

An investigation on China's environmental rights protection from the standpoint of foreign investment

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Abstract. For China, the increase in foreign investment brings both benefits and difficulties. The fundamental focus of these challenges is the defense of human rights, notably environmental rights. The main topic of this essay is China's protection of environmental rights in light of foreign investment. These issues are mostly seen in the light punishments, particularly administrative fines, the challenge of reconciling the amount of fines with real losses, and the rigorous examination of plaintiffs' eligibility for environmental public interest lawsuits. The inadequate environmental regulatory systems and policy objectives, as well as the lack of coherence between statutory requirements and enforcement procedures, are further factors contributing to the recurring violations of environmental rights. As a result, steps including modernizing domestic substantive and procedural legislation, introducing and establishing home country responsibility mechanisms gradually, and attempting to create a smooth transition between domestic and international law should be taken and put into action.

Keywords: Transnational corporations; Foreign investment; Environmental rights.

1. Introduction

China is becoming as one of the major markets for international investment as a result of growing globalization. More and more international businesses of all stripes are beginning to expand into China due to the size of the Chinese market and the relative affordability of the necessary production inputs. One of the main factors influencing economic growth in China is the arrival of international corporations, yet this has also brought about a variety of environmental issues. The insufficiency of these three areas is also the main reason for the frequent violations of environmental rights. These environmental difficulties are essentially related to the areas of legislation, enforcement, and supervision. China will be able to examine new solutions for the preservation of environmental rights with the help of these problems being resolved. In reality, research on the social responsibility of multinational firms has shown that the protection of environmental rights has steadily attracted the attention of both domestic and foreign experts. The study of multinational firms' social responsibility hasn't yet developed a systematic and united stance in academic circles due to their unique characteristics, and there is a lot of disagreement about which perspective the study should take. The main literature examines the three-dimensional framework of multinational corporate social responsibility [1], the five-stage organizational CSR drive model [2], and the three-level conceptual framework of social responsibility in the home country, host country, and global community under the trans nationalization gradient [3]. These three theoretical approaches are separate and related. The universally applicable five-stage CSR driver concept emphasizes the five institutional levels where ethical practices can be compensated, thus motivating multinational corporations to turn their commitment to social responsibility into an essential business driver. The three dimensions of the CSR framework, which are the strategic typology of multinational corporations, the primary areas of CSR supported by the UN, and the three perspectives on social responsibility. The second of which includes the protection of environmental rights by multinational corporations, concentrating on the sources of each dimension. Additionally, due to the various trans nationalization gradients, a social responsibility mechanism for the three primary subjects of the home country, the host country, and the international community as a whole has been successfully established. This has also given many countries a theoretical foundation and a realistic chance to consider the legal remedy of seeking the

home country. According to the aforementioned domestic and international research findings, environmental rights are only categorized as a type of social responsibility of multinational corporations. However, this classification ignores the unique nature of environmental rights issues, leaves out key information, and lacks specialized research on the subject. There is agreement that multinational corporations should assume social responsibility, but there is a lack of better theoretical frameworks. More pertinent research angles, even more specialized content to explore the question of how to make the assumption of social responsibility more mandatory. Or how to make it eventually the behavior of each multinational corporation's voluntary options.

This study focuses on China, the largest developing country in the world, and the environmental rights protection issues it faces in the context of multinational investment in order to be relevant, researchable, and pertinent to many of the world's emerging sovereign states. The DyStar case is used as a starting point to analyze the present gaps in the protection of environmental rights in China, starting with the fundamental idea of environmental rights in China in the modern era. The causes of the recurring violations of environmental rights by multinational corporations in China are then thoroughly examined from three different perspectives, depending on the research approach of social contract theory. The three basic theories of social responsibility of multinational firms in academia are then utilized as a basis, taking into account the real situation in China, based on the shortcomings and causes. It makes suggestions for alternative, workable solutions to the issues surrounding the violation of environmental rights by multinational corporations from three angles. The domestic legal system must be improved, the home nation's system of responsibility must be expanded, and the dual relationship between domestic and international law must be recognized.

2. China's current state of environmental rights protection and inadequacy

2.1 The connotation of environmental rights in China in the new era

Given that the idea of environmental rights is a cornerstone of the law, any analysis of the state of environmental rights protection in China today should start with a proper definition of the term. A thorough understanding of China's national circumstances and the status of the rule of law is also necessary for a proper interpretation of the idea of environmental rights. The development of China's environmental legislation, which is progressive in nature, is necessary for the modernization of the idea of environmental rights [4]. With the advent of environmental rights in China in a new era, the practice of environmental rule of law has lately advanced. The right to the environment, also known as the right of citizens to enjoy and live in a good ecological environment, is based on the idea of ecological civilization and peoples' desire for a better quality of life [5]. The right to the environment is based on China's evolving fundamental contradictions at this stage. China's perspective on the protection of environmental rights is further demonstrated by the fact that it included the right to the environment in its National Human Rights Action Plan and discussed it separately as a basic human right. Therefore, if a multinational corporation's operations in China result in environmental contamination, this might be seen as a violation of the right of Chinese citizens to a lovely environment [6], and the company should be held accountable under the law of environmental tort.

The Jiangsu Environmental Protection Federation had filed a lawsuit against DyStar Dyestuff Co., Ltd. for dumping water into the canal that contained toxic waste and waste acids, exceeding the legal threshold for criminal activity, seriously polluting water supplies, and permanently harming the local ecological environment. Before BASF's division for textile dyes and pigments joined, the company was a partnership between Bayer and Hoechst. In 2010, Zhejiang Long sheng Group and Kiri Industries Ltd. bought the business. The two DyStar's founders illegally discharged hazardous material in quantities that were significantly more than those required to meet the legal threshold for committing a crime by giving it to people who weren't trained to manage it. The case was determined to be a unit crime since the firm's founders permitted the other party to dispose of the waste despite knowing he lacked a waste disposal license because the end advantage came to the company. DyStar is responsible for paying an estimated RMB 24.29 million in environmental cleanup expenditures as

well as an RMB 20 million punishment. The person who produced the pollution is held liable and subject to fines under the Environmental Protection Law, the Water Pollution Prevention and Control Law, and the Tort Law. Similar to DyStar, it is simple to see that China's protection of environmental rights still falls short in many instances where environmental rights are violated by multinational corporations [7].

2.2 The inadequacy of environmental rights protection in China

Administrative sanctions are still frequently used against multinational corporations for violating environmental rights. It can be challenging to determine the extent of environmental contamination lawsuits brought on by foreign corporations in China, and if administrative fines are still the norm, the relief received is egregiously unfair and insufficient to act as a warning. The disadvantages of a single administrative fee have also been gradually realized by Chinese legislators, who have added some highly serious environmental offenses to the criminal code [8]. Conflicts of interest were balanced by emphasizing both criminal and civil culpability. However, a global corporation's principals are the only ones who can be held personally liable in criminal and civil cases. The principals should be held accountable for their own infractions since they are the company's core employees and represent the company's external acts. Additionally, the combined criminal and civil culpability is somewhat more conducive to the justice of the case handling. In addition to a statutory sentence and a fine, the person in charge should also be held civilly liable for the violation when they subjectively contributed to a serious environmental pollution incident and violated a criminal standard. This will sufficiently prepare the victim for future civil actions. There is no specific judicial interpretation or other specific elaboration on the criteria for environmental torts to constitute a crime, only a simple description in the criminal law, even though this approach enables victims to obtain a series of compensation remedies, such as ecological restoration fees, vegetation restoration fees, and water purification fees as soon as possible. When handling environmental infringement cases in China, it is still a critical issue that needs to be taken into account how to balance administrative, civil, and criminal liability in order to maximize remedy.

The range of fine amounts determined by the fine mechanism is too constrained. Extremely serious environmental pollution situations can completely apply the double penalty system. The idea that it comprises a unitary offense for which both a fine and a punishment are imposed on the person directly accountable for the offence and other persons immediately liable sets a double penalty system apart from a single penalty system. The biggest challenge judges encounter when executing the dual penalty system is accurately proving the link between the defendant's behavior and the firm as well as the specification of the fine amount [9]. Judges in China are granted more discretion in their decision-making, and the criminal code does not specifically define the limit of fines that can be imposed. The number of fines imposed in environmental infringement cases is actually a drop in the ocean when it comes to ecological restoration, even if the number of fines and civil compensation awarded to those responsible is taken into account. This is true even if the fines imposed by judges reach the upper limit of the range of fines permitted by law. There is still a substantial disparity between the amount of compensation paid in environmental contamination proceedings against multinational businesses in other countries, despite the fact that the amount awarded in China has tended to rise. For instance, the High Court of Ecuador ultimately determined the case involving an Ecuadorian native who sued Chevron for environmental degradation, awarding Chevron US\$19 billion in damages [10]. Approximately the same time as the DyStar environmental contamination case stated above, this case was heard, and the final decision was rendered. However, Textron was only fined a few tens of millions of RMB. The need for justice and the appropriate adoption of international standards of compensation must be considered when applying China's fine system to cases of criminal environmental rights violations. However, it must also be remembered that the relief and compensation provided may be put into effect as soon as practicable.

In environmental public interest litigation, the eligibility of plaintiffs is rigorously scrutinized. The plaintiffs are limited to the authorities and pertinent organizations as provided by law in China's

current system of environmental public interest litigation, which completely disqualifies citizens from being eligible to sue [11]. As a result, China's environmental litigation system is still in its infancy. The procuratorial organ is often the state institution in China that can pursue environmental litigation, however if the relevant organization does not bring the case, the procuratorial organ must first issue a public notice before it can join in the litigation as a plaintiff. Since the administrative authorities do not have the ability to file environmental lawsuits, this situation frequently has drawbacks because it will demotivate them from taking on the necessary environmental responsibilities. Although the aforementioned organizations are frequently referred to as environmental protection organizations, not all of these organizations can be recognized as having the legal capacity to sue. According to China's environmental protection law, environmental protection organizations that are parties to legal proceedings must register with the people's government's civil affairs department at or above the local level [12]. They must not have a history of breaking the law, have been involved in environmental protection operations for at least five years, and not be looking to profit financially from legal action. The great majority of environmental protection organizations in China frequently collaborate with governmental institutions, and this collaboration has some bearing on how litigants can exercise their rights. The Jiangsu Environmental Protection Federation filed a complaint in the DyStar case. Residents have the right to a beautiful environment as part of their right to the environment, however in China there is no citizen involvement in environmental public interest lawsuits. While this stringent system of vetting plaintiffs' eligibility to sue can, to some extent, prevent abuse of the right to sue, it may also put many harmed individuals in a difficult position to obtain fair compensation.

3. Analysis of the reasons behind China's ongoing abuses of environmental rights

Multinational firms are frequently the targets of environmental rights breaches in the context of transnational investment. The findings of a post-inspection of 130 multinational corporations that had violated environmental laws were disclosed by the Chinese Ministry of Ecology and Environment in 2008 [13]. The majority of the multinational corporations under investigation were from developed nations, enjoyed strong brand effects, and some even had a stellar reputation for environmental preservation on a global scale. Like DyStar, whose parent business in Germany upholds stringent environmental standards, its Chinese subsidiary has gone to tremendous measures to cut costs associated with environmental disposal as well as significant lengths to disobey the law. Analysis of the causes behind China's ongoing abuses of environmental rights will shed lighter on these issues and help to better define how environmental rights will be protected in the future.

Lack of transparency and integrity in environmental regulating systems. The prevalence of corruption within the appropriate authorities is directly impacted by openness, transparency, and integrity within the regulatory framework. The establishment of unfavorable political ties between regulators and transnational firms is made possible by corruption, which gives some transnational corporations political cover and preferential treatment in exchange for environmental infractions. Companies with strong political ties may be excluded from severe environmental assessment reports and regulations, and they may even be able to start projects without having to present the necessary approval documents, which is another example of this unfairness. The ability of multinational corporations to exploit their political ties to evade legal consequences for environmental infractions can be further exacerbated by the regulator's ongoing preferential treatment, which may even lead to a reduction in social responsibility. China has always made an attempt to combat corruption, however its severity has changed throughout time. The strongest anti-corruption document in cross-border investment is Decree No. 18, which was issued by the Organization Department of the Communist Party of China in 2013. It expressly forbids current and former government officials from holding part-time jobs in businesses, as well as retired or resigned government officials from working for firms doing business in fields related to their former governments, and requires permission to work for firms doing business in unrelated fields. The document has also shown to be put into practice, as evidenced

by the large-scale resignations that have hit the Chinese capital market and the growing difficulty for multinational corporations to expand thanks to the direct or indirect protection provided by the government officials associated with them [14]. Incorporated social and environmental behavior may improve when political barriers are gradually taken down, and stringent adherence to environmental reporting standards may become more feasible. However, it cannot be denied that certain global corporations continue to take the possibility of providing particular advantages to regional environmental authorities in order to find safety. Power should be successfully restrained within the bounds of the law, and reverence and regard for the law is the proper course for every legal organization. The law is the ideal cage for power. China continues to have serious concerns about the preservation of environmental rights due to the inadequacy of anti-corruption efforts made by environmental authorities.

The current statutory provisions and enforcement procedures don't mesh properly. The enforcement of China's current environmental rights protection laws and regulations is frequently lax, which makes the rules less effective than they were intended to be. The major reasons for this discrepancy between legislation and implementation are a lack of environmental enforcement and insufficient criminal penalties under the applicable environmental regime. Some multinational corporations that break the law adhere to strict environmental standards and carefully regulate their pollution emissions in their home nations, but purposefully cut back on environmental investment in China to lessen their obligation to protect the environment. This creates a realistic basis for holding their parent companies accountable for environmental violations in the future. The combination of legal regulation and enforcement falls short of realizing the scope and intent of the law, which in part renders the law ineffective and makes it challenging to fundamentally prevent infractions of the law when they do happen. Take the environmental tax system in China as an example. According to the country's current legal framework, China is in the process of converting environmental fees into taxes. However, only four types of pollutants are currently subject to taxation: air pollutants, water pollutants, solid waste, and noise [15]. However, in actual enforcement practice, in addition to not covering all types of environmental pollution, the total amount of tax levied is far less than the cost of installing environmental protection tools like clean sewage, even when combined with a system of continuous daily penalties to pressure multinational companies. It is obvious that a law's impact is significantly diminished when enforcement procedures are separated from the statute.

The existing policy does not suffice to address important and basic problems. China places more emphasis on preventing pollution than on the creation of sustainable green products when it comes to protecting environmental rights. Environmental monitoring, emergency response planning, environmental impact assessment, and the "three simultaneous" strategy are the main pollution prevention strategies used in China [16]. China believes that preventing pollution is a very effective way to address environmental issues. By reducing the negative consequences of environmental pollution incidents, these pollution prevention techniques can, to a certain extent, conserve human, material, and financial resources. However, in terms of international investment, the actual impact of pollution control measures is fairly negligible. The actual outcomes of the implementation of actions under the pollution prevention system might be characterized as uneven insofar as the current condition of multinational corporations in China is concerned. Even though some multinational companies have complied with all the requirements of pollution prevention measures prior to committing environmental violations, the impact of pollution prevention policies is not always evident when environmental pollution incidents actually take place. Environmental pollution incidents brought on by multinational companies are frequently serious, sudden, and cross-regional in nature. Most multinational corporations in China have high energy consumption, high emissions, and other environmentally unfriendly factors in their primary industries. The production technology, consumption products, and even the manufacturing process of goods produced by multinational firms frequently contribute to these concerns. Therefore, in terms of policy guidance, it is not enough to emphasize pollution prevention. The best way to significantly reduce environmental pollution is to gradually shift the emphasis to finding ways to motivate multinational corporations to step up their

efforts to produce environmentally friendly goods in order to comply with China's national development strategy of ecological environmental protection.

4. New avenues for China's environmental rights protection

4.1 Improving domestic legal framework to protect environmental rights

Chinese legal system, procedural justice and substantive justice are interwoven and can only be effectively integrated if they are to be attained in a way that really embodies fairness and justice. Once China is seized of environmental infringement claims by foreign corporations, the lack of domestic substantive and procedural legislation will have a significant impact on the realization of remedies for victims.

Establishing jurisdiction is a necessity for applying the law and one of the essential elements in environmental litigation, in terms of procedural law. In general, the court where the environmental damage occurred has ex-officio jurisdiction, and on the basis of equitable principles, the tortfeasor's choice will also be taken into account. China's civil procedure law and pertinent court interpretations contain the pertinent legal provisions on jurisdiction, which to some extent suggests that China has defined how jurisdiction applies at the level of legislation. This means that, in the context of global investment perspectives, the appropriate environmental protection organization can locate a domestic court to file a public interest lawsuit if a foreign multinational firm has violated Chinese environmental laws and posed a threat to the environment [17]. In terms of determining jurisdiction, Chinese law still has several shortcomings and ambiguities, particularly in the area of foreign investment. As a result, it is simple for judgments rendered in practice to be ignored by the country in question, making it challenging to obtain effective relief for enforcement issues. Therefore, the jurisdiction of multinational corporations violating environmental rights should be based on the general jurisdictional provisions of the civil procedure law, gradually encroaching into the foreign investment law, specific commercial law, and company law, and, if necessary, listing a separate section for multinational companies to give special jurisdictional provisions. The agreement to establish jurisdiction should also be expressly mentioned in the terms of the relevant market entry contract to immediately overcome the barrier of jurisdictional disputes. The rights of the infringer would be respected and protected as much as practicable with such further jurisdictional clarification. Of course, any revisions and additions to the law must take into account the specific facts of the situation in China and must never disregard the local legal environment. Additionally, to identifying additional legal bases for determining jurisdiction, environmental courts should be better established. In order to assure the professionalism and relevance of environmental public interest litigation, environmental courts have gradually grown in number and are based on relevant laws for the protection of environmental rights. There are specific standards for the jurisdiction of first instance and appellate jurisdiction [18], but it is simple to find that these standards have not been unified and are still subject to geographical limitations. To secure justice and enhance the effectiveness of case trials, China's environmental courts should minimize the impact of administrative divisions on connected environmental litigation in the future.

The majority of substantive law is composed of rules and principles, which also serve as the cornerstone for the relationship between rights and obligations in the law. This relationship is directly tied to the substantive law of a country. The problem of a patchwork of substantive environmental law in China is another conundrum it must deal with. Common law predominates in China's substantive law system for the protection of environmental rights, and there are too many administrative regulations and only a few special laws for certain types of environmental degradation [19]. Common law laws governing the protection of environmental rights are frequently dispersed, largely of a philosophical nature, and less concentrated. A distinct set of standards for liability cannot be formed out of the provisions of special laws on liability for particular types of environmental damage since they are fragmented. While this is a mandatory and less expensive approach, most administrative provisions use administrative public authority as the primary force to handle and settle environmental

issues. However, this approach does not apply to all environmental tort areas. The ConocoPhillips oil spill case presented a challenge in the application of substantive law because it featured transnational firms in interregional maritime contamination and oil as the source of the pollution [20]. This necessitates the development of an unified environmental responsibility law in China. In addition to eliminating administrative fines, the law will include clauses addressing infringers' civil and criminal accountability. Once clear criteria of liability have been established, the law will gradually specify and explain the subjects and degrees of obligation. In the related chapters, it also controls the specifics of the punitive damage clauses, the burden of proof, and the statute of limitations. A simple environmental liability law is far from sufficient, and should be supplemented by pertinent judicial interpretations in time for the specifics of individual cases in order to legally urge multinational companies to consciously assume social responsibility. This is because the types of environmental pollution caused by multinational companies in China are diverse and complex from the perspective of transnational investment.

4.2 Establishing procedures to hold home nations accountable

A growing number of transnational businesses (TNCs) are entering foreign capital markets in the context of the prevalence of transnational investment in search of sustainable benefits, including many developing nations. These TNCs frequently originate from developed nations, making developing nations their host countries. Developing nations will be at a disadvantage if TNCs abuse the environment in these countries, making it harder to enforce the amount of compensation and related remedial actions mandated in domestic court rulings. The establishment of a system to hold the mother country accountable should be considered as one of the effective approaches to widen the remedy for environmental torts because China, the largest developing nation in the world, has the same challenge in the process of defending its environmental rights.

A significant development regarding the idea of "separate liability of mother and child". Since the reform and opening up, the structure of multinational organizations in China has gradually changed from joint ventures to limited liability, making it possible to regard the limited liability system as the primary mechanism for multinational firms to carry responsibility in China [21]. Subsidiaries are legally independent, have legal personalities, and are accountable under the law, according to the present Chinese company legislation. However, there are significant limitations to this rule when it comes to international investments. The Indian government chose to sue the US in the Bhopal case on the grounds of *forum non conveniens* [22]. However, the US court rejected the case, and the case ultimately resulted in a settlement where Union Carbide took responsibility for its subsidiary, proving that it is possible to end the independence of parent-subsidiary liability.

The implementation of a corporate personality denial system reflects the first development in the independent liability of parents and subsidiaries. In transnational investment relationships, the majority of MNC investments in China are primarily centered on resource needs. However, because China's environmental standards regime is not perfect, some MNCs purposefully export sources of pollution to lower the associated costs, endangering the environment in the region [23]. The overall assets of the MNC subsidiaries may not be sufficient to pay large amounts of compensation when the Chinese government requests restitution for environmental infractions, leaving both parties in a challenging scenario where enforcement cannot be carried out. Therefore, in cases involving serious environmental pollution violations, the controlling shareholder's limited liability should be excluded first, followed by the independent personality of the subsidiary held by the parent company, and the parent company in charge of the multinational subsidiary should be held directly accountable. This will prevent the parent company from abusing the principle of limited liability. Naturally, the parent company in the country of origin does not always directly assume full responsibility for the liability of the multinational subsidiary. However, typically the parent company bears the uncompensable portion of the liability following the multinational subsidiary, which should be proportionate to its effective control and ownership of the subsidiary. Such a denial of the multinational subsidiary's separate legal personality would aid China's efforts to secure more comprehensive environmental rights protection

for its victims. The development of the distinct liability of the parent and subsidiary also takes into account the parent and subsidiary's integrated liability. Integration means that, in most circumstances, the parent company has ownership or effective control over the worldwide subsidiary, and the two are thoroughly integrated, even to the point where their interests are almost identical, in order to successfully extend the chain of accountability. The relevant investigative authorities in China can determine if the business's manufacturing methods and equipment were developed by, or utilized under the supervision of, the parent company if a multinational subsidiary has caused a very serious environmental pollution accident in China. In essence, the issue is whether the parent company knew or should have known that the production equipment the subsidiary was utilizing presented a threat to the environment in the area. The parent company and the subsidiary may be viewed as a single entity in such circumstances, extending the chain of liability to the parent company's headquarters in the nation of the victim and raising the possibility that the victim's rights and interests will be better protected and remedies will be realized.

Properly establishing a direct duty of care. To some extent, confidence in the preservation of environmental rights in China could rise with the suitable implementation of a direct duty of care clause for parent firms under the transnational investment viewpoint. The term "direct duty of care" refers to a parent corporation's obligation to a company in which it has an interest. This direct duty of care focuses on defining the parent company's relationship with the subsidiary as well as its relationship with the victim [24]. It does not eliminate the parent company's obligation for the subsidiary. Using these two sets of connections, it is once more determined whether the parent company's and the subsidiary's businesses are significantly related [25]. It is also determined whether the parent company knew or should have known that the subsidiary was depending on its high level of expertise to plan and carry out the pertinent business conduct. In the *Okpabi v. Shell* ruling, the court determined that a parent company must actively oversee the implementation of policies and standards in the business operations of its subsidiaries [26]. This meant that when the parent firm gives the subsidiary the required technology or production plan, the parent company should be responsible for the subsidiary's implementation of standards compliance.

China, the second-largest economy in the world, faces difficulties protecting environmental rights because of its complicated foreign investment structure and wide range of industries. A milestone in legislative methods in the area of foreign investment is the suitable inclusion of a direct duty of care clause in China, which challenges the parent company's extraterritorial direct responsibility indemnity [27]. The direct duty of care clause would be translated into Chinese, making parent companies of multinational corporations operating in China accountable for environmental violations resulting from their own illegal business practices. Additionally, in order to bolster their legal claims, victims could name both the parent and the subsidiary as defendants in litigation. Unless the parent company can demonstrate that it is not affiliated with the subsidiary and has no causal relationship with the environmental tort caused, then it should be liable for the environmental pollution caused by the subsidiary's business activities. China may stipulate this direct duty of care in its statutory law, thereby clarifying that the parent company is liable for no-fault liability in the field of environmental tort. However, the majority of the existing cases of environmental infringement caused by multinational companies in China are caused by cross-regional, multi-factor, and multi-subjects. In order to create a legal foundation for the parent firm, who should be held accountable for the environmental violations, more leeway should be left to be construed when assessing the precise direct obligations.

4.3 Effective integration of international and domestic law

Determining the practicality of examining the effective interface between local law and international law should begin with an analysis of whether multinational firms have the status of subjects of international law. Even if it is still debatable whether multinational businesses qualify as subjects of international law, this will give authorities on which to hold them accountable for infringement of environmental rights. According to some Chinese academics, multinational corporations interact with one another on a global scale in a variety of ways as autonomous individuals

who are responsible for their own acts [28]. This allows them to directly exercise their rights and perform their obligations. In light of their actual actions in the field of international law, multinational companies ought to be acknowledged as legal subjects for the sake of the law. Transnational enterprises will be more accountable for upholding human rights thanks to this sensible broadening of the purview of international law and sensible easing of the requirements for identifying international subjects. The international legal system is exhibiting a new trend in the area of environmental rights, the most significant of which is the transformation of soft law into hard law. Since environmental comfort directly affects the wellness of the local population in the host country and human rights are linked to living conditions there, this adjustment will have a positive impact. It is undeniable that the inclusion of mandatory human rights obligations for transnational corporations will increase the confidence of victims to seek judicial remedies and gradually close the gaps in international law in this area, despite the fact that many of the conventions for the protection of human rights are highly ambiguous and contentious and are not even recognized by the courts as a strong legal basis. The growth and direction of international law will unavoidably result in the updating and advancement of domestic law.

China is actively synchronizing its domestic legal system with international trends in order to make a breakthrough in the proper interface between domestic and international law. In order to strike a balance between national sovereignty and the preservation of human rights worldwide, China is working to align its domestic legal system with international law as international law becomes more practical. China should prioritize the fundamental national circumstances and the actual legal context in cases of environmental pollution by multinational corporations, and its discretion should be limited to the fundamental obligations of human rights under international law and the minimum standards of protection for human rights [29].

In an effort to obtain more global legal protections for its transnational investments, the Chinese delegation presented its position on the legal instrument's revisions at the fifth meeting of the Intergovernmental Working Group on the Legal Instrument on Transnational Corporations and Other Business Enterprises and Human Rights in 2019. China's remarks on the legal instrument's changes mainly addressed the legal instrument's scope of applicability and an examination of the obligations of transnational enterprises. Based on the premise and fundamental components of national interest, the legal instrument's field of application should be "transnational economic activities," giving China enough choices to take into account situations involving environmental infractions by multinational firms. All commercial activities of multinational corporations should be governed by domestic law, which calls for the establishment of an effective judicial remedy system and the independent control of domestic multinational corporations' behavior as a means of respecting domestic legal principles and the host country's judicial sovereignty. Instead of creating a new set of laws to take the place of domestic law, international law should serve as a bottom-up solution to the inadequacies in each nation's domestic legislation. To strike a balance between the advancement of the economy and the defense of environmental rights, China should therefore pay more attention to the flexibility of the pertinent provisions when establishing human rights obligations, avoid unjustifiable or excessive environmental obligations, and make every effort to lessen the numerous drawbacks resulting from its location at the end of the global transnational investment chain. establishing a balance between upholding economic growth and safeguarding environmental rights. The international community will have to choose whether to establish an international business tribunal with specific universal legal implications as transnational investment continues to become increasingly globally interconnected. This choice will benefit a lot of emerging countries, including China. However, an international corporate tribunal should also have a comprehensive and consistent international legal framework for businesses, as this would serve as a legal foundation for litigation relating to violations of environmental rights and encourage multinational corporations to actively engage in social responsibility [30].

Thanks to China's rising stature, which has also made it possible for its voice to be heard and recognised globally, the importance and preservation of environmental rights have been raised to the

level of a national strategy. Along with finding new ways to seek redress under international law while maintaining a strong foundation of domestic rule of law, China is also continuously updating its domestic environmental law system. This includes gradually removing the challenges associated with handling environmental cases in the foreign investment sector. In the future, it is projected that the confluence of national and international law relating to the defense of environmental rights would become more operational, operational, and defensible.

5. Conclusion

The article's major subject is the defense of environmental rights in China within the context of foreign investment. It talks on the weaknesses in the protection of environmental rights and the reasons why transnational corporations repeatedly violate those rights. It concludes that prompt domestic substantive and procedural law innovation will aid in the creation of a strong legal barrier for the protection of environmental rights. The addition of clauses on the autonomous and integrated accountability of parent corporations and the direct duty of care will also present a new way of thinking about the enforcement of environmental rights, while not disregarding the effective interface between domestic and international law. When transnational corporations violate environmental rights, new solutions that don't just concentrate on domestic reforms at the national level and make an effort to pursue additional legal recourse in the international community will be offered by the study of environmental rights protections in China. When combined with the absence of adequate domestic systems, the human rights issues brought on by transnational corporations can cause long-lasting harm to some host nations, particularly less developed nations. As a result, these issues can result in more serious social issues and even lessen the stability of the social order. An analysis of how environmental rights are protected in China, the largest developing nation in the world, will offer insights and lessons for other newly independent nations as well as for residents of those nations looking for less expensive legal remedies. It would be very important and necessary for legislators and law enforcement to give the study of environmental rights more consideration. As this will help to improve legal regulations and the application of legal work, allowing for the provision of a more reliable legal foundation and a legal foundation for the protection of the legal interests of environmental rights. Unavoidably, this article is solely focused on China, a sovereign state, and ignores several important practical measures in favor of introducing and expanding essential legal laws and regulations. Future study on transnational firms and the preservation of environmental rights should be further expanded from many viewpoints in addition to conceptual extensions. Only when many developing countries, like China, successfully balance the relationship between multinational corporations and the protection of human rights can a fairer and more equitable environment for foreign investors be established, producing more wealth for the development of the global economy.

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