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THE INFLUENCE OF MULTINATIONAL COMPANIES ON THE STATE: LEGAL ASPECTS

***Abstract:** Since the multinationals were created or also transnational calls, their influence on the different countries in which they develop their activities is undeniable, sometimes the influence of these companies on the states is so strong that it can be said that they have total control of a country.*

By means of a research and analysis of this phenomenon, the aim of this document arises, where it is sought to expose the influence of the multinationals on the state, this research and analysis is carried out on the basis of the legal aspects.

***Key words:** Multinational Company, state, corporation, case, courts.*

ВЛИЯНИЕ МУЛЬТИНАЦИОНАЛЬНЫХ КОМПАНИЙ НА ГОСУДАРСТВА: ПРАВОВЫЕ АСПЕКТЫ

***Аннотация:** Поскольку транснациональные корпорации были созданы или также являются транснациональными, их влияние на различные страны, в которых они развивают свою деятельность, неоспоримо, иногда влияние*

этих компаний на государства настолько велико, что можно сказать, что они полностью контролируют страну.

С помощью исследования и анализа этого явления возникает цель настоящего документа, где ставится задача выявить влияние транснациональных корпораций на государство, это исследование и анализ проводится на основе правовых аспектов.

Ключевые слова: *Транснациональная компания, государство, корпорация, дело, суд.*

It is not possible to separate the fact that the multinational corporations have influence of a direct and indirect way on the public politics of the different countries where its activities take place, however some companies want to move away from the public sector its influence is undeniable and its necessary participation, since the public sector must be an ally of the corporations for the development of its activities, the problem arises when the relation between the companies and the state is uneven, there are states with a low level of development, governments with little experience, deficiencies in the control of budgets or with lack of infrastructure, which generates that transnational corporations who arrive in their territory are in a more favorable situation compared to these states, which means that in some cases the transnational companies have power over states and can request that the laws of this country be accommodated at their convenience.

And it is precisely this case which aims to analyze.

The possibility that a company goes so far as to control the juridical system of a country, the parliament and even be able to commit crimes inside the territory without having legal problems, it is the problem that this document considers to treat from a critical way, because of this its necessary to speak of a particular case , which even though it happened in a Latin American country, this situation is repeated in different parts of the world, Central America, Africa and any country that are at a disadvantage compared to a multinational.

Sinaltrainal vrs Coca Cola Company.

What is the context of the case? Coca Cola Company arrived in Colombia around the years 1930 and 1940, when opened its own processing and bottling plant in the country.

Why Colombia? Was a country in full industrialization at the time the company arrived, it is also a country with cheap labor and multiple benefits from the government to the private sector, briefly it is possible to create a big business without having many problems and in a certain way laws are flexible.

Opposite to the concrete case, Coca Cola operates through subsidiaries, one of its bottling plants is called PANAMCO or FEMSA Colombia, This bottling plant operates in the regions of Nariño, Cauca and Putumayo. As is clear is a company with great power in the economic sector with a big number of personnel to its services, but with a well-known antitrade union tendency, then arise the facts and background of the case, which are mentioned in a general and fast way:

On June 1, 1996 Coca-Cola cancelled the extra- time contract to the Bottling plant Nariñense S.A., that was attending to the market of a wide region of the south of Colombia (Nariño, Cauca and Putumayo). The cancellation of the contract was realized after 25 years of existence and caused the dismissal of its 170 workers, the annihilation of the trade union and the disappearance of the conventional agreements. One week had not happened when Coca Cola bought this bottler, hired new workers and directly assumed the control of the bottling, as a result their union leaders begin to feel discontent, but the whole problem is generated when in 1997 is fired from the company the union leader Adolfo De Jesus Munera Lopez after he was persecuted, accused and threatened by employees of the company, the union leader interposes an action of Guardianship for his human rights, the action was so controversial that it reaches the constitutional Court, and at that time he was assassinated.

With him, initiate the disappearances, kidnappings, threats and torture of the different union leaders of the company around the country, at the hands of paramilitary groups of ultra-right, groups that during this period of time (1990 to 2004) operated with total support from the national government and were considered the personal army of the big companies.

Because of that in July 2001, The United Steelworkers Union and the International Labor Rights Fund decided to sue The Coca Cola Company and two of its Colombian Bottlers (Bebidas y alimentos and Panamerican beverages, Inc or Panamco) in a United States federal court. But The Court dismissed, the claims that the company's parent resides in the United States so it is physically impossible for the company to commit these crimes. the court also sentenced that the claims are not configured as part of crimes committed by companies but that the crimes were committed in the context of the internal armed conflict.(Lawsuit - Sinaltrainal v. The Coca-Cola Company, 20 Jul 2001 [complaint in US District Court, Southern District of Florida) ¹.

For the mentioned the labor unión goes to ILO (International Labor Organization) and UN (The United Nations),(case 2595 Colombia, complain present september 18/ 2007) ².And they after analyzing the case, order the government of Colombia to investigate the case, realize the different processes and check the judgments against the trade union leaders, even the UN ordered an accountability for all the crimes , to the Colombian government. And today after twenty years, all the cases still open , the Colombian government has not done anything , just wait for the prescription of the cases.

Then the doubts arise: How is it possible that all these crimes have been done and so far there is no one responsible?, and why did Colombian justice not help the members of the Union?, Well first of all it is worth mentioning that some of the

¹ For know about the .(- Sinaltrainal v. The Coca-Cola Company, 20 Jul 2001 [complaint in US District Court, Southern District of Florida) 578 F.3d 1252, 1260 (11th Cir.2009).

² For know about the case ILO : Case No 2595 (Colombia) - Complaint date: 18-SEP-07 apart 589 June 2009. ONU case COL 11/2014A/HRC/29/37/Add.5 03 Jun 2015.

judges of the Courts are legal advisers of the company in Colombia, as is Mr. Juan Carlos Guerra exminister of Justice and defense.

But this situation not only happens in Colombia , Mr.Ed Potter Responsible for the international relations of Coca Cola acted as delegate of the United State in ILO. Of course, any neutrality of the organs that are supposed to protect the rights is devastated if their employees work for the company that they investigate.

Here is a clear example of how an international company can influence a state, assassinate, torture and kidnap the trade union employees to seek its benefits, while the government ignores, and benefiting the company.

Then, how is it possible to prevent situations like this? It is clear that this is a legal mission, the only way to protect a country from the abuses or the direct influence of a multinational, influence in the bad sense, is generating laws that feel basis on the work of these companies in the states, but not only create laws , have a jurisdictional system so strong that enforce those laws, in this way every action made by the multinationals will be controlled and if in case of assaulting the human rights of the citizens of these states the company shall be punished.

Finally its possible to conclude that the influence of the multinationals is undeniable but its overstatement in the States and transgressions, already proven, in the States can and should be controlled, and that kind of control is responsibility of the jurists ,those who have the duty to create laws and protect the society, and in addition strengthening the legal system of their states and thus protect the human rights.

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