

Research Workshop

"How should multinational corporations be regulated?"

An Introduction

Scope and Purpose

Regulating multinational corporation: The ethical dimension

The first session will discuss the implications of leading theories of international justice, including "cosmopolitan" and "nationalist" theories, for the regulation of multinational corporations. The session will address some of the following questions: What freedom of action should be granted multinational corporations? Assuming constraints should be imposed on their freedom of action, which principles help us determine what these constraints should be? Are nation-states required to constrain multinational corporations only with a view to the consequences such constraints might have for their own citizens? Or are they required to constrain multinational corporations also with a view to the consequences for non-citizens? Who should have the legitimate authority of constraining multinational corporations - the nation-states from which they originate, the nation-states in which they operate, an international legal body?

Regulating multinational corporation: The legal dimension

The session will focus its debate on the findings of the most recent report of the UN Special Representative on business and human rights John Ruggie. He argues that "the human rights due diligence obligation "requires companies to undertake human rights due diligence to become aware of, prevent and address adverse human rights impacts". This requires companies to draw at the operational level, a 'Human Rights risk assessment' of the company's likely affect on third parties. To his mind this amounts to a positive duty. This report seems to require corporations to engage in 'a comprehensive, proactive attempt to uncover human rights risks, actual and potential, over the entire life cycle of a project or business activity, with the aim of avoiding and mitigating those risks'. Failure to do so a corporation may find itself in breach and legally liable for those individuals and third parties which were harmed by the corporate impact or policy measures.

Regulating multinational corporation: The business dimension

MNCs are large, politically influential, autonomous entities that operate in several countries. Host countries subject investments from multinational corporations to numerous forms of regulations by imposing restrictions on the nature and extent of capital investment, profit repatriation, employment of local workforce, etc. As opposed to a globally well-defined regulation of international trade (through WTO and GATT), regulation of investment activity by MNCs across borders has not been uniformly set out. OECD guidelines for multinational enterprises revised in 2008 are the recommendations addressed by host governments to the activities of multinational enterprises.

MNC follow self-enforced or voluntary (non-binding) corporate codes of conduct. Consideration needs to be given to whether self-regulation is an efficient tool as corporate codes of conduct often lack rigorous monitoring and enforcement mechanisms. Multinational corporations maintain economic control over their supply chains, yet outsourcing also concedes legal obligations for economic, social and legal impacts to move from a MNC to suppliers who are subject to local laws. Increasing globalisation of business activities and outsourcing by MNCs in the last two decades resulted in the complex development of supply networks. Local businesses that are part of MNCs supply chain through international trade, often have weak or weakly enforced regulation. Implementation and monitoring these codes of conduct has proved a challenge to the MNCs.

Location and Venue

The research workshop will take place at the University of Essex, Colchester Campus, Law Common Room, 5S.7.24. Registration will start at 9:00am.

We hope you will mark your diaries for Friday 14 May 2010, and that you will join us for this exciting workshop and reflection of corporate ethics, legal regulation and international business environment in our times.

The workshop has been sponsored by the University of Essex