

Widening the Opportunity Structure Framework; The Capital Market Sanctions Campaign on Sudan

Executive summary

Social movements constantly struggle to find opportunities and effective strategies to realize human rights protections for vulnerable populations. The challenge has been exacerbated by the entry of state challengers and market agents as rights violators. Extractive industries' related violence exemplifies these challenges. When resources are located in conflict ridden countries, extracted by international corporations and traded on the international markets, there are severe limitations on state based protection mechanisms. The war in southern Sudan prompted activists to venture into the international markets in an effort to counter the violence. This paper reviews the Capital Markets Sanctions Campaign and evaluates the feasibility of market based opportunity structures for social movements.

Introduction

There has been for sometime a progressive reconfiguration of power in the global arena.¹ States have progressively yielded power to non-state actors and institutions as boundaries have become more porous, economies more globalized and state monopoly on violence has eroded. Under the neo-liberal, free market paradigm, corporations gained considerable power and freedom to operate trans-nationally but also became direct participants in local wars as well as intermediaries between local war economies and the global commodity and financial markets.² Rebels can more easily acquire arms and trade commodities on the market. That has made corporations, markets and rebels all part of the intricate web of international conflict. The arenas of violence and the range of participants have expanded though without matching mechanisms to safeguard the well being of vulnerable populations.³ In this context, social movements struggle to find effective means to actualize human rights especially in distanced spaces. When the war in southern Sudan became conflated with the extraction of oil, activists pursued a new opportunity structure for action.

Extractive industries often entail international corporations acquiring resources from economically poor and/or conflict ridden countries and trading them on international markets. International investment became an integral part of the war in southern Sudan from the late 1990s when oil was discovered. At that point Sudan was running out of money. The discovery of oil provided a potential revenue source, exacerbated the fighting and oil became in itself an objective of the conflict.⁴ Since the country did not have the capacity to develop extraction, Sudan sought partnership with international oil corporations. Fortunately, some

¹ Jessica T. Matthews, "Power Shift," *Foreign Affairs*, vol. 76 (January/February 1997), p. 50; Jeffrey Kentor "The Growth of Transnational Corporate Networks 1962 – 1998" *Journal Of World Systems Research* Vol XI No 2 December 2005 pg 264

² Karen Ballentine and Heiko Nitzschke. "Business in Armed Conflict: An Assessment of Issues and Options" *Journal of International Peace and Security*, 79 (1-2): 2004; 35; Philippe Le Billon 'Thriving on War: The Angolan Conflict & Private Business' *Review of African Political Economy*, 28 (90): 629-635; Global Witness. *A Rough Trade: The Role of Companies and Governments in the Angolan Conflict*. London, 1998

³ Ballentine and Nitzschke supra

⁴ Hailes Janney, "Oil Reserves Transform the Sudanese Civil War" *Jane's Intelligence Review*, 1 June 2001

of the corporations sought to finance their operations from international capital markets and in that, social justice activists found an opportunity to intervene.

As the power of the market rose, so too did that of civil society. Transnational civil society has been hailed as “the new superpower” or the “Third force” in addition to states and the market.⁵ However the ability of activists to rein in corporations and governments has remained limited and Sudan was a case in point.⁶ The Sudanese government proved impervious to international social justice moralizing and diplomatic endeavours, so activists in the Capital Markets Sanctions Campaign (the Campaign) turned to divestment and interdiction of capital financing. How did the activists do this and does the market now provide an opportunity structure for social action? In this paper I analyze the Campaign’s attempt to intervene directly in market operations and argue for a conceptual broadening of opportunity structure to encompass economic opportunity structure.

Opportunity Structure

Scholarship on social movements has been predominantly state-centric.⁷ Yet as Snow has said, “not all social movements fall within the political domain of social life.”⁸ Social movements seek to challenge actors, systems and structures responsible for violations and those may lie beyond states and their governments. The opportunity structure thesis is that availability of resources and political opportunities are better explanatory indicators of social movement organizing than merely the mobilization of resources by activists.⁹ However, this narrows the ambit of opportunity structures to institutionalized political systems.¹⁰ It risks missing out on economic opportunities.¹¹ Experiences such as the Campaign highlight the need to move beyond the state.

The Campaign was prompted by perceptions that the violence in Sudan was being facilitated by international capital and trade. The campaigners therefore sought to curtail those financial opportunities. The state and domestic constituencies still remained critical factors for success. Indeed the reason the campaign was located in the global north and

⁵ Lloyd Axworthy (quoting Jody Williams) in *Navigating a New World* Canada, Vintage, 2004, 407; Ann M. Florini & R. Simons. “What the World Needs Now” in Florini, Ann M *The Third Force; the Rise of Transnational Civil Society*, Tokyo; JCIE 2000 Pg 35

⁶ Mahmood Monshipouri, Claude E. Welch, Jr. and Evan T. Kennedy, “Multinational Corporations and the Ethics of Global Responsibility: Problems and Possibilities” *Human Rights Quarterly* 25 (2003) 968

⁷ Charles Tilly *From Mobilization to Revolution* Reading, MA: Addison-Wesley, 1978; Doug McAdam, John McCarthy, and Mayer Zald, "Introduction: Opportunities, Mobilizing Structures, and Framing Processes—Toward a Synthetic, Comparative Perspective on Social Movements," in Doug McAdam, John McCarthy, and Mayer Zald, eds., *Comparative Perspectives on Social Movements; Political Opportunities, Mobilizing Structures, and Cultural Framings* New York, NY: Cambridge University Press, 1996

⁸ David A. Snow 2002. "Social movements as challenges to authority: Resistance to an emerging conceptual hegemony." *Authority in Contention CBSM Workshop* University of Notre Dame, Notre Dame, Indiana, 14-15 August. Pg 24

⁹ Jennifer Chandler “The Explanatory Value of Social Movement Theory” *Strategic Insights*, Volume IV, Issue 5 (May 2005); Nick Crossley “Even newer social movements? Anti-corporate protests, capitalist crises and the remoralization of society” *Organization*. London: May 2003. Vol.10, Iss. 2; pg. 288

¹⁰ Doug McAdam “Conceptual Origins, Current Problems, Future Directions” in John D. McCarthy, and Mayer N. Zald, eds. *Comparative Perspectives on Social Movements: Political Opportunities, Mobilizing Structures, and Cultural Framings*. New York: Cambridge University Press, 1996; 23 -40

¹¹ Jeff Goodwin and James Jasper “Caught in a Winding, Snarling Vine: The Structural Bias of Political Process Theory” *Sociological Forum* Vol 14, No 1, 1999 27

especially in the US was that social and political actions were possible in that polity and it was the base of financial power. However, when the causes of violence are international, social movement activity gets shaped by networks of actors which stretch beyond the territorial boundaries of the state. The critical opportunities for action were not therefore primarily a function of political openness, but most importantly the ability to intervene in market operations.

Reflecting the nature of the emerging and evolving global dynamics, I argue that opportunities are now a more complex mix of within state political opportunities and international market operations. Curtailing the flow of resources to warring parties by itself may not stop the violence, but interdiction against funding is an opportunity structure activists could pursue.

Research Methodology

The analysis in this paper draws from data compiled as part of a case study carried out in 2006. I used a qualitative research approach persuaded by Morrow and Brown that non-statistical case studies are the most suited to research problems focusing on the how and why of phenomenon.¹² Qualitative case study was additionally suitable for trying to understand the complex interweave between markets, corporations, governments, rebels and social activism.¹³ This was an inquiry into a real life situation and only through qualitative research could the necessary multiplicity of perspectives in the specific context be enabled.¹⁴ It would be hard to say for instance by how many deaths, mutilations or starvations we could say that there had been change effected to the social world through the Campaign.¹⁵

I relied on documents, interviews and to a limited extent, observation. I used systematic, purposive and non-probabilistic sampling for selecting interview subjects. The purpose was not to establish a random or representative sample but rather to identify specific groups of people who were intimately involved in the campaign. I utilized prior interview instrumentation since it was fairly clear what data was needed from participants who had tight time schedules. The interview questions were open-ended to allow for discovery of aspects that may not have been within the knowledge of the investigator as well as to avoid closing the purview of inquiry.

Documentary sources included published documents, records of congressional committee hearings, NGO records, media reports, statements issued by actors as well as web pages. The congressional committee hearings were made available by the Congressional Research Services staff in Washington. In a few cases, organizations made their internal files available. As in any policy change campaign, media reports provided an important source of information.¹⁶

Triangulation of interviews and documentary sources contributed to at least two perspectives: the interpretation of naturally occurring data being that of the researcher while

¹² Sharan B. Merriam and Associates. *Qualitative Research and Practice* San Francisco; Jossey-Bass; 2002;

¹³ Robert K. Yin *Case Study Research, Design and Methods* Sage Publications, Thousand Oaks, 2003

¹⁴ Jane Lewis "Design Issues" in Jane Ritchie and Jane Lewis. *Qualitative Research Practice, A guide for Social Science Students and Researchers* Thousand Oaks; Sage Publications, 2003 at 52

¹⁵ K.C. Land "Theories, Models and Indicators of Social Change" *International Social Science Journal* Vol. 27 pg 7

¹⁶ Charlotte Ryan *Prime Time Activism, media strategies for grassroots organizing* South End Press, Boston, 1991

generated data presented a participant perspective. The reporting is in the form of analytical narrative.¹⁷ The unit of analysis was the coalition driven advocacy campaign.

Oil, China and the War in Sudan

Conflict predated the discovery of oil, but oil added a new logic to the war. Before the exploitation of oil, the Sudanese government was in serious risk of defaulting on its loan payments to the International Monetary Fund (IMF).¹⁸ Sudan had played host to groups harbouring militant hostilities towards the United States and to punish it, the US imposed economic sanctions.¹⁹ The discovery of oil changed the economic dynamics. Development of oil extraction started when Chevron Oil Corporation was awarded a concession in the Muglad and Melut areas.²⁰ Other discoveries followed and other corporations joined in including Arakis Energy Inc., (Canadian) the Chinese National Petroleum Corporation (CNPC), Petronas (Malaysian) and Lundin Oil (Swedish).²¹ These corporations provided capital, technological expertise and equipment. By 2000 the oil trade was reportedly bringing in about \$450 million a year.²²

To secure access to the oilfields, the government implemented a scorched earth strategy aimed at depopulating the oil areas of the indigenous people. Government commissions, NGOs and UN Special Rapporteurs accused Sudan of heinous brutalities.²³ As villagers fled, the army destroyed their food reserves to persuade them not to return.²⁴ Government troops in helicopter gun ships reportedly strafed villages, cattle herds and fleeing civilians with aerial gunfire. Some of the gun ships belonged to oil companies.²⁵ Oil industry infrastructure such as roads and airstrips were also used by the army. Opposition forces retaliated by attacking government-controlled towns and villages as well as the oil installations, and that in turn increased the ferocity of the war.

There was now a self-reinforcing dynamic to the war. The oil that was extracted from the south provided the revenues that made it possible for the government to expand its military capabilities.²⁶ The possibility of a battlefield victory in turn detracted from the

¹⁷ Robert Bates, Anver Grief, Margaret Levi, Jean-Laurent Rosenthal and Barry Weingast *Analytical Narratives* Princeton, Princeton University Press, 1998, p12

¹⁸ Christian Aid "The scorched earth: oil and war in Sudan" *Christian Aid* 2001

¹⁹ Ted Dagne "Sudan: Humanitarian Crisis, Peace Talks, Terrorism, and U.S. Policy" *Congressional Research Service* Code IB98043 April 12, 2006 pg 13

²⁰ International Crisis Group, *Conflict history: Sudan* January 2006 at http://www.crisisgroup.org/home/index.cfm?action=conflict_search&l=1&t=1&c_country=101 (visited March 30th, 2007)

²¹ Human Rights Watch *Sudan, Oil and Human Rights, Appendix C: Chronology: Oil, Displacement, & Politics in Sudan* September 2003

²² Gabriel Katsh "Fuelling Genocide" *Multinational Monitor*, Oct 2000 v21 i10 p13

²³ Special Rapporteur of the Commission on Human Rights on the situation of human rights in the Sudan <http://www.unhcr.ch/huridocda/huridoca.nsf/FramePage/Sudan%20En?OpenDocument&Start=1&Count=15&Expand=2> (visited October 21st, 2006); *Report of Canadian Assessment Mission "Human Security in Sudan"* Ottawa, January 2000 <http://www.reliefweb.int/library/documents/cansudan2.pdf>; Report of the International Eminent Persons Group "Slavery, Abduction and Forced Servitude in Sudan" *Bureau of African Affairs, U.S Department of State* May 22, 2002

²⁴ Christian Aid 2001 supra; *Amnesty International*, May 3, 2000: "Sudan: The Human Price of Oil" *Human Rights Watch* Report on Sudan for 2000 (December 2000).

²⁵ Amnesty International 2000 supra

²⁶ Randolph Martin "Sudan's Perfect War" *Foreign Affairs*, March/April 2002

possibility of a negotiate peace.²⁷ Activists attributed the partnership with multinational corporations with exacerbating the war.²⁸ The two most prominent corporations in the oil extraction were Talisman and China National Petroleum Company (CNPC) and they became the main targets of social justice activism.²⁹

China's entry into Sudan additionally attracted the activities of dissidents, exiles, religious groups and other disaffected groups.³⁰ Their concerns were on China's internal policies and practices including Tibet.³¹ Reports indicated that the Chinese government was detaining people, sending them to labour and re-education camps, interfering with the judiciary and denying people freedom of religion.³² The combination of China and Sudan, both countries with records of religious oppression, heightened the motivation for activism.³³ These actors had been vocal in condemning China, but while China had remained a closed system, they had lacked any effective means for forcing the Chinese government to address their concerns. When China tried to penetrate international capital markets to finance investment in Sudan, that provided an opportunity for activists to intervene.

The Campaign Coalition

Social and political action against the war was both dangerous and pointless within Sudan, so the focus turned to international markets. The multiplicity of issues drew a wide mix of actors and opponents dubbed the campaigners the "kumbaya collection" due to the diversity of their interests.³⁴ They faced opposition from dedicated free-market adherents who saw the campaign as naïve, utterly unproductive of the effects desired by the campaigners and altogether undesirable in economic terms. To them Sudan itself was but a footnote on the more crucial issue of free markets.³⁵

²⁷ Damien Lewis "Fight for Sudan's Oil is Killing Civilians; Canadian company part of consortium developing fields being cleared by force in civil war" *Toronto Globe and Mail* 5th October 1999

²⁸ Eric Reeves "The Sudan Peace Act and the Response to Oil Development in Sudan: A Brief Background" <http://www.iabolish.com/act/camp/divestment/reeves-SPA-background.htm>; *Dutch Lobby Group*. "Peace First! Stop Oil from fuelling the War in Sudan" strategy document authored in February 2001 (document in the possession of the researcher).

²⁹ Bernard Simon "A Canadian Oilman Gives In", *New York Times*, November 10, 2002; Claudia Cattaneo "Talisman Shaken as Ottawa Talks Sanctions" *National Post* (Oct. 27, 1999) F7

³⁰ The James A. Baker III Institute for Public Policy "China and Long-range Asian Energy Security- An Analysis of the Political, Economic, and Technological Factors Shaping Asian Energy Markets" http://www.rice.edu/energy/publications/studies/study_11.pdf#search=%22baker%20institute%20study%20no.%2011%22 (visited October 7th, 2006)

³¹ Amnesty International, *AI Report 1999; China*; International Campaign for Tibet "ICT Praises Senate Bill Prohibiting Chinese State-owned Enterprises Access to U.S. Capital Markets" August 2nd, 2001

³² Cindy Sui "China Using Asylums to Suppress; Banned Movement's followers Reportedly Institutionalized" *Washington Post* February 12th 2000, at A17; Japan Econ. Newswire "2000 Falun gong Members Arrested During Spring Festival" February 10, 2000

³³ David Ottaway "Chinese Fought on NYSE Listing Groups Cite Oil Firm's Role in Sudan," *Washington Post*, 27 January 2000

³⁴ Benn Steil "The Capital Market Sanctions Folly" *The International Economy* Winter 2005

³⁵ Steil 2005 supra

Accusations of slavery initially galvanised action on Sudan. Numerous anti-slavery groups got involved.³⁶ Reports of Muslim enslavement of southern Christians added the religious constituency to the campaign.³⁷ The National Islamic Front (NIF) government and its assault on the Christian and animist south placed Sudan on the list of countries of concern for the U.S. Commission on International Religious Freedom (USCIRF).³⁸ For three years USCIRF consistently called on the U.S. government to impose capital markets sanctions on Sudan.³⁹ One of the leading sanctions campaigners came to be the William Casey Institute of the Center for Security Policy and it had different reasons for objecting to PetroChina's initial public offering (IPO) on the New York Stock Exchange. PetroChina's parent corporation, CPNC operated in countries like Iran, Iraq and Sudan that were designated by the U.S. as sponsors of terrorism.⁴⁰ If PetroChina was allowed to raise capital on US markets, this would mean Americans underwriting terrorism against America.⁴¹ That was unpalatable. Capital market interdiction was meant to send a message to corporations that partnering with terrorist-sponsoring states would inhibit access to capital.⁴²

Tibet has been a long running issue on China, and the free Tibet campaign also joined in the sanctions campaign.⁴³ NGOs like Human Rights Watch (HRW) documented human rights violations by the government of Sudan but they did not take the lead on.⁴⁴ Most NGOs did not give capital markets sanctions "a snowball's chance in hell" of going anywhere and therefore stayed away from the campaign.⁴⁵ As one NGO activist put it; "I was very intimidated.... the opposition is fierce and well formed and incredibly powerful and well funded."⁴⁶

U.S. labour's participation came through the AFL-CIO's and it was one of the most significant in the campaign. Labour brought visible activism and phenomenal financial muscle into the campaign. Traditionally, economic nationalism had underwritten U.S. labour's policies and it had little solidarity with international labour. However, globalization enabled the mobility and geographical migration of company factories to countries with cheap labour, lower taxes and little environmental regulation. This meant job losses in the

³⁶ Christian Solidarity International, <http://www.csi-int.org/> (visited January 20th, 2007); *Human Rights Watch*, "Slavery and Slave Redemption in the Sudan" <http://www.hrw.org/backgrounder/africa/sudanupdate.htm> (visited April 20th, 2007)

³⁷ Human Rights Watch *Overview: Religious Freedom in Peril* <http://hrw.org/religion/overview.html> (visited May 6th, 2007)

³⁸ US Commission on International Religious Freedom press release "Commission to Examine Capital-Market Sanctions" Dec. 20, 1999

³⁹ USCIRF *Annual Report* May 1st 2001 Pg 22, and *Annual Report* May 2002 pg 25 both at <http://www.uscirf.gov/countries/publications/currentreport/index.html> (visited November 1st 2006)

⁴⁰ Frank Gaffney Jr. "A New bipartisanship in security policy?" *Jewish World Review* August 7, 2001 / 18 Menachem-Av, 5761; Frank Gaffney Jr "Invest terror-free" *Washington Times*, March 13, 2007

⁴¹ Adam M. Pender "Capital Markets transparency and Security, The Nexus Between U.S. – China Security Relations and America's Capital Markets" *William J Casey Institute for Security Policy*, June 29, 2001, 2

⁴² Pender supra

⁴³ *International Campaign for Tibet* "ICT Praises Senate Bill Prohibiting Chinese State-owned Enterprises Access to U.S. Capital Markets" August 2nd, 2001; *China Intercontinental Press* "The Historical Status of China's Tibet" <http://www.china.org.cn/ch-xizang/tibet/main/lishizhengzhie.html> (visited October 27th 2006)

⁴⁴ Human Rights Watch, *World Report 2001 Sudan* <http://www.hrw.org/wr2k1/africa/sudan.html> (visited November 1st 2006)

⁴⁵ Interviews with human rights activists on Sudan May 15th and 31st, 2006 Washington DC and Greensboro, North Carolina

⁴⁶ Interview with activist June 17th 2007 Washington DC

U.S. and that prompted a rethink of policy. As Frutiger put it, “Finally, after more than seventy-five years, the AFL-CIO recognizes the need for an international labour solidarity that intimately ties the economic well being of U.S. workers with that of workers around the world.”⁴⁷ When the restructuring of CPNC and the creation of PetroChina for purposes of enabling listing on the New York Stock Exchange resulted in lay offs of Chinese oilfield workers, they took to the streets in protest and were predictably arrested and imprisoned. The restructuring was also of concern as it was going to deny minority investors a voice in the makeup of PetroChina's board.⁴⁸ US labour got interested.

Campaign Process

In 1998 Talisman acquired Arakis Energy's Sudanese investment.⁴⁹ When activists complained about complicity in human rights violations, Talisman dismissed the allegations as ranting from a few activists.⁵⁰ The corporation maintained that it did not take sides in the Sudanese conflict and had neither the interest nor the power to intervene in the internal affairs of Sudan.⁵¹ It argued that if it left, someone else, maybe even less socially sensitive, would simply take its place.⁵² Talisman advocated constructive engagement so it could build hospitals and water supplies and even train Sudanese soldiers on human rights.⁵³ Campaigners did not dispute the developments, but dismissed this as charity that could not be a substitute for justice. In any event, very few Southern Sudanese could benefit since they were fleeing or already displaced.⁵⁴ Far from relenting, the Campaign intensified. Talisman was already listed on the New York Stock Exchange (NYSE), therefore campaigners called for its expulsion as well as for divestment from the corporation.⁵⁵

China's involvement in Sudan surfaced in 1999 after CNPC had reportedly invested approximately \$1.5 billion in Sudan's oil development. CNPC participated in the construction of the 1,500- kilometre-long oil pipeline from the oilfields in the south to the Red Sea, built a refinery and undertook substantial oilfield surface engineering.⁵⁶ To raise

⁴⁷ Dean Frutiger “AFL-CIO China Policy: Labour's New Step Forward or the Cold War Revisited?” *Labour Studies Journal* 27.3 (2002) 68

⁴⁸ *AFL-CIO report* “Proposed \$5 Billion PetroChina IPO Laced With Investment Risks And Human Rights Violations; Money Managers Urged to Review Findings” 202/842-3100 at www.PetroChinaWatch.com; Mark L. Clifford “Commentary: The Chinese Need Capital--and Condemnation” *BusinessWeek Online* http://www.businessweek.com/2000/00_16/b3677107.htm

⁴⁹ Project Ploughshares “Canadian corporate responsibility and the war in Sudan” *The Ploughshares Monitor* March 2000, volume 21, no. 1 <http://www.ploughshares.ca/libraries/monitor/monm00a.html>

⁵⁰ Gabriel Katsh “Fueling Genocide; Talisman Energy and the Sudanese Slaughter” *Multinational Monitor* October 2000 Volume 21 - number 10

⁵¹ Talisman Energy “Corporate Social Responsibility Report 2000,” April, 2001.

⁵² Christian Aid. *The regulatory void: EU company involvement in human rights violations in Sudan /05/01* available at <http://www.christian-aid.org.uk/indepth/0105suda/sudan.htm> visited January 2nd 2007; *CBC*

“Talisman oil operations prolong Sudan civil war,” November 11, 2000

⁵³ *The Economist* “Sudan's oil - Fuelling a fire” August 31, 2000

⁵⁴ Amnesty International, *Sudan; the Human Price of Oil* May 3rd 2000

⁵⁵ Eric Reeves “As in South Africa, It's Time to Let Our Wallets Do the Talking,” *The Los Angeles Times*, August 30, 1999.

⁵⁶ Representative Frank Wolf correspondence to SEC Chairman Arthur Levitt, September 30, 1997
CNPC “China Extensively Enters into International Oil Market,” January 11, 2001,
<http://www.CNPC.com.cn/english/news/index.html>

the capital needed for these investments, CNPC announced a sell of shares to the public.⁵⁷ This would be the first time a Chinese government controlled company traded on the NYSE and at \$10 billion, the biggest in Wall Street history.⁵⁸ There were immediate protests from interest groups. To quell the rising opposition, CNPC restructured itself by creating a subsidiary, PetroChina that would be divorced from Sudanese operations and that would seek the NYSE listing.⁵⁹ PetroChina became the fourth largest energy company in the world.⁶⁰ Ownership of PetroChina however remained in the Chinese government. Opposition far from dying down, in fact expanded.⁶¹ The Tibet freedom community, some environmental groups, the AFL-CIO and security concerns groups joined in.⁶²

In 1999, two significant congressional commissions' reports were published. The Cox Committee found that China was using US capital markets for funding both its military and commercial developments.⁶³ That was followed by the Deutch Commission which warned that the US had no security based review mechanism in place for entities seeking access to US capital markets.⁶⁴ Because of this Americans could unknowingly invest in weapons of mass destruction. The reports added security related attention on the operations of capital markets.⁶⁵ Capitalizing on the findings of the commissions, the USCIRF asked President Clinton to bar CNPC from listing on American stock markets.⁶⁶

The Legislative Initiative

The legislative vehicle for capital markets sanctions was the Sudan Peace Act.⁶⁷ Activists sought to have a provision in the act that would prohibit companies investing in Sudan from raising capital or trading securities in the United States. Alternatively a provision was sought to require that corporations must disclose such investment to potential investors. The Bush administration immediately announced that it would oppose both disclosure and exclusion provisions because they interfered with freedom of the markets.⁶⁸ Federal Reserve Chairman, Alan Greenspan openly and strongly opposed capital markets sanctions and

⁵⁷ Human Rights Watch. "China's Involvement in Sudan: Arms and Oil"
<http://www.hrw.org/reports/2003/sudan1103/26.htm> (visited October 14, 2006)

⁵⁸ Human Rights Watch supra

⁵⁹ Pener supra

⁶⁰ David Ottaway "Chinese Fought on NYSE Listing," *Washington Post*, January 27, 2000

⁶¹ Jane Lampman "Battle Against Oppression Abroad Turns to Wall Street," *Christian Science Monitor* March 3, 2000

⁶² Pener 2001 supra

⁶³ United States Congress, House Report 105-851 *The Select Committee on U.S. National Security and Military/Commercial Concerns with the People's Republic of China* at
<http://www.gpo.gov/congress/house/hr105851-html/index.html> visited February 20th 2007

⁶⁴ *Commission to Assess the Organization of the Federal Government to Combat the Proliferation of Weapons of Mass Destruction Combating Proliferation of Weapons of Mass Destruction* July 14th 1999 at
<http://web.mit.edu/chemistry/deutch/policy/48ComWMDReport1999.pdf> visited February 21st, 2007

⁶⁵ Jack O'Connell "A Tangled Web: When State Agencies Do Business Overseas" *Comstock's Business Magazine*, June 2000

⁶⁶ USCIRF *Religious Freedom Commission Meets With President, Urges Action on Sudan and China*, October 19, 1999

⁶⁷ H.R. 2052 <http://www.congress.gov/cgi-bin/query/D?c107:1:./temp/~c107Iz4CQq:> visited April 30th 2007; ⁶⁷ Amendment H.AMDT.77 to H.R.2052 available at <http://thomas.loc.gov/cgi-bin/bdquery/z?d107:HR02052:@@L&summ2=m&#amendments> visited on April 30th @007

⁶⁸ *Washington Post*, August 15, 2001

argued that they would undermine the U.S. economy. President Bush indicated that he would veto the legislation if congress passed it.⁶⁹

Then September 2001 happened and Sudan declared itself committed to fighting the war on terror. The House remained committed to sanctions and held numerous congressional hearings on Sudan and capital markets sanctions.⁷⁰ On November 29th 2001 the House unanimously consented to a conference and named its conferees. However, with Sudan now a newfound ally of the U.S. on the war on terror, the Republican leadership in the senate blocked progress through a hold on naming Senate conferees.⁷¹ Reports indicate that the hold was made on the instructions of the White House, which wanted to pursue cooperation with Sudan.⁷² The bill, H.R. 2052, could not move forward and lapsed at the end of the congressional session.

A new Sudan Peace Act, H.R. 5531 without the sanctions or disclosure provisions was introduced on October 2nd 2002 and was passed by the House on October 7th. The Senate passed it by unanimous consent on October 9th and it became Public Law No: 107-245.⁷³ The President signed it into law on October 21st 2002 effectively ending the sanctions legislative campaign.

The Securities and Exchange Commission

The campaign had support from a number of legislators and on September 30th 1999, U.S. Representative Frank Wolf wrote the U.S. Securities and Exchange Commission (SEC) urging it to disapprove CNPC's proposed listing on the NYSE.⁷⁴ Wolf also wrote the chairman of the NYSE urging him to stop CNPC's public offering.⁷⁵ Neither was forthcoming. In April 2001 Wolf wrote the new chairman of the SEC, Laura Unger.⁷⁶ Unger's reply dated May 8th, 2001 was described by the *Financial Times* as a bombshell.⁷⁷ Although the letter did not seek to change existing regulations, it significantly raised the level

⁶⁹ Joshua Green "God's Foreign Policy" *Washington Monthly* November 2001; Edward Alden and Ken Warn "US business gears up to derail Sudan delisting law" *The Financial Times*, June 20, 2001

⁷⁰ House Committee on International Relations, Subcommittee on Africa at http://frwebgate.access.gpo.gov/cgi-bin/getdoc.cgi?dbname=105_senate_hearings&docid=f:40875.wais; visited May 1st, 2007; House Committee on International Relations, Subcommittee on Africa at http://frwebgate.access.gpo.gov/cgi-bin/getdoc.cgi?dbname=105_senate_hearings&docid=f:43816.wais; and http://frwebgate.access.gpo.gov/cgi-bin/getdoc.cgi?dbname=106_senate_hearings&docid=f:66867.wais

⁷¹ Jim Lobe "Growing Pressure for Harder Line Against Khartoum" *Global Affairs Commentary*, July 1, 2002

⁷² Jeff Johnson "White House Accused of Blocking Sudan Peace Act" *CNSNews.com* Congressional Bureau Chief, June 06, 2002

<http://www.cnsnews.com/ViewPolitics.asp?Page=%5CPolitics%5Carchive%5C200206%5CPOL20020606a.html> (visited November 1st, 2006)

⁷³ PUBLIC LAW 107-245—OCT. 21, 2002

⁷⁴ John Berlau "Is China Stock a Security Risk?" *Investor's Business Daily* (Los Angeles), October 5, 1999. Wolf's letter to SEC chairman Arthur Levitt Jr, copy in possession of researcher.

⁷⁵ Stephen F. Diamond "The PetroChina Syndrome: Regulating Capital Markets in the Anti-Globalization Era" *Cornell Law School Working Papers Series*, Paper 11, Year 2003 pg 60

⁷⁶ Rep. Frank Wolf's letter dated April 2nd, 2001 copy in researcher's possession

⁷⁷ Edward Alden "SEC chief inherits disclosure bombshell; Capital markets watchdog's expanded role may cause sea change in the way foreign companies list in US" *Financial Times* May 11, 2001

of disclosures required of foreign companies when they invested in countries under U.S. sanctions by designating such investment as material risks for investors.⁷⁸

For the campaigners, this was a major victory.⁷⁹ However, the letter was not authoritative legislation and subsequent chairs could ignore or reverse it. Business interests, including the National Foreign Trade Council were pressuring the new SEC chair to back down from Unger's guidance.⁸⁰ Activists tried to urge maintenance of the policy but they were not successful.⁸¹ At his confirmation hearing, the new chair expressed disquiet over sanctions and indicated that SEC disclosure requirements should be based on financially material information, not social or political causes.⁸²

Divestment

In 1999 the American Anti-Slavery Group launched a divestment campaign against Talisman. Divestment advocates targeted labour controlled financial institutions such as the Teachers Insurance and Annuity Association, College Retirement Equities Fund (TIAA-CREF) which serves higher education employees and is the largest private pension plan in the world. Four days after a Boston divestment rally, TIAA-CREF sold all its 300 000 shares in Talisman.⁸³ Most major public institutional investors followed suit and sold their stock in Talisman.⁸⁴ According to the India Resource Center it was the most successful divestment protest since the 1980s campaign to get investors out of South Africa.⁸⁵ In its 2000 Corporate Social Responsibility Report, Talisman acknowledged army use of its infrastructure but insisted these were "instances of non-defensive usage."⁸⁶ Canadian investors such as the Ontario Teachers' Pension Plan nevertheless threatened to sell their shares if the company did not pull out of Sudan. Despite huge profits, Talisman's stock steadily fell.⁸⁷ In 2003 Talisman pulled out of Sudan.

IPO Boycott

The most innovative instrument deployed by campaigners was the boycott of Petrochina's IPO. In January, 2000 the campaigners appealed to potential subscribers to refrain from subscribing to the IPO. Congressional Representatives Spencer Bachus, (Rep), and Dennis Kucinich, (Dem) sent letters to all 50 state treasurers and attorneys urging them to review state investment portfolios for stocks and bonds in foreign firms that might threaten U.S. national security.⁸⁸ A coalition of over two hundred campaigners also wrote to the senior managers of U.S. pension and mutual funds that were the biggest potential sources of

⁷⁸ David Martin "Response to Letter dated April 2, 2001 from Congressman Wolf" Memorandum May 8th 2001 (copy in researcher's possession)

⁷⁹ Frank Gaffney Jr. "A Tale of Two Horatios" *Jewish World Review* May 15, 2001

⁸⁰ Neil King Jr. and Michael Schroeder "House Bill to Impose Sanctions on Firms Doing Business With Sudan Spurs Debate" *Wall Street Journal* 8/27/01

⁸¹ Jenny Anderson "Capital Punishment" *Institutional Investor*, November 2001 at 85

⁸² Harvey Pitt record of confirmation proceedings, copy in researcher's possession.

⁸³ *Yale Insider* "Endowment Reports; Oil and the Civil War in Sudan" June 17th 2002

⁸⁴ Eric Reeves "The nascent divestment campaign against Talisman Energy," *PostNuke* February 18, 2000

⁸⁵ *India Resource Center*, "Divestment Campaign to Get Talisman Out of Sudan" Boston, Phoenix, July 12, 2001 at <http://www.indiaresource.org/issues/energycc/2003/sudandivestment.html>

⁸⁶ Talisman Energy. *Talisman Corporate Social Responsibility Report* 2000

⁸⁷ Sudan Divestment Taskforce, "Efficacy of Targeted Divestment at a Glance" available at http://www.sudandivestment.org/docs/efficacy_glance.pdf visited May 7th, 2007

⁸⁸ Michael J. Waller "China cashes in on US capital markets" *Insight magazine*, 24 January 2000

funding.⁸⁹ They made a scarcely veiled threat that should the listing proceed, a divestment campaign similar to that against Talisman Energy would be initiated against PetroChina.⁹⁰

Alien Tort Claims Act

On November 8th 2001 the Presbyterian Church of Sudan filed a lawsuit in the U.S. District Court of New York on the basis of the Alien Tort Claims Act (ATCA).⁹¹ They sued Talisman on the basis that it aided and abetted or, alternatively, facilitated and conspired in ethnic cleansing by the Islamic government of Sudan.⁹² Jurisdiction was sought based on the presence of Talisman subsidiaries in the United States.⁹³ In September 2006 the district court dismissed the case for lack of evidence and failure to prove subsidiary liability.⁹⁴

The Market as Opportunity Structure

It is axiomatic that competitive free markets, the free flow of cross-border capital, and investment decisions by corporations drive globalization. The market and its agents, have become the most important economic and many ways, social actors in the world. More than 50 of the world's 100 largest economies are corporations employing hundreds of workers located in multiple countries around the world.⁹⁵ It was due to the enabling effects of free market economics that Sudan was able to raise capital and trade oil freely. Oil became the *raison d'être* for the Sudanese war. In the activists' logic, to the extent that capitalization enabled war funding, interdicting capital offered an effective intervention strategy.⁹⁶

The prime instrument deployed by campaigners rested on the nature of the operation of capital markets and the rules that have evolved relevant to those operations. Traditionally, finance suppliers were provided by banks as the repositories of savings, but a new range of financial intermediaries have emerged on the global markets in the form of pension funds, mutual funds, university endowments and individual investors.⁹⁷ US markets dominate this sector with U.S. debt and equity markets accounting for as much as 50 percent of funds raised through securities offerings globally.⁹⁸ As at March 2000, the U.S. stock market was valued at \$16 trillion dollars.⁹⁹ For the longest time the U.S. capital markets were shielded from political interference. That attracted investors who sought to raise capital without

⁸⁹ Waller 2000 supra

⁹⁰ William J. Casey Institute, "Human Rights and Religious Leaders Urge Hundreds of Pension and Mutual Funds to Forego Imminent PetroChina IPO on NYSE," January 28, 2000.

⁹¹ *The Presbyterian Church of Sudan, et al. v. Talisman Energy, Inc., et al.*, 244 F. Supp. 2d 289 (S.D.N.Y. 2003)

⁹² Berger & Montague PC, Civil & Human Rights Case Summary, *Talisman Energy; Presbyterian Church of Sudan, et al., v. Talisman Energy, Inc., and the Republic of Sudan*. 01 CV 9882 (AGS)

⁹³ "Developments in international law" *The American Society of International Law*, June 28, 2005 at webpage <http://www.asil.org/ilib/2005/06/ilib050628.htm#J2> visited April 30th, 2007

⁹⁴ <http://www.velaw.com/pdf/resources/TalismanSDNY.pdf>; Marco Simons "Presbyterian Church of Sudan v. Talisman Energy" *EarthRights International* 19 April 2007

⁹⁵ Ann Florini, *The Coming Democracy: New Rules for Running a New World* Washington, DC: Brookings Institution Press, 2005, p. 99.

⁹⁶ Interview with activist May 15th 2006 Greensborough, North Carolina

⁹⁷ Franklin R. Edwards *The New Finance: Regulation & Financial Stability*, 1996

⁹⁸ Pener supra 4

⁹⁹ George Marotta "The United States: Capitalist model to the world" *Vital Speeches of the Day* New York: Oct 1, 2002. Vol.68, Iss. 24; pg. 78

having to worry about social or moral responsibility. The immunity from social questioning became one of the pillars of the American economy.¹⁰⁰

Market intervention opportunities were a factor of internal economic dynamics. China's quest for oil and capital and Sudan's desire for oil exploitation piqued at the same time as the shifts in global financial structures. China had been experiencing significant economic growth and with it a phenomenal increase in its energy demands.¹⁰¹ Increased demand forced China to go onto the global market as an oil importer. It invested in foreign oil fields including Peru, Venezuela, and Sudan but capital shortage was a significant challenge.¹⁰² China's strategy to overcome the shortage was penetration of U.S. debt and equity markets.¹⁰³ The intended listing by PetroChina was to mark the biggest public offering of stock by a Chinese government controlled enterprise, a major step in Chinese entry into global markets and a triumph for free market economics.¹⁰⁴

The entry caused alarm in U.S. social and security circles.¹⁰⁵ It got the attention of U.S. labour which had just set out to "tackle the enormous challenges workers face in the global economy."¹⁰⁶ One of the most significant factors for the capital markets sanctions campaign was that some of the intermediaries to the new form of financing turned out to be labour controlled. In 2000 AFL-CIO affiliates controlled pension funds worth over \$400 billion and were trustees for over another \$5 trillion.¹⁰⁷ This gave labour enormous leverage at just the time when labour was finding common ground with human rights. Labour sought "to influence corporate behaviour by thinking like a shareholder and investor."¹⁰⁸ With the other activists it targeted PetroChina's IPO.

An IPO is the first sale of a corporation's common shares to investors on a public stock exchange such as NASDAQ or the NYSE. The money from the newly-issued shares goes directly to the corporation as compared to later trade of shares on the exchange, where the money passes between investors. Thus an IPO allows a corporation to tap a wide pool of stock market investors to provide itself with large volumes of capital. The corporation is not required to repay this capital since what the new shareholders acquire is a right to future profits distributed by the company. Once a company is listed it will be able to issue further shares through a rights issue, thereby again providing itself with capital for expansion without incurring any debt. This regular ability to raise large amounts of capital from the

¹⁰⁰ Hearing on the Federal Reserve's Report on Monetary Policy Before the Senate Banking, Housing and Urban Affairs Committee, July 20, 2000 (statement of Alan Greenspan).

¹⁰¹ The James A. Baker III Institute for Public Policy of Rice University "China and Long-range Asian Energy Security- An Analysis of the Political, Economic, and Technological Factors Shaping Asian Energy Markets" at http://www.rice.edu/energy/publications/studies/study_11.pdf#search=%22baker%20institute%20study%20no.%2011%22 (visited October 7th, 2006)

¹⁰² Baker Institute supra page 4

¹⁰³ Center for Security Policy, *Sinopec Case Again Points to Beijing's Deception in U.S. Equity Market Far Eastern Economic Review Scorches S.E.C and Wall Street* Publications of the Center for Security Policy No. 00-F 52, 27 October, 2000 <http://www.security-policy.org/papers/2000/00-F52.html> (visited October 9th, 2006)

¹⁰⁴ Steven F. Diamond "The Chinese Market: An enigma Unravalled" *Dissent* 95, Summer 2002

¹⁰⁵ Baker Institute report supra, 6

¹⁰⁶ Ching Kwan Lee "From the Spectre of Mao to the Spirit of Law; Labour Insurgency in China" *Theory and Society*, 189 April 2002; Solidarity Center, *About us* at <http://www.solidaritycenter.org/content.asp?contentid=409>

¹⁰⁷ Diamond supra 84

¹⁰⁸ James Cox "AFL-CIO flexes muscle against China IPO" *USA TODAY*, March 10, 2000, 9

capital market, rather than having to seek individual investors, is a key incentive for many companies seeking to list on the stock exchange. Labour urged its affiliates to boycott the IPO.

This was potentially a powerful tool and its institutionalization was fought off with tenacity.¹⁰⁹ To free markets advocates this was “a new idea, a bad idea, and a frontier that should not be crossed.”¹¹⁰ The results were very immediate and very visible; “Within a few days of the AFL-CIO intervention, TIAA-Cref and the California Employees Retirement System (CalPERS) announced their intention not to purchase shares in the IPO.”¹¹¹ Trade on PetroChina fell far below expected and was so bad that the underwriter, Goldman Sachs had to intervene.¹¹²

Another significant institutional opportunity came out of the lessons learnt from the disaster of the Great Depression in 1929.¹¹³ Until then, government had refrained from regulating stock markets, but the trauma of the crash led to regulation of trading in order to protect the investor. Since 1929, any transaction involving the sale of a security on a United States market must be registered with the Securities and Exchange Commission unless there is an exemption.¹¹⁴ Activists turned this tool on PetroChina, demanding that it make full and fair disclosure of financial information including that human rights abuses in Sudan carried the potential of political upheaval.¹¹⁵ For a short while “material concerns” included human rights but to free market advocates, that was a bombshell.¹¹⁶ It certainly caused concern and panic in the capital markets.

After SEC chairperson Unger issued her letter and the House passed its bill with the sanctions provision, Talisman got out of Sudan because it could not risk losing access to US capital markets.¹¹⁷ Russian oil company Lukoil, abandoned a planned listing on the NYSE.¹¹⁸ According to the campaigners, it was also partly due to the activism that the Sudanese government agreed to the peace negotiations with the SPLM.¹¹⁹ While Malaysian and Indian companies moved in where Talisman moved out, other companies followed Talisman’s lead in getting out of Sudan. They included ABB, Siemens, Xerox and 3M.¹²⁰ That was quite an

¹⁰⁹ Braden Penhoet. “Wall Street Sings the Dragon; PetroChina's Failed IPO” *Multinational Monitor* MAY 2000· Volume 21 Number 5

¹¹⁰ Gary Clyde Hufbauer and Barbara Oegg “Capital-Market Access: New Frontier in the Sanctions Debate” *Peterson Institute for International Economics*, May 2002

¹¹¹ Diamond supra 69

¹¹² Kenneth Wong “Initial PetroChina Trading Sputters; Goldman Sachs Bolsters Prospects,” *Wall Street Journal Interactive Edition*, April 10, 2000; Ho Swee Lin “Investors Lukewarm on PetroChina,” *Financial Times*, March 31, 2000:

¹¹³ Maury Klein “Wall Street Crash: The consequences” BBC November 3rd, 2004

¹¹⁴ Securities Act 1933, as amended, 15 USCS § 77a (2003), and Securities Exchange Act of 1934, as amended, 15 USCS § 78a (2003).

¹¹⁵ Anne M. Khademian “The Securities and Exchange Commission: A small regulatory agency with a gargantuan challenge” *Public Administration Review*; Sep/Oct 2002; 62, 5; Research Library Core pg. 515

¹¹⁶ Edward Alden “SEC Chief Inherits Disclosure Bombshell” *Financial Times* May 11th 2001, 1

¹¹⁷ James Stevenson “Talisman says Sudan oil holdings not worth being banned in the U.S.,” *Canadian Press*, Calgary, June 18, 2001; *Talisman* “Talisman to Sell Sudan Assets For C1.2 billion,” Calgary, October 30, 2002, <http://micro.newswire.ca/releases/October2002/30/c6739.htm> (visited October 10th, 2006)

¹¹⁸ Alison Beard “Russia’s Lukoil Disappoints US Investors with London Listing” *Financial Times* July 2nd 2001, 23

¹¹⁹ Sudan Divestment Task Force. “Efficacy of targeted divestment: at a glance” at http://www.sudandivestment.org/docs/efficacy_glance.pdf visited January 17th, 2007

¹²⁰ Sudan Task Force supra

impact even though legislation had failed in the US and Unger's policy did not survive her departure.

The effectiveness of divestiture for social goals has been questioned, but it remains a popular tool for social activists and it was used extensively against Talisman.¹²¹ Those opposed to divestment argue that it is based on a fundamental misunderstanding of how equity markets work. Selling shares means ownership changes hands, but it does not necessarily diminish capital.¹²² Proponents of divestment argue however that when there is huge institutional selling of a particular stock, its market value is lowered. To what extent divestment contributed to Talisman's pull out is hard to judge.¹²³ When he announced the sell of Talisman interests in Sudan, Talisman CEO Buckee implicated the prospect of capital market sanctions. However, by 2006, the Sudanese government had taken out an estimated \$1 million in advertising in the *New York Times* and was issuing press releases decrying divestment. If divestment was ineffective, the advertising surely would not have been necessary.

While the market provided an opportunity for campaigners, it was a heavily contested opportunity. Markets are resistant to policy interference and have a strong and dedicated constituency that is committed to the separation of policymaking from moneymaking. As Greenspan declared, "the campaign to expand free trade is never won. It is a continuing battle."¹²⁴ This he insisted would have to be maintained even if it had deleterious effects on vulnerable populations.¹²⁵ In testimony before the Senate Banking Committee shortly after Unger's letter of May 8th 2001, Greenspan warned that disclosure provisions would simply drive business from the US to European markets.¹²⁶ The worry from the business perspective was that "any business out of political favour could be a target of capital market sanctions."¹²⁷

Some opposing arguments were more instrumentalist. Some of the foreign companies with small operations in Sudan were really huge global corporations based e.g. in Europe like Lundin Oil. As one activist put it "Capital markets sanctions would deny the US market access to the business of foreign companies some of who are huge, all because of our desire to punish Sudan and that was not worth it."¹²⁸ If the U.S. blocked foreign companies from trading on U.S. capital markets, U.S. corporations could face the same action from Europeans. Punishing Sudan was not viewed as worth the possibility of this reverse punishment.¹²⁹

Conclusion

¹²¹ Jacqueline Sheppard and Reg Manhas "Special report: Responsible operations--Sudan experience offers corporate-responsibility lessons, opportunities" *Oil & Gas Journal* Tulsa: Nov 13, 2000. Vol. 98, Iss. 46; pg. 70

¹²² Richard S. Kindleberger "N.E. College Students Join Apartheid Protests" *Boston Globe* Oct 12, 1985

¹²³ Eric Reeves "Commentary on the Divestment Campaign by Far Eastern Economic Review" *Sudanreeves* January 5, 2001; Sam Graham-Felsen "Divestment and Sudan" *The Nation* May 8th 2006

¹²⁴ Alan Greenspan, Testimony before the Committee on finance, U.S. Senate, April 4 2001

¹²⁵ Greenspan April 4, 2001 *supra*

¹²⁶ July 24, 2001 Alan Greenspan before the Senate Banking Committee

<http://www.ofii.org/issues/GreenspanComments.pdf> (visited October 29th 2006)

¹²⁷ Charles Jacobs and Carey D'Avino. "Should Wall Street Be Open to Slavers?" *Boston Globe*, September 8, 2001

¹²⁸ Interview with activist and with a policy analyst May 30th, 2006 & June 6th 2006 Washington DC

¹²⁹ Interview with congressional policy analyst May 30th, 2006

The challenges in trying to regulate corporations are phenomenal. There are neither global rules of conduct for corporations nor are there institutional mechanisms for their regulation.¹³⁰ Corporations prefer to be purely economic actors whose primary responsibility is to earn profits for shareholders.¹³¹ The potential for losses from activist linking of morals to profit however very quickly saw the corporations change attitude. The Campaign opened the door to market intervention even though this particular campaign was not entirely successful. Lundin Oil of Sweden that dealt in Sudanese oil remained registered on U.S. capital markets. To date, CNPC continues to extract oil from Sudan.¹³² In May 2003 Petronas of Malaysia raised \$1 billion on American markets in a finance deal organized by Morgan Stanley and Salomon Smith Barney in the U.S.¹³³ The state too proved problematic. It remains very relevant because the world is still a world of states but also because market dominance is buttressed by powerful states.¹³⁴ The state is therefore a fundamental constitutive element in globalizing capital.¹³⁵ As a result, international corporate practices cannot effectively be curbed in the global arena alone. Concrete results are only possible in specific national sites.¹³⁶ But the role of the state is not as a neutral arbiter. As the US defence of free markets against human rights considerations demonstrated, the state can be an interested party to the contestation.¹³⁷

Despite these challenges, the Campaign nevertheless demonstrated the feasibility of utilizing the market to further social movement goals. Social movement operations prove to be not only fluid and complex dynamics, the contexts within which they find themselves vary and their study too needs to be evolving.¹³⁸ Geographical, social, cultural and economic constraints are changing, transforming the nature and meaning of spatial and social spaces.¹³⁹ Social movements target their actions at perceived violators and enabling institutions, the market included. The opportunities that avail social movements are also extending beyond the political into the economic realm. The framework for understanding their actions need to extend accordingly to include economic opportunity structures.

¹³⁰ Kentor supra 283

¹³¹ Milton Friedman *Capitalism and Freedom* Chicago, University of Chicago Press; 1962 at 133

¹³² Peter S. Goodman "China Invests Heavily In Sudan's Oil Industry; Beijing Supplies Arms Used on Villagers" *Washington Post Foreign Service* Thursday, December 23, 2004; Page A01
<http://www.washingtonpost.com/wp-dyn/articles/A21143-2004Dec22.html> (visited October 21st, 2006)

¹³³ Eli J. Lake "Slow on Sudan: A bill stalls; has AIPAC reneged? - American Israel Public Affairs Committee fails to support Sudan Peace Act" *National Review*, July 29, 2002

¹³⁴ Gordon Laxer "Popular National Sovereignty and the U.S. Empire" *Journal of World Systems Research*, xi,2, December 2005, 317

¹³⁵ Leo Panitch "Rethinking the Role of the State" in James H. Mittelman (ed) *Globalization: Critical Reflections* Lynne Rienner, Boulder 1996

¹³⁶ Gordon Laxer and Sandra Halperin . *Global Civil Society and Its Limits* Palgrave MacMillan, New York, 2003

¹³⁷ Havidán Rodríguez. "A "Long Walk to Freedom" and Democracy: Human Rights, Globalization, and Social Injustice" *Social Forces*, September 2004, 83(1), 392

¹³⁸ Nancy Whittier "Meaning and Structure in Social Movements" in Meyer, Whittier and Robnett supra pg 289

¹³⁹ Malcolm Waters *Globalization*, 2nd Ed. Routledge , New York 2001.