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THIRD WORLD APPROACHES to INTERNATIONAL LAW *Review*

TWAAILR: Reflections ~ 20/2020

Revisiting Allende's 1972 Speech at the United Nations General Assembly: Histories Repeated with a Twist

Shabd Hammouri

My first true teacher, who was a Marxist with a broken heart, once told me that history goes around in a spiral – it repeats itself but with a new layer each time around, a conception from the Marxist tradition. I am not setting out to defend this claim but rather to reflect on the two lessons learned from the analogy of the spiral – that there are observable repetitions over the course of time and space, and that with each round a new layer of complexity is added.

Along the macro-timeline of the global south, I will stop at the moment when the euphoria of decolonisation was fading away, to be replaced by frustration over the lack of change in global economic systems and standards of living in postcolonial states. In this short reflection, I revisit [a speech](#) by President Allende of Chile at the United Nations General Assembly on the eve of 4 December 1972, where he expressed his frustration over embedded forms of imperialism posing threats to his state. I rely on the content of the speech to argue that the historical spiral of the global south is governed, among other things, by ever-tighter twists of deterritorialising economic considerations from the public sphere. In other words, economic considerations (for example, investment and the exploitation of natural resources) are increasingly severed from the public sphere of contestation (and perhaps also the local sphere), and instead such considerations are becoming increasingly managed by the private sphere (and perhaps also the transnational and international). With each twist in the spiral, this

detritorialisation is further normalised. Thereby, the recurring pattern is the gradual exclusion of economic considerations from the public sphere exemplified in the normalisation of the public-private distinction globally.

Gradual changes in terminology occur with the turning of the spiral, reflecting the reaction of informal discourses that pursue the interests of capital. Such terminological changes include shifts from nationalisation towards expropriation; and from sovereignty over natural resources and the right to economic development towards the apolitical terminology of human rights. Deterritorialisation is slowly normalised through different forms of intervention occurring increasingly informally. A move away from outright physical intervention through aggression, towards embedded forms of economic and diplomatic intervention and persuasion instead, defines twists in the spiral.

The Context of the Speech

Allende was elected president on 21 September 1970. His position was backed by a coalition of six political parties and his policies were largely protective of his people's social welfare as well as Chile's economic independence. For this latter reason, his victory represented a moment of hope in the timeline of the global south where concerns of economic sovereignty were paramount. Following his victory, the interests of the United States and the Chilean elite were aligned in opposition to Allende's policies. While the Chilean elite took to the streets, the United States intervened externally and internally to delegitimise him and his policies for the sake of its own foreign policy interests. Such efforts are exemplified in the [statement](#) of [Edward Korry](#), US Ambassador to Chile, made to Henry Kissinger, foreign strategist for US President Richard Nixon: 'Once Allende comes to power we shall do all within our power to condemn Chile and the Chileans to utmost deprivation and poverty'. Notably, Allende set out to continue the nationalisation of local industries, with hope that the proceeds of these industries could be used to boost the state's economic wellbeing as opposed to enriching foreign corporations. In his short-lived presidency, he pursued an economic agenda premised on social welfare. During a US backed coup d'état at the presidential palace on 11 September 1973, he [presumably](#) took his own life. The coup that ended his presidency marked the start of a 17-year dictatorship under Pinochet, whose [policies](#) furthered Chile's economic dependency and paved the way for low-price exploitation by foreign corporations. Pinochet's rule represented another twist in the repetitive historical spiral, where imperialism continues in the postcolony via corrupt local dictators, a pattern observable across the global south.

Aware of the internal and foreign efforts to resist his changes to the Chilean economic model, Allende took to the United Nations General Assembly floor on 4 December 1972 to call upon the common solidarity of the global south. At that time, southern economic considerations and decolonising rhetoric was prevalent at the United Nations, most notably in General Assembly Resolution 1803 (XVIII) concerning the permanent sovereignty over natural resources, which Allende relied upon. Allende warned:

The outlook which faced my country, just like many other countries of the third world, was a model of reflex modernization, which as technical studies and the most tragic realities demonstrate, excludes from the possibilities of progress, well-being and social liberation more and more millions of people, destining them to a subhuman life.

His speech played a role in the proliferation of solidarity movements across the global south and in the halls of the United Nations at the time, exemplified most clearly in the establishment of the movement for a New International Economic Order (NIEO) in [General Assembly Resolution 3201 \(S-VI\) \(1974\)](#). This movement was based on 'equity, sovereign equality, interdependence, common interest, and cooperation among all states ... to eliminate the widening gap between developing and developed states'.

Another notable effort was the instatement of the Group of Eminent Experts on Transnational Corporations that had attempted to draft the *United Nations Code for Transnational Corporations*, and who later also played a key role in the United Nations Public Hearings for Corporations in South Africa. These forms of ultimately short-lived solidarity movements in the halls of the United Nations represented moments of hope in the timeline of the global south. These efforts were halted due to the targeted policies of right-wing governments that came to power in major northern and southern states, especially across Latin America; as many states across the south were being driven into debt crises as a result of informal economic intervention by northern states.¹

¹ Khalil Hamdani and Loraine Ruffing, *United Nations Centre on Transnational Corporations: Corporate Conduct and the Public Interest* (Routledge, 2015) 17-19.

Change of Terminology to Normalise the Interests of Capital

Allende starts his speech touching upon the efforts of the Chilean people to shed the legacy of colonisation. In this context, the nationalisation of the copper industry was a revolutionary act for Chile, approved unanimously by the Chilean parliament. The nationalisation of copper was intended as an effective move to allow Chilean people sovereignty over their natural resources, in a manner that fosters the state's economic well-being rather than maximize profit for foreign corporations. However, from the perspective of developed states, this was called expropriation, and necessitated a financial blockade and other forms of informal intervention in the name of protecting private property rights. As Allende notes: 'There have been efforts to isolate us from the world, strangle the economy and paralyze the sale of copper, our main export product, and keep us from access to sources of international financing.'

Colonisation ensured the exploitation of southern labour and resources through the use of force. Postcolonisation sustained similar exploitation through the use of financial blockades, among other diverse forms of informal interventions under the claim of protecting private property. In this respect, Allende noted that 'we are the victims of a new expression of imperialism – more subtle, more sneaky, and terribly effective – to block the exercise of our rights as a sovereign state'.

Over time, the notions of nationalisation and sovereignty over natural resources were systematically overridden by notions of expropriation and private property. This normalisation of terminology is inherently biased towards the interest of capital rather than the interests of third world peoples. It came hand in hand with the death of the hope engendered by the NIEO and the institutionalisation of international economic law. With the establishment of major arbitration institutions such as the International Centre for Settlement of Investment Disputes, and the World Trade Organisation and its dispute settlement mechanisms, there was a strong turn towards notions of 'respect for private property', 'respect for acquired rights', and 'compensation for unjust enrichment' claiming customary international law status.² Indeed, for this reason, during later negotiations at the United Nations in the 1980s, southern states requested that customary international law in the investment context not be relied upon.³ The interconnected global market and the corruption and

² Kate Miles, *The Origins of International Investment Law: Empire, Environment and the Safeguarding of Capital* (CUP, 2013) 81.

³ United Nations Centre for Transnational Corporations, *United Nations Code of Conduct on Transnational Corporations* (United Nations, 1988) 21.

weakness of governments in the global south paved the way for intensifying northern informal economic intervention into the global south as interwoven into the rules of the game, creating ever-deeper twists in the spiral of economic deterritorialisation.

In recent decades, several states such as Argentina have brought forward counterclaims against investors claiming expropriation or a breach of contract, on the basis of states' obligations towards their population, especially with regard to the right to water and the right to health (see for example [Sociedad General de Aguas de Barcelona SA and Vivendi Universal SA v. Argentine Republic](#) (2010)). States and tribunals have relied on broad legal standards including: protecting the legitimate expectations of the investor ([Veolia Propreté v. Arab Republic of Egypt](#) (2012)); necessity arising from grave unforeseen events that harm fundamental interests of the state ([LG&E Energy Corp. LG&E Capital Corp. and LG&E International Inc v Argentine Republic](#) (2007)); 'clean hands' of the investor and whether they have violated national criminal law such as through corruption ([Hesham TM Al Warraq v Republic of Indonesia](#) (2014)); and a proportionality analysis that strikes an 'appropriate balance between individual rights and the public interest'.⁴ The latter illustrates the increasing reliance on human rights-based approaches.

Another counterclaim argument relying on human rights is through affirming international law as a holistic system where human rights are operable regardless of a collision of norms; otherwise known as a claim for the harmonisation of international law. This was Argentina's argument in [Urbaser SA and Consorcio de Aguas Bilbao Bizkaia, Bilbao Biskaia Ur Partzuergoa v Argentine Republic](#) (2016), where the tribunal noted that the Bilateral Investment Treaty 'has to be construed in harmony with other rules of international law of which it forms part, including those relating to human rights'.

The dominant terminology spiralled from nationalisation towards expropriation, *de facto* delegitimizing nationalisation. Meanwhile, the terminology of permanent sovereignty over natural resources spiralled towards giving way to the much more apologetic, generalized, and economically neutral language of human rights, in a desperate attempt to create some space for public considerations within economic dealings.

⁴ Monica Feria-Tinta, 'Like Oil and Water? Human Rights in Investment Arbitration in the Wake of Philip Morris v. Uruguay', (2017) *Journal of International Arbitration* 601-630.

The Increasing Invisibility of Transnational Corporate Actors

The most notable issue that triggered Allende's speech was the systematic intervention of transnational corporations in Chile in response to his efforts to nationalise their businesses. These interventions were affirmed in later [leaks](#) showing the International Telegraph and Telephone Company (ITT) requested that the CIA intervene in Chile to protect the rights of US investors abroad. Their proposed techniques of informal intervention included a coup d'état coupled with terrorist aggression. Hence, in his speech, Allende observed:

They wanted to strangle us economically, carry out diplomatic sabotage, create panic among the population and cause social disorder so that when the government lost control, the armed forces would be driven to eliminate the democratic regime and impose a dictatorship ... before the conscience of the world, I accuse ITT of trying to provoke a civil war in my country.

Corporate actors have been an invisible tool of imperialism since the early days of colonisation. As Barreto notes, this has been the case ever since the days of Grotius,⁵ and since our disciplinary origins the corporate actor has remained largely invisible to public international law. Multinational actors operated, and still do, within states of the global south under the protection of a cocktail of free trade, alien protection, and profit maximisation. Attempts to reintegrate the corporate actor within public international law were presented for a brief moment during the [Nuremberg Trials](#) and later resurfaced in the halls of the United Nations following Allende's speech. After this speech, the Economic and Social Committee commissioned a Group of Eminent Experts to draft a [Report on Transnational Corporation in World Development](#). The *Report* stresses the autonomous role of transnational corporate actors, effects and dynamics of political interventions undertaken by transnational actors, the need to protect state sovereignty over natural resources and non-intervention, and the need to assess the role of corporate actors with regard to overall socio-economic conditions. To support these views, the *Report* relies on, among other things, a rhetoric that prioritises the right to development. Following the *Report*, the United Nations Centre for Transnational Corporations was established, and the drafting of a binding code of conduct for transnational corporations became its main priority. The Centre had an unusual concentration of academics and people with high level expertise who

⁵ José-Manuel Barreto, 'Cerberus: Rethinking Grotius and the Westphalian System' in Martti Koskenniemi, Walter Rech, and Manuel Jiménez Fonseca (eds.) *International Law and Empire: Historical Explorations* (CUP, 2017) 157.

stressed the abovementioned concerns. However, it was abolished in 1992 after the NIEO spark had become well and truly extinguished.

The work of the Centre focused on the corporation as an autonomous actor in international relations, and as an effective actor in the process of development. The *Draft Code on Transnational Corporations* was published in 1988. It stressed concepts such as non-interference in internal political affairs, respect for national sovereignty, adherence to the economic goals and development objectives of the host state, and adherence to socio-cultural objectives and values of the host state. The *Draft* was never ratified and, after the abolishment of the Centre, the United Nations Conference for Trade and Development (UNCTAD) took on some of their work. More recently, the agenda of the business and human rights movement addresses corporations mainly through the nexus of their relationship with the state, though exclusively through the human rights discourse. Thereby the business and human rights movement opted out of assessing the structural economic effects of corporate activity as was done in the *Code of Conduct*, instead focusing only on the direct effects of corporate conduct.

With each spiral, the invisibility of the corporate actor persists and deepens. Attempts to regulate corporate conduct have instead helped normalise capital interests, with a shift in focus from the corporation as an autonomous actor towards the corporation as a subject of the state. The discourse also shifted emphasis, away from a type of development that addresses structural concerns, and towards human rights.

Informal Intervention as a Tool of Normalisation

In the speech Allende noted, 'we find ourselves opposed by forces that operate in the shadows without a flag, with powerful weapons that are placed in a wide range of influential positions'. The terminological shift in international law was paralleled by a shift in the informal sphere of international relations away from violent intervention as the dominant mode, and towards more expanded use of economic and diplomatic intervention to affect the economic and political policy or position of states in the global south. These forms of intervention lead to the normalisation of the status quo as informal manoeuvrings ultimately ended up shaping the formal positions of the states.

For example, many postcolonial states rely heavily on foreign aid and are deeply indebted. This debt can be seen as a residue of colonisation, as many states struggled to make ends meet in the postcolonial era, and were encouraged to rely on

debt to finance development by states of the north and international financial institutions. Debt and foreign aid create a relationship of dependency that pose major economic risks for the postcolonial state as funding flow is reliant on the creditor, leaving room for the suspension of funding as a tool for pressure when needed. This type of intervention is a classic tool of normalisation, frequently used by developed states to guarantee their interests. Most recently, the [Trump Administration](#) has used this technique to pressure states opposing their 'Middle East Plan for Peace', [normalising](#) effective annexation and systematic violations of basic human rights of Palestinians.

Such forms of informal intervention are tools for inventing international consensus. As Rodiles notes, back stage informal dynamics are sometimes in contradiction with international law, and thereby this informal space plays a significant role in 'the dislocation of authority in the global sphere'.⁶ To counter such dynamics in the informal sphere, the global south is left with nothing – a terminological void, where big elephants in the room, such as corporate and financial lobbies with behavioural power, remain unaccountable.

Throughout his speech, Allende focuses on how [different forms of informal intervention](#) are effectively in contravention of international law. Forms of informal intervention that Chile witnessed during the short period of Allende's rule included an economic blockade, interruption of financing, denial of access to certain technologies, terrorist attacks, and media intervention. Allende describes this as 'a premediated form of intervention in the internal affairs of a nation. This is what we call imperialist arrogance'.

Today, we have reached a place where the rules of the game and the language of legitimacy are shaped by international financial institutions and privatised economic forums for dispute resolution. Such forums have pushed states to a race to the bottom, and to accept this situation as the normalised status quo. Corrupt governments in many states of the global south, many of which are approved and maintained by northern states (for example, [Al Sisi](#) in Egypt and [Bolsonaro](#) in Brazil), have been an important means of furthering this race to the bottom.

⁶ Alejandro Rodiles, *Coalitions of the Willing and International Law: The Interplay between Formality and Informality* (CUP, 2018) 5.

Conclusion

Allende called upon international law to fulfil the claims put forth in the [UN Charter](#), including the development of international relations based on 'respect for the principle of equal rights and self-determination of peoples'. 'This is the only acceptable thesis of the United Nations, it is the only one that is in keeping of its philosophy and principles.' This call on the principles of international justice present in the formal body of international law can be read as an implicit call for reterritorialising economic considerations within the public sphere of contestation. Often, public interests within international law reside in an abstract ideal space, where they serve the function of legitimating the powerful rather than as a tool of equity between states. As a result, the means to make legal claims on behalf of the public interest are, more often than not, absent. Meanwhile, much of what governs the global economy remains in the informal sphere.

Allende declared that

[t]he world community, organized under the principles of the United Nations, does not accept an interpretation of international law subordinated to the interests of capitalism ... If that were the case, there would be a violation of a fundamental principle of international life: that of non-intervention in the internal affairs of a state, as was explicitly recognized at the third UNCTAD.

He demanded a realization of the non-intervention principle so that the economic interests of the global south could be addressed within the public sphere. He opposed the increasing deterritorialisation of these interests into the private sphere.

I conclude with my translation of some verses from Mustafa Ibrahim, one of Egypt's leading poets, from his poem [The Bank Note](#), which sheds light on these ever tightening spirals of deterritorialisation in Egypt and across the global south:

Good news from the first world to the third world
From the world of the 'human' to the world of the 'savage'
It is a new world
You will enter it willingly before we push you inside
You will be spoon fed the truth
And condemnation upon you. Yes, you who are protesting
A happy democratic capitalist world
Where the corporation

Is stronger than nations

Angry?

You are surely angry!

You are imprisoned without knowing who your jailor is.