manufacturing plants to countries that have less stringent worker safety laws. Products that were safe and legal in their countries of origins but that no longer sold well because of various social changes have been marketed aggressively in other nations. Corporations from industrialized nations have destabilized governments unfriendly to them in nations where they wanted to do business (Coleman, 1994; Simon, 1996).

Given the size and power of these corporations and the relative lack of power of some of the nations involved, one would expect that the corporations would be able to engage in these behaviors with impunity. Although this is true to some extent, this condition does not prevail forever. The corporations' power may enable them to delay sanctions, but they may not be able to avoid them indefinitely. Numerous control efforts have been attempted by many of the nations involved, including both the nations in which the corporations are registered and the nations in which they conduct business. A first solution involves ethical reforms. DeFleur (1983), for instance, suggested that "a reduction in illegal corporate behavior depends on the development of stronger codes of ethics in business" (p. 352). This could be done in a variety of ways: introduce mandatory ethics courses in business schools, follow codes of ethics developed by business associations, and encourage individual corporations to develop their own codes of ethics. Similarly, it could be possible to reward particularly ethical corporations with the presentation of special awards that would be publicized (Stone, 1975). A second arena in which control reforms are possible are enforcement reforms. Here, the reforms are numerous and involve providing greater resources for enforcement agencies, increasing fines for corporate offenses, licensing corporate executives, and enforcing an organizational death penalty for repeat corporate offenders (for overviews of such reforms, see Coleman, 1994; Friedrichs,

1996). Finally, it might be possible to institute some structural reforms. Stone (1975) argued for the inclusion of public directors on corporate boards. Such directors would be responsible for representing the public interest on the corporate boards. Similarly, it might be possible to nationalize firms that routinely violate the law or perhaps even nationalize entire industries that have proved to be problematic (Coleman, 1994).

Such efforts have been successful in controlling corporate crime to various extents. The situation is reminiscent of what some commentators have said about race relations in contemporary America: They are much better than they used to be, but they are nowhere near as good as they ought to be. The most blatant abuses, prevalent at the turn of the 19th to the 20th century, are no longer present. However, corporations still engage in antitrust activities, they still pollute the environment, and they still endanger the lives and health of workers and consumers.

The above reforms have been only partially successful. Focusing reform activities on ethics, policy, and structural reforms only provides some successes. It is for this reason that some have argued for the use of publicity as a form of sanction (Fisse & Braithwaite, 1983). Corporations tend to try to avoid negative publicity whenever possible. A positive corporate image, as Fisse and Braithwaite (1983) argued, is a valuable resource. Corporations can be adversely affected by publicity imposed by a governmental entity, or as Gerber (1990) showed, by consumer and social activist groups. If a corporation attracts enough negative publicity, it will attempt to counteract it with changes in corporate policy and behavior. In other words, control of corporations becomes possible even in the absence of effective legal codes. In this article, we provide an answer to the question of how and where publicity can be initiated in an attempt to control corporations, and TNCs in particular.

THEORETICAL FRAMEWORKS

We combine insights from several types of theories to explain the control of transnational corporate crime. Specifically, we focus our explanations on state theory and social movement theory, in combination with some insights from world-systems theory. The latter explains the position of TNCs in the world economy, state theory provides a framework for analyzing power relations between TNCs and state governments, and social movement/problem theory can explain state responses as a result of social activism.

STATE THEORY

At the heart of state theory is the relationship between the state and its subjects. More specifically, state theory deals with the power that the government is assumed to have in relation to economic interests. At the risk of oversimplifying

state theory, this theoretical framework can be divided into three main divisions: (a) instrumentalism or corporate liberalism, (b) relative autonomy, and (c) the state-centered approach. According to the proponents of the first perspective, the state is little more than a tool of the economically dominant classes with little or no autonomy of its own. Advocates of the other two see the state as having some (relative) or potentially absolute autonomy.

Proponents of the instrumentalist perspective argue that the state has virtually no autonomy of its own (Domhoff, 1978, 1990; Miliband, 1969; O'Connor, 1973). State actions are to be understood as interventions by the state on behalf of certain economic interests. According to this perspective, the state is simply a tool of dominant capitalists. They direct the state to intervene when intervention serves their purposes. The state could not and would not interfere otherwise. Thus, even acts that appear to be contrary to the interests of the economically dominant, in reality, serve their ends.

In criminology, scholars such as Chambliss (1975) and Quinney (primarily in his early writings, e.g., 1974) best express this view. The state is seen as a tool used by the elite, the corporate elite in particular, to maintain its position of authority. The state uses law to criminalize the behavior of the relatively powerless, while it ignores the socially injurious behavior of the powerful. Taken to its extreme, "if such a view were accurate, it would be unnecessary for powerful elites to legislate against their own interests and they would simply change the law to suit their interests rather than violate it" (Einstadter & Henry, 1995, p. 239).

A second perspective has come to be known as the relative autonomy approach. Proponents of this view maintain that the state has some autonomy from the direct control of capitalists. State managers are relatively free to pursue their own interests. However, they must further the interests of capitalists most of the time (Poulantzas, 1978). Some criminologists have taken a position that is located somewhere between relative autonomy and the theory below, state-centered theory. This camp, which includes scholars such as Spitzer (1975), Greenberg (1981), and Young (1981), is commonly known as structuralist Marxist criminology and sees the state as playing a role very different from that envisioned by the instrumentalists. According to this criminology, there is

a dual power structure in which the state serves a more dominant but semi-autonomous or independent role in relation to specific powerful economic interests. Through its mediating influence, the worst excesses of economic exploitation, and the crises they create, are controlled in the interests of legitimating the long-term maintenance of the system of inequality. (Einstadter & Henry, 1995, p. 231)

The control of TNCs is possible from this perspective. One would expect the state or perhaps some transnational governmental entity to attempt to control corporate behavior that is detrimental to global capitalism. Relatively minor victimizations are ignored, but when the victimization is of a nature that would threaten the legitimacy of the capitalist system, the state intervenes with sanctions. An analysis of

the state response to the savings and loan scandal found partial support for this perspective (Calavita & Pontell, 1994).

Proponents of state-centered theory see the state's autonomy as potentially absolute. According to them, corporate liberalists and relative autonomy theorists are mistaken by not allowing for the possibility that state managers have their own agendas. Block (1980, p. 84) postulates that state managers are "self-interested maximizers" who seek to extend their own power and influence. In fact, the state itself consists of factions, with individual state managers representing different state agencies, each with their own interests (Jessop, 1982). Skocpol and her associates (Skocpol, 1980; Skocpol & Amenta, 1985; Skocpol & Finegold, 1982) go further than other state theorists do in granting autonomy to the state. According to them, the state is an actor in its own right, and its autonomy is potentially absolute. However, not all states are equally successful in implementing policies that they legislated. Similarly, a particular state may be successful with some legislation but not with others. To explain such differences, Skocpol and Finegold (1982) introduced the concept of state capacity. States that have administrative organizations possessing expertise on a particular issue and have experience in policy implementation have a greater chance of success than do states without this capacity.

SOCIAL MOVEMENT/PROBLEM THEORY

Conditions that may be problematic for some segments of society have existed since time immemorial. However, only some of these conditions have come to be seen as problematic, whereas many have not been perceived as problems despite the harm they have objectively caused. Numerous scholars have examined the processes by which social conditions are defined as problematic. Some have treated social problems as unique phenomena (e.g., Spector & Kitsuse, 1973, 1977); others have studied them using social movement theory, in general, and resource mobilization theory, in particular (e.g., McCarthy & Zald, 1973, 1977); and yet others have tried to combine the two perspectives. Foremost among the latter is Mauss (1974, 1984, 1989), who argues that social problems are simply a particular type of social movement. There may be social movements without a social problem, but there cannot be the reverse—every social problem must be created by a corresponding movement.

Mauss (1974) sees problems as arising from the grass roots in a series of five stages. A key component of his perspective is that the movement begins with some popular concern (incipiency and coalescence), followed by official recognition (institutionalization) and its gradual disappearance (fragmentation and demise). Furthermore, an assumption is made that these movements are what McCarthy and Zald (1973, 1977) call *classical social movements*. In such movements, social movement organizations are seen as comprising primarily beneficiaries, that is, people who benefit directly from social movement organization success. Conversely, adherents and supporters of professional social movement organizations

are often conscience supporters, people who do not directly benefit in the case of organizational success. They participate in and support the organization for other reasons. Opposition to the corporate practices described below may be the result of such grassroots activism, either due to the activities of potential beneficiaries in peripheral nations or conscience supporters in the core nations.

There is also the possibility that some social problems are created by government officials acting on their own behalf. They may champion a cause for their own reasons, lay claim to a condition as falling under their purview, and then try to build public support for their claims. In this instance, what Mauss calls *institutionalization* precedes public awareness and concern. In our analyses of the 1986 War on Drugs in the United States (Jensen & Gerber, 1998) and Canada (Jensen & Gerber, 1993), we found this to be the case. Politicians championed drugs as a social problem before the public expressed concern over them in public opinion surveys. We thus created a modified version of Mauss's five stages of social problem/movement development. The first two stages, incipiency and coalescence, are similar to the original model. There may be some initial awareness of a condition as potentially problematic (incipiency), which may be followed by the emergence of some social movement organizations (coalescence). However, the two stages that follow are very different:

3. *Creation and policy formation.* The creation and policy formation stage is central to this model. In this stage, powerful interests such as politicians or governmental agency personnel claim the existence of an undesirable condition, argue for the legitimacy of their claims, and develop a solution for the politically constructed problem in an attempt to advance their own interests.

4. *Legitimation.* By publicizing their claims, politicians or other state officials attempt to create or strengthen public support for their position. In addition, these state problem constructors must establish the legitimacy of their claims and remedies in order to support their political or organizational interests. (Jensen & Gerber, 1993, p. 454)

WORLD-SYSTEMS THEORY

Whereas world-systems theory is much more complex than what we can describe here, it provides a widely accepted perspective for understanding the global political economy. Particularly important is the distinction between core and peripheral societies. The wealthy core societies dominate and exploit the poor societies on the periphery by controlling the capitalist modes of production. These societies are also labeled the *developed world* and include the United States, Canada, Western Europe, and Japan. In contrast, the peripheral societies are less developed and exploited by the core for profit: "The structure of the world-economy permits a (primarily trans-state) unequal exchange of goods and services, such that much of the surplus-value extracted in the peripheral zones of the world-economy is transferred to the core zones" (Wallerstein, 1984, p. 15). In other words, a neo-colonial relationship exists between the core and the periphery.

Wallerstein (1974, 1984) also discussed semiperipheral states. These are states in which mixed kinds of production activities take place—some core-like and some periphery-like. Semiperipheral states are located between the core and the periphery in terms of economic production and consumption. Some have moved up from the periphery, whereas others moved down from the core of an earlier system.

Central to our concerns in this article, world-systems theorists also propose that state mechanisms are relatively strong in the core and weak in the periphery (Wallerstein, 1974, p. 355). Chase-Dunn and Grimes (1995, p. 396) note that the severe poverty of the periphery prohibits these states from being capable of financing public welfare programs. Thus, governmental efforts to control transnational corporate deviance would be expected to be minimal or nonexistent in the periphery.

CASE STUDIES

Numerous cases exist of commercial interests using their multinational nature to engage in dangerous, unethical, and in some instances, illegal activities. Corporations are located in one nation but do some of their dirty work, figuratively and literally, in other nations. Examples include corporations that build manufacturing plants in nations that have less stringent worker protection laws than the home nations of the TNCs, with women workers often being the victims (Gerber & Weeks, 1992). Numerous labor-intensive industries such as electronic assembly provide a case in point.

Sometimes, it is literally dirty work that is exported, with corporations being attracted by the lax safety standards in peripheral nations. Union Carbide used safety mechanisms in its Bhopal, India plant in 1984 that were much less stringent than in its comparable U.S. facilities (Pearce, 1990). The dumping of toxic waste is another example. Simon (1996) documented several cases in which European and North American companies produced toxic waste that was dumped in peripheral nations at a fraction of the cost that would have been required to dispose of it safely in the countries of origin.

Many such industries could have been the focus in this study. We will concentrate on three: the pharmaceutical industry, the infant formula industry, and the tobacco industry. In focusing on three different industries, we aim to identify general patterns in controlling the behaviors of TNCs. At the same time, the industries selected must either be representative of all industries or have something in common with each other. We have chosen to limit our inquiries to corporations active in industries in which activities have potentially adverse health consequences for consumers and customers. The control of TNCs active in industries that have no direct health-related consequences for consumers and the public is therefore not addressed in this article.¹

THE PHARMACEUTICAL INDUSTRY

The pharmaceutical industry is notorious for having one of the worst corporate safety records (Braithwaite, 1984). Examples of illegal, unethical, and dangerous practices in which the industry has engaged range from the relatively crude to the fairly sophisticated. At the lower end of complexity, we find practices such as the marketing of dangerous drugs in countries with lax standards after the drugs have been banned elsewhere. For instance, manufacturers of contraceptives have continued to market their products in the periphery long after their marketing was banned, or at least restricted, in the United States and in Europe. Several U.S. companies continued to send “birth control pills containing high dosages of estrogens” to women in peripheral nations after they became unable to sell these pills in the United States because of adverse publicity (Coleman, 1994, p. 87). Similarly, the Dalkon Shield was sold abroad long after its manufacturer (A. H. Robbins Company) became involved in lawsuits in the United States (Mintz, 1988).

Somewhere in the middle in terms of sophistication are practices such as falsifying research in an attempt to gain approval by governmental agencies. Braithwaite (1995) discussed cases of reincarnated rats: “rats that died [during laboratory tests] reappeared later in the data as living animals” (p. 301). For instance, in tests conducted on chemicals used in soaps during the 1970s, rats that died were replaced with new ones (Dowie, 1982). Similarly, when the company (Richardson-Merrell Company) developing MER/29, a cholesterol medication for heart patients, sought Food and Drug Administration (FDA) approval, it was accused of systematically falsifying its research data (Silverman & Lee, 1974). Among other practices, researchers were told to replace ill monkeys with healthy ones before writing their final reports.

At the top of the sophistication hierarchy are unethical and dangerous practices that are aimed at increasing the chances of having a product approved for marketing in most societies. Braithwaite (1995) showed that after a product had been developed and some market research had been conducted,

an Organization for Economic Cooperation and Development country with permissive standards for approval might be the next choice; Belgium was such a country at the time of my research a decade ago. Belgian approval might then be used to justify entry to a number of large Third World markets such as Brazil. The first manufacturing plant could be located in Belgium, so that Belgium could issue the certificate of free sale required by most Third World nations these days—a certificate indicating that the product is approved for marketing in the country of manufacture. (p. 301)

The practices described in the paragraph above are not illegal, but they represent a cynical manipulation of legislation aimed at protecting the health of citizens of many semiperipheral and peripheral nations. Although the pharmaceutical companies are observing the letter of the law, they are in violation of its spirit.

THE INFANT FORMULA INDUSTRY

Whereas breast milk substitutes have been used for centuries, industrially produced infant formula has been in existence for approximately 80 years. In most instances, such formula presents little danger to infants: If prepared and stored properly, commercial infant formula is “the next best thing to mother’s milk” (Garson, 1977, p. 39). However, the use and marketing of these products proved to be problematic because of marketing practices followed by the industry and the conditions found outside the core nations. Furthermore, there seems to be little doubt that the industry was aware of these issues long before activists tried to increase public awareness, but industry leaders chose to ignore them.

A first cluster of problems centers on the use of infant formula in peripheral societies. For infant formula to be prepared, used, and stored properly, caregivers of infants, usually women, must be literate; water must be safe rather than contaminated; refrigeration must be available for proper storage of prepared but unused formula; family income must be high enough so that the product need not be diluted; and the absence of immunities in formula must not present problems. In most core nations, this is the case. However, one or several of these conditions are frequently absent in other nations, with the result that the formula is used improperly, which in turn has led to malnutrition, diarrhea, and even death (Garson, 1977; Gerber & Short, 1986; Muller, 1974).

The marketing of infant formula proved to be even more problematic in the eyes of activists. Although use-related problems could be considered unfortunate conditions endemic to the semiperiphery and the periphery, the use of certain marketing practices indicated that infant formula manufacturers willfully manipulated consumers. Furthermore, according to their critics, they did so in spite of their being aware of the use-related problems. Probably the most objectionable practice that the infant formula industry used early on in its marketing was the employment of so-called mothercraft nurses. Dressed in white uniforms, and thus having the appearance of health professionals, mothercraft nurses were saleswomen employed by individual corporations who were sent into hospitals to advise and counsel women on mothercraft skills. Invariably, they advised mothers to use their employers’ products as they were paid on a sales commission basis rather than a salary. Other practices aimed at manipulating mothers to use infant formula instead of relying on breast milk included the handing out of free samples—samples that usually lasted long enough for lactation to stop, which then forced the mothers to use some breast milk substitute (women were sometimes told that they had to continue using a particular product or that there would be adverse health consequences for the child). Furthermore, the industry was, at times, accused of using misleading advertising (e.g., “The very best milk for your baby” [Garson, 1977, p. 39]), excessive advertising, and light-skinned infants in advertising, a subtle racist claim that light skin complexion is both desirable and can be achieved through the use of Brand X infant formula (Garson, 1977; Gerber & Short, 1986; Muller, 1974).

Many of the problems described above are no longer present, or perhaps are problematic only to a lesser extent today. In some instances, the industry found other, more efficient ways to advertise: Mothercraft nurses and the handing out of free samples were replaced with the distribution of free supplies to hospitals. More important in changing these practices than simply finding better marketing strategies, however, has been consumer activism, in combination with some governmental intervention. Beginning in 1977, a social activist–led boycott against the largest infant formula manufacturer, Swiss-based Nestlé, put pressure on the industry to change its practices, but it also put pressure on national governments to pass legislation aimed at restricting some of the objectionable practices. This was especially the case once the World Health Organization (WHO), a quasi-governmental international agency, passed a code that banned many of these marketing practices in 1981.²

THE TOBACCO INDUSTRY

Tobacco companies are confronted with a problem that is similar to the problems that other industries experience, that is, shrinking markets in the core as a result of various campaigns aimed at increasing public awareness of the health risks resulting from certain corporate practices. Corporations often respond in two ways: (a) by trying to broaden their market in the core by appealing to new customers and (b) by expanding their marketing into nations beyond the core. The tobacco industry and cigarette manufacturers, in particular, fit this model well.

Smoking cigarettes became popular in the United States during and following World War I, partly as a result of the practice of handing out free cigarettes to soldiers during the war. Smoking became progressively more popular for several decades without much concern for adverse health consequences. However, medical researchers soon began to establish a link between smoking cigarettes and lung cancer, heart disease, emphysema, and other serious diseases. Until very recently, the tobacco industry has consistently denied the existence of any evidence that links smoking to health problems in spite of the tens of thousands of scientific studies that have done so.³ Instead, the industry has always maintained that the statistical correlations between smoking and health problems are just that, correlations, and do not constitute proof of a causal relationship.⁴

The denials of the industry notwithstanding, antismoking activists—both social and medical—have made inroads into the public consciousness and have been successful in lowering smoking rates in parts of the developed world, especially in the United States (Stebbins, 1987). The manufacturers have responded by aggressively marketing cigarettes to target populations in the United States: “Cigarettes are heavily advertised in black-oriented magazines such as *Ebony*, *Jet*, and *Essence*. . . . Of the top ten companies advertising in Hispanic markets, two are cigarette companies” (Simon, 1996, pp. 137-138).⁵

Cigarette manufacturers have attempted to gain markets in the periphery. In recent years, several companies have substantially expanded their marketing

efforts in such countries (White, 1988) because “much of the future for world cigarette sales lies in finding a market away from home” (*U.S. Tobacco Reporter*, as cited in Stebbins, 1987, p. 526). There is evidence that they have been successful: Cigarette exports by U.S. corporations during January through July 1995 were up 22% in quantity compared to the same time period in 1994 (U.S. Department of Agriculture, 1995).

The extent to which cigarette manufacturers have engaged in advertising to achieve this goal is noteworthy: “An indication of the extent to which cigarette conglomerates rely on advertising to stimulate sales is seen in Kenya, where the British-American Tobacco Co. is the fourth largest advertiser in the nation, despite having no competition” (Stebbins, 1987, p. 529). However, not only have they aggressively pursued Third World markets but they are also selling a more dangerous and inferior product. The tar content of cigarettes sold in industrialized nations is often lower than that of identical brands sold elsewhere (Goodin, 1989, p. 118).

DISCUSSION

TNCs are different from other corporations because their business strategies transcend national boundaries. Understanding their control requires a theoretical framework that is similarly global in nature (world-system theory). However, in spite of the fact that they are multinational, they are also subject to national governmental structures and legislation in each nation where they conduct business. A complete understanding of corporate control requires an analysis of the political economy of the individual nation-states involved (state theory). Finally, corporations are also influenced by and must respond to consumer and social activist groups. Any attempt to understand the control of transnational corporate crime must also include this dimension (social movement/problem theory).

THEORIES AND CONTROL OF TNCs

The activities of corporations in the three industries examined and efforts to control them must be understood within an economic context. In all of these industries, the corporations produced and marketed goods that led to considerable profits but had the potential to produce negative effects for their users and consumers. In one instance, tobacco, the negative consequences appear to be an inevitable result of use, whereas the other two types of products are potentially beneficial (pharmaceuticals) or at least not necessarily negative (infant formula). Negative results occur as a result of improper use, preparation, or inadequate research leading to product development.

In all three industries, very large markets were at stake in the core and peripheral nations of the world system. For many years, the corporations, their products, and their marketing strategies were not seriously challenged—caveat emptor.

However, claims about the negative health consequences of some of these products were eventually raised. Tobacco, for instance, had been produced in the United States since the colonial period, but beginning in approximately 1910 and intensifying around 1950, claims were made about the negative health consequences of tobacco use. Whereas the claims “of tobacco health hazards . . . were originally quite fuzzy” (Rabe & Ermann, 1995, p. 227), eventually they became scientifically more defensible, and the unfettered growth of the tobacco market was beginning to come to an end as a result. For instance, the percentage of Americans aged 18 years and older who regularly smoked tobacco was 42.4% in 1965 and progressively decreased to 25.6% in 1991 (U.S. Bureau of the Census, 1995, p. 144). The industry thus needed to look elsewhere if it was to maintain its profit margin.

The use of breast milk substitutes probably dates back to the beginning of humanity, but commercially produced substitutes are of much more recent origin. The Nestlé Corporation first produced and marketed sweetened condensed milk as a breast milk substitute in the early 1920s (Sethi & Post, 1979). Over the years, the company and others that followed improved on the quality of the product to the point that most nutritionists would acknowledge that commercial infant formula is better than any other breast milk substitute. Over time, the industry expanded its markets in the core nations until about the 1960s, but then the industry began to lose market shares as a result of the reemerging popularity of breast-feeding. Organizations such as La Leche League promoted breast-feeding as the natural method of infant nutrition, and enough women followed this advice for the industry to feel the impact. It was in this context that the corporations began to look at the periphery and semiperiphery for alternative markets (Gerber & Short, 1986).

The pharmaceutical industry has increasingly turned to noncore nations in an attempt to compensate for a smaller market for some of its products. It also did so to compensate for the increasing cost of developing new drugs. The average cost of developing a drug in the United States rose from \$1.2 million in 1962 to \$230 million in 1987 (Silverman, Lydecker, & Lee, 1992, p. 46). The following course of events repeated itself as a result. A product was developed and marketed in the core nations, problems with the product were identified, and it was then taken off the market. The corporation that lost its domestic market then turned to nations in both the periphery and semiperiphery for alternative markets. The history of Clioquinol provides a case in point. Clioquinol was marketed in the United States and Japan as a medication against diarrhea in the late 1960s. Users soon developed subacute myelo-optic neuropathy (SMON), a disease involving neurotoxic effects of the spinal cord, among other consequences. It is estimated that at least 10,000 people in Japan suffered from SMON. As a result, the company was sued and forced to discontinue marketing Clioquinol in Japan. However, the company continued to do so in Latin America, Africa, and Asia, allegedly under 13 different brand names and sometimes with “no indications regarding its purpose, the limitations of its use and the side effects that it may cause, or what the dose should be. It [was] sold like candy” (Director of Mexico’s Consumer Union, as quoted in

Mokhiber, 1988, p. 190). It was not until March 1985 when its manufacturer (Ciba-Geigy) took the medication off the market (Mokhiber, 1988).

TNCs are thus able to take advantage of the very fact that their organizational structures transcend national boundaries. When confronted with adverse market conditions in the core nations, they can evade pressures to regulate them and their products by moving into the periphery and the semiperiphery. The corporations are not likely to face significant opposition, at least not at first. They often do not face opposition because these TNCs dominate the countries where they do business. Instead of the national governments controlling the corporations, the reverse is often true. In some instances, this is possible because of bribes. Quoting Braithwaite, Mokhiber (1988) summarized this issue as follows: "One must question the liberal democratic ideal of national sovereignty 'when one is talking about undemocratic regimes who . . . make their decisions about the pharmaceutical industry on the strength of bribes'" (p. 192). In other instances, the sheer size of the TNCs makes it difficult for the governments of host countries to control them. This issue is further complicated because state mechanisms tend to be weak in the periphery because of severe poverty (Chase-Dunn & Grimes, 1995; Wallerstein, 1974), and thus the control of transnational corporate deviance tends to be relatively absent. In Skocpol and Finegold's (1982) terminology, states in the periphery have limited state capacity for dealing with corporate deviance in comparison to the core nations. For instance, the FDA has a long history in the United States of protecting Americans from harmful pharmaceuticals. However ineffective it may be at times, it is better than what most noncore states can offer their citizens. Similarly, agencies such as the Occupational Safety and Health Administration, the Consumer Product Safety Commission, and others charged with protecting the health of consumers, workers, and the general public are unheard of in many of these countries.

There is evidence that state capacity is improving in some instances. Prior to the 1980s, there was little expertise in most peripheral nations' governments on the infant formula issue. This changed after the WHO became involved in the controversy and passed its code in 1981. Several governments of member states subsequently passed legislation patterned after that code, and at least six nations implemented it in its totality: the Philippines, Sri Lanka, Brazil, Guatemala, Peru, and Kenya (International Baby Food Action Network, 1989). The expertise and leadership of WHO thus provided the impetus to increase state capacity in the periphery.

Another example is provided by Bangladesh, one of the poorest countries in the world. In 1982, an eight-member expert committee of the Ministry of Health and Population Control proposed the withdrawal of approximately 1,700 drugs from the market. What is interesting for the present purpose is that this action took place in response to research in the core nations: "We'd been studying the WHO guidelines on essential drugs. We knew what had to be done, which American and European textbooks could best serve as guides" (Silverman et al., 1992, p. 130). Even though more than 70% of these drugs had been declared therapeu-

tically worthless either by the FDA or British regulatory agencies, Western governments put pressure on Bangladesh not to implement the proposals. Eventually, many were implemented, and as a result, TNCs sell qualitatively better drugs in Bangladesh.

Such governmental activity does not occur in a political vacuum. At least two sources of action exist. Consistent with state-centered theory, state managers may be self-interested maximizers (Block, 1980; Jessop, 1982) who seek to expand their own power. They may push for new laws either out of purely selfish reasons, or consistent with structuralist Marxist criminology, they may see themselves as better stewards of public welfare than are corporate interests. Using the framework developed in Table 1, state managerial activity takes place in Cells 1, 2, 3, 7, 8, and 9, depending on whether it is primarily local, national, or transnational state managers who push for the legislation—and whether they are from core nations, the semiperiphery, or the periphery.

There is little doubt, for instance, that officials of the WHO (Cells 3 and 9), a quasi-governmental entity, have at times acted like social activists and actively promoted issues as social problems. They did so in the case of infant formula and the pharmaceutical industry. They made claims about the adverse health consequences of the use of these products, especially in peripheral nations, and then tried to legitimize their claims by building popular, scientific, and governmental support among member states' governments. For instance, WHO has taken an active role in standardizing the Good Laboratory Practices found in most core nations and has also internationalized the Good Manufacturing Practices Standards, which certify that minimal safety standards are met in manufacturing (Braithwaite, 1995, p. 306). These examples illustrate the similarity between the state-centered model (i.e., structuralist Marxist criminology) and our own model of social problem development. At times, state managers act on the basis of their own interests and then try to legitimate them by building popular support.

Another source of such state action can be grassroots activism. This may be initiated by either consumer or other activist groups or by professional groups with a vested interest. Similarly, it can originate in the core nations (Cells 4 and 5), the periphery (Cells 10 and 11), or perhaps at a transnational level such as the International Organization of Consumers Unions (Cells 6 and 12). More commonly, perhaps, interested parties at several levels in multiple locations pursue the issues. In all three industries examined here, activists in both core nations and peripheral nations championed the issues. Likewise, in all cases, health professionals in the core and peripheral nations worked independently from the activist groups but also had mutually supportive relationships with them. Such activism is consistent with the notion of Box (1983) that organized efforts to bring about changes in law that benefit the relatively powerless can be successful at times. From the perspective of state managers, such laws provide evidence that no one is above the law and thus that law is based on a broad-based consensus.

In the infant formula controversy, health professionals in the periphery (Cell 10) were the first who tried to draw attention to the practices of the industry

TABLE 1
POINTS OF ORIGINS OF CAMPAIGNS IN THE CASE STUDIES

	<i>Level</i>		
	<i>Local</i>	<i>National</i>	<i>Transnational</i>
Core			
Government	Cell 1	Cell 2: Tob: surgeon general	Cell 3: IF: WHO; Rx: WHO
Grass roots	Cell 4	Cell 5: IF: <i>Mother Jones Magazine</i> , <i>The Baby Killer</i> ; Tob: ASH; Rx: health professionals, MLAM, Health Research Group, Center on Corporate Responsibility, War on Wants, Oxford Committee for Famine Relief, Social Audit	Cell 6: International Organization of Consumers Unions; IF: INBC, IBFAN, INFACT
Periphery and semiperiphery			
Government	Cell 7	Cell 8: Rx: Belgium—Organization for Economic Development	Cell 9: IF: WHO; Rx: WHO
Grass roots	Cell 10: IF: health professionals, La Leche League	Cell 11: Rx: Health Information Network, Citizen Alliance for Consumer Protection	Cell 12: International Organization of Consumers Unions; IF: INBC, IBFAN, INFACT

NOTE: IF = infant formula; Rx = pharmaceuticals; Tob = tobacco; WHO = World Health Organization; ASH = Action on Smoking and Health; MLAM = Medical Lobby for Appropriate Marketing; INBC = International Nestlé Boycott Committee; IBFAN = International Baby Food Action Network; INFACT = Infant Formula Action Coalition

(e.g., Jelliffe, 1971). They were soon followed by activist groups in core nations (primarily Cell 5) who popularized the issue with more widely available publications such as *The Baby Killer* (Muller, 1974) and a report in *Mother Jones Magazine* (Garson, 1977). Noteworthy about this early activism was that it occurred primarily in the United States and Western Europe, core nations in world-system theory. Furthermore, the activists were, by definition, not direct beneficiaries but conscience supporters. Given that social activism requires resources that people in the periphery often do not possess—time, expertise, and disposable income—it is not unreasonable to expect that at least the early activism takes place in the core nations. At the same time, relationships between activist groups in all nations are required to ensure successful pressure on corporations. Infant formula activists were conscious of this and built transnational activist groups (Cells 6 and 12), such as the International Nestlé Boycott Committee and the International Baby Food Action Network, that were to coordinate the activities of national organizations (see Infant Formula Action Coalition, n.d.).

The path of claims making in the case of tobacco was different from that of pharmaceuticals and infant formula. It began with research by scientists and health professionals in the middle of this century, but claims making was soon led by the federal government, more specifically, the surgeon general (Cell 2). The famous 1964 report maintained that smoking was a causal factor in lung cancer and this, in turn, provided legitimacy for claims makers. This was followed by the emergence of a grassroots organization in the United States (Cell 5), the Action on Smoking and Health (ASH), dedicated to protecting the rights of nonsmokers (Troyer & Markle, 1983). It was the legal activism of ASH that led to restrictions on smoking in the United States and the subsequent expansion of American tobacco companies into the semiperiphery and periphery of the world system. More recently, the federal government in the persona of former Surgeon General C. Everett Koop has been the primary force behind the antismoking movement in the United States (Troyer, 1989).

In the case of the pharmaceutical industry, the impetus for action has come from a variety of sources. Given the nature of this industry, however, it is not surprising that health professionals in core nations (Cell 5) have often been the initiators of action. Braithwaite (1995) described an Australian group, the Medical Lobby for Appropriate Marketing, that conducts letter-writing campaigns against corporations. Similarly, infant formula is often manufactured by pharmaceutical corporations, and health professionals were the first to draw attention to the marketing practices deemed objectionable.

In some instances, consumer and activist groups have become “more and more active in efforts to increase the supply of needed drugs in the Third World and to improve the quality of drug use” (Silverman et al., 1992, p.183). The following is a partial list of such organizations:

- in the United States, the Health Research Group and the Interfaith Center on Corporate Responsibility;
- in Great Britain, War on Want, Oxford Committee for Famine Relief, and Social Audit;
- in the Philippines, the Health Action Information Network; and
- in Korea, the Citizen's Alliance for Consumer Protection (Silverman et al., 1992, pp. 183-184).

Whereas there are often activist groups in semiperipheral and peripheral nations fighting what they see as corporate abuses, the resources available to the corporations can overwhelm the activists. Thus, action is usually also required from activists in the core. The former president of the International Organization of Consumers Unions pointed out that "to overcome the powers of the multinationals, citizen groups must spring up around the world to alert the people about these problems" (as quoted in Mokhiber, 1988, p. 193). The case studies presented here show that control of perceived corporate misconduct is likely to take place if organizations are formed at the national and transnational level, and particularly if they are grassroots organizations (Cells 5, 6, 11, and 12). It is apparent that governmental agencies are likely to become involved in controlling TNCs after grassroots groups have addressed the issues.

An alternative explanation as to why activism in core nations is likely to be successful exists: There may be international variations in liability standards.⁶ Corporations may move their operations to other nations because of the existence of a corporation-friendly business climate. Part of the reason why a corporation may see the social and political environment as friendly is a low standard of corporate liability. The easier it is to make a corporation liable for its behaviors, the less likely it is that a corporation would want to stay in that market. Conversely, it may be possible that the above documented success of activist groups in core nations is due to relatively strict corporate liability standards. It is generally known that core nations have stricter standards than nations in the periphery.

We would argue that this debate is primarily of academic rather than practical value. Successful grassroots activism and strict liability standards appear to coincide with each other in the core nations. It is well possible that core nations have strict liability standards because they have successful activist groups, and vice versa. A historical analysis of how, if at all, activist organizations influenced the writing of strict liability standards may allow us to see a causal relationship between the two. From the perspective of studying the behavior of TNCs, however, this is not a particularly fruitful exercise, at least not in the short run. Core nations have successful activist groups and strict liability standards. In the short run, this is where future successful movements will have to start. In the long run, activist groups at the transnational level and in the peripheral nations may well want to devote some attention to strengthening liability standards in the periphery. To the extent that they are successful in this endeavor, they may be more successful in controlling the behaviors of TNCs.

SUMMARY AND CONCLUSION

TNCs can engage in problematic behavior because of their power and their international organizational structures. They conduct business in numerous countries and are thus subject to many national laws, but they also transcend them. Nevertheless, their activities are subject to many forms of control. We have used the insights of world-systems theory, state theory, and social movement/problem theory to understand why corporations that engage in transnational corporate crime can be controlled.

- World-systems theory: The economic world system consists of economically dominant core nations, the semiperiphery, and the periphery. TNCs are usually domiciled in the core nations and exert control over the periphery. Being in this position, they are often inaccessible to the relatively weak control mechanisms of the peripheral nations. They can thus engage in behaviors that are detrimental to others and often illegal in the core nations.
- State theory: TNCs are politically powerful in many of the nations where they conduct business. However, state managers have a responsibility to protect their subjects against hazardous and detrimental practices by TNCs and others. They also may have vested interests in expanding their own powers. The relationship between TNCs and host governments is thus a tenuous one. Governments in the periphery may not have the state capacity to counteract the pressures of TNCs but will attempt to do so for a variety of reasons. At times, they may be assisted by other governments or by transnational quasi-governmental entities (e.g., WHO).
- Social movement/problem theory: Conditions are treated by the public as problematic because of claims-making activities. Various coalitions of grassroots activists (e.g., consumer groups, health professionals, political activists) or governmental agents champion conditions as problematic and advocate some remedy. They are successful in generating negative publicity concerning the behavior of TNCs. In some instances, health professionals precede governmental action; at other times, the reverse might be true. However, in all the cases that we studied, conscience supporters in core countries were needed to assist beneficiaries in other nations.

With this framework, we have begun the process of how TNCs can be controlled. More research needs to be done to determine if this model proves useful in other situations. One limitation of this study is that we restricted our inquiry to corporations that are active in industries where activities have potentially adverse health consequences for customers and consumers. There are many other industries, such as banking, that involve questionable corporate practices that are not directly health related. Swiss banks, for instance, have attracted considerable negative attention in recent years (e.g., over the existence of the so-called Holocaust accounts). It remains to be seen if similar processes are at work in their control.

A second limitation of this study is that we have looked at societies that allow for at least some grassroots activism. TNCs that are active in societies with little or

no freedom of speech, press, and assembly are unlikely to be controlled in ways similar to the mechanisms identified in this article. Similarly, societies in which economic and political elites are indeed identical may produce state managers who are not subject to democratic pressures encountered by most officials in core nations. They may be relatively free to pursue their self-interests with little concern for the public good.

Finally, most of the problematic consequences of the corporate behaviors studied here are experienced not by people in the countries where the corporations are headquartered but rather in all or some of the other countries where the corporations conduct business. The opposite situation is present in corporate practices such as capital flight. Corporations that smuggle profits from one society to another, presumably societies with low tax burdens, victimize the people of the first society. It may well be that the money is smuggled from core nations, with their relatively high taxes, to nations in the periphery and the semiperiphery (e.g., Caribbean nations) with low or no corporate taxes. The control mechanisms may work differently in these instances.

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NOTES

1. An example would be international banking in general and the Bank of Credit and Commerce International scandal in particular.

2. Although that code could not be legally enforced, it did have a certain moral force (it was ratified 118 to 1, with the United States casting the lone dissenting vote).

3. Simon (1996) reports that the Secretary of Health, Education, and Welfare reviewed 30,000 studies in 1979 that led to the above conclusions.

4. Occasionally, the industry receives support from some scientists: "We may thus conclude that the received view—that smoking causes lung cancer and coronary heart disease and is responsible for the major portion of the deaths that occur from these two causes—has not been proven correct" (Eysenck, 1986, p. 70).

5. The industry, bolstered by some academics, denies that such advertising is aimed at broadening the market base:

Companies advertise in order to obtain a larger market share for their existing branded products or to obtain one for a new brand among existing smokers—not to enlarge the total market, which remains static in most developed countries. There are no campaigns that people "smoke" or "smoke more," only campaigns urging people to smoke "my" cigarettes rather than "theirs." (Boddewyn, 1986, p. 314)

6. We would like to thank an anonymous reviewer of an earlier draft for turning our attention to this issue.

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