

SEEKING JUSTICE

Seeking Justice: Access to Remedy for Corporate Human Rights Abuse explores victims' varying experiences in seeking remedy mechanisms for corporate human rights abuse. It puts forward a novel theory about the possibility of productive contestation and explores governance outcomes for victims of corporate human rights abuse across Latin America. This foundation informs three pathways that victims can use to press for their rights: working within the institutional environment, capitalizing on corporate characteristics, and elevating voices. *Seeking Justice* challenges common assumptions in the governance gap literature and argues instead that greater democratic practices can emerge from productive contestation. This book brings to bear tough questions about the trade-offs associated with economic growth and conflicting values around human dignity – questions that are very salient today, as citizens around the globe contemplate the types of democratic and economic systems that might better prepare us for tomorrow.

Tricia D. Olsen is Associate Professor and Associate Dean at the University of Denver's Daniels College of Business and holds a joint appointment at the Josef Korbel School of International Studies. Olsen's work on human rights, political economy, business ethics, and transitional justice has been supported by the National Science Foundation, USAID, and Fulbright, among others.

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Seeking Justice

ACCESS TO REMEDY FOR CORPORATE HUMAN
RIGHTS ABUSE

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To Ysa, Owen, Claire, William, Peace, Zoe, Charles, Addie, and Wren

With love and hope for all that is to come.

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Preface and Acknowledgments

Capitalism – and the businesses and states that help form it – has created incredible global wealth and lifted individuals out of poverty at an unprecedented rate. And yet, these systems are also at the heart of severe human rights abuses; not all have benefited equally. When I go to the grocery store, I wonder who picked my food and what the labor conditions were like as they did so. Were they exposed to harmful pesticides? Did they have a safe place to sleep and enough to eat? Were they paid a fair wage? The computer upon which I type contains “rare earths,” some of which may have been mined by children the age of my own. The initial impetus of this research was to shed light on the human cost of our economic system.

Yet, as I began to document these abuses, through the creation of the Corporations and Human Rights Database (CHRD), my focus shifted. At its core, this is a book that urges policymakers, academics, corporate leaders, consumers, and community members to consider the type of capitalism – and, frankly, the type of world – of which we want to be a part. Daly and Townsend (1993) pithily stated, “When something grows it gets bigger. When something develops, it gets different” (p. 267). Addressing business and human rights necessarily requires us to distinguish between economic growth for the sake of growth, and development for the sake of change. My personal aspiration is that this research helps us understand the causes, consequences, and – most importantly – potential paths forward for a world with integrity, one in which individuals around the globe can improve their prospects and those of future generations.

This book is about people who, after some reflection, realized that something must be done. This book is about people who, despite intimidation, threats, and scarce resources, worked to make their claims heard. This book is, at times, about people who recognized the wrongdoing of which they were a

part and who sought to make it right. I hope, in some way, this book inspires you to make things right. Small or large, we all have a part to play in doing so.

Though this book is an academic exercise and draws on my academic expertise and training – I have long been a student of Latin America, political economy, and business ethics – the book has transformed, somewhat unexpectedly, into a cathartic exercise, as well. Over the past decade, our world has experienced democratic backsliding and the abandonment of norms I took for granted when the project began. While I did not anticipate finding hope in this book, I did. There is hope in the courage individuals exhibit when speaking out about wrongdoing; there is hope when state leaders uphold the rule of law and bring into focus the importance of promoting a type of development that does not disregard human rights, but instead allows them to flourish; and there is hope in corporate leaders who insist that their colleagues treat fellow human beings with dignity and embrace contestation as an opportunity to learn or change, rather than something to silence or repress.

I am so very grateful to numerous individuals and institutions that supported me and this research over the past decade. First, I thank my colleagues at the University of Denver's Daniels College of Business and the Korbel School of International Studies. The support I received from Daniels is a testament to its dedication to business ethics and the public good. Thank you to Corinne Lengsfeld, Paul Olk, Brent Chrite, and Vivek Choudhury for the institutional support you provided to make this work come to life. I would also like to thank our business school librarian, Esther Gil, who early on managed to secure a much-needed database, among many other sources, with incredible ease and speed.

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(*The Struggle Continues*). Córtez was Chicago-based artist and political activist who spent his life bringing injustices to light. It is an absolute honor to have his work alongside mine.

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Abbreviations

AHOMAR	Associação dos Homens do Mar (Seafarers' Association)
AIDA	Asociación Interamericana para la Defensa del Ambiente (Interamerican Association for Environmental Defense)
APGIG	La Asamblea del Pueblo Guaraní de Itika Guasu (Assembly of the Guaraní People of Itika Guasu)
ASOCAB	Asociación de Campesinos de Buenos Aires (Peasants Association of Buenos Aires)
ATS	Alien Tort Statute
BAES	Baterías de El Salvador (El Salvador Batteries)
BHRRC	Business and Human Rights Resource Center
CAO	Compliance Advisor Ombudsman
CEDAAT	Centro de Diagnóstico y Alternativas para Afectados por Tóxicos (Diagnostic and Alternatives Center for People Affected by Toxins)
CETESB	Companhia Ambiental do Estado de São Paulo (Environmental Company of the State of São Paulo)
CHRD	Corporations and Human Rights Database
CNDH	Comisión Nacional de los Derechos Humanos (National Commission for Human Rights)
CODESEDH	Comité para la Defensa de la Salud, la Ética, y los Derechos Humanos (Committee for the Defense of Health, Ethics, and Human Rights)
CONAGUA	Comisión Nacional del Agua (National Water Commission)
CONAMURI	Organización de Mujeres Campesinas e Indígenas Conamuri (Organization of Peasant and Indigenous Women)

CONAPRED	Consejo Nacional para Prevenir Discriminación (National Council to Prevent Discrimination)
ECLAC	Economic Commission for Latin America and the Caribbean
EDLC	Environmental Defender Law Center
ESG	ESG Environmental, Social, and Governance
FENACO	Federación de Comunidades Nativas del Río Corrientes (Federation of Native Communities of the Corrientes River)
FPIC	free, prior, and informed consent
FREDICON	Frente de Defensa de los Intereses del Cono Norte (Front for Development and Integration of the North Cone)
GDP	gross domestic product
IACHR	Inter-American Commission for Human Rights
IBAMA	Instituto Brasileiro do Meio Ambiente e dos Recursos Naturais Renováveis (Brazilian Institute of Environment and Renewable Natural Resources)
IFC	International Finance Corporation
IGO	Institute on Governance
ILO	International Labor Organization
INCODER	Instituto Colombiano de Desarrollo Rural (Colombian Institute of Rural Development)
INGO	international non-governmental organization
KLD	Kinder, Lydenberg, and Domini
MARN	Ministerio de Ambiente y Recursos Naturales (Ministry of Environment and Natural Resources)
MCP	Movimiento Campesino Paraguayo (Paraguayan Peasant Movement)
MINEM	El Ministro de Energía y Minas (Ministry of Energy and Mines)
MPT	Ministério Público do Trabalho (Public Ministry of Labor)
MSI	multi-stakeholder initiative
MST	Movimento dos Trabalhadores Rurais Sem Terra (Landless Workers' Movement)
MTE	Ministério do Trabalho e Empresas (Ministry of Labor and Business)
NCP	National Contact Point
NGO	non-governmental organization
OECD	Organization for Economic Cooperation and Development

List of Abbreviations

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OEFA	Organismo de Evaluación y Fiscalización Ambiental (Agency for Environmental Assessment and Enforcement)
OEIWG	Open-Ended Intergovernmental Working Group
OHCHR	Office of the High Commissioner on Human Rights
OSINERGMIN	Organismo Supervisor de la Inversión en Energía y Minería (Supervisory Agency for Investment in Energy and Mining)
PDPMM	El Programa de Desarrollo y Paz del Magdalena Medio (Program for Development and Peace of the Magdalena Medio)
PUINAMUDT	Observatorio Petrolero de la Amazonía Norte (Petroleum Observatory of the Northern Amazon)
SEAM	Secretaría del Ambiente (Secretariat of the Environment)
SEC	Securities and Exchange Commission
SERNA	La Secretaría de Recursos Naturales y Ambiente (Secretary for Natural Resources and the Environment)
SINDPESCA-RJ	Sindicato dos Pescadores Profissionais e Pescadores Artesanais (Professional and Traditional Fishermen Trade Union of the State of Rio de Janeiro)
SITRAP	Sindicato de Trabajadores de Plantaciones Agrícolas (Agricultural Plantations Workers Union)
SUNTRACS	Sindicato Único Nacional de Trabajadores de la Industria de la Construcción y Similares (National Union of Construction Workers)
TRC	South African Truth and Reconciliation Commission
UN	United Nations
UNCTC	UN Commission on Transnational Corporations
UNDRIP	UN Declaration on the Rights of Indigenous Peoples
UNGPs	UN Guiding Principles
VPs	Voluntary Principles on Security and Human Rights