

Holding Multinational Corporations Accountable for Human Rights Abuses and Environmental Catastrophes

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Introduction

Multinational corporations (MNCs) have been the cause of human rights abuses and environmental catastrophes in many countries around the world. Holding MNCs accountable for their actions presents difficulties because of their complex corporate structures.

Country	Year	Parent Corporations	Foreign Affiliates	
US	1990	3,000	14,900	
	2000	3,235	15,712	
	2005	2,360	13,667	
UK	1991	1,500	2,900	
	1996	1,059	2,609	
	2003	2,607	13,176	
Germany	1990	6,984	11,821	
	2002	6,609	9,268	
	2006	5,935	9,631	
Japan	1992	3,529	3,150	
	2001	3,371	3,870	
	2006	4,663	4,500	
South Korea	1991	1,049	3,671	
	2002	7,460	12,909	
	2007	7,460	14,869	
China	1989	379	15,966	
	2002	359	424,196	
	2005	3,429	280,000	

Objective

My research focused on the use of enterprise law to hold corporate groups liable for the actions of one of their affiliates.

Methods

My research method was to gather secondary sources (e.g., articles and treatises) and primary sources (e.g., statutes and cases) in order to compare the way enterprise law was being employed by various jurisdictions around the world. Specifically I examined the way the US, Commonwealth countries, continental Europe and the EU had employed enterprise law to ensure their statutory regimes were not being frustrated by complex corporate structures.



Results

- A corporation should be held jointly and severally liable for all claims made against affiliated corporations.
- Affiliated corporations should be defined using a hybrid approach that initially employs a legal control test that looks at majority ownership of voting shares and is supplemented by a factual control test that looks at the degree of economic integration, financial interdependence, administrative interdependence, the group utilization of assets and the conduct of business under a common public personae.
- A judgment rendered against a corporation in one country should be presumptively enforceable against its affiliate in another country.

Conclusion

Although MNCs are responsible for a significant amount of the world's economic output, they should still be held accountable for the actions of their foreign affiliates. The results of my research show various considerations that should be taken into account when trying to craft a legal regime that holds them accountable.