



LAW AS A DRIVING TOOL IN ADVANCING INTERNATIONAL BUSINESS

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ABSTRACT

The world is in a continuous state of evolution and during this period, international business operations are the new kid on the block. This, therefore, requires law as a tool of economic engineering to regulate international business processes to ensure productivity without violating international norms and standards. This study aims at evaluating and assessing the impact of law in driving global businesses in the 21st century globalized trade. The implementation of this study will help to assess and redefine the trajectory of the international business community in adjusting to, or adopting new models that can help enhance productivity legally without espousing the world to illicit acts of international kinds. While business experts are keen on the economic theories and models that are required to enhance their financial prowess, the bedrock of the legal basis upon which society thrives – irrespective of whatever society it is – is left in the periphery of international business discourse. In this research, normative legal research is used with extensive literature review to support the theoretical basis of my findings. This research finds that the law should be used as a tool of economic engineering to propel business firms.

Keywords: *International business; International norms and standards; Tool of economic engineering*

1. Introduction

The buying and selling of goods and services as well as the transfer of capital, information, technology, and expertise on a global or transnational scale that transcends national boundaries is referred to as international business. The term “international business” describes the buying and selling of products and services across national borders (Hassan & Bhatti, 2023). The knowledge of law, particularly international business law, by corporate participants is becoming more and more crucial as the international market continues to expand. This has to do with the rise in foreign investment and the entry of companies into global markets. Both the process of drafting the contract and its implementation will be influenced by knowledge of the business actors that are parties to international business agreements (Sopamena, 2022). Applying the law is essential for a firm to remain sustainable in an international business endeavour where it operates across multiple sectors. Law is necessary to create a favourable atmosphere for our business operations and to benefit our company. Furthermore, standards or protocols for appropriate behaviour in the corporate world are also governed by laws.

Nonetheless, there are still individuals and business owners that break the law or fail to follow it in their operations. They have the power to victimize other people in addition to endangering the viability of their company. International trade has expanded rapidly since the end of World War II, and cross-border business transactions have grown in all domains, including technology licensing, service sales, and exporting and importing. Small and medium-sized businesses can diversify their portfolios and protect themselves from periods of weaker development in their home markets by exporting. Similar to this, businesses that wish to stay competitive must expand their supply chains into international markets and outsource a portion

of their operations (DiMatteo, 2021). Therefore, to foster a positive and healthy business platform among fellow entrepreneurs as well as the community at large, laws governing the protocols for conducting business in this international industry are required. A legal adjustment is a step toward enabling the law to always follow societal progress in order to fulfil its intended purpose (Christiani, 2018).

There has been a fascinating parallel movement in the last ten years or so regarding the evolution of company regulation in the global economy. Liberalization, or the easing or elimination of national restrictions on the flow of money internationally, has been the prevailing trend since the 1980s. To many, it appeared as though investors and corporate organizations were getting closer to realizing their dream of a free world market, where they could freely manage their assets and operations throughout the world without being constrained by national and international laws. Proponents of this neo-liberal version of economic globalization celebrated it, while detractors chastised it (Picciotto, 2003). The creation of creative national anti-bribery legal frameworks has resulted in significant advancements in the fight against global corruption during the last ten years. This evolution shows how a transnational corruption law was developed because of the dynamic interaction of international, national, and comparative law. The process of worldwide resonance in boosting international business is exemplified by the constantly growing transnational corruption law (Einbinder, 2022).

The goal of international trade law is to provide governments and businesses involved in cross-border trade with clarity. These regulations were originally designed to govern traditional trade in products, but they have since been improved to cover services as well. Their relevance and the necessity for reform in light of the digital revolution – especially with regard to artificial intelligence – have grown in prominence on the political and economic fronts. An outline of pertinent trade law topics is given in this brief, with a focus on current Free Trade Agreements (FTAs), law from the World Trade Organization (WTO), and the European Union (FINK, 2020). The African continent through the African Continental Free Trade Area (AfCFTA) is established to, *inter alia*, “create a single market for goods, services, facilitated by movement of persons in order to deepen the economic integration of the African continent and in accordance with the Pan African Vision of ‘An integrated, prosperous and peaceful Africa’ enshrined in Agenda 2063”.

Every country has its own unique market. Variations stem from a variety of factors, including lifestyle and cultural norms, variations in population demographics, consumer demands and habits, variations in the costs of production and selling goods and services, exchange rates, political power and laws, market sizes, and levels of competition. The free flow of goods is restricted, or domestic production is protected by several laws and policies in many countries, making it difficult for the global market to operate (Grozdanovska et al., 2017). These are referred to as a country’s barriers to market entry. Arguments aimed at protecting the underdeveloped economy – where prices are frequently higher and quality is lower – against unfair competition, defending important national economic activities, interfering with the foreign trade balance, and preserving living standards all serve to justify the adoption of protective measures. Protective measures decrease competition, which raises prices and causes inflation. It also gives consumers less options for goods and services, making the trade balance more susceptible to disruption and decreasing the level of competition.

Over the past few decades, businesses have expanded to operate in more countries worldwide, sourcing resources and manufacturing goods in locations where they can obtain the most returns on their investment. The expenses of adhering to rules pertaining to things like working conditions, employee pay, and the effects of operations on the environment and nearby communities have an impact on those returns. Thus, there are incentives to conduct business in nations with the least onerous legal requirements due to the wide variances in the strength

of these rules around the globe (Diggs et al., 2019). In terms of “the prevention of, and accountability for, direct or indirect corporate human rights abuses in host governments and the provision of remedies to victims of such abuses”, this results in a “governance gap”. As a result, businesses can profit financially from their operations without having to bear the brunt of many of the negative effects of their actions.

The problem of the limit to which law is embraced in many international business transactions is of great interest to this research. Therefore, this research seeks to make an assessment on the significance of the application of law to international business and how this can serve as a tool of economic engineering in driving global economy towards effective sustainability of the world in all sufficiency. This contentious global issue needs a shrewd attention cognizant of the prevailing illegal acts committed in the international market and the urgency to create a level playground for all countries irrespective of their territorial jurisdictions and Gross Domestic Product.

2. Literature Review

The increasing interest in the possibility to use domestic legal systems to hold foreign violators accountable in international business has been sparked by the human rights and environmental challenges that are being caused by encounters with corporate impunity on a global scale. The majority of international human rights lawsuits have originated in common law nations, where judges have the authority to hear cases involving extraterritorial conduct by foreign business corporations (Abdullah & Hassan, 2022). While the new millennium has so far signalled a return of state capitalism, the end of the twentieth century was a period of privatization. A recent IMF report states that state-owned enterprises’ share of the world’s 2000 largest firms has increased to 20% over the past 20 years, primarily due to their presence in emerging markets. These enterprises’ assets, which total \$45 trillion, or half of the global GDP, are primarily from these markets (Howse, 2021).

Despite the advancement recorded over the years, impunity in international business is yet to be addressed with a strong fist. So, developing and transitioning countries implemented policies to attract both domestic and foreign private investment as they started to shift *en masse* toward market economies. There is no shortage of evidence that the rule of law encourages private investment insofar as it fosters an environment of stability and predictability in which property rights are safeguarded, economic risks can be judiciously evaluated, and contractual obligations can be duly fulfilled. In general, experience lends credence to the idea that the rule of law is necessary to ensure that government promises are reliable and that applicable laws are enforced (Shihata, 1996). A convergence of circumstances both inside and outside the academia has led to a spike in interest in the relationship between business growth and the rule of law. Since the end of the Cold War, attempts have been made to advance the rule of law not only for political and security reasons, but also for advancement of business in a wider and more productive scale (Haggard et al., 2008).

Research indicates a favourable correlation between law and order and Foreign Direct Investment (FDI) flows at the macro level, with an estimated coefficient that is significant at least at the 10-percent level. Strong evidence that the rule of law is positively connected with foreign direct investment, a component of international commerce, is provided by research that calculates the association between measures of governance and transnational trade using a sample of Asian and Latin American nations. It has been found that nations with higher standards of legality provide fewer tax incentives; this effect is especially pronounced in nations with higher degrees of democracy (ZHANG & LIU, 2021). It is evident that property rights must be precisely established and upheld for entrepreneurship to operate efficiently. Both a legal framework and a mechanism for contract agreements are necessary for the enforcement

of such agreements. There is a strong correlation between entrepreneurship, property rights security, and legal framework (Hartog et al., 2010).

Additionally, evidence points to a stark and huge disparity between the global north, which is more developed and richer, and the global south, which is home to a large section of the world's population that lives in violent conflict and chronic poverty, especially in developing nations (Culpeper, 2005). These disparities and inequalities are a result of a concerted effort by the leaders of wealthy western nations and international organizations to not demonstrate realistic and persuasive development commitments, particularly when it comes to strategic and useful legal reforms in developing nations. These failures to communicate are in addition to understanding gaps, conflicts of interest, resource limitations, and poor implementation (Ikejiaku, 2020).

3. Research Method

This research is qualitative in nature with focus on secondary data. The main data used are books, journal articles, conference papers, reports and other international instruments that are relevant to this discourse. In this method, data are analysed and discussed in a qualitative way to reflect the position of the law in international business. By doing this, both the legal right of people and the role of legal institutions in international business are studied to support and portray how law can help in driving the expansion and development of business beyond borders without violating the rights of people.

4. Research Findings and Discussion

4.1 Assessing the Impact of Legal Institutions in Propelling Businesses of International Character

A regulation is a tool used by governments, their affiliate organizations, and supranational organizations (like the EU or the WTO) to impose legally binding standards on businesses and citizens. Thus, the phrase may refer to a broad variety of documents, including decisions that carry out high-level regulations and standards, subordinate rules, administrative formalities, and primary laws and secondary regulations that implement primary laws (Edmore, 2017). Institutions facilitate working markets by assisting in the resolution of issues pertaining to collective action. The impact of institutions on the strategic choices and outcomes of Multinational Enterprises (MNEs) has long been acknowledged by the literature on international business (Dieleman et al., 2022). It is right that all states should be aware of and prepared for the revolution in international trade, as there has been a paradigm shift in the areas of economic law and resource management. Prior to the globalization of law, most states enjoyed complete autonomy over the creation of new laws and the management of natural resources. Nevertheless, this sovereignty has since been relinquished, particularly with regard to commerce, investment, services, natural resources, intellectual property rights, and other areas (Waluyo et al., 2019). The potential for economic growth and development of a nation greatly depends on its level of openness to international trade. According to recent research, a nation's capacity to engage in international trade is boosted by the calibre of its internal institutions as viewed by its trading partners.

Furthermore, exporters of complicated goods are more dependent than exporters of simple items, and exporting countries are more reliant than importing countries on the calibre of their domestic legal systems (Berkowitz et al., 2005). Although it has long been known that nations differ greatly in the institutional makeup of their economies, especially between industrialized and rising nations, it was less obvious how these variations affected businesses' strategic decisions. Because of this, the idea of institutional voids – the lack or underdevelopment of institutions necessary to permit and sustain market activity – has drawn more and more attention in the literature on international commerce (Doh et al., 2017). The

effects of institutional voids on corporate strategy and structure have been studied by academics studying international business and management for almost 20 years. Institutional voids present opportunities as well as difficulties, but they are mostly linked to businesses' attempts to minimize or prevent institutional flaws and lower the transaction costs of doing business in environments where those flaws exist.

This is premised on institutional theory at the macro level which has a long history with solid foundations. When evaluating a nation's business potential, it is recognized that official regulations, like its legal system and constitution, as well as informal ones, like its customs and self-imposed codes of conduct, must be comprehended. Therefore, for instance, it is commonly known that certain nations have greater success than others in luring foreign direct investment, whereas other nations excel in terms of productivity and creativity (Lynch & Jin, 2016). The rules and regulations that control commercial dealings are examples of formal institutions. With rare exceptions, nation-states coordinate their legal frameworks internationally through organizations like the WTO or the EU. Such formal institutions, most notably legal frameworks, are defined by national authorities or their sub-entities. This indicates that businesses using the Internet are up against a variety of obstacles brought about by disparities in national laws (Meyer et al., 2023). Innovation capacity is a key component of both national and regional innovation systems, and it is heavily influenced by legal and economic structures. The relationship between the role of legal institutions and embracing innovation, however, has not gotten as much scholarly attention.

4.2 *Guaranteeing Legal Rights in International Business*

By providing legal rights connected to invention replication, the rule of law ensures quick conflict settlement between parties in a democratic system. Legislators are also compelled to offer financial incentives to private companies so they will spend money on research, which has been shown to be a powerful driver of innovation. The public is also shielded by legislators from any negative effects of new developments and technological advancements (Dunyo & Odei, 2023). Developed nations have a crucial role to play in helping their companies secure contracts in foreign markets. Formal or informal lobbying is one tactic that states and businesses have utilized to sway legislation. States that engage in this kind of international action bind themselves to the actions of any corporate national or state-registered firm that operates outside of their borders. Because of its transnational business activity, this form helps to address the question of who is accountable for the activities of multinational enterprises by embodying the state as a responsible actor under international law (Oktaviandra, 2022).

Additionally, when it comes to the idea of public international law, a state's actions can be held accountable by its non-state actors, which includes companies. An international requirement, such as one imposed by a recognized human rights convention, might give rise to an international responsibility. Put another way, a state is required to exercise due diligence, which includes, among other things, policing and overseeing a corporation's operations whether they are in the home state or the host state where a bilateral investment treaty has been enacted. International responsibility against governments may arise from human rights violations committed by their corporations when nations neglect to fulfil these duties. State responsibility is important because it will spur on states to take steps essential to establish international binding treaties that guarantees the protection of rights of people.

But while states are crucial as guarantors of creation and protection of rights the concept of “police power” in international law cannot be left to the periphery. According to (Mann, 2008), “police power” is *“The power of a state to place restraints on personal freedom and property rights of persons for the protection of the public safety, health, and morals, or the promotion of the public convenience and general prosperity. The police power is the exercise of the sovereign right of a government to promote order, safety, security, health, morals, and*

general welfare within the constitutional limits and is an essential attribute of government”. Although world leaders have duly taken notice of the subject of development in all its forms and manifestations, international attorneys still have a lot of work ahead of them. Development offers a conducive environment for cooperation to the extent that international law is greatest when the motivations of its subjects align and weakest when they diverge or come into direct conflict. To put it simply, development is an idea that benefits both parties (de Serpa Soares, 2015).

International business, investment, and prosperity are all aided by international law. Although there is a great deal of overlap between the two categories, these rules and procedures are primarily divided into two groups: international public law and private law of international trade. The rights and responsibilities that confront one another as foreign investors and traders are covered by private trade law. In this situation, procedures for resolving legal disputes between individuals from several legal systems are required (Aliaj & Mekaj, 2018). A significant step toward enhancing corporate responsibility for human rights in the global business was taken in 2011 when the United Nations Human Rights Council unanimously adopted the United Nations Guiding Principles on Business and Human Rights (Hamm, 2022).

One might gain a knowledge of the social power structures by studying and comprehending business legal rights. It is critical to comprehend how the various political and legal systems around the world impact business. The law affects a great deal of business circumstances. Knowing and comprehending the underlying law can help you make the best choice, whether you are reading and interpreting a media article, creating the best plan for entering a foreign market, or settling a dispute with a foreign organization (Iskra & Nicholson, 2020). This is important in this era of the continuous complexities in international engagements when the law is understood and applied as a tool of business engineering towards the realization of set goals.

5. Conclusion

While law can be applied as a tool of economic engineering in driving businesses of international character, the mores of international business platform ought to be in line with the current trend of the commitment of the international community to boost global economy. However, this gesture should be transnational by reaching the Global South community because of its economic despair compared the advanced economy of the Global North. To achieve this, the laws must not only be applied legitimately globally but also with fairness irrespective the economic status of these communities. This is important because the law is made for the people and not vice versa. By establishing this, international businesses will operate on fair and transparent platforms across the globe.

This therefore, calls for advocating the advancement and strengthening the position of legal institutions to ensure that the rights of the people participating in international are guaranteed and executed in the current environment that entertains globalization and gobbling of states that are weak – especially those in Global South. This is important in realizing the economic rights as enshrined in International Covenant on Economic, Social and Cultural Rights which is one of the key instruments of the International Bill of Human Rights. Just like how governments are instituted among men to secure their rights both national and international institutions premised on law are required in advancing businesses of international character.

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