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Oil, Sovereignty and Self-Determination of People

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This paper analyses the role of the sovereignty principle for the oil industry, and the implication this relationship has for development in Africa. It also looks at the implication for the articulation of transnational social movements around the exploitation of natural resources. The comparison between different social demands in relation to oil extraction in two different places, Equatorial Guinea, and Western Sahara, can shed light on these issues. The main hypothesis work is that international norms of self-determination and those developed for non-autonomous people, in cases like Western Sahara, allow us to raise questions and to make demands over mineral resources in a very different way than where sovereignty is not in question, like in Equatorial Guinea.

The history of oil and its implications in Equatorial Guinea and Western Sahara

Oil history in Equatorial Guinea and Western Sahara is very short. In the former case, major production started only in the mid 1990s, whereas in Western Sahara the industry is still in an exploratory phase.

Equatorial Guinea, with half a million inhabitants, is considered in international statistics as the third or fourth oil producer in Sub Saharan Africa, after Nigeria, Angola and Sudan, with 403,600 barrels per day in 2005 (IMF, 2006). The oil is produced totally offshore by large transnational companies, mostly of American capital, like ExxonMobil, Amerada Hess and Marathon Oil. Chinese and Spanish companies have more recently shown a growing interest in Equatoguinean oil, but Americans are still overwhelming the largest investors in the country. Oil companies operate through agreements with the government of the country, which since independence in 1968 is controlled by one family which exercises its power in a very authoritarian manner.

The dealings between oil companies and government are carried out by individuals who are very close to President Obiang Nguema, and include secretive and informal clauses, like the deposits of money in personal bank accounts abroad in the name of

the president and of some members of his family, or the payment of health and education expenditure of the family in government. These payments seem to be compensation for agreements that are extremely beneficial for the oil companies (Abaga, 1999; Frynas, 2004; Campos, 2004; McSherry, 2006; Shaxson, 2007).

These agreements have provided the government with new mechanisms of personal enrichment and social control, in areas such as labour or security. Relevant government officials own the labour agencies through which the oil industry hire Equatoguinean workers. These agencies retain part of the salaries, and ensure that dissidents and known opposition members are excluded from this new source of work. The land which foreign companies need is also provided by members of the governing family, who are its proprietors - usually after forced expropriation from the original occupants.

In spite of high macroeconomic growth, most of the population endure very low levels of life, and *repression*, *cooptation* and *impoverishment* constitute the main instruments of power (Campos & Micó, 2006). Violence against political dissidents and against the population in general is endemic, and there have been waves of detentions and harassment, with or without trials, in 2002, 2003, 2004 and 2005 (Amnesty International, 2007; Nord Sud XXI, 2007). Migrants from the neighbouring countries (mostly Cameroon) are periodically raided and expelled from the country (ASODEGUE). Furthermore, oil companies are paying for the services of the security company owned by Obiang's brother, a known torturer (Global Witness, 2004; US Senate, 2004). All of this contributes to the repressive engines of the political order.

Along with repression, cooptation has also been enhanced by money coming from the oil industry, and President Obiang has intensified the politics of patronage and clientelism. Pressures to collaborate with the party in government to get a job or simply avoid police harassment are more intense since the discovery of oil. As a consequence, opposition has suffered a periodic process of fragmentation and absorption by the party in power, and during the last six years only one party stood legally against the government.

Most of the oil revenues remain in few hands, all of them members of Nguema's family. In fact, oil has narrowed the group in power, but also led to periodical internal conflicts around oil distribution. The non-distribution of revenue among the population is part of the politics of impoverishment that explains the lack of basic sanitary equipment in hospitals and drinking water in cities, as well as a very deficient education system. Along with a favourable environment for big businesses,

small local producers and entrepreneurs only find obstacles to their economic activity.

International pressures that were exerted after the Cold War on the dictatorship have decayed, because American oil companies have intervened in Washington's relations with Obiang's government. The open fraud in elections in which the president's party always claims more than 95% of the vote, generates only minimal condemnations from international organisations and donors since the mid-1990s.

In **Western Sahara**, the promise of the existence of oil, mostly offshore, at the beginning of the 21st century added an element in the conflict between the Moroccan government and the POLISARIO Front for the territory, in which natural resources such as phosphates and fisheries are central to political negotiations. In 2001 the Moroccan national oil company *Office National de Recherches et d'Exploitation Pétrolières* - ONAREP signed two exploration agreements with private companies *Kerr-MacGee* and *TotalFinaElf*, of American and French capital respectively, in the continental platform of Western Sahara (*Afrol News*, 24 January 2002; *WarmAfrica.com*, 16 October 2001; Marzo, 9 April 2006).

The peculiarity of this situation is that Moroccan government is not internationally recognized as the legitimate government over Western Saharan territory, a former Spanish colony that, in spite of general trends, did not acquire independence as a sovereign state. In 1975 the Spanish army was replaced by the Moroccan one (and initially the Mauritanian one too). The claim is that before European colonisation the people living in that territory were subjected to the Sultan in Rabat. The situation since then has been one of occupation, in which the civil rights of the indigenous inhabitants have been systematically violated, and part of the population are living in harsh conditions as refugees in the Algerian *Hamada* desert. The social situation of the Western Sahara territory has become more and more complex as people coming from Morocco have settled among the former population.

Moroccan control of the territory is disputed by the Saharawi nationalist movement around the Polisario Front, which based its claims on the international law on non-autonomous territories, as well as its role as international intermediary of the 165,000 refugee population in Algeria. The war, as well as the government and distribution of international aid in the refugee camps in Tindouf, became the main activities of the *Saharawi Arab Democratic Republic* (SADR), proclaimed by the Polisario soon after the beginning of the conflict with Morocco (and initially also Mauritania).

Since the end of the armed conflict at the beginning of the 1990s, the geopolitical situation has remained the same: the Western Sahara territory is under the Moroccan government dominated by the Army, except for an Eastern strip controlled by Polisario; and the refugee camps survive thanks to humanitarian aid. The social situation has suffered some important transformations in both spaces (Gimeno, 2008). In the disputed territory a small window of opportunity opened, following the accession of Mohamed VI to the throne in 1999 and this intensified the human rights movement. However, during the last few years periodic youth demonstrations known as the “Saharawi Intifada” have been matched by intensified police harassment.

With the signature of oil agreements, apart from the search for economic benefits, Moroccan authorities have added new strong economic interests to its cause, and to gain the support of French and American governments in its claim to the territory (Carrión, 2005a; 2005b). On its part, the POLISARIO Front has denounced the Moroccan oil policy in Western Sahara in the United Nations. And in 2002 it adopted an unprecedented initiative by signing a technical and cooperation agreement with the exploratory company *Fusion Oil & Gas*, of Australian and British capital, and later with *British Premier Oil*.

These unorthodox agreements preceded the launch of the exploratory activities, and the eventual concession of exploitation areas, only after the Saharawi people exercised their rights to self determination. These agreements turned oil companies into new international allies for the POLISARIO Front. In May 2005 the Saharawi Arab Democratic Republic (SADR) opened a new concession round in which eight oil companies participated (the concrete contents of these agreements have not been made public) (Marzo, 2007).¹ In January 2008 Kamel Fadel, POLISARIO representative in Australia, announced the launch of a second round of oil allocation for April 2009, in Texas (*Sahara Press Service*, 23 January 2008).

Oil, along with other natural resources of the territory, are almost certainly one of the discussed issues in the ongoing dialogue between the Moroccan government and the POLISARIO Front (Manhasset negotiations), fostered by UN Secretary General Ki Moon since June 2007.

Denunciations and campaigns around oil

The concurrence of oil activities and a harsh social and political situation in Equatorial Guinea and Western Sahara has been denounced by different actors in a

number of transnational fora. However, these denunciations have been made in very different languages, as we see in the next section.

Self determination of peoples and natural resources

The agreements reached by the Moroccan government and foreign companies promoted the articulation of a transnational campaign against oil exploitation, linked up with the solidarity movements in support of Western Sahara (Fisera, 2004). Especially effective was the campaign initiated by the *Norwegian Support Committee for Western Sahara* against the accomplishment of seismic studies by the Norwegian company *TGS-NOPEC* in the disputed area. The Norwegian campaign promoted the configuration of a network of jurists and solidarity organisations against the exploitation of Western Sahara oil and natural resources in general, which eventually became the *Western Sahara Resources Watch*.² This coalition has been in close contact with Polisario activists.

In spite of the situation of general fear, there have also been some mobilisations even inside the territory of Western Sahara. Human rights activists and political prisoners, such as Ali Salem Tamek, have publicly demanded an end to the economic activities around oil (Tamek, 8 July 2004; *Middle East International*, 26 May 2005; *Western Sahara Online*, 16 May 2006; *Alexander's Gas and Oil Connection*, 6 February 2006). This demand, as well as the international campaign, have found a main instrument in internet sites such as www.arso.com and www.sahara-update.info, and recently in the RWSW website www.wsrw.org.

The essential disagreement between these campaigners and Moroccan officials is around property rights in the resources and the question of representation to negotiate around them. Both the Moroccan government and the POLISARIO Front claim such right, justifying it in a different political entity: the Moroccan nation or the Saharawi people. What both positions share is the idea that natural resources belong to those who hold sovereignty and that only the representatives of such sovereignty have a right to negotiate. The conflict around natural resources is expressed, therefore, in the language of statism and territorial integrity.

The argument in favour of the property of Western Sahara resources by the Saharawi people seems better founded in international law than the counter argument based on the consideration of the territory as part of the Moroccan state (Arts & Leite, 2007; Mariño, 2005). The norms developed during decolonization since the 1950s questioned whether the forced integration of old Spanish Sahara into the Moroccan state after the Spanish withdrawal in 1975 could be considered

an acceptable formula of decolonisation by the United Nations (Report by UN Visiting Mission to Western Sahara, 15/10/75, Marino 2005: 153). The resolution 1514(XV) on the *Declaration on the granting of independence to colonial countries and peoples*, along with resolution 1541(XV) established the right of colonial peoples to self-determination, interpreted as the recognition of a sovereign state for the population living in a territory delimited by colonial frontiers. The integration in or association with other states was only valid as a decolonization process if they were approved in referendum by the population of the territory.

In a Consultative Opinion of 1975 the International Court of Justice rejected the Moroccan interpretation according to which the precolonial juridical relationships between the old Saharai population and the king of Morocco were the basis to integrate them in modern Morocco (Mariño, 2005). This opinion was, nevertheless, subject to divergent interpretations by the conflicting parties. Finally, the United Nations (GA Resolution 35/19, 1980) and the Organization of African Union recognized the Polisario Front as legitimate representative of the Western Sahara.

Based on this juridical framework, the *Western Sahara Resources Watch* claims the right of Saharai people to ‘freely dispose of their natural wealth and resources’ and that according to resolution 1803(XVIII) and article 1 of International Covenants on Economic, Social and Cultural Rights and Civil and Political Rights of 1966, is part of the self-determination principle. (www.wsrw.org). The oil found in the territory and its adjacent sea belongs therefore to the descendants of the inhabitants of the old Spanish colony; and no government will be able to manage it before that population exercises the right to self determination.

A similar interpretation was expressed by the UN Under Secretary General for Legal Affairs in a report of 29 January 2002 on the oil agreements signed by Morocco, after the demands posed by the POLISARIO Front (UN, 2002). Hans Corell stated that according to the principle of the ‘permanent sovereignty of natural resources’, the effective production of oil would be contrary to the norms on peoples living in non-autonomous territories if they were carried out ‘in disregard of the needs and interests of the people of that Territory’. Controversially, he considered that the initial activities of evaluation and exploration accorded in the agreements were not illegal in themselves.

The campaigns based on these arguments contributed to the withdrawal of oil companies working in Western Sahara. The first success was the retirement of TGS-Nopec from Saharai waters in 2003, but only after delivering the results of its explorations (Riché, 2004; Marzo, 2006). TGS-Nopec in 2004 *Total* (old

TotalFinaElf) did not renovate its contract, and Dutch seismic *Fugro* followed the steps of *TGS-NOPEC*. A new agreement of technical analysis between ONAREP and *Wessex Exploration* provoked successful complaints by the British Western Sahara Campaign in May 2004 (Fisera, 2004; Soroeta, 2005, n. 44; campaign website www.arso.org/wessex04.htm). Finally *Kerr McGee* also renounced to its interests in Western Sahara in April 2006, after losing more than \$80 million due to the removal of capital by politically conscious shareholders (Morgan, 2 May 2006; *Afrol News* 2 May 2006, WSRW, 28 April 2005). One of its minor partners, *Pioneer Natural Resources*, withdrew later (*Afrol News*, 5 May 2006).

In December 2006, Morocco (and its new *Office National de Recherches et d'Exploitation Pétrolières*, ONHYM) found a new counterpart, *Island Oil & Gas PLC*, with whom to sign a new exploration agreement, this time onshore, which has already been subject to a protest action by the WSRW (Riché, 2004; Wilson, 13 Dec. 2006; *Afrol News* 14 Dec. 2006). On its part, *Kosmos Energy*, a *Kerr McGee*'s minor partner, has inherited the licences in the so called Bojador block, though it is considered too small a company to effectively operate it on its own (*Afrol News*, 14 Dec. 2006).

A further success of the campaign around Western Sahara resources has been the withdrawal of a wind power field project in the territory by Spanish energy company *Iberdrola*, which had been negotiated with the Moroccan government (Mesa, 20 July 2007; *Rebelión*, 27 July 2007). However, the *Fish Elsewhere* campaign against UE-Morocco fisheries agreement which included Western Sahara waters did not prevent it being signed in 2007 (Sherpa, 2006; San Martín, 2006; UE, 12 March 2007; www.fishelsewhere.org).

Claims for transparency in the Extractive Industries

In Equatorial Guinea, the agreements between the government and multinational companies and the production of oil are denounced on totally different grounds (Campos and Mico 2006). Opposition parties such as *Convergencia Para la Democracia Social* (CPDS), and more recently transnational campaigns in favour of transparency in the extractive industries, have pointed out the mismanagement of the benefits of oil, and the misappropriation of oil revenues by the ruling family. These corrupt practices are identified as the main reasons for the poverty of the majority of the population, in spite of the dramatic economic growth.

In March 2004, *Global Witness*, a London-based organization, published a report *Time for Transparency: Coming Clean on Oil, Mining and Gas Revenues*, on the effects of oil, gas and mineral extraction in five countries, including Equatorial Guinea (Global

Witness, 2003 and 2004; Silverstein, 2003). In Equatorial Guinea it particularly condemned the unclear line between state revenues and the governing class's personal finances. That followed the discovery of a multi-millionaire account in Riggs Bank of Washington and the dire state of the country's accounting regarding oil revenues, often referred to by the regime as 'secrets of state'. As stated in the report

the questions about the government's handling of oil revenues are far from theoretical, given that these revenues help to empower a political regime that has been characterised by reports of extreme brutality towards its own people and accusations of involvement in drug trafficking (Global Witness, 2003, p. 59).

In July 2004, following the *Global Witness* report, the *United States Senate Permanent Sub Committee on Investigations* issued a report on the Riggs Bank, confirming that it had violated the anti-money laundering obligations by opening more than 50 accounts for senior government officials of Equatorial Guinea and their family members. The bank also provided loans and managed scholarships for the governing class and their families. The report stated that: 'Oil companies operating in Equatorial Guinea may have contributed to corrupt practices in that country by making substantial payments to, or entering into formal business ventures with, individual officials, their family members, or entities they control, with minimal public disclosure of their actions' (US Senate, 2004, p. 8).

Equatorial Guinea has also been subject to attention by the *Publish What You Pay* coalition, comprising more than 300 NGOs, including Global Witness, Open Society, CAFOD, Oxfam, Save the Children and Transparency International. They call for multinational oil, mining and gas companies and governments to disclose their transactions. According to PWYP, a requirement for *transparency* about a country's resource income and expenditure should become a standard condition for credit, development and technical support programmes in all international financial dealings with these Governments. The underlying conviction is that when properly managed these revenues should serve as a basis for poverty reduction, economic growth and development. But this is only possible if citizens of resource-rich but poor countries have the means to demand from their governments responsible policies, on the base of transparent information on these revenues.

These demands, although more modest than the dramatic exigency of ceasing the exploratory and extractive activities in Western Sahara, do not find international norms that support them. In fact, one of the objectives of transparency activists is

precisely the creation of an international normative framework that makes the publication of economic transactions imperative in the extractive sector. The main result of this campaign to the present has been the *Extractive Industries Transparency Initiative* (EITI), launched by the British government which invites all governments, multinational companies and civil society organizations to join in a voluntary process of disclosure of payments and revenues (www.eitransparency.org). International Financial Institutions have also assumed the new language of transparency in many of their documents and programmes, and the World Bank is funding the EITI.

The first reaction shown by the Equatorial-Guinean governing class to these pressures has been to improve their international 'image', adopting a language of transparency in the management of the State's resources (*Jeune Afrique / L'Intelligent*, 20-26 February 2005). In order to do this, it has sought IMF's technical advice, which suspended its agreements with the country in 1996. IMF issued a Report, in April 2005, on the Observance of Standards and Codes-Fiscal Transparency Module in Equatorial Guinea, as the basis for future conversations with the Government. This report explained clearly that the Government lacks a fiscal policy framework for management of petroleum wealth, transparency in reporting and reconciliation of oil revenue flows and firm budget constraints as well as corporate governance of GEPetrol (IMF, 2005).

Also, the Equatorial Guinean Government has shown interest in joining the EITI and participated in the summits held in London, Oslo and Berlin in 2005, 2006 and 2007. However, one of the Initiative's minimum criteria is that 'civil society is actively engaged as a participant in the design, monitoring and evaluation of this process and contributes towards public debate'. And in Equatorial Guinea, the individuals and associations with the information and the courage to promote a campaign *vis-à-vis* the government on the issue of oil management are almost non-existent.

The Government has done little either in fostering a public debate on the management of petroleum wealth or in allowing the activities of independent social organizations in the country. However, backed by American companies such as Exxon-Mobile, in 2007 it approved several norms regarding transparency and appointed a 'national coordinator' for the EITI. Just before the Berlin summit in December 2007, the Government tried abruptly to organize a Seminar with those companies and several local NGOs, in order to be admitted as a *candidate country* in the EITI. The strategy did not achieve its goal, as the vacuity of the seminar was

denounced by the PWYP coalition (*Asodegue*, 9, 16, 20, 23 November and 11 December 2007).

It is still too soon to see the real effects of the international campaigns and initiatives on the management of oil riches in Equatorial Guinea.

Implications of sovereignty for oil industry

The comparison between the cases of Western Sahara and Equatorial Guinea has shown us how activists for a better and more democratic management of mineral resources do not find in international law the support that they need. In the case of Western Sahara the interests of the population constitute a juridical argument for campaigns against situations similar to colonialism, up to the point of demanding (with some success) the interruption of extractive activities. Whereas in the case of Equatorial Guinea it seems only possible to refer to more general principles, in the hope that such principles become imperative norms in the future.

Decolonisation generated a language and some juridical institutions around *state sovereignty*, which allow anti-colonial movements to demand the conservation of natural resources and the participation of the population in their management. Once independence has been obtained according to the principles consolidated during that historical process, the *sovereignty* principle becomes however an instrument of empowerment of governments, whose capacity to act on behalf of the population is presumed. According to a much extended interpretation of the sovereignty principle, the abusive exploitation of resources, their appropriation for the personal benefit of state officials, or the absence of redistributive politics became internal affairs of each state, to which the principle of non- intervention is applied.

Among the state prerogatives, the right to represent the population in the exploitation agreements around natural resources such as oil seems to be more broadly assumed and respected than the obligation to promote the effective welfare of that same population. It is true that, after the second world war, sovereignty has rarely been considered absolute *vis-à-vis* human rights, and it has lately suffered limitation with the recognition of the principle of the states' *responsibility to protect* their citizens, approved by the UN General Assembly resolution R2P.³ However, this principle has been conceived as applicable in the context of armed conflicts and the humanitarian intervention of the 1990s and 2000s, but not to guarantee the democratic or redistributive policies of a government.

On the other hand, and despite some recent proposals, the companies' responsibility in relation to their activities' effects are even less regarded by international law, which has been very reluctant to consider other actors different to the states as holders of rights and obligations (ICHRP, 2002). The possibility of companies recognising human rights is a growing claim posed by activists and some jurists, but despite the *Norms on the Responsibilities of Transnational Corporations and Other Business Enterprises with Regard to Human Rights*, approved by UN Sub-Commission on the Promotion and Protection of Human Rights, in 2003, they have failed to promote a change in international law (UN, 2003; 2007a).

The institutional dimension is central to our cases because *state sovereignty* is essential to understanding the way in which the oil industry works and the effects it has on the populations and the way in which power is exercised, as pointed out by William Reno (2000; 2001). It is not only that most national legislation, backed by international law, establishes state property of resources under the soil and the continental waters. It is well known that mining activities carried on in times of war and conflict often benefit not the state, but armed and other private groups. But oil extraction has special features that make the role of the state specially relevant. If other extractive activities, such as diamond or copper mining, can develop through craft methods and informal networks before big companies can distribute them in distant markets, oil requires huge capital investments from the very beginning of production. These investments can only be made by big national or private companies, or more usually a group of companies, whose direct and legal relation with recognized governments appears to be a permanent element in the oil industry.

This is independent of the regulatory capacity of the government over their population, or of its social legitimacy, especially when, as in our cases, all the production is off-shore, far from the possible disturbing consequences on land. (as exemplified for example in Sudan or the Niger Delta) The key issue here is the conventions that establish the state property of mineral resources found inside national territory, and make those who control the government the representatives of the population to deal with multinational companies. Only the government can guarantee the investments according to the norms and uses of international trade and the legality of the company's mother country.

Oil extraction thus requires the very same institutions that are behind the emergence and maintenance of the postcolonial order. Both companies and governments take advantage of the sovereignty institution, for it allows them to participate in international markets, and provides enough external resources to politicians to maintain exclusionary and repressive forms of power.⁴

Therefore, the relevance of Nguema's family for extractive industry in Equatorial Guinea is not based on the former's actual and military control of offshore oilfields, which does not exist, but on their control of the government and the international convention that establishes state property of natural resources, and the representative and legal capacity of governments to negotiate about them. And if in Western Sahara the oil industry is almost paralysed, it is precisely because the question about sovereignty and who is the legal representative of the population has not yet been established.

We can conclude that the fact that the conflict in Western Sahara develops around sovereignty and an uncompleted decolonisation, helps a polarised interpretation of oil exploitation by social activists (Ferguson, 1994; Ferguson, 2006). Even if the sole recognition of the right to self-determination does not guarantee its effective application for Saharai people, it facilitates the Polisario Front to find numerous and sustained sponsors abroad, and to condemn the Moroccan government in multiple international fora. Conversely, in these fora the inequality and disempowerment in Equatorial Guinea are regarded more as situations of lack of development and institutional (or *governability*) deficiencies, than as consequence of illegitimate agreements between an unacceptable government and oil companies. Unlike colonialism, the highly authoritarian political order that this situation creates is not considered illegal by international law.

Pushing the boundaries of Sovereignty?

The politics of oil in Western Sahara and Equatorial Guinea show the importance of the institution of sovereignty for certain extractive activities. It also helps explore the limits of social campaigns around it when they are developed in contexts where sovereignty is not in question. This section tries to see how the different approaches to questions about the distribution and the beneficiaries of natural resource extraction that we have seen, can inform each other.

On the one hand, the strategies followed by the POLISARIO Front and the solidarity movement around natural resources in Western Sahara could include their participation in the campaigns in favour of the transparent and fair management of those resources, such as PWYP. In this way, the struggle for the rights of the Saharai population could win a new transnational arena of expression, and at the same time it would incorporate new languages, such as the one around transparency, with which a number of social actors try today to approach questions of democracy

and social justice. Currently only the British Western Sahara Campaign and War on Want participate in both kind of campaigns.

All this would imply the adoption by the Saharai political elite of transparency and the fair management of resources in an independent or autonomous Sahara. But it could also affect the alternative agreements signed between the SADR government and the oil companies, which have not been published. Saharai activists might consider problematic the inclusion of transparency among its demands to the Moroccan government, as it could be seen as legitimating the actual exploitation of phosphates, fisheries and possibly oil. However, activists should consider the risks that a too exclusive focus on independence may neglect other interests and values, such as the conservation of mineral and fishery resources.

On the other hand, campaigns around Western Sahara resources have much to say to activists in other parts of the world. The argument according to which natural resources should not be exploited without the consent of the population living in the territory seems to have more power in relation to people under colonial rule, to which international law recognized a well established set of rights in respect of all states.

However, the argument could be used for cases beyond the issue of colonialism per se. In fact, it is used for the category of *indigenous peoples*. In recent times, there has been an important development of international norms that includes the right to own and dispose of natural resources in their territories.⁵ Obviously, this option is only accessible to some populations, those who can demonstrate the normative conditions to be considered as *indigenous people*.

The question is how to extend this kind of rights over the natural resources to any population, whether *colonial* or *indigenous*. Are there not normative or semi-normative texts that could accept this kind of interpretation? Resolution 1803(XVIII) of the United Nations General Assembly, approved as a complement to the right to self-determination, establishes that: 'The right of peoples and nations to permanent sovereignty over their natural wealth and resources must be exercised in the interest of their national development and of the well-being of the people of the State concerned'. This principle of permanent sovereignty over natural resources has been reiterated by other texts, like General Assembly Resolutions 1314-XIII (1958) and 2158-XXI (1966), and most importantly article 1.2 of International Covenants on Economic, Social and Cultural Rights and Civil and Political Rights of 1966, which establish that:

All peoples may, for their own ends, freely dispose of their natural wealth and resources without prejudice to any obligations arising out of international economic co-operation, based upon the principle of mutual benefit, and international law. In no case may a people be deprived of its own means of subsistence.

The terms in which these texts are written permit to distinguish between *peoples* and *states*, and to conclude that as people they are entitled to *permanent sovereignty over natural wealth*. That would mean, according to Antonio Cassese (1995), that governments would have the obligation to guarantee that the exploitation of natural resources of the territory is made for the benefit of the population. On these grounds, some transnational campaigns could imagine and claim for international mechanisms that evaluate if the sovereignty over natural resources is effectively exercised in the interests of the 'welfare of the populations'. That could permit the denunciation of extractive industries that are not carried on in favour of 'national development' as in Resolution 1803.

These arguments fit well with the proposals of dealing with questions of poverty and inequality from the language and the perspective of *rights*. There exists a growing interest on interpreting and developing human rights as international norms so that their respect is also demanded in respect of multinational companies (ICHRP, 2002; UN, 2003; UN, 2007a). For Pierre Sané (2005), the possibility of declaring poverty contrary to law would provide levers of effective action to all those who endure such situations, as in the case of the illegalisation of colonialism. The possibility of using article 1.2 of the International Covenants to demand a social use of natural resources could constitute one of such levers. Ultimately, these arguments contribute to the questioning and decomposition of an institution, sovereignty in its external version, that constitutes a real juridical veil over situations of oppression and inequity.

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¹ These companies are *Europa Oil & Gas*, *Maghreb Exploration*, *Osceola Hydrocarbons*, *Nighthawk Energy*, *EnCore Oil*, *Comet Petroleum*, *Ophir Energy* y *Premier Oil*. (Marzo, 2006).

² Among the more than 20 organizations that take part in WSRW: *Norwegian Support Committee for Western Sahara*, *Western Sahara Campaign-UK*, *Associations des Amis de la République Arabe Saharawi* or *Coordinadora Estatal de Asociaciones de Amistad y Solidaridad con el Pueblo Saharawi de España*: letter to FUGRO President and Chief Executive <http://www.arso.org/fugro300604fr.htm/> See also the WSRW contact list at <http://www.wsrw.org/>.

³ The concept of responsibility to protect was set forth in the International Conference on Intervention and State Security, celebrated in Canada 2001. I am grateful to Itziar Ruiz-Giménez and the anonymous referee for calling my attention to the relevance of this question to my argument.

⁴ The idea of *extraversion* of power, as conceptualized by Jean-François Bayart (2000), and that of *gatekeeper state*, which survives as privileged intermediary between world markets or international institutions and population, proposed by Frederick Cooper (2004), can help us understand postcolonial forms of power dealt with here.

⁵ The main international norm is the International Labour Organization 169 Convention, and in September 2007 the UN General Assembly approved the *Declaration on the Rights of Indigenous Peoples*.

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