

# Home state obligations over multinational corporations in human rights treaties

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# Valorisation Addendum

## A. Social Relevance

This book has explored home State obligations in relation to MNCs under human rights treaties. Its social relevance is illustrated by the following three points.

First, the topic of this book concerns a social movement calling for more moral business practices. In the era of economic globalization, the global operation of MNCs could have significantly negative impacts on the enjoyment of human rights in a host State. Some human rights NGOs have devoted themselves to reveal cases of corporate human rights abuses. Some NGOs have openly proposed to build an international framework to promote human rights in business sector. A few NGOs have urged home States of MNCs to regulate business beyond borders. However, NGOs have not clarified the legal basis for home State obligations. This book has shed light on the legal basis for home State obligations by interpreting human rights treaties.

Second, the international community has also paid a lot of attention to the issue of business and human rights. However, the UN Guiding Principles on Business and Human Rights (UNGPs) have generally denied home State obligations over MNCs. This book has argued that the UNGPs have not properly interpreted the existing human rights treaties. Human rights treaty bodies have endorsed the home State's due diligence obligations. My research results strengthen the legal basis for home State obligations. My research results may also promote the inclusion of home State obligations in the ongoing process of drafting a legally binding treaty on business and human rights.

Third, this book has depicted China's practice in regard to home State regulation. China's economic rise makes more and more people interested in the extraterritorial human rights impacts by Chinese overseas investments. China's human rights record has been rebuked for a long time. In the discourse of business and human

rights, however, China is willing to regulate its overseas investments. My research helps the world know China's measures over corporate human rights abuses abroad. This book has revealed the deficiency of China's regulation. It also illustrates that some positive measures taken by the Chinese government have not been fully reported to the treaty bodies. The findings of this book could help the Chinese government to prepare better for reporting procedures before treaty bodies with regard to business and human rights issues.

### **B. Target groups**

My research results are of interest to human rights treaty bodies. Human rights treaty bodies have been active in promoting home State obligations. As is discussed in Chapter 5, however, human rights treaty bodies have not interpreted 'jurisdiction' over individual victims. Nor have they paid sufficient attention to home State obligations over State-owned corporations. The results of this book could help those treaty bodies to monitor home State obligations better because the current research has filled in the above gaps. This book, together with other articles published by the author in Chinese journals, may call Chinese readers' attention to China's human rights obligations as a home State to regulate business. The results of this book are also of interest to the Chinese authorities, because the author has made suggestions for them to improve their regulatory measures. The Chinese government can also use the information provided in this book to draft periodic State reports to a treaty body.

### **C. Activities/Products**

This thesis has provided evidence for the legal basis for home State obligations under human rights treaties. We can anticipate that many home States will be under pressure to change their domestic law to facilitate legal remedies for victims from host States in order to fulfill their obligations as a home State. As a consequence, transnational litigation against MNCs will probably boom before domestic courts of a home State. My research results may also be translated into a closer scrutiny by

human rights treaty bodies in regard to home State obligations. Treaty bodies may pay special attention to home State obligations over State-owned corporations in the future.

#### **D. Innovation**

Previous research/practice on business and human rights has not paid adequate attention to State-owned corporations, whose conduct may be directly attributed to a home State. This thesis addresses the problem of the human rights abuse committed by a State-owned corporation by developing secondary rules on attribution issues. It has argued that the conduct of a State-owned corporation should be directly attributed to the State which has the majority ownership in the corporation in the context of human rights protection. Once the direct attribution can be proven, the extraterritorial application of human rights treaty encounters no obstacle according to the existing case law. Therefore, home State obligations over State-owned corporations deserve more attention in human rights practice.

Another innovation of this thesis is that it interprets the term 'jurisdiction' in human rights law in light of international investment law. It has argued that individuals in a host State can fall within the jurisdiction of a home State to the extent that the home State has limited the regulatory power of the host State through international investment law practice. This interpretation could strengthen home State obligations over ordinary companies while maintaining the systemic integration of international law.

#### **E. Plans and Implementation**

I plan to publish my thesis as a book to facilitate the dissemination of my research findings. I will give my book free of charge to some NGOs that are active in the field of business and human rights. I have already published two articles on the current topic in Chinese journals. I want to publish two more articles in Chinese journals, based on my previous research, to advocate the notion of home State

obligations in China. I will make a proposal for empirical research on home State obligations in the future and try to apply for the Chinese government sponsored research funding, the research outcome for which may raise the attention of the Chinese authority. I will design a course on business and human rights for bachelor students in my new institute in China. I also plan to participate in the UN Forum on Business and Human Rights, and submit a parallel session proposal if possible.