Review Article

Araştırma Makalesi

DOI: 10.24013/jomelips.439196

Yönetim, Ekonomi, Edebiyat, İslami ve Politik Bilimler Dergisi,3(2): 41-55,

31 Aralık/December, 2018

JOMELIPS - Journal of Management Economics Literature Islamic and Political Sciences

e-ISSN :2547-9512

Çok Uluslu Şirketlerin Kontrolünde Ulusal Hükümetlerin İsteksizliği Üzerine Kısa Bir Değerlendirme

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ÖZ

Çok-uluslu şirketler küreselleşen dünyanın en önemli ekonomik aktörlerinden. Hatta bunlardan bazıları birçok ülkenin ekonomisi için hayati bir rol oynamakta. Şirketler her ne kadar birçok ülke için önemli ekonomik aktörler olsa da, insanlar üzerinde sayısız olumsuz etkiye sahip. Ancak bu olumsuz etkileri azaltmak üzere yapılacak düzenlemeler ile şirketleri denetlemek çok da kolay değil. Bu şirketlerin çoğu farklı ülkelerdeki iştirakleri veya sahip oldukları karmaşık tedarikçi ağı ile faaliyetlerini ulusal sınırların ötesinde sürdürmekte. Bu durum çok-uluslu şirketlerin herhangi bir ulusal/yerel hukuk rejiminin kontrolü altında tutulmasını zorlaştırmakta. Birçok akademik çalışma bu noktada uluslararası bir kontrol sisteminin yokluğuna odaklanmakta. Ama akla gelen başka bir soru bu şirketlerin en azından ulusal düzeyde kontrolünün sağlanıp sağlanamayacağı. Aşağıdaki çalışma bu soruya cevap aramanın yanı sıra ulusal hükümetlerin çok-uluslu şirketleri denetlemekte isteksiz tutumlarının normatif bir değerlendirmesini yapıyor.

Anahtar Sözcükler: Çok uluslu şirketler, iş yaşamı ve insan hakları, küreselleşme, kurumsal sorumluluk

A Brief Analysis on Why the National Initiatives are Inevitably Insufficient to Curb Multinational Corporations

ABSTRACT

Corporations have been named as the key economic actors in the globalised world. Most countries find themselves dominated by major multinational corporations. Even though corporations create many positive outcomes for national economies, they possess a myriad of negative impacts on people, especially on employees. Yet, it is not easy to reduce these negative impacts via traditional/national regulatory strategies since many such corporations carry out their operations, either directly, or indirectly, through their subsidiaries, doing so across several countries, whilst others conduct their operations in the midst of complex supply chains that are located beyond national borders. This situation makes corporations transnational actors that may not be controlled by any single domestic regulation. However, why do not individual states regulate such companies sufficiently in their own country through the patchwork of domestic regulations? Are they incapable? Or are they merely

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Geliş (Received) : 30.06.2018

Kabul (Accepted) : 27.07.2018

Basım (Published) : 31.12.2018

reluctant? In addition to answer these questions the following paper shall briefly examine why national governments are unenthusiastic to play an active role in terms of corporate regulation.

Keywords: Multinational corporations, business and human rights, globalisation, corporate regulation, corporate responsibility

1. INTRODUCTION

One may easily find many incidents to criticise human rights abuses of corporations such as factory fires (Al-Mahmood, 2013), factory building collapses (Associated Press, 2016), inhumane working conditions (Koch, 2008), child labour (Reuters, 2016), and the repression of union members (Brodzinsky, 2016). There may be a great number of other negative outcomes that corporate entities externalise on societies. Yet, how is it possible to regulate these entities? Is it possible to curb their adverse impact on society via domestic laws?

In fact, domestic law may be an option since corporations are subject to the national laws of a particular jurisdiction. Domestic law identifies the corporation as a legal personality (Hansmann & Kraakman, 2001). However, as David and Tadaki (2004) put it, corporate law and other domestic laws, such as labour law, are mostly 'designed to operate intra-territorially' (p. 938). However, today, companies operate across national borders more easily and frequently. Although a corporation may be registered in one country, its shareholders, subsidiaries and supply/sub-contracting chains may reside in a range of different countries. The control of multinational corporations (MNCs), 'operating in more than one country or a cluster of economic entities operating in two or more countries' (United Nations Commission on Human Rights [UNCHR], 2003), is challenging to domestic law since '…the MNCs as a whole is not fully accountable to any single country. The same is true for responsibilities they fail to assume for activities of their subsidiaries and affiliates' (UNCHR, 1996, para 72).

However, even if modern, large, corporations *straddle* many different countries, why are individual states unable to regulate such companies sufficiently through the *patchwork* of domestic regulations? To substantiate this concern, a thorough analysis is required. This analysis is based on the different relationships which individual states are likely to have with corporations that straddle different jurisdictions. To understand these relationships, it is crucial to comprehend the distinction between so-called *host states* and *home states*, which is fundamental to the analysis offered here. [5] Section 2, therefore shall begin by explaining this conceptual distinction, before then moving in section 3 and 4 to further explore its implications. In both section 3 and 4, the focus shall be on the limits of unilateral actions by individual countries. Eventually, the paper shall conclude that neither home states nor host states seem eager to regulate corporate misbehaviour.

2. HOME STATES VS HOST STATES

The concept of *home* and *host state* can be defined by giving an example of a single corporation such as British Petroleum (BP) plc, with operations in many countries around the world. A cursory examination of the website of BP reveals that the corporation currently operates in over 70 countries, with almost 80,000 employees globally (BP Global, n.d.). BP would, nevertheless,

[5] In this section, *home state* specifically refers to the state of the parent or controlling company of MNCs and *host state* is the state which hosts the foreign activities of these corporations and supply chains etc.

be understood as having its 'home' in the UK, in the sense that it is incorporated in the UK (BP Global, n.d.), and its shares have their primary listing on the London Stock Exchange (London Stock Exchange, 2016). In short, for BP, then, the UK would be regarded as its 'home state'.

Conversely, the other 70-plus countries in which BP also carries out activities, typically through wholly- or partly-owned subsidiaries, would be regarded as '*host states*'. Thus, the United States (US), where BP carries out a significant variety of activities, would for the present purposes be considered one (among many other) 'host state' in its relationship with BP as a whole (BP United States, 2016).

The foregoing distinction defines *home* and *host states* in respect of their relationship with a single corporation. However, the situation would appear oversimplified, and is likely to be more complex than at first it may appear. Whilst the distinction made assumes that for any single corporation, there will always be a single home state and, very likely, one or more host states, it may well be argued that some corporations are already so international that their operations evade being home to any one single *home state*. Such corporations may carry out operations in multiple host states, none of which are important enough to warrant one being defined as their home state. As such, one argument that has already been advanced is that there may be *stateless* corporations (Reich, 1990; Borrus, 1990; Gapper 2016). Whilst such a suggestion is controversial, such controversy will not be examined any further, since this will not add to our analysis. Indeed, if the argument that some corporations are now *stateless* is true, then it certainly further exacerbates some of the problems in the national regulation of MNCs that are addressed below. However, as the following paragraphs will demonstrate, these problems do not themselves depend on whether some corporations are truly *stateless*.

Alongside the foregoing distinction, it has only been shown that, in respect of a single company, for example BP, the world can indeed be divided up between a home state, many host states, and other countries that may be neither. Categorising a state as home or host state in relation to a single company may make sense, insofar as any of the complaints levied at the effectiveness of national regulation may then focus upon whether a particular country is a *home state* or *host* accordingly. Yet, some of the arguments developed in sections 3 and 4 below are different since such arguments will assume that some states are generally home states, whilst others are generally host states.

Indeed, at first sight, such generalisation may seem inappropriate. As soon as we move beyond a single company, and consider the position in relation to the many thousands of corporations that exist, we begin to see that any one state is likely simultaneously to be a home to some, and a host to many more. It cannot be possible to divide the world into one group of states that are always, and only, *home states*, and another group of states that are always, and only, *host states*. Every state is simultaneously a *home state* and a *host state* to different companies. Therefore, whilst the UK may be listed as home state for BP, and the US one of the host states, the US is a home state for Texaco Inc, and the UK is one of the host states of Texaco (Texaco UK, 2016).[6]

However, in terms of analysing the likely success, and limits, of any individual state's national initiatives, it is useful to *generalise* in respect to the position of states globally and, in doing so, divide them according to whether they are *home* and *host states*. Indeed, the fact that multinational companies tend to locate their homes in the more economically advanced

[6] For its UK operations, see Texaco UK (Valero Energy Ltd, n.d.)

countries of the world.[7] This means less economically advanced countries, by contrast, tend to act usually (although by no means exclusively) as host states (McCorquodale & Simons 2007). From this perspective, it may be appropriate, when considering the problems of national regulation, to include in our analysis some of the problems which are faced by more economically well developed countries, which we shall label *home states,* and the problems encountered less developed countries, which we shall label as host states.

Given the overlapping pattern of *home state* and *host state* jurisdiction over the operation of global multinationals, we can begin to see that both *home states* and *host states* may act to regulate such companies. *Home states*, in which the parent company, or the headquarters, is often located, may attempt to control the corporation, even if they conduct businesses in another country. For instance, a *home state* can require a parent company to control its subsidiaries, wherever in the world they may operate (McCorquodale & Simons 2007). The UK government, for example, may unilaterally act to improve employee interests in foreign countries. Thus, the UK's jurisdiction over parent companies may affect the interests of the employees working in the suppliers of UK companies. An example of the extraterritorial reach of UK law may be the repealed Corporate Responsibility Bill 2003 (CORE Bill). According to the CORE Bill, parent companies would have been required to consider employee as these may exist with suppliers (Corporate Responsibility HC Bill (CORE Bill), 2003-2004, cl 3, s 6). The bill had also intended to impose mandatory reporting requirements (CORE Bill, s 3). However, the Bill was later scrapped, an outcome which the remaining sections of this paper will suggest was entirely predictable.

Finally, in light of the above arguments, the next section shall focus on the limits of unilateral action by an individual country. However, the section shall not consider whether if all home states, or all host states, or just all states, were able to agree to regulate corporations, that this would pass as feasible and effective.

3. REGULATION VIA HOME STATES

To what extent can home states can secure effective regulation? Since *home states* are typically the jurisdiction in which multinational corporations call *home*, often the country may be free to impose effective regulatory requirements upon the multinational; requirements which will apply throughout a multinational group of companies, and within whatever *host states* the multinational may also happen to operate. As such, *home states* can control the head of the multinational, and by doing so, indirectly ensure control of all parts of its operations, wherever this may be located.

However, this control can only be limited since the number of companies registered in one *home country* is limited. For example, the UK alone controls only a small proportion of companies in the world.[8] As such, the key point here is in order to create a robust controlling regime, in addition to the UK, a sufficient proportion of other *home state* governments – whom together controlling a sizeable proportion of the world's significant multinationals – also need to regulate their corporations with respect to their international activities. However, there may be some problems in this respect. The next section shall consider some of such problems.

[7] Home states are mostly depicted as developed and industrialised states. See McCorquodale and Simons (2007). In addition, home states usually have 'a well-developed legal system and well-developed financial and securities markets' see De Jonge (2011)
[8] Only 27 companies are British in the 500 biggest companies of the world. See Gale (2015).

3.1. Problems in Relation to Enforcement and Sanctions

If home states are to control the global activities of domicile multinationals, then they must ensure domestic laws include extraterritorial rules. However, the enforcement of these rules may not be possible or may be incomplete without host state assistance due to the following reasons.

First, 'a parent company and its subsidiaries are distinct legal entities'(Ruggie, 2007, p. 824). Accordingly, companies are mainly subject to the national laws of the country in which they operate. Therefore, "…a parent company generally is not legally liable for wrongs committed by a subsidiary…" (Ruggie, 2007, p. 824). Furthermore, in some circumstances, corporate activities are also involved with suppliers. Such suppliers "are legally not connected to [companies registered in the home country] by structural ties" (Dine, 2005, p. 51).

In this respect, the regulation of corporations by the *home state* may be arduous since states are generally prohibited from regulating companies in other territories.[9] The view is based upon the premise "no state has the right to intervene, directly or indirectly, for any reason whatever, in the internal or external affairs of any other State" (United Nations General Assembly (UNGA), Res 2131, 1965), which thereby reduces the capability of a home state to improve corporate activities in the developing world.

Secondly, there may be severe difficulties with respect to sanctions in the case of violations of *homes state* laws that are the result of extraterritorial regulation. Unilateral national regulations may be insufficient in terms of remedies in the case of violations committed in foreign countries. For example, individuals abused through the operations of a MNC in the developing countries may not have access to remedy due to the cost of litigation (Skinner, McCorquodale & Schutter, 2013). Similarly, the concept of *forum non conveniens* may present a problem for victims seeking a judicial remedy in the *home state* against corporations in case of corporate human rights abuses.[10]

The discussion has thus far assumed the that *home states* would themselves are willing to enact controls upon multinationals that operate extra-territorially, affecting all parts of the multinational, wherever it might happen to operate. However, the next sub-section will attempt to qualify this assumption.

3.2. Reluctance of Home States to Legislate Against Their Own Multinationals

No one country is home to or is able to control all multinational corporations. Effective *home state* regulation requires a number of home states to regulate multinationals. However, a key concern is whether they are likely to do so. The following section will argue that *home states* are mostly reluctant to pass new laws for regulation of MNC activities abroad, and it will outline the possible reasoning behind this reluctance.

[9] For territorial principle in international law see Zerk (2006, p.105-106)

[10] 'The doctrine of forum non conveniens allows courts to prevent a case from moving forward in the jurisdiction in which it is filed on the basis that another jurisdiction is the more appropriate venue for the case… [the theory refers to that] the case is dismissed under the theory that it can be filed in the host State'. (Skinner, McCorquodale & Schutter, 2013, p. 15)

3.2.1. Economic Benefits

The imposition of new regulations has the effect of creating costs, such as the costs stem from the wage of the personnel play a role in the planning and the implementation of the regulation (Marneffe & Vereeck 2011). However, in addition to the direct cost of regulation, there may also be a number of economic factors that make *home states* reluctant to impose extra-territorial regulation upon corporations. For example, extra-territorial regulation "might put their companies at a competitive disadvantage vis-a`-vis other companies"(Deva, 2012, p. 103).[11]

Furthermore, *home states* may also reap some economic benefits, such as tax income, from corporations who reside in the country.[12] As such, the home government may not be eager to place an extra burden upon corporations registered in its own territory, by improving regulatory requirements, since such corporations may prove beneficial for its economy (Deva, 2012). Therefore, as the research of Ruggie (2007) has pointed out, "governments often support the preferences of corporations domiciled in [its country]"(p. 822).

In this respect, one approach has been that *home states* may opt to threaten *host state* legislature in order to attain law reforms, so these may ease the legal burdens placed upon its MNCs. An example of this may be the pressure exerted by the UK government upon the Californian legislature, in order to reform laws, thereby preventing the double taxation of the British MNCs; demonstrating how states may pay attention to the economic well-being of MNCs (Voon, 1999). However, where *home state* governments are likely to assist their national corporations against the impact of regulatory barriers in foreign countries, they may then not be so eager with respect to the protection of human rights abuses within such companies (McCorquodale & Simons 2007). Allegations of such behaviour have been associated with the UK government's support of corporations such as Rio Tinto and Shell (Bowcott, 2014). Rio Tinto, for example, were accused of discriminating against black employees (including other alleged human rights abuses) (Frankental, 2014).

Finally, in countries, such as in the UK, the government favours deregulation for economic benefits (Roach, 2007). The de-regulation movement, in accordance with neo-liberal economic ideology, has attempted to ensure governments avoid strict regulations. In accordance with a deregulatory policy, states may therefore avoid creating strict mandatory disclosure requirements for companies.[13]

In summary, in light of the above factors, home states may be reluctant to impose robust extraterritorial pressure on corporations. However, lobbying may be another factor making *home states* reluctant to impose pressure on corporations. The next section shall focus on such factor.

3.2.2. Lobbying

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[11] Deva (2012) also touches upon the unwillingness of both developed and developing states in terms of controlling corporations with regard to human rights.

[12] There can also be some indirect taxes such as "...income taxes paid by MNE employees, business taxes paid by suppliers of MNEs, and capital gains taxes paid by investors in MNEs" (Voon, 1999, p. 235). Furthermore, corporate subsidiaries abroad may also have to make payments to TNC headquarters for use of capital, technology and intellectual property rights under licenses. See (Voon, 1999)

[13] For instance, Rowbottom and Schroeder (2014) examine the impact of deregulation and neoliberal economic system in the repeal of the Operating Financial Review (OFR).

Multinationals are likely to be active, and effective, at persuading their respective *home states* not to impose heavy regulatory burdens upon them, and so may also prove influential over national governments with respect to law making (Horrigan, 2010). An example of this may be where they lobby governments to accept lower labour standards (Kolodner, 1994). Indeed, in some circumstances, corporations may even threaten governments, as to ensure no tighten regulations are enacted (Hertz, 2001).

Corporate lobbying can play a major role in inhibiting stricter regulations by home state governments (Zerk, 2006). Furthermore, lobbying may not only affect the content of the law, but also its enforcement (McBarnet, 2007). As such, one assumption would be that even if a home state enacts regulations, subsequent lobbying might reduce the enforceability of these regulations.

In this respect, lobbying pressure placed upon the UK government not to improve disclosure requirements may be one such example (Botchaway, 2014). The abandonment of the Operating Financial Review (OFR),[14] which would have improved the corporate transparency in the UK, highlights how lobbying plays a role in terms of influencing corporate regulation. (McBarnet, 2007) During the drafting process of the legislation, the businesses in the UK mainly focused upon issues such as 'maintaining shareholder-centric focus', 'not significantly extending corporate accountability,' 'nor widening director liability' (Rowbottom & Schroeder, 2009, p. 675). In this process, one of the key actors taking part in lobbying the government had been the Confederation of British Industry (CBI) (Botchway, 2014). The CBI was specifically not in favour of statutory disclosure requirements, but favoured voluntary measures instead (Botchway, 2014). The main argument made by the CBI had been the burdensome impact of the regulations upon the competitiveness of the UK firms (Botchway, 2014). Eventually, 'intense lobbying' lead to the government to repeal the OFR, which would have imposed strong auditing requirements for disclosure (Macalister, 2004). Therefore, as the case of repealed OFR shows, lobbying which affects national governments may be a barrier insofar as improving unilateral corporate regulation is concerned.

In summary, lobbying may prevent *home states* attempting to enact and enforce effective regulations it intends to levy against the worldwide operation of multinationals that call such states as home. Our attention shall therefore to *host states*, to address the question: are host states more likely to be effective at requiring companies who operate within their countries to be transparent?

4. REGULATION VIA HOST STATES

Importantly, even where *home states* were able and willing to enact effective regulation, *host state* action would still be required, in order ensure that monitoring and enforcement of *home state* rules can be achieved. However, here, one might ask whether, in the absence of effective *home state* regulation, *host states* can ensure effective regulate the operations of multinationals corporations who function within their borders?

It is worth noting that there is an inherent difficulty for underdeveloped/ developing *host states* to control multi-national corporations through government regulation (Stiglitz, 2007). Even if the *host state* has sufficient laws with respect to employee rights, for example, it might not be able to enforce them, owing to a lack of resources (Kolben, 2011). Therefore, even if a host

[14] For further information on the OFR, see (Accounting Standards Board [ASB], (2006).

state is committed to improving disclosure requirements, the enforcement of these requirements is unlikely to be effective. Host state governments may not have 'the technical and financial resources' to support such a cause (Zerk, 2006, p. 85).

Moreover, host states may not be eager either improving strict regulations through national law or enforcing the extraterritorial regulation created by *home state* governments. *Host states* might be reluctant due to the following reasons.

4.1. Economic Interests

Corporations bring a number of economic benefits for *host states*. Companies create jobs and pay taxes, which provide important, direct, economic benefits. Moreover, MNC investments in the *host country* may result in the transfer of technology and some other indirect 'spillovers' (Blomström, 1991, p. 1). Accordingly, these 'spillovers' may improve the productivity and competition of host country markets (Blomström, 1991). MNCs play a significant role in Foreign Direct Investment (FDI), which means economic benefits for the *host country* (Borensztein, 1998).

In such host countries, 'domestic laws [are adjusted] to allure foreign direct investment or the host government simply looks the other way at violations of its domestic law' (Westfield, 2002, p. 1077). Indeed, the comparative advantage of low labour costs benefit the developing host country to attract MNCs (Doorey, 2010). However; cheap labour often means poor working conditions, or 'sweatshops' conditions (Roach, 2007). In such sweatshops, the interests of employees are frequently not considered (Bunting, 2011).

Conversely, one may see such sweatshops as beneficial for *host states* (Myerson, 1997). According to this view, more sweatshops make those nations better off. These arguments are based upon the logic that sweatshops can constitute an important opportunity to change the economic well-being of poorer nations (Kristof, 2006). As such, developing *host states* may justify sweatshops and low workers' rights as essential factors for their country's economic growth (Fransen & Burgoon, 2014).

A consequence of the above has meant, on the one hand, a *host state* may not be so eager to improve corporate regulations since the *host state*, paying undivided attention to aggregate economic interests, is likely to avoid direct government regulation because of the competition with other countries in terms of attracting foreign companies (Westfield, 2002). On the other hand, *host states* may also be reluctant to play a role in the enforcement of regulations formed by a foreign state (Deva, 2012). Indeed, in both scenarios, the mobility of corporation and the ability to move from one host country to another may place pressure on developing *host states* not to enforce strict regulatory requirements (Stiglitz, 2007).

Hence, duo to the preceding reasons *host states* may be reluctant to control the activities of corporations. Therefore, either the extraterritorial regulation formulated by the *home state*, or *host state* originated regulation, is unlikely to result in the overall effective corporate control.

4.2. Corruption and Lobbying

Governments that have an interest in the activities of MNCs may be inclined to disregard 'the negative impact of the activities of MNCs on human rights', or to 'pass legislation in their favour' (UN Economic and Social Council (ECOSOC), 1998, para 16). There may be three reasons playing a role in *host state* governments' behaviour permit such practices to take place.

First, the *host state* government may be authoritarian or a dictatorship. Such governments may employ 'corporate resources in its own abuses of human rights'(Ratner, 2001, p. 462). For example, a dictatorial authority of a developing state might be supported by an MNC to fight individuals such as union members (Winter, 2014). In this respect, it would be unrealistic to expect an effective role to be played by the governments of such countries, by ensuring companies are transparent.

Second, the *host state* government may be corrupt. One recent example in this regard can be the collapse of the Rana Plaza in Bangladesh. Corruption was one of the key contributory factors in the collapse (Gomes, 2013). Many UK clothing companies were involved with the supplier, where more than 1100 people died (BBC News, 2013). After the collapse of the building, the UK government put in place some strategies to improve supply chain conditions (Department for International Development, 2014). Transparency has been one such strategy (Bangladesh All Party Parliamentary Group, 2013). However, even if the UK, as a home state, can play a role in improving the transparency of suppliers to UK corporations, the government of Bangladesh has a role to place in the enforcement and inspection of such suppliers. However, the government of Bangladesh would seem reluctant to play such a role. For example, political influence of factory owners make the government reluctant to improve regulations (Transparency International, 2013). Indeed, some Bangladeshi politicians also have personal interests in the business of suppliers that provide to MNCs (Transparency International, 2013). According to a study conducted by Transparency International, 10% of current parliament members were 'directly involved with the garments industry' (Transparency International, 2013, p. 17). Hence, it may seem plausible to suggest factories may not be inspected properly by the government. (Bangladesh All Party Parliamentary Group, 2013).

As such, in an environment where the *host state* does not fulfil their basic duty to act, (such as the duty to inspect the construction of factory buildings according to the national building codes and laws) other regulations may not prove effective in terms of improving human rights of corporate employees. Therefore, although attempts may be made by the UK government to improve transparency obligations, as evidenced by the Modern Slavery Act, this attempt might not help improve the interests of workers in Bangladesh, unless its government carries out its own role.

Thirdly, even where the *host state* government is not authoritarian or corrupt, MNCs may look for 'legal' avenues to improve their corporate benefits in host countries (Karpovich, 2013, p. 249). For instance, as in *home states* discussed above, lobbying may place pressure upon *host states'* governments (Tully, 2007). A MNC may lobby the *host state* government(s) with a view to lowering regulations (Tully, 2007). In this respect, corporations may even threaten governments on issues related to worker rights.[15]

Hence, in such situations, both the enforcement of regulations created by *home states* and the regulations through the law of the *host state* are unlikely to be effective

[15] For instance, according to CEO Philip Knight (Nike) 'if wages were allowed to get too high' the economy of Indonesia (a host country) would be wrecked. (Shaw, 1999, p. 39)

4.3. Concerns about Sovereignty

In some circumstances, the *host state* may view extraterritorial regulation as undermining its sovereignty (Mujih, 2012). Some developing nations 'have suffered [the effect of] imperialism in the past,' and may therefore perceive the imposition of external standards as suspicious (Sabel, Fung & O'Rourke 2000, p. 34). In this respect, unilateral *home state* intervention may be viewed as imperialistic.[16] Indeed, should, any state attempt to apply its laws in another territory, this may be viewed as an infringement upon the sovereignty of that state (Arthurs, 2010). Therefore, *host states* may be reluctant to accept the implementation of foreign regulations.

5. CONCLUSION

The discussion above outlined a number of reasons why neither *home states*, nor *host states*, are likely to be successful in the effective regulation of extra-territorial activities of corporations. As the analysis demonstrated that territorial limits of national laws play the major role in regulation of MNCs. However, rather than the territorial limits of domestic laws, individual states seem reluctant to regulate such corporations sufficiently. In this respect, the key factors are the direct and indirect costs of corporate regulation. As demonstrated above, regulation is a costly process. For example, it has enforcement costs, personnel costs, etc. for the governments. However, more importantly, regulations are likely to create some indirect costs for governments. If there are strict regulations in one country, this may make some corporations leave that country, as corporations are prone to prefer countries with less stricter regulations. There is no doubt; corruption and lobbying may be other factors affecting national governments pushing corporations to behave well. Therefore, the picture drawn by this brief study shows that individual states are far from regulating corporations effectively.

Given these inevitable limitations in the likely achievements of individual states, the focus must instead turn to international initiatives. As noted earlier, the fundamental failure at the level of individual states arises because national efforts do not match onto the global scope of the operations of MNCs. To reach and effectively control MNCs, regulations at international level may be a subject of a future research that may attempt to demonstrate, inter-governmental, non-governmental and hybrid organisations grounded in negotiations and cooperation between governments, companies and other stakeholders as key actors within the process of compelling corporations to act responsibly.

[16] For a broader discussion on this issue see (Seck, 2008)

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