



The Legal Responsibilities of Multinational Corporations in Developing Countries

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Abstract. In the current age of globalisation, Multinational Corporations (MNCs) have expanded their operations to a multitude of developing countries, bringing with them a host of legal responsibility issues. This paper examines the expansive activities of MNCs over several decades and their profound effects on developing nations. It highlights the inadequacies within the legal and regulatory frameworks of these countries, which often fail to protect the rights of workers and consumers adequately. The paper provides an analysis of the systemic shortcomings that have allowed MNCs to operate with relatively fewer constraints in developing markets. Furthermore, it proposes a suite of strategies and recommendations designed to fortify legal compliance and ethical business conduct. These recommendations underscore the need for a concerted effort among MNCs, governments, civil societies, and international organizations to build a truly free-market system that is grounded in legal responsibilities and conducive to sustainable development. Such collaborative actions are imperative for the protection of essential rights, including labour rights, environmental preservation, and consumer protection, ensuring that all stakeholders benefit from equitable economic growth.

Keywords: Multinational Corporations (MNCs), Developing Countries, Legal Responsibilities.

1 Introduction

The historical background of the legal responsibilities of MNCs in developing countries can be traced back to the later World War II era when some corporations began to expend their business beyond their home states to look for new markets and resources. This period witnessed the rise of the first wave of globalisation, these companies venturing into countries in Africa, Asia, and Latin America to find opportunities of cheap labour, natural resources, and access to new markets. As these corporations continued to grow and expand, public began to concerned about the negative effects of their actions on developing countries. In response, governments and international organizations began to formulate laws and guidelines aimed at holding MNCs responsible for their actions in the countries where they engaged business.

As globalisation accelerates, multinational corporations contribute to economic growth and job creation but also pose challenges to society and the environment, particularly in developing countries. Recently, the legal responsibilities of MNCs in developing countries has become a topic of public interest and debate. Key issues include the globalisation-driven expansion of MNCs into new areas with potentially weak or non-existent regulatory systems and cases highlighting the adverse effects of these corporations on developing nations, such as labour rights violations, environmental pollution, and consumer rights infringements. These incidents have prompted a public outcry for the establishment of a legal framework to hold MNCs accountable for their actions.

Researching the legal responsibilities in developing countries are significant for several reasons. Numerous developing countries have experienced environmental harm and violations of human rights due to the pursuit of profits by multinational companies. Investigating this area can illuminate the reasons behind the failure of MNCs to fulfil their legal obligations and offer insights into how they can amend their practices to safeguard human rights and the environment more effectively.

This paper will focus on three main parts, the activities and legal responsibilities of multinational corporations in developing countries, challenges in the practice of legal responsibilities and strategies, and suggestions for enhancing the legal responsibilities of multinational corporations in developing countries. In the legal responsibilities, it will discuss about the protection of labour rights, the environmental protection responsibilities, fair trading and consumer rights protection. Additionally, it will describe the challenges of each of the above responsibilities and analysis the impacts, concluding with a set of suggestions for improvement.

2 Activities and Legal Responsibilities of Multinational Corporations in Developing Countries

2.1 Definition and Characteristics of Multinational Corporations

MNCs means that own the production of goods or services in at least two countries. The phenomenon of globalisation, characterized by the free movement of capital, trade, information, culture, and people, has facilitated the expansion of MNCs into foreign markets, establishing a close relationship between these corporations and global economic integration. MNCs exert a substantial impact on the economies of host countries; they are influential in shaping local business landscapes and industry standards through their operations.

On the one hand, MNCs contribute positively to economic development by bringing in new investments and creating job opportunities. Their presence can lead to the transfer of technology, improvement in productivity, and introduction of international management practices, which can benefit the overall economy. Moreover, by integrating developing countries into global supply chains, MNCs can help these countries gain access to global markets, enhancing their export potentials.

On the other hand, the influence of MNCs is not without its challenges and drawbacks. Their entry into local markets can present stiff competition for local businesses,

which may struggle to compete with the scale, resources, and technological advantage of multinational entities. Additionally, MNCs often possess significant negotiating power, enabling them to dictate terms and prices in their dealings with local suppliers and partners. This power imbalance can lead to a reduction in the income and sustainability of local companies, affecting the local economy's diversity and resilience.

Hence, although MNCs are instrumental in the global economy and can drive progress in developing nations, their operations also introduce considerable challenges, necessitating meticulous oversight and regulation to achieve sustainable and equitable development.

2.2 The Legal Responsibilities of Multinational Corporations in Developing Countries

As we analyse deeper into the activities of MNCs within developing nations, it becomes imperative to examine the legal framework that governs their operations. These corporations, by virtue of their extensive global reach and significant economic influence, are subject to a broad spectrum of legal obligations designed to ensure they conduct their business in a responsible and ethical manner. MNCs in developing countries bear three main types of legal responsibilities:

Protection of Labour Rights. The issue of labour rights protection has been longstanding, dating back to the Industrial Revolution when industrialization processes led to inhumane treatment and poor compensation for workers. With the onset of the 20th century, as developing countries began integrating into the international market, MNCs found lucrative opportunities in these regions due to cheaper labour costs and lax industry regulations. This often resulted in worker exploitation, including substandard safety conditions, excessive working hours, and insufficient wages. Indeed, across various global regions, the assurance of sufficient and consistent wages remains uncertain [1].

The accountability for this negative impact is done by efforts of various global organizations, like the International Labour Organization (ILO), which support workers' rights standards, such as the minimum wage, the work conditions standards, and health and the safety laws. These activities are aimed at reducing inequality and poverty in the world as well as in the particular countries, simultaneously, they are also aimed at ensuring that the multinational companies operate in an ethical manner in the non-OECDTM countries. The protection of labour rights of multinational corporations of developing countries influenced on a worker's life badly and good. On a positive note, initiatives that have established minimum wage and standards for working conditions have significantly enhanced the living standards for countless workers by ensuring fair pay and safer workplaces. Besides, it builds the economy development and reduce the poverty in the under-development regions and as such the workers end up having an income to meet the necessities of their families.

However, establishing a minimum wage, while beneficial, has encountered challenges and criticisms. Some argue that international standards complicate MNCs' ability to fulfil their obligations in less developed areas. Critics also point out that enforcement mechanisms are often weak, allowing companies to circumvent laws without facing penalties or constraints due to oversight gaps.

Environmental Protection Responsibilities. The responsibility of MNCs for environmental protection in developing countries can be traced to when enterprises from developed nations began relocating pollution-intensive and high-energy-consuming industries to these less regulated areas [2]. Nowadays, these companies prefer discharge of hazardous substances, particularly CO₂ in some poor countries. Research indicates that companies often situate their CO₂-emitting operations in nations with lax environmental regulations. The levels of emissions are notably higher in these countries compared to their home countries with stricter environmental laws [3].

Additionally, many multinational corporations setting up in developing countries tend to belong to heavy industries. These industries are not only energy-intensive but also significantly pollute during the production process [4]. Such activities cannot be fathom without their negative consequences, some of them being physical health damage, loss of biodiversity and factors like breakage of the natural ecosystem. There is a continuing call for transnational companies to assess the local environment before they start their operations and to conduct their business activities in a way that does not damage the environment. It means that MNCs can offer good deals in ecosystems and sustainable development by implementing the policies that promote conservation and the protection of biodiversity. This can be done by activities such as conservation of natural habitats, improving the health of ecosystems that have been worn out as well as empowering local communities in sustainable resource management. Multinationals corporations can be in touch with the local people, including the indigenous communities, to ensure that they carry their activities which are both environmentally and socially proven to be acceptable.

Fair Trading and Consumer Rights Protection. The concept of fair trading and consumer rights protection dates back to the early 20th century with the emergence of consumer protection movements in many countries, especially developed countries. For instance, the inaugural consumer organizations were established in Denmark in 1947 and in Great Britain in 1955, when the Government formed the Consumer Council to give consumers a voice on matters traditionally dominated by producers and traders [5]. As industrialization and economic globalisation accelerated, public concerns about unfair trade and the deceiving consumers and harming their rights and interests by large corporations grew even in some poor countries. This led to the development of consumer protection laws and regulations aimed at safeguarding consumer rights and ensuring fair competition in the marketplace. In developing countries, the issue of fair trading and consumer rights protection has been a dispute one, as these nations often lack of the resources and regulatory to effectively perform consumer protection laws.

The effect of fair trading and consumer rights protection of MNCs in developing countries has a lot of positive sides. It can increase awareness of consumer rights and regulatory enforcement has led to greater accountability among MNCs and improved market access for local businesses. In certain nations, governments implement antitrust policies that curb monopolistic practices and foster fair competition, thereby enhancing consumer benefits through a broader selection of higher-quality products.

3 Challenges in the Practice of Legal Responsibilities: Based on Typical Case Studies

3.1 Challenges in the Protecting Labour Rights: Disputes over Working Conditions of Multinational Corporations

Description of Pollution Event Case. The legal landscape surrounding the protection of labour rights in developing countries is often fraught with challenges, as evidenced by disputes involving multinational corporations. These entities frequently navigate complex legal and ethical terrains, sometimes falling short of their responsibilities towards workers. Two case studies exemplify these difficulties, highlighting not only the direct impact on workers but also the broader implications for labour rights and corporate accountability.

According to China Labour Watch, in 2020, Foxconn's dispatch workers were due three months' worth of hourly subsidies and bonuses, yet Foxconn had not signed any labour contracts with them, thus evading responsibility. Three years later, it was found that these issues persisted in the factory. Several critical issues were identified: firstly, the employment of school students; secondly, the prevalence of forced overtime, with uncertain meal and rest breaks; thirdly, dispatch workers were required to relinquish their insurance rights before signing labour contracts. Furthermore, discriminatory practices in hiring based on race, religion, and gender were observed. These practices not only breach Chinese labour and contract law but also contravene United Nations labour rights standards, including the Declaration of Philadelphia and The Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW).

In another incident in India, Apple put an iPhone production facility "on probation" following employee protests over food poisoning and inadequate living conditions. An Apple audit revealed that the dining and sleeping facilities for workers were substandard. Local reports indicated that about 250 female employees at the Foxconn factory suffered from food poisoning, with over 150 requiring hospitalisation [6]. Recently, heavy lobbying from both companies has successfully reshaped labour laws in Karnataka State in Southern India to provide Apple and Foxconn with ample opportunity to maximise production and lower costs. The Deccan Herald reported that on 1st March, the Karnataka assembly passed a law that permits a two 12-hour shift production, a standard in China that allowed for 24-hour production [7].

Analysis of the Impact on Labour Rights Protection. The cases involving Foxconn in China and Apple's supplier in India underscore not just the immediate adverse effects

on workers, including unpaid wages, mandatory overtime without adequate breaks, discriminatory hiring practices, and exposure to unsafe living conditions, but also the broader ramifications for global labour rights protection. The direct impact on the workforce highlights a blatant disregard for workers' rights to fair treatment and safe working conditions, undermining their dignity and welfare. This situation is emblematic of systemic issues within global supply chains, where the drive for cost reduction and efficiency often compromises labour rights. Despite the existence of legal frameworks and international agreements designed to safeguard workers, the enforcement of these standards remains challenging. The ability of corporations to navigate or manipulate local laws to their benefit, as observed in Karnataka, India, raises serious concerns about the imbalance of power between large global companies and the localities they operate in.

Furthermore, these incidents highlight the critical need for multinational corporations to adhere to local laws and international labour standards, emphasising the importance of corporate governance and ethical business practices in preventing violations of labour rights. The role of international bodies, such as the United Nations, in conjunction with local governments, becomes paramount in maintaining labour standards, though their effectiveness depends on strong legal systems, diligent enforcement, and political resolve to hold violators to account.

3.2 Challenges in Environmental Protection: Environmental Pollution Events of Multinational Corporations

Description of Pollution Event Cases. The environmental challenges associated with multinational corporations often culminate in catastrophic pollution incidents, exemplified by the 1969 Union Carbide disaster in Bhopal. This plant was integral to India's Green Revolution and industrialisation agenda, producing pesticides deemed vital for agricultural autonomy. By 1979, this same facility was repurposed to manufacture and store methyl isocyanate (MIC), a highly hazardous and lesser-understood chemical. The exportation of such chemicals to developing countries is a widespread practice. The decision to use the existing infrastructure for MIC production was convenient and cost-saving but overlooked serious health and safety risks [8].

By the early 1980s, declining pesticide demand due to extensive crop failures and the resulting financial hardship among farmers led Union Carbide to consider divesting the facility. However, failing to secure a buyer, the plant continued to operate with significantly subpar safety measures compared to its sister site in Institute, West Virginia. Local authorities were cognizant of these safety shortfalls but hesitated to enforce rigorous safety and pollution standards on the industry, wary of the economic fallout from losing a major employer [9].

The tragedy struck in December 1984 when the accidental introduction of water into one of the storage tanks set off a devastating chain of exothermic reactions, dramatically increasing the tank's temperature and pressure and leading to the vapourisation of MIC. Despite initial containment efforts by the tank's safety systems, these mechanisms were overwhelmed [10]. At around 1:00 AM on December 3, a loud explosion was heard as

a safety valve failed, releasing a massive cloud of highly toxic MIC gas into the atmosphere [11].

Analysis of the Impact on Environmental Protection Responsibilities. The Bhopal gas tragedy underscores the challenges involved in holding multinational corporations responsible for their environmental impact. After the disaster, there was a global wave of protests demanding justice and compensation for the victims. However, Union Carbide Corporation initially refused to accept responsibility for the incident, leading to a lengthy legal battle [12].

The case also raised discussions about the role of multinational corporations in environmental protection. Critics say companies like Union Carbide prioritize profits over environmental stewardship, which has led to incidents like the Bhopal gas leak. A lack of strict regulations from multinational companies also contributed to the disaster, just like the Bhopal plant having safety violations and negligence operation.

Overall, the Bhopal gas leak is a stark reminder of the challenges faced in protecting the environment, especially when working with multinational corporations. The tragedy highlights the need for stricter regulations, greater MNCs legal responsibility and a renewed focus on sustainable development in business activities both in the home countries and the countries that they do business with. Particularly, in some developing poor areas where the government didn't have enough experiences to deal with the huge emergency.

3.3 Challenges in Fair Trading and Consumer Rights Protection: Unfair Competition Practices of Multinational Corporations

Description of Pollution Event Cases. Qualcomm antitrust case is one of the most famous cases about MNC antitrust in developing countries. Initiated by China's National Development and Reform Commission (NDRC) in 2015, this case culminated in a landmark fine of \$975 million against Qualcomm. This punitive measure was in response to Qualcomm's exploitative business practices, specifically its monopolisation of the market through the licensing of Standard Essential Patents (SEPs) for mobile communication technologies, and its dominant stance in the baseband chip market. [13]. Such practices were adjudged to be in direct violation of China's stringent antitrust laws. The investigation uncovered that Qualcomm had been imposing exorbitantly high licensing fees on manufacturers. Moreover, it coerced these manufacturers into signing exclusivity agreements, a tactic that significantly curtailed competition and inhibited the spirit of innovation within the burgeoning mobile communications industry in China.

The consequences of Qualcomm's practices had far-reaching implications not just for competitors but also for the broader ecosystem of mobile technology and telecommunications within China. By dictating the terms of engagement in the market, Qualcomm effectively limited access to essential mobile technologies, thereby stifling potential innovation that could have emanated from a more competitive landscape. The NDRC's intervention was therefore not only about penalising Qualcomm for its past

actions but also about setting a precedent for fair market practices and ensuring an environment conducive to technological advancement and innovation.

Analysis of the Impact on Fair Trading and Consumer Rights. This case stands as a testament to the challenges and complexities that developing countries face in regulating the operations of powerful MNCs within their territories. It underscores the necessity for such nations to develop robust legal and regulatory frameworks capable of safeguarding against monopolistic practices that can stifle domestic industries and hinder economic growth. Furthermore, the Qualcomm case highlights the critical role of government and regulatory bodies in protecting the interests of local businesses and consumers against the backdrop of global corporate dominance [14].

Anti-monopoly investigations and related legal proceedings help maintain a fair market competition environment. A fair business market would bring a lot of benefits to both sellers and buyers. For sellers, there are more opportunities to attract buyers to increase their market shares, demands and sales by providing products with high quality. For buyers, they can choose the most suitable products according to their preferences and make sure they can buy their favourite in a reasonable price, which protect consumers' rights greatly. Additionally, a fair market competition environment encourages companies to constantly innovate and improve service quality to meet consumer needs and expectations, which made some positive effects in society and may cause an economic growth.

Currently, a growing number of countries are aligning with global trends to combat unfair competition, with many emerging market economies actively developing or revising their competition laws. For instance, Brazil overhauled its competition policy in 2012, while Russia implemented a substantial reform package to its competition laws around the same period. Furthermore, in 2014, at least 20 African nations evolved their competition law frameworks. Similarly, Indonesia recently moved to update its competition legislation, with a draft bill that extends its reach to foreign companies and increases financial penalties for violations, which gained parliamentary approval a few months ago [15].

4 Strategies and Suggestions for Enhancing the Legal Responsibilities of Multinational Corporations in Developing Countries

4.1 Strengthening International Legal Cooperation and Standardization

International Agreements and Cooperation Mechanisms. With operations spanning several nations, multinational corporations are important players in the global economy. Nonetheless, these companies have frequently come under fire for failing to uphold their legal responsibilities in these nations, which has had negative social, economic, and environmental effects. There have been requests to strengthen the legal obligations of multinational firms in developing nations in response to these worries.

One of the main approaches put forth to do this is to increase global legal standardization and cooperation. Holding MNCs responsible for their activities in developing nations requires bolstering international legal cooperation and standardization. Developed countries could spearhead these efforts, fostering international agreements and cooperation mechanisms to create a unified legal framework that governs the conduct of these corporations globally. In our increasingly interconnected global landscape, enhancing North-South dialogue and South-South cooperation is vital. Such efforts not only aid in safeguarding human rights in less developed nations but also foster a collective vision for a unified human future. To achieve this, collaborative actions between governments, corporations, and international entities are crucial. These collaborations should focus on establishing universal standards, agreeing on conformity assessment procedures, improving communication and data sharing to assist industries with regulatory changes, and promoting the integration of international regulatory cooperation sections in trade and investment treaties, along with negotiating Mutual Recognition Agreements (MRAs) [16].

Legal Standardization and Implementation Supervision. The United Nations Guiding Principles on Business and Human Rights, established in 2011, serve as a critical international framework specifying the human rights responsibilities of transnational corporations. These principles set a benchmark for corporate conduct regarding human rights, stressing the importance of implementing policies that affirm a commitment to human rights, conducting due diligence to assess and identify potential human rights impacts, taking steps to mitigate these risks, and establishing mechanisms to monitor compliance and address any violations that occur [17]. This framework guides multinational corporations to uphold human rights standards within their operations. The Guiding Principles have significantly increased awareness about the impact of transnational corporations on human rights and have motivated these entities to adhere to their legal obligations. To sum up, MNCs must try their best to obey these rules, which could guarantee the economic efficiency of the company while ensuring the company's due diligence of legal responsibilities.

4.2 Promoting the Social Responsibility of Multinational Corporations

Actively Undertaking Corporate Social Responsibility. Corporate Social Responsibility (CSR) is a management approach that incorporates social and environmental considerations into a company's business practices and stakeholder interactions. Generally, CSR is recognised as the method by which a company balances economic, environmental, and social priorities—often referred to as the “Triple-Bottom-Line Approach”—while simultaneously meeting the expectations of shareholders and stakeholders [18]. As big firms, especially MNCs, embracing CSR is particularly crucial. These corporations have the capacity to drive significant positive change, addressing critical issues such as great poverty, climate change and unfair phenomenon, which are often more pronounced in the developing countries. What's more, a socially responsible company is likely to enjoy higher levels of customer loyalty and trust, which would

deeply influence the company's profit in long-run business activities. Actively undertaking CSR would build a strong relationship among company, employees and investors, in order to enhancing sustainability of company developing.

Following Ethical Guidelines and Self-Regulation Mechanisms. In addition to undertaking CSR initiatives, it is imperative for MNCs to adhere to ethical guidelines and self-regulation mechanisms. Such practices serve as a compass for conducting business ethically and are instrumental in avoiding legal pitfalls and preserving corporate integrity. Ethical guidelines encompass a wide range of corporate activities, including governance, labour practices, and supply chain management, ensuring that all operations align with the highest ethical standards. Self-regulation, on the other hand, involves internal checks and balances that encourage compliance with both local and international laws, going beyond mere adherence to actively promoting ethical behaviour within the corporate culture. By implementing such mechanisms, MNCs can demonstrate a commitment to ethical business conduct, which can mitigate risks, enhance reputations, and foster trust among stakeholders. For example, the creation of an internal ethics committee or the appointment of a Chief Ethics Officer can provide oversight and guidance on ethical matters, ensuring that the corporation not only meets its legal obligations but also upholds its moral responsibilities. Self-regulation also includes regular audits and assessments to monitor compliance with ethical standards, enabling corporations to identify and address potential issues proactively.

4.3 The Role and Strategy of Developing Countries

Strengthening the Legal System and Enforcement Capability. Strengthening the legal framework and enhancing the capacity for law enforcement are pivotal for the development of countries striving to advance economically and socially. An accessible, impartial, and efficient justice system is the cornerstone of effective governance and the rule of law. Especially for the marginalised and impoverished, access to justice is a conduit to asserting rights, challenging inequality, and demanding accountability from those in power. This issue is particularly prevalent in poorer developing nations and addressing it is imperative [19].

Moreover, safeguarding property rights, curbing corruption, and advocating for human rights are crucial for the creation of a just society. Many developing countries face the challenge of implementing complex, nuanced, and context-sensitive legal analysis that is commonplace in more advanced countries. To overcome these hurdles, there is a need to streamline such analyses to make legal enforcement more effective [20]. Research indicates that several developing countries have endeavoured to strike a balance by setting labour market regulations that offer some protection to workers without placing undue burdens on firms or the economy. Nevertheless, in some instances, minimum wages are set above the average worker's value-add, compelling employers to circumvent the law, while other countries lack minimum wage laws entirely. These examples highlight that developing countries may lack the resources or capabilities to address these issues effectively and must resolve to tackle these enduring challenges.

Promoting the Balance of Interests and Sustainable Development. However, such endeavours are fraught with obstacles, including scarce resources, limited capacity, and corruption. To assist developing countries in overcoming these barriers, a multifaceted approach is recommended. Firstly, the government need to balance interests between workers and MNCs, protect the labour rights, environment, fair trading and consumer rights actively. Fostering broad social progress and holistic human development, alongside social equity and justice, forms the foundation of national development. Secondly, promoting sustainable development so that people live in harmony with nature. Given the weak economic foundations typical of developing nations, a strategy of stability in measured steps and progress with caution is advisable, ensuring that the path to development is both steady and sustainable.

5 Conclusion

In an era characterised by rapid economic growth and global interconnectivity, the onus on MNCs to conduct their business in a manner that is fair and responsible is more pronounced than ever. It is incumbent upon every corporation to shoulder its legal responsibilities earnestly, which spans across the domains of labour rights, environmental stewardship, fair trade, and consumer protection. Particularly crucial is the emphasis on enhancing the legal responsibilities of MNCs in developing countries, where often these obligations are inadequately fulfilled, leading to violations of the fundamental rights of workers and consumers. Furthermore, it is observed that in some of these countries, the legal and regulatory frameworks necessary for oversight and enforcement are insufficient or, in some cases, non-existent.

Against this backdrop, it is imperative for developing nations to forge ahead with the enactment of pertinent laws and the bolstering of market supervision and administration. It is equally important for MNCs to respect and protect human rights in accordance with the law, especially in the context of developing countries. It is only through such committed actions that a harmonious and synergistic development can be achieved, benefiting not just individual nations but the global community as a whole. This entails a collective effort where multinational corporations, governments, civil society, and international organisations work in tandem to create an ecosystem that upholds legal obligations and fosters sustainable development.

In conclusion, the path to a more equitable and sustainable business environment is through the concerted effort of all stakeholders to elevate the role of legal and ethical considerations in business operations. By fostering a collaborative approach to economic growth that is mindful of legal responsibilities and social impact, we pave the way for global progress that is inclusive, just, and reflective of our shared human values.

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