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The Legal and Social Challenges Involved in the Expansion of Multinational Operations: *A Case Study of ExxonMobil Indonesia*

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Table of Contents

Abstract *3*

Introduction *4*

Approach and Methodology *7*

Background *8*

ExxonMobil Indonesia **8**

Public Discontent and the Free Aceh Movement (GAM) **10**

ExxonMobil Response to Increasing Public Discontent **12**

Human Rights Abuses Perpetrated by the TNI **13**

ExxonMobil Held Responsible by Local Outcry **14**

Legal Discussion *16*

Case Relevant Background **16**

Details on Both Cases **16**

Problems with Standing **18**

Recent Procedural Problems **20**

ExxonMobil's Current Status Within Indonesia *21*

Discussion *23*

On the Question of International Law **23**

On the Question of Public Opinion **25**

On the Question of Host Country Privileges **26**

On the Question of Steps Taken to Resolve Disputes **27**

Social 27

Legal 28

On the Question of Corporate Diplomacy **29**

Conclusion *30*

Appendix *33*

References *34*

The Legal and Social Challenges Involved in the Expansion of Multinational Operations

A Case Study of ExxonMobil Indonesia

Abstract

Within this paper, I will analyze the legal and social relations between multinational corporations and their host countries. This analysis will be conducted through viewing the circumstances surrounding *Doe v. ExxonMobil* within the District of Columbia Circuit Court, in which ExxonMobil has engaged in litigation regarding their human rights record within the country of Indonesia. Through secondary research conducted both within business and legal journals, information about the practices of ExxonMobil can be examined and utilized to make general conclusions upon the corporate diplomacy practiced by multinational corporations.

Introduction

Over the past two centuries, the world has evolved into what we know it today to become a global marketplace. From ships to airfare, countries can trade with each other at faster rates than previously possible. Along with the evolution of this global marketplace, corporations have evolved through two key unbundlings: The first unbundling resulted in the reduction of transportation costs which allowed for the transport of goods through international marketplaces and the second unbundling resulted in the separation of production and marketing. In other words, one country outside of the base country would produce the goods and another country (which could be the host country) would be where such products are sold in.

This new atmosphere has resulted in the need for international and local litigation divisions within corporations that wish to expand their operations abroad. Operations such as patents and intellectual property rights (Backer, 2019, p. 258-307) provide new challenges, both for the host country, as well as the multinational corporation. We end up seeing that because of such laws, multinational corporations prefer to manage production in developing countries that tend to have lax regulation on corporations, rather than a developed country that has high entrance costs. Eventually, the gross domestic product of such regions become immensely dependent on multinational corporations that may or may not be treating workers well by Western standards (LaPalombara, J., & Blank, S., 1980, p. 119). This has been enabled through the advent of the new globalized world, where the removal of trade barriers, reductions in public sector, and the liberalization of economic controls result in regulatory challenges for nations and international organizations alike (Paul, 2001, p. 286).

A clear backlash occurs in these instances, where social pressure causes corporations to adopt better, more Western, practices with their employees. For example, in Great Britain, laws

are being made to keep multinational corporations accountable to their actions in developing countries (Jägers, N., 1999, p.181-183). Corporations also tend to enact private compliance standards on the surface to allay any public concern that may arise through the progression of their operations, though the effectiveness of such policies is up for debate (Locke, 2007, 5).

My research and analysis will answer the following questions:

1. How effective is international law in addressing potential transgressions committed by multinational corporations?
2. How much does the general public care about actions caused by a local company in another country?
3. To what degree do developing countries extend privileges to multinational corporations?
4. What steps do multinational corporations take to resolve legal and societal disputes?
5. How do multinationals act as a corporate diplomat within other nations?

With the stage being set to current day, this paper will look at the issue in a twofold manner, first looking at societal issues that require the use of private policy to overcome, then looking at legal impacts of situations that occur within a foreign country. Using these two perspectives, we will analyze the role of multinationals as a corporate diplomat in their foreign holdings, as they navigate the intricacies of the public and private sector. Through the case of ExxonMobil Indonesia, we are able to examine a unique scenario where a multinational company and the government work together in a manner not unheard of in many developing countries that results in a current pending case within the US court system for human rights violations. Not only will this analyze the functions behind international law litigation, but it will also analyze how corporations tend to adapt to their local regions. More specifically, the analysis will be conducted through three windows, the past: countries prior to multinational growth, the

present: countries during multinational occupation, and the future: the actions being taken by parties to resolve any issues present.

Approach and Methodology

The research was conducted through an analysis of ExxonMobil's recent operations in Indonesia. As a civil war has raged on within the nation for thirty years, we will look at ExxonMobil's alleged role in the controversy surrounding the Soherto regime. Through the analysis of the case, we can examine answers to the questions provided. The information analyzed will sourced entirely off secondary research, as access to legal professionals at the multinational level is limited. There will be three types of information that will be delved into:

1. Business professional discussions and journals
2. Legal professional discussions and journals
3. Raw data on country statistics across specified time periods

These sources allow for the examination of direct research of other professionals in the field to comprehend the information provided in their journals and other data. Business discussions and journals will provide knowledge of how business tend to adapt to the laws of a given country. From such sources, the operational side of their expansion can be examined, especially on the production side with labor and environmental laws. Raw data on country statistics provides the opportunity to determine the economic impacts the multinational corporations have on the developed and developing countries. Finally, through the study of these phenomena from the legal perspective, a technical understanding of the subject material can be understood.

The holistic primary and secondary research conducted will then allow for the movement into the analysis phase, where connections between these three pieces of information will be examined and created.

Background

ExxonMobil Indonesia

Standard Oil began as one of the largest oil producing trusts in the history of the United States in 1882. However, due to its size and influence, it soon became the target of US government officials as the company was soon prosecuted under the Sherman Antitrust Act of 1890, which required the company to split its holdings into 33 different companies. The Standard Oil Company of New York eventually changed its name to Mobil Oil Corporation in 1966, with the Standard Oil Company of New Jersey eventually becoming Exxon Corporation in 1972. Although the company we know today as ExxonMobil formed in 1999 through a merger of the two companies, the constant structural reorganizations of the entire company did not prevent it from beginning to work outside the United States to find resources.

Mobil Oil Corporation's first foray into Indonesia began as early as 1898, with the opening of its first marketing office ("Our history in Indonesia," 2019). With exploration missions conducted in 1912, they began to take an active interest in the area to find potential oil fields for exploitation ("Our history in Indonesia"). This interest soon came to fruition with the beginning of its exploration operations in the Aceh province as early as 1968 ("Our history in Indonesia"). Through a production sharing agreement between Mobil Oil, Indonesia's state-owned oil business, Pertamina, and Japanese-Indonesian company LNG Company, Mobil Oil was able to gain access to the Arun oil fields within North Aceh (Clarke, 2021, p. 7).

The discovery of these oil fields soon became a key source of profits both for the Indonesian government as well as the American company. For the Indonesian government, natural gas operations soon became a major part of the economy, accelerating oil production and GDP growth to levels found in **Table 1.**

Table 1: Indonesian Oil Production and GDP Growth Rate From 1972-1981

Arndt (1983) p. 139, p. 141

Year	Oil Production ($ Billions USD Real)	GDP Growth Rate
1972	2.54	9.4%
1973	2.67	6.8%
1974	6.71	7.6%
1975	6.98	5.0%
1976	5.86	6.9%
1977	6.27	8.8%
1978	6.22	6.8%
1979	5.96	5.3%
1980	8.00	9.6%
1981	-	7.6%

Indonesia's new GDP growth rate caused its classification elevation from a low-income country to eventually one of the middle-income countries within Asia by 1981 (Arndt, 1983, p. 144). The current profit-sharing agreement split profits by a 70-30 distribution, with the former going to the Indonesian government (Clarke, 2021, p. 8). This allowed the Indonesian government to fund a number of projects across their country while creating sizable profits for Mobil Oil itself, as the oil field found itself to be the source of near 25% of total revenue through the 1990s (Clarke, 2021, p. 7). Estimations between 1996 and 2006 found that Mobil Oil and

later, ExxonMobil, were able to garner earnings of near $40 billion from the gas extracted from the plant (Clarke). This eventually led to significant investment in the North Aceh district, where a large industrial site was built to accommodate for operations such as processing facilities, numerous pipelines, roads, offices, and accommodation for expatriates (Clarke).

This sudden growth and profit led to ExxonMobil engaging in community operations to return part of their revenue to the company, furthering basic principles of corporate social responsibility. Along with the investment in infrastructure, the company began hiring near 2,000 Indonesian employees along with building infrastructure in the area such as schools, mosques, parks, and other public buildings in 2002 (Clarke, 2021, p. 7-8). In addition, ExxonMobil also donated $5 million to relief efforts after a 2004 tsunami that impacted the Aceh province in Indonesia resulted in hundreds of thousands of deaths (Clarke, 2021, p. 8). By 2007, they had invested $33 million into community programs that operated across the entire continent of Indonesia ("About Us," 2019).

Public Discontent and the Free Aceh Movement (GAM)

As the government and ExxonMobil prospered within the Aceh province, problems deep-rooted within the region began to become amplified. The Acehnese identity had always been one of self-determination stemming from their history of independence from Indonesia as well as the inability to conquer the region during Dutch incursions in World War II (Schulze, 2007, p. 183). Furthering this mentality was the agreement reached in 1959 where the region was conferred a special status that allowed for self-governance in matters of religion, customary law, and education (Schulze). In fact, the region considers itself underappreciated due to its crucial role in Indonesia's fight for independence, as the Aceh region was one of the few regions unconquered.

However, Jakarta views the area differently, often sending troops to quell rebellions in the region such as the *Darul Islam* uprising of 1953 (Schulze).

With the discovery of the Arun oil fields between 1968 and 1971, the established production sharing agreement between the government and Mobil Oil within the province caused much controversy in the local government. To the local government, the incursion appeared to be imperialist, wrought by capitalist powers and Jakarta (Schulze, 2017, p. 184). As operations started in the region, a stark contrast in capital distribution could be easily seen. Out of all profits from oil operations, only 5% of revenue was directed back into the Aceh province (Clarke, 2021, p. 8). In addition, while the Aceh province had no issues with poverty, their poverty rate in the region seemed to stagnate in comparison with other regions of Indonesia between the 1980s and 1990s (Schulze, 2017, p. 194). While most other regions decreased in rates, there was no change for the Aceh province. While Mobil Oil and other oil companies in the region provided employment and education programs, the unequal distribution soon flared up anti-Jakarta and anti-Mobil Oil sentiments in the region (Schulze). Once again, it appeared to the Acehnese that their region was made to shoulder a substantial part of the Indonesian economy without equivalent benefits.

This, along with other political issues, started the beginning of the *Gerakan Aceh Merdeka* (GAM) or the Free Aceh Movement, a separatist group that aimed to create an independent state within the Aceh province. Upon the foundation of this rebel faction, the Indonesian military (TNI) began to actively engage members in numerous operations. However, GAM did not focus their attention solely on the Indonesian government. Founded in 1976 by Hasan di Tiro, the son of an independence-era hero and a former businessman who lost a bid to start operations in the Arun oil fields, one of the key tenets of this group involved the control of

all profit-rearing operations in order to benefit the province further (Schulze, 2017, p. 195). This included the Arun oil fields in which Mobil Oil and other oil companies operated exclusively in tangent with the Indonesian government. On October 20, 1977, GAM issued a warning to all Americans, Australians, and Japanese working at the oil fields to leave immediately prior to any impending attacks on the plants (Schulze, 2017, p. 196). Just a month later, the first oil field casualties occurred, leaving one American worker dead (Schulze).

Through the 1980s and early 1990s, GAM seemed to leave Mobil Oil relatively untouched, however, operations once again began in 1999, with GAM forces taking over the Pase Cluster, demanding money from its hostages (Schulze, 2017, p. 197-198). In addition, the firing of guns at ExxonMobil aircraft that carried workers had become commonplace. By March 2001, Mobil Oil, now ExxonMobil, had to temporarily halt production in Indonesia due to security issues for its employees as GAM forces had cut crucial pipelines (Schulze, 2017, p. 198). Four months later, they were able to continue operations after a reduced presence in the region. The extent of GAM control within the civil war in the region can be viewed in **Appendix 1**.

ExxonMobil Response to Increasing Public Discontent

For the first seven years of the conflict, the lack of significant strikes on Mobil Oil operations did not necessitate any extra action by the company other than an increased security presence. The programs in place offered by Mobil Oil served to maintain relations within the general public. The founder of GAM, Di Tiro, while irked by the presence of the companies, did not want to impact the lives of the workers who were employed at such facilities and chose to avoid any directed attacks with possible human casualties.

However, after initial threats to Mobil workers were issued in 1977, circumstances resulted in a change of policy. With the beginning of targeted attacks on the Lhokseumawe complex where Mobil Oil was housed, the need for a larger security force was necessary. As those housed in the complex had strong relations with the current Indonesian government, they were offered protection by Pertamina's security force. In essence, Mobil Oil began paying Pertamina for their security force which they had contracted from the Indonesian government. By the year 2000, payments to Pertamina were near $500,000 USD monthly in order to maintain a security force of around 1000 people as attacks on ExxonMobil operations began to increase in quantity and severity (Clarke, 2017, p. 3).

Human Rights Abuses Perpetrated by the TNI

The Suharto regime, Indonesia's ruling family at the time of the ongoing conflict with the GAM, was characterized by its centralized style of ruling along with its control over the military. After the fall of the regime in 1998, the Indonesian media was free to report on several topics previously censored. The relevant factor of this increased freedom was the reporting of the rampant number of human rights abuses that were perpetrated under the regime and were continuing to be perpetrated by members of the TNI (Schulze, 2017, p. 204).

Thousands of bodies that fell victim to the abuses by the TNI were soon unearthed. The exact total fell around 5000, however, the conflict was still ongoing (Schulze). More accurate reports from provincial governments were able to give more exact numbers: 871 civilians were killed outright, 387 civilians who went missing were later found dead, and 500 more were still missing (Schulze). The Care Human Rights forum estimated that the actions of the TNI left 16,375 children orphaned, and the Indonesian national human rights organization estimated

around 7,000 total human rights violations during the course of the Suharto regime (as cited by Schulze).

ExxonMobil Held Responsible by Local Outcry

The resulting public outcry within Indonesia immediately looked towards the role of ExxonMobil in the solicitation of TNI as security forces. Upon first glance, it appears as if the only fault by the company was to accept the provision of the security force since Pertamina was in charge of directing the security as they were responsible for their operations. However, ExxonMobil also has culpability. Further investigation into human rights abuses found that ExxonMobil housed TNI operations as well as provided soldiers with spending income in their time in the Aceh province (Schulze, 2017, p. 204). In addition, ExxonMobil was found to have provided arms, additional training, and soldiers to the protection of their compound (Clarke, 2021, p. 9).

It was within this compound that many human rights abuses had allegedly taken place, from forced disappearances to torture to the killing of civilians (Schulze, 2017, p. 205). According to KontrasAceh, a human rights group operating in the region who outright believes that such abuses had occurred at the behest of the multinational corporation, they claim that ExxonMobil has a "moral, political, and legal responsibility […] for its involvement in humanitarian crimes in Aceh" (as cited by Schulze, 2017, p. 204) through the actions conducted by Though it has been established that the oil company was not directly responsible for the orders given to the soldiers, their awareness of the atrocities committed by the TNI along with the active supplying of their troops makes them culpable in the eyes of many Indonesian humanitarian groups.

ExxonMobil categorically denies any such allegations as baseless and publicly argues that the use of the TNI was forced due to constant attacks by the GAM, it did not intend for human rights violations to occur, and it exercised no control over any forces in Arun (Clarke, 2021, p. 14). The third claim can be corroborated to a degree, as it is established that Pertamina had direct control over the security forces for the compound. The argument then falls to whether or not ExxonMobil aided or abetted TNI forces in any manner that makes them criminally liable for any human rights violations.

The question then is how legal recourse would take place to seek remedy for those impacted by both the regime and the actions of ExxonMobil. With the culpable party being the Indonesian government, the government would not be willing to prosecute itself for its role in human rights violations. Therefore, while responsibility for the Indonesian government has still not graced any international or domestic court system at the moment, ExxonMobil has already faced the court system on two occasions regarding human rights violations committed in Indonesia under a pair of cases similarly named as *Doe v. Exxon Mobil Corp.* and *John Doe VIII v. Exxon Mobil Corp* within the United States. Both cases deal with survivors who were taken to the facilities of ExxonMobil to be tortured by the TNI who are seeking recourse within the District of Columbia Court system.

Legal Discussion

Case Relevant Background

As these cases proceeded through the district court, the judges paid careful attention to another that was being argued at the Supreme Court level. *Alvarez-Manchain v. United States*, was a case regarding a captured Drug Enforcement Administration agent who was killed in Mexico. Alvarez, a doctor, allegedly had participated in his torture by keeping the agent alive for as long as possible in order to sustain the duration of the torture. In this case, Alvarez was kidnapped by Mexican nationals paid by the DEA who brought him across the United States-Mexico border, which he was then subsequently brought to trial. Alvarez was acquitted under trial, and subsequently sued those involved in his kidnapping under the same Alien Tort Statute above. Although the lower courts had ruled in the favor of Alvarez, the Supreme Court reversed the ruling, finding that lower courts should show immense restraint in ruling against US government action, claiming that the Alien Tort Act should be limited to the conditions of its signing in 1789.

Details on Both Cases

Both cases that have been submitted to the District of Columbia Court system have completed pre-trial procedure and have yet to be argued as of the writing of this paper. The trial date is set to be within the next year. Due to the similarities present with both cases, a single analysis will be conducted in order to assist with the comprehension of litigation up to this point.

The International Labor Rights Fund filed suit in US courts in 2001, arguing standing under three statutes:

1. Alien Tort Claims Act (ATCA)

   Under the ATCA, the plaintiffs have argued that even though they are foreign nationals, they may bring tort suits against American nationals or companies if they violate US law.

2. Torture Victim Protection Act (TVPA)

   Under the TVPA, plaintiffs argue that the systematic torture of the TNI within ExxonMobil facilities allows them to seek standing and damages under US courts.

3. Common Law Tort

   Common law tort references federal common law in regard to any given civil case, where an injured party may request to seek damages against the injurer.

Table 2 below shows a timeline of the legal events up to current day within the US court system.

Table 2: Timeline of Events in *Doe v. Exxon Mobil Corp. and Similar Cases*

From Clarke (2021), p. 14-15

Date	Description
June 2001	International Labor Rights Fund files complaint in the U.S. Federal District Court of Columbia for relief under the ATCA, TVPA, and common law tort for wrongful death, assault, arbitrary detention, among others.
October 2001	Exxon Mobil submits a motion to dismiss the complaint on grounds that the case covers political issues that would interfere with U.S. foreign policy interests.
October 2005	Federal District Court decision on the motion to dismiss allows the common law tort claims to proceed but dismisses all claims under the ATCA and TVPA because of the political

	sensitivity of "evaluating the policy or practice of another state." Exxon Mobil appeals
January 2006	Amended complaint submitted on behalf of the plaintiffs, based solely on civil torts claim.
March 2006	Amendments allowed; Exxon Mobil's motion to dismiss the amended complaint is rejected.
May 2006	District Court orders the parties to proceed toward discovery of evidence; documents located in Indonesia excluded from the discovery process
January 2007	U.S. Court of Appeals denies Exxon's appeal to dismiss the lawsuit, citing lack of jurisdiction to hear the appeal.
July 2007	Exxon Mobil petitions the U.S. Supreme Court to review the District Court's decision not to dismiss the case.
June 2008	Supreme Court declines to hear Exxon Mobil's appeal, allowing the case to proceed in the District Court.
August 2008	District Court of Columbia denies Exxon Mobil's motion for summary judgment, thereby clearing all major hurdles before trial
2022-2023	Date of trial pending

Problems with Standing

As can be seen through the timeline, from both *Doe v. Exxon Mobil Corp.* and *John Doe VIII* v. *Exxon Mobil Corp.*, the only standing that was granted by the US court system was that under common law. Under the Alien Tort Statute, standing could not be granted for a number of reasons, including *Alvarez v. United States*. However, this extends to the case of *In re South Af. Apartheid Litig.,* where three groups of black South Africans sued multinational corporations in the area for doing business during the Apartheid years. The trial court in that scenario dismissed the claims on the grounds of collateral ramifications if courts were to grant standing to every case where aiding and abetting international violations caused some amount of harm. Using the information from *Alvarez v. United States*, they choose to defer authority to either the executive

or Congress to make such determinations that deal with international policy. However, they go further to explain why the case cannot be heard under the ATCA. Not only had the plaintiffs not exhausted local remedies on their allegations, the ATCA only applied to governmental actions, and the court system was not prepared to extend its applications to the corporate level.

Under the Torture Victims Protection Act, their ruling for lack of standing was straightforward. Because the act applied to individuals and not corporations, as was determined in the case of *Clinton v. New York*, the TVPA could not be applied towards this specific case. However, although *Kadic v. Karadzic* does provide an avenue for non-individuals to be held liable, the case entirely deals with government action as opposed to non-state actors, which the courts must abide by at the district court level.

However, as violations against human rights law have been found to occur, common law state tort standing was inevitably granted. By definition, common law torts deal with any given action that needs redress, and by such loose conditions, the court have agreed to hear the case at hand. Although ExxonMobil attempted to separate the actions of ExxonMobil and ExxonMobil Indonesia, the court found that subject matter jurisdiction still fell within Washington D.C. due to the Indonesian branch being an "alter-ego" of the main company. In addition, it was found that the tort claim could not be filed within Indonesian courts due to threats to their safety, and therefore any *Non conveniens* motion, or "lack of convenience" motion by the defendant party could not be used to dismiss the case. Although such standing was granted, it is important to note that the court have specified that all arguments by the plaintiffs (John Doe et al.) must be tied entirely to the actions of ExxonMobil, and not towards any actions conducted by either the Indonesian military or Pertamina given their subject matter jurisdiction would be entirely within their own country, and any litigation would impugn upon the country's sovereignty in the matter.

This is not meant to say that ExxonMobil, the defendants, have not had success within the legal sphere. In *John Doe VIII v. Exxon Mobil Corp*. argued on September 30, 2009, the court found that these individuals did not have standing due to their remedies being solely limited to those found within the ATCA and TVPA. For that reason, the District of Columbia found that those individuals had no standing within US courts. Although remedies are being argued within United States court, it is important to note that both cases factor in Indonesian sovereignty when making such decisions regarding standing insofar as to not make any decision that could factor in geopolitical strife. With Indonesia being an ally of the United States, opinion wording was careful to distinguish that their decision process took into account Indonesian claims to sovereignty. This is why under the consideration of standing done above, the district court system, along with the Supreme Court in the case of *Alvarez v. United States*, opted to defer such responsibilities to the executive and Congress.

Recent Procedural Problems

However, as the case has progressed, the ExxonMobil legal team has attempted to hinder the timetable on many occasions, resulting in the current delays on trial date. Mark Snell, ExxonMobil's Asia Pacific Regional Counsel, repeatedly obstructed, refused to ask questions, wasted time, and provided inaccurate and evasive answers in his own deposition conducted in 2020 according to Judge Royce Lamberth, one of the judges presiding over the case (Llewellyn, 2022). This has resulted in the multinational's legal counsel being hit with sanctions amounting up to $288,900.78 USD. As delays seem to continue within the case, this latest development offers hope for a more direct timetable for the case going forward.

ExxonMobil's Current Status Within Indonesia

As of 2018, ExxonMobil continues to be one of the major oil producers within Indonesia, even with litigation surrounding their operations in the region. However, since 2001, when the first lawsuit had arrived in the US court system, ExxonMobil has increased investment in community operations without acknowledging any role in the human rights abuses surrounding the TNI.

The energy company has invested $4 million USD to assist with cleanup and casualties after a tsunami in 2004 and has continued to invest heavily in infrastructure, spending $33 million USD in programs by 2007 ("Working with communities", 2019). In addition, they pledged $1.5 million USD after the Yogyakarta earthquake in 2006, $500,000 USD after flooding in 2007, and $318,000 USD after the West Sumatra earthquake in 2009 ("Working with communities").

Launching a microfinance venture in 2008, ExxonMobil has invested $10 million into the local community in loans with near 100% return rate ("Working with communities", 2019). Since 2010, they have had a sizable impact on local education as the energy company has trained near 5,000 teachers and has provided improved infrastructure for 280 schools which has impacted near 36,000 students ("Working with communities"). In addition, they have created a school in 2011 for high performing students with the North Aceh region to help advance families who would not have money otherwise ("Working with communities").. On the matter of health and sanitation, ExxonMobil has invested in 35 water towers and 104,000 miles of pipeline network, impacting nearly 38,000 community members since 2008. Additionally, toilets have been provided to nearly 3,800 people in sixteen different villages ("Working with communities")..

ExxonMobil has seemed to aggressively attack a community relations strategy within their market in Indonesia through active involvement in community projects. Although they have not officially acknowledged their role within human rights abuses in the civil war against the GAM, they seem intent in erasing that element from the minds of the Aceh and Indonesian people. Through numerous expenditures and humanitarian projects currently being pursued, they seem to have been making headway, as the company still maintains a strong market share within the island nation of Indonesia. At present-day, operations in Indonesia still maintains its importance to total operations worldwide with the island nation being one of its most important partners in the Asian hemisphere. It would not be surprising to see continued levels of increased investment in community as the company moves into the future.

Discussion

On the Question of International Law

The problem of international law regarding non-state actors is that it was structured to combat the actions of states, not non-state actors. This applies to non-governmental organizations, rebel insurgencies, intergovernmental organizations, and finally multinational corporations. In the case of multinational corporations specifically, it appears as if they exist in the perfect position to escape liability, both at the domestic and international level due to the fact that many human rights treaties were created around the time of World War II (Taboada, Campo, and Perez, p.173). Because of this inherent flaw in such treaties, suggestions floated by many international legal professionals in the field recommend that such companies self-regulate. However, as we can see through the ExxonMobil case, self-regulation does not always have the best effect.

Enforcement at the international level has always been tenuous due to its inherent nature. Institutions gain legitimacy from recognition and membership by state actors. However, in the case of multinational corporations and other non-state actors, there is almost no mechanisms to enforce any rulings taken on the matter at the international level. If a ruling were to occur, a multinational's status being operational in multiple countries without consideration of its base nation of corporation would make any command unenforceable. Therefore, we see the general trend of those who are subject to human rights violations to find redress in domestic courts, either within their home country or in the base country of the multinational corporation.

In the case of multinational corporations based within the United States, we see that the general trend from the geopolitical perspective is a scaling back of international involvement over the last thirty years. The deployment of military forces without United Nations

authorization, the withdrawal from treaties, and the withdrawal from the International Court of Justice has shown a general unwillingness of the United States to work with international institutions in the recent past (Paul, 2001, p. 287-288). With the Biden administration, although we have seen some movement back towards international institutions, with the United States rejoining in 2021, much still must be done for international law to gain legitimacy for dealing with US-based multinational corporations.

It is because of this general understanding that we see the International Labor Rights Fund filing suit against ExxonMobil within US domestic courts instead of any international tribunal. Finding that US law now covers international incidents through acts such as the Alien Tort Claim Act, Torture Victim Protection Act, as well as under common law, it has become less effective for international organizations and victims to pursue redress at the international level and have begun to submit civil cases within the District of Columbia district court system. Such cases have been giving standing, as seen in *John Doe v. ExxonMobil,* however through limited claims. Through the case provided, we see that within the 21st century, as countries deal with outdated treaties and less incentive to work with each other through international institutions, international law does not have the same power to regulate actions done by multinational corporations, which has now become a state responsibility from which the country originated, especially if the host country is closely working to protect the actions of the corporation in the area, as we see through the ExxonMobil case.

On the Question of Public Opinion

When discussing ExxonMobil's operations in Indonesia, it important to frame any analysis done in the realm of the four questions presented at the introduction of the thesis. The first question is in regard to whether the general public of the United States cared about any action done by ExxonMobil abroad in Indonesia.

The answer to this question seems to be a resounding no. Most information provided on the topic either came from scholarly articles or Asian news sources. While it is clear through actions by the GAM that Indonesians care greatly, it appears that almost no reaction has come from the American media. In addition, we find that no American-based human rights nongovernmental organizations have taken any form of leadership in regard to this case, as any litigation comes from either Indonesian or international human rights organizations. This can be contrasted when it was found that Nike and Apple were using sweatshops to manufacture their products.

However, in any situation, whether it be less publicized cases such as ExxonMobil or more publicized cases such as Nike or Apple, we can see minimal impact on customer behavior. A look at stock prices between December 31, 1998 and December 16, 2005 for ExxonMobil finds litigation almost had no long-term effect in customer confidence, as the stock price between those two time periods jumped almost $20 despite active human rights litigation being pursued by international groups ("Historical Price Lookup").

Therefore, it can be concluded by an in-depth analysis of the extreme case of ExxonMobil that consumer opinion on international human rights violations is often inelastic, with no substantial impact on customer purchasing behavior or confidence.

On the Question of Host Country Privileges

The second question is in regard to the relationship between host country and the multinational corporation. In the case of ExxonMobil Indonesia, we were able to examine how a strong relationship between a host government and a multinational can lead to strong profit margins. Despite having a state-owned oil production company through Pertamina, the use of production sharing agreements allowed the host nation to still have the most control over their nation's resources, while allowing private investment to seep through to bolster its natural gas industry. In addition, ExxonMobil was able to give back to the North Aceh community through the building of infrastructure, from the necessary roads to operate to mosques, schools, and parks in the area.

However, just as was addressed in the introduction, the globalization process of certain countries can often open the door to worker's rights violations, which we see through the case examined. The interconnectedness of ExxonMobil and the government is actually the reason why the company is currently facing litigation, as the use of its troops to act as security personnel has led to the energy company being liable for the actions of the government and Pertamina. Whether or not ExxonMobil is liable may be a different question, however privileges offered by a host government can clearly have a negative aspect.

Because of this twofold nature, it is important to consider that privileges extended in order to entice a multinational corporation can have both positive effects socially and legally, as the increased levels of cash flow can require some level of sacrifice in autonomy. Due to the complex nature of the civil war brewing around the Aceh province, ExxonMobil was forced into using the Indonesian military, the situation at hand was unpreventable, causing a domestic debacle in regard to reputation, especially if they were to be found liable for TNI actions.

On the Question of Steps Taken to Resolve Disputes

Social

In order to answer the question presented, let us first address each topic separately, first socially, then legally. Throughout ExxonMobil's time in Indonesia, we have seen a few common solutions that their corporate leadership decides to undertake in the face of adversity. Apart from general infrastructure investments that eventually help with factory operations, ExxonMobil goes above and beyond in their corporate social responsibility plan and creates infrastructure for improved education, sanitation, employment opportunities, and public spaces. In addition, the company is not afraid to donate to any natural disaster that needs extra funding. This social capital they have built and are currently building assists with the resolution of qualms the local public would have with their operations. Although it will take far longer to repair relations with the Indonesian public, we don't see as much of an adverse reaction now than we saw immediately after Indonesian media reported on the human rights violations. ExxonMobil's use of portraying itself through positive media such as donations or infrastructure projects slowly gives way to improved reputations.

This approach is common in the discipline of business, the only difference being that ExxonMobil is so profitable in the region that they can afford to continuously spend money on improving public relations in their host countries. In addition, in countries in which the economy continues to increase substantially due to a specific industry, it becomes easier for a major player such as ExxonMobil to fall back in good favor out of necessity. Even in the earlier examples given through Nike and Apple, both engaged in CSR campaigns that eventually improved working conditions within their factories, as well as restoring their reputation within the United States.

Legal

The legal strategy of ExxonMobil Indonesia is incredibly intriguing. Within the circumstances, the human rights violations they have been accused of seemed inevitable given the situation, and yet it appears as if they were not prepared for a legal battle within the United States court system. Though they were able to dismiss almost all standing, the inability to argue against common law standing, especially when it was able to be dismissed for four of the eleven seem to break down into a failure of arguments, especially when all plaintiffs had similar remedies pursued.

While the trial has not commenced as of yet, the public approach pursued by ExxonMobil is not too surprising. In no scenario would they admit fault for human rights violations, especially when an active case is involved within the District of Columbia court system. However, it will be interesting to note how their increased efforts in CSR will be portrayed once the trial begins, especially with the possibility that the plaintiffs can use that as some admission of guilt in the area.

While this case does not look at trials outside of the United States, the specific case confers upon us an important element of info that precedent exists that allow foreigners victimized by US companies to sue for damages with standing. This was not clear prior to these cases, as rulings would be incredibly tenuous depending on the reading of the judge in charge. With this being the last legal precedent being set, especially with the US Supreme Court declining ExxonMobil's appeal, companies will have to adapt their legal strategy when it comes to relationships abroad in order to cover themselves against potential lawsuits. At the moment, it does not appear that ExxonMobil will offer a settlement to those who fell victim to the human rights abuses of the TNI, therefore the result of the trial should be closely followed.

On the Question of Corporate Diplomacy

When dealing with shareholders from multiple different regions across the world, it becomes incredibly important to avoid conflict at all costs. However, in the case of ExxonMobil in Indonesia, we see how events have unfolded that completely shatter the notion of viewing the American company in a positive light. An Indonesian shareholder by the name of Zahara Hamzah at a 2002 shareholders' meeting exclaimed the following:

"In 1998, at the fall of the tyrannical regime of General Suharto we found that [ExxonMobil] had been financing the military operation in Aceh since 1989. ExxonMobil had provided the facilities for the Indonesian military to torture, rape, and kill our kinsfolk. It had paid the salaries of soldiers who burnt our houses and robbed our properties…In fact, all the atrocities are still going on at this very moment. The soldiers are still being paid by this Company of yours and the soldiers are still killing civilians, raping women, pillaging and burning villages all around the ExxonMobil complex, in the name of protecting your Company" (Schulze, 2017, p. 204-205).

In the situation that a shareholder of ExxonMobil enters this statement into public record at a shareholder meeting, it shows the deep fracture of trust that existed back in 2002 between the general public, their own shareholders, and the company itself. The relationship between home and host country is important to maintain not only due to communication reasons, but also due to effective multinational governance. In the case presented, we see an example of how trust takes time to heal. Although Mr. Hamzah is a shareholder, he never once claims ownership of ExxonMobil, opting to use the phrase "your company," distancing himself from any further actions. It is at this point that the goals of social and legal decision making are important to recover from any negative impact seen from an international debacle such as the one presented in the case.

Conclusion

From the findings of this case, we can see the limits of international law in the global system. In a continuously changing world, the rise and prominence of non-state actors has resulted in statutes becoming outdated. With the inability of states being able to come to an agreement within 21st century geopolitics on matters that either do not have mass public support or need immediate addressal, the status quo must be assumed for the near future. Until this situation can be corrected, remedies must be pursued at the local level in order to gain some semblance of redress.

Base country public opinion has not moved as significantly as expected, especially regarding awareness of international court cases about American companies that are currently in progress. With an issue persisting within ExxonMobil Indonesia for nearly fifty years, public attention has not been brought to such cases at the same level of popular clothing brands such as Nike and Shien. However, as discussed, purchasing behavior barely moves in regard to global news. This situation results in the continued perpetration of the issues at hand as consumer behavior becomes relatively inelastic in its response. Although we see public outcry within Indonesia, there has almost been no publication of issues within sources in the United States. With the additional news of sanctions being imposed upon ExxonMobil for their handling of the case, Al-Jazeera and Reuters were the only major news organizations that chose to report on such an issue. However, due to social issues in play with the civil war still raging within the nation, it becomes of utmost importance for ExxonMobil to balance relations even within their host country.

Corporate social responsibility has always been the crux of all problem solving in regard to building positive capital with the environment a multinational is based in. The ExxonMobil

Indonesia case allows for the unique analysis of a company that has potentially committed a violation of both international and domestic law yet has somehow maintained the profile of the case to be under the radar in their home country. Because of the extreme nature of the case, we have been able to test the limits of legal and social challenges and see to what extent a company must perform remedies to attempt to repair their reputation. Through heavy investment in local economies, we can see that companies can just not improve the lives of those in their community, but also change entire education systems that can reflect their company in a positive light.

As the case moves forward within the American legal system, ExxonMobil Indonesia must now fight both at home and abroad to tackle potential ramifications. If the case is ruled in favor of the plaintiffs at the Supreme Court level, we could potentially see an influx of cases move into the US court system as the international system has become ineffective. Courts recognize this potential harm and will take such factors into account, as seen in the comments regarding how the ATCA could not apply to the case at hand. International legal questions will continue to flow into the US court system until such issues with international law are looked at, and for now it is the responsibility of the court system to determine standing.

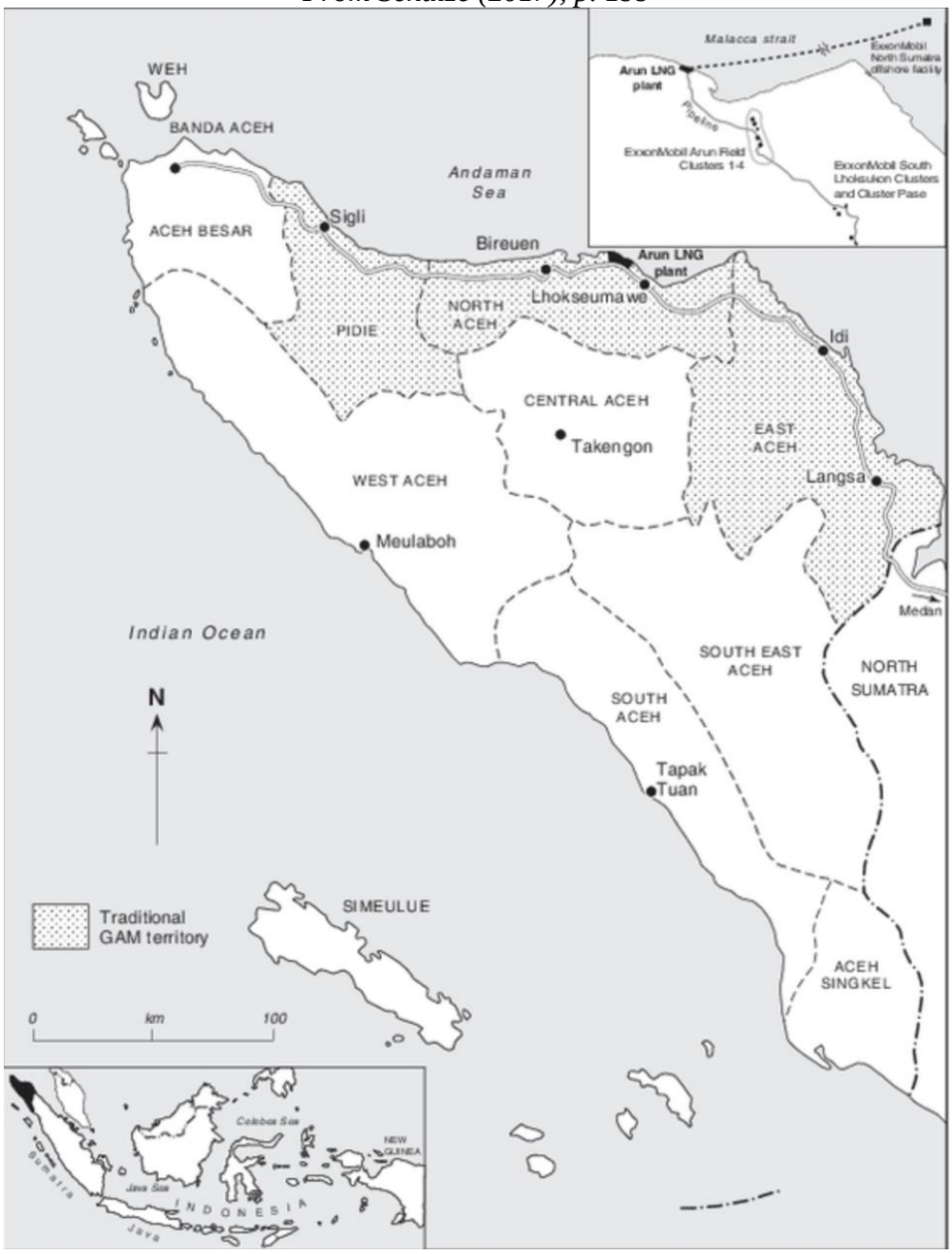
Although the case of ExxonMobil may seem singular, it has highlighted issues with the legal system currently and could set the scene for legal battles in the future. The practice of multinational management combines three disciplines: international law, international business, and human resources. It is the efficient management of all three that provide answers to all possible legal and social challenges that the world can present. However, though the case of ExxonMobil Indonesia has provided us with a plethora of information regarding answers our thesis questions, it is important to understand that one case cannot possibly cover every strategy.

Globalization has changed the world through two major information and supply chain revolutions and has not stopped constantly shifting the dynamics of how interconnected economies work. As more companies partner with more foreign nations, the need for efficient conflict resolution will be necessary more than ever, and this will result in the creation of unique strategies to solve any potentially new problems.

Appendix

Appendix 1: Map of GAM Control Within the Aceh Province

From Schulze (2017), p. 199



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