The Effectiveness of National Government Regulation of Large Companies

Jing Gui

Department of Social Policy, Sociology and Criminology, School of Social Policy, University of Birmingham, United Kingdom

"Corresponding author: Jing Gui (Email: jxg295@alumni.bham.ac.uk)

Abstract: This study investigates the dynamic interplay between transnational corporations (TNCs) and their regulatory landscape. TNCs, as major players in the global economy, significantly influence both economic growth and the trajectory of domestic firms in less developed countries. However, this influence isn't always positive. The central theme of this paper is the challenges and complexities national governments face in regulating these corporate giants. Given the backdrop of neoliberalism and globalisation, the regulatory environment is ever-evolving and demands intricate analyses. Key to this is the development of robust governance frameworks which are imperative for striking a harmonious balance among the interests of TNCs, nation-states, and wider global stakeholders. An exemplary case is dissected to provide tangible insights into the discussed phenomena. The paper wraps up with insightful observations that shed light on potential future directions.

Keywords: Transnational corporations, Regulatory environment, National governments, Neoliberalism, Globalisation, governance frameworks, Economic growth, Domestic firms, Global stakeholders, Regulatory challenges.

1. Introduction

Multinational corporations, or MNCs with short names, play an essential role today. They have established subsidiaries in numerous nations with varying political, economic, and cultural backgrounds. This makes it difficult for governments to regulate multinational corporations. According to Dicken, "MNCs have a significant impact on the economy and politics of the modern world and play a catalytic role in activities such as investment and trade in modern society." As these influential organizations expand their global reach, governments confront increasing difficulties regulating their activities and mitigating potential adverse effects on local economies societies." (Dicken, 2015) It is essential to mention the neoliberal economy and the process of economic globalization when discussing why governments regulate multinational corporations. The prevalence of neoliberal policies has resulted in the globalization of the economy, which has provided a solid foundation for the growth of multinational corporations. According to T. Cirella, "the technological knowledge brought about by globalization has prompted multinational corporations to assess their product performance and reduce overall costs by influencing the processes, technologies, and overall understanding of the companies involved." (T. Cirella, 2021) However, the presence of multinational corporations in some of the world's less developed nations can impede the progress of domestic firms, despite their presence contributing to economic growth overall. And as Rodrik argues, "as markets become increasingly integrated and global financial forces tend to dictate national policies, unregulated globalization can undermine the ability of nation states to govern effectively and democratically." Therefore, according to Rodrik, "governments must maintain a balance between these forces to regulate multinational corporations and protect the welfare of their citizens." (Rodrik, 2011) National governments must regulate large multinational corporations for this reason. In practice, however, the decentralization of government and the continued expansion of globalization have had positive and negative effects on regulation. According to Strange and Rodrik, "In some cases, the rapid pattern of government decentralization and neoliberal policies has weakened national governments' ability to regulate multinational corporations." (Strange, 1996; Rodrik, 2011) Furthermore, Wettstein et al. argue that "the liberalization of international trade and investment has increased the competitive pressures on governments to attract and retain MNCs, frequently at the expense of loosening stringent regulations." (Wettstein et al., 2019). Wilks contends, however, that "certain examples of regional decentralization can result in communities attracting specific MNCs based on their specific needs and responses." (Wilks, 2013) This paper argues that national governments cannot regulate multinational corporations effectively. The piece reaches this conclusion due to the influence of factors such as government decentralization and globalization, which has led to regulatory loopholes, and globalization, given multinational corporations increasing economic power and influence. This paper will investigate the complexities of national governments' ability to regulate multinational corporations by analyzing modern national governments' role in regulating multinational corporations and the positive and negative effects of government decentralization on regulatory outcomes. In addition to discussing the influence of neoliberalism and globalization on the regulatory environment, this paper emphasizes the need for robust governance frameworks to effectively balance the interests of multinational corporations, nation-states, and global stakeholders. The paper will then present one existing case: the European Commission and Apple tax dispute. The paper will conclude with observations and a brief overview.

2. Background

In this paragraph, the paper will use academic literature to explain specific concepts associated with multinational corporations, decentralization of government, neoliberalism, and globalization. In addition, the paper will briefly describe the history and future development of multinational...
corporations.

a. Definition of multinational corporations

MNCs, or multinational companies, operate and transact business in more than one nation or region. According to Dicken, "MNCs are companies that own or control the production of goods or services in more than one country." (Dicken, 2015) Typically, their headquarters or parent company is located in their native country, and they have branches or subsidiaries in other nations. Moreover, according to Vitali et al., "Multinational corporations frequently play a significant role in the economic growth of the region or country in which they operate production or services." This contributes to local employment, economic development, and technological innovation." (Vitali et al., 2011)

b. Definition of decentralization of government

Decentralization of government refers to the transfer of authority from the country's central government to its local governments. According to Bannink and Ossewaarde, decentralization refers to "the transfer of power and decision-making from central government agencies to regional or local levels of government." (Bannink and Ossewaarde, 2011). According to Bergh and Mohan et al., "decentralization of government aims to promote more effective and beneficial governance for local communities, empowering them while promoting accountability." (Bergh, 2004; Mohan and Stokke, 2000). Rodrik contends, however, that "this approach can also complicate the regulatory environment for multinational enterprises and tends to weaken the ability of national governments to control and regulate these multinational companies operating within their borders." (Rodrik, 2011). According to Klassen, "while the complexity of the regulatory environment created by decentralization and its implications for public policy and administration have been extensively studied, a specific approach is needed to understand the role of decentralization in government regulation of multinational enterprises." (Klassen, Cepiku, and Lah, 2017).

c. Definition of neoliberalism and globalization

Neoliberalism, according to Crouch, is an economic and political ideology emphasizing autonomous markets, limited government intervention, and individual freedom. (Crouch, 2011). However, Farnsworth notes in his article that neoliberal policies typically entail deregulation, privatization, and trade and investment liberalization. (Farnsworth, 2004). Stiglitz asserts that "advocates argue that these measures promote economic growth, while critics argue that they increase income inequality, undermine public services, and weaken social and environmental protection." (Stiglitz, 2002). According to Held and McGrew, "globalization" refers to the increasing interdependence of the world's populations, economies, and cultures. (Hold and McGrew, 2007). Roderick writes in 'Has Globalisation Gone Too Far?': "the era of globalization, driven by communication technologies, transport, and global trade patterns, has resulted in rapid cross-border movements of products, people, capital, and service systems. While globalization has positively impacted many nations. However, it has also had some adverse effects, such as some nationals fears of more and cheaper foreign labor competing with them for jobs and fears of the potential violation of national sovereignty and the influence of foreign cultures on indigenous cultures." (Rodrik, 1997).

d. The evolution of multinational corporations throughout history and into the future

Dicken argues in his book 'Global Shift: Mapping the Changing Contours of the World Economy' that "the development of multinational corporations began in the late 19th and early 20th centuries when significant companies began to operate globally. However, at the close of the 20th century, neoliberal policies and the rapid growth of globalization contributed to the rapid growth of multinational corporations' number and influence." (Dicken, 2015). In response to this phenomenon, Strange argues that "large multinational corporations have become increasingly influential in global economic development, rivaling some relatively backward governments in terms of economic power." (Strange, 1996).

3. The Responsibility of National Governments to Regulate Multinational Corporations

The government's primary function in regulating multinational corporations is to protect the interests of citizens and foster robust economic growth. This paragraph will examine the primary regulatory tools utilized by governments to oversee multinational corporations. In addition, examine the challenges governments confront in regulating multinational corporations.

a. Influence of taxation systems and MNCs on policy formulation

According to Farnsworth in 'Corporate power and social policy in the global economy: British welfare under the influence,' "the power of large multinational corporations has grown as they have grown, as has their influence in the minds of ordinary people. This makes government regulation of multinational corporations increasingly challenging and difficult. Moreover, the interests pursued by multinational corporations frequently undermine social welfare policies (for instance, in the United Kingdom). Consequently, governments are frequently compelled to modify their regulatory frameworks for multinational corporations, and there are policies that support these MNCs at the expense of workers and social welfare." (Farnsworth, 2004). Taxation is one of the primary instruments for regulating multinational corporations. In practice, however, governments encounter numerous obstacles when attempting to implement certain taxation measures. In his book titled "Sovereignty at bay: the multinational spread of US enterprises," Vernon discusses the enormous challenges encountered by some governments, especially in developing nations, in establishing effective tax regimes for multinational corporations. (Vernon, 1973) And according to Farnsworth, "Multinational corporations frequently have a substantial impact on government policy due to their economic strength and ability to lobby for favourable policies. They may attempt to influence labour laws, tax regulations, and trade policies for their own financial gain." (Farnsworth, 2004).

b. Financial regulation and corporate networks

In the article 'The Network of Global Corporate Control,' Vitali et al. investigate the dilemma governments face when regulating multinational corporations. Using network analysis as the primary research method, the authors of this article conclude that global corporations have a bow-tie structure. In addition, a small group of firms at the center of the bow tie plays an outsized role in the global economic system. The study also found that this small set of firms wielded the majority of the network's power and owned 40%
of the wealth, with the majority of these firms being financial institutions. (Vitali et al., 2011) In practice, it is more challenging to regulate financial multinationals than real-sector multinationals. According to the theory of Young and Park, "the global financial crisis exposed the flaws in the regulatory framework established for financial institutions." (Young and Park, 2017) Therefore, Vitali et al. argue that governments should develop regulatory regimes that better comprehend the complex relationships between firms and that requiring greater transparency and more comprehensive access to information about firms’ networks could strengthen regulatory efforts to address potential global crises and preserve the stability of the global economy. (Vitali et al., 2011)

c. Policy Framework and International Cooperation

In 'From the Positive to the Regulatory State: Causes and Consequences of Changes in the Mode of Governance,’ Giandomenico Majone elucidates the contemporary shift from the welfare state to the regulatory state, which has resulted in the transition from a state-led to a market-led economy. While this has facilitated the rapid expansion of a number of large corporations, it has also highlighted the significance of policy systems and regulatory frameworks. (Giandomenico Majone, 1997) While Klassen, Cepiku, and Lah in 'The Routledge handbook of global public policy and administration' emphasize the need for a holistic approach to the regulation of multinational corporations, primarily through the development of a coherent policy framework comprising tax policy, labor law, and environmental protection law. This would allowing countries to regulate multinational corporations more effectively. (Klassen, Cepiku and Lah, 2017) Additionally, Young and Park also argue that "international cooperation can be effective in addressing regulatory gaps and strengthening oversight of multinational corporations in the financial sector." (Young and Park, 2017) In conclusion, despite the fact that governments encounter numerous challenges in regulating multinational corporations at present, they can still address these challenges by enhancing their policy systems and regulatory frameworks. The emphasis could be placed on developing sound overall policy administrations and regulatory frameworks, such as incorporating MNC-specific tax policies, labor laws, and environmental protection laws. However, it is also important to analyze corporate networks among MNCs, as power and wealth are transferring from real-sector MNCs to financial MNCs. In order to address global crises like the global financial crisis, there is also a need to strengthen international cooperation between governments.

4. Government Decentralization and Its Impact on The Regulation of Multinational Companies

In this paragraph, the paper analyses government decentralization, which has been a crucial aspect of the majority of government reforms in recent years. The positive and negative effects of government decentralization on the regulation of MNCs are examined, along with the regulatory inconsistencies and vulnerabilities that MNCs can exploit as a result of government decentralization. This section also discusses how multinational corporations can be effectively regulated under decentralization.

a. The positive effect of decentralization on multinational company regulation

First, from a positive standpoint, decentralization enables local governments to respond most actively or appropriately to the unique requirements of their communities' residents. According to the OECD report 'Decentralisation and regionalization in Portugal: What kind of reform program?' decentralization can increase citizen participation in government, bring government closer to citizens, and make government more accessible. (OECD, 2020). And according to Giles Mohan and Kristian Stokke in 'Participatory development and empowerment: the dangers of localism,' “Local governments are able to be more responsive to resident demands and adapt policies and regulations swiftly to the situation.” (Mohan & Stokke, 2000). In fact, decentralization can facilitate participation at the local level in the decision-making process. Bergh argues that decentralization enables communities to participate more directly in the decision-making process by transferring authority and resources from the central government to the local government. This change gives citizens a voice in policies and programs that directly affect their lives, thereby empowering them. Decentralization is viewed as a means to enhance local government's accountability, responsiveness, and efficacy.” (Bergh, 2004). And the development of accountability has unquestionably strengthened the regulation of multinational corporations by municipal governments in their respective jurisdictions. In addition, the study by Kuswanto et al. titled 'Negotiation between local governments and multinational corporations in a decentralized system of Governance’ demonstrates the importance of this issue. The cases of Ogan Komering Ilir and Banyuwangi districts in Indonesia demonstrate that local governments can attract foreign investment, negotiate effectively with multinational corporations, and protect the interests of the people living within their jurisdictions.

b. The negative impact of decentralization on multinational company regulation

In practice, the decentralization of government can result in regulatory regime fragmentation for multinational corporations. According to Bannink and Ossewaarde, “the decentralization process involves a transfer of powers and responsibilities from central to local administrations, which could result in a more fragmented regulatory environment. And the regulatory framework's fragmentation may make it difficult for governments to monitor and enforce regulations. This difficulty is exacerbated when decentralization reduces central resources and expertise. Making it more difficult for national governments to monitor the actions of multinational corporations and ensure their compliance with regulations. (Bannink and Ossewaarde, 2011). In fact, these regulatory inconsistencies can present opportunities for TNCs to capitalize on policy differences between national and local levels. MNCs may choose regions with laxer regulations, resulting in a 'race to the bottom' in terms of regulatory standards by local governments. According to 'The Routledge Handbook of global public policy and Administration,' edited by Klassen et al., "when local governments seek to attract MNCs for the not insignificant economic benefits that come with multinationals, a top-down 'race to the bottom' to attract them may occur. Moreover, this attraction of MNCs frequently comes at the expense of regulatory efforts. This competition can also result in the lowering of environmental law standards and the undermining of labor interests. Moreover, it tends to undermine the efficacy of public policy."

55
multinational corporations will exploit policy inconsistencies between the various levels of government to reduce the likelihood that is a need for improved communication between the various information and experience regarding the regulation of local governments, simultaneously transfers some and that the central government, while delegating authority to local governments, frequently lacks the experience and knowledge to do so. In order to effectively regulate multinational companies under a decentralized government, it is necessary to ensure that the regulatory framework is robust and that the central government, while delegating authority to local governments, simultaneously transfers some information and experience regarding the regulation of multinational companies to local governments. Lastly, there is a need for improved communication between the various levels of government to reduce the likelihood that multinational corporations will exploit policy inconsistencies between the upper and lower levels of government.

5. Neoliberalism, Globalization, And Their Influence on The Government Regulation of Multinational Corporations

Under the influence of neoliberalism and globalization, this paragraph will examine whether national governments are capable of effectively regulating multinational corporations. In addition, it will examine their impact on government regulation separately. And how neoliberalism, globalization, and government regulation interact.

a. The Influence of neoliberalism on government regulation

As a political and economic ideology, neoliberalism emphasizes the significance of a free market and limited state intervention, as well as the significance of individual liberty. According to Farnsworth, the creation and growth of neoliberalism have resulted in a reduction of state government intervention to the extent that deregulation has resulted. This favored large corporations, particularly those in the financial sector. National governments confront the challenge of regulating transnational corporations as they attempt to balance the economic development that transnational corporations and capital bring to their countries with some of the resulting social and environmental issues.(Farnsworth, 2004) In Stiglitz's book 'Globalisation and Its Discontents,' he notes that "neoliberal policies have had many effects, including privatisation, trade liberalisation, and deregulation of capital. This has resulted in a significant increase in the influence of transnational corporations, making it difficult for national governments to continue effectively regulating their behaviour."(Stiglitz, 2002).

b. The impact of globalization on government regulation

Globalization refers to the movement of products, people, and capital across the globe. And according to Bromley et al. in 'Making the International: Economic Interdependence and Political Order,' "globalisation is the interdependence and integration of the global economy." It is a process of increasing global economic interdependence and integration, but in practice, it can also lead to a phenomenon of "racing to the bottom" when national governments introduce multinational corporations. As the government is only concerned with its finances, this can also result in substandard labor and environmental legislation.(Bromley and Bromley, 2004), In Stiglitz’s book titled ‘Globalization and Its Discontents Revisited –Anti–Globalization in the Era of Trump’ he contends that such competition can have a devastating effect on society. Moreover, he contends that this will result in a loss of labor rights, a decline in environmental standards, and the rise in income inequality, thereby contributing to the anti-globalization movement of recent years. (Stiglitz, 2017) In actuality, however, globalization has also positively affected this aspect of government regulation of multinational corporations. According to Stiglitz, "international bodies such as the World Trade Organization (WTO) and the International Labour Organization (ILO) have developed codes of conduct for multinational corporations as a means of regulating their operations in various countries and assisting governments in their response to the regulation of multinational corporations." (Stiglitz, 2002).

c. The relationship between neoliberalism, globalization, and government oversight

Neoliberalism and globalization have had both positive and negative effects on the regulation of multinational corporations by the government. On the one hand, it can contribute to the robust economic development of countries around the world and, with the assistance of certain international organizations, to the creation of globally accepted standards and guidelines for the regulation of multinational corporations. On the other hand, the pursuit of profit can also contribute to the lowering of labor and environmental standards, which can exacerbate environmental issues and income inequality. In order to confront these challenges, national governments must not only rigorously adhere to regulatory standards but also improve communication and international cooperation between nations in order to reduce the "race to the bottom."

6. Case Studies

Apple and the European Commission's tax dispute. The incident began in 2016 when the European Commission filed a lawsuit against Apple after the Irish government gave Apple up to €13 billion in improper tax breaks, which the European Commission argued were illegal under EU state aid rules because Apple would pay significantly less tax than other companies. Now, Ireland must withdraw the illicit assistance. (Brussels, 2019) In 2020, however, the European Court of Justice denied the Commission's request to appeal, stating that "the Commission failed to demonstrate to the required legal standard that an advantage existed for the purposes of Article 107(1) TFEU." (White, 2020) This case effectively demonstrates that multinational corporations profit from national governments' "race to the bottom" The following analysis and insight pertain to this case.

a. The sophistication of the international policy structure

Apple took advantage of the Irish government's low tax policy and constructed a complex corporate structure to minimize taxes. It also exploits the inconsistency between national policy structures.

b. Race to the bottom

By reducing taxes, the Irish government has attempted to entice multinational corporations and foreign investment, but at the expense of national welfare.

c. Vulnerabilities in government regulation
While the Irish government's low tax policy was a prerequisite for attracting Apple, the company has also exploited regulatory exemptions to maximize tax avoidance.

7. Conclusion

This paper investigates the question of ‘whether national governments can regulate multinational corporations effectively?’ The conclusion is that national governments cannot regulate multinational corporations effectively, despite their efforts in this regard. Moreover, the analysis of Apple’s case demonstrates that despite the European Commission’s case against Apple for tax evasion, Apple was able to win the case and avoid this recovery. This article contends that governments must go further in practice to effectively regulate multinational corporations. This conclusion is reached by analysing the influence of national governments in terms of decentralisation, neoliberalism and globalisation. As decentralization is an unavoidable component of policy reform, it is also necessary to endure the negative effects of insufficient regulation. Due to the fact that neoliberalism and globalization are still in the process of development, the influence and power of multinational corporations are still increasing; therefore, the state must further strengthen the regulation of multinational corporations while enjoying the rapid economic growth brought about by neoliberalism and globalization. This paper also presents ideas on how national governments can effectively and properly regulate multinational corporations, such as the need to decentralize the central government and to share information and experience regarding the regulation of multinational corporations with local governments so that the regulatory environment is as uniform as possible across all levels of government. Additionally, it is necessary to strengthen international cooperation and exchanges between nations, as well as to rigorously adhere to the regulatory standards established by international organizations for multinational corporations. It is also essential to reduce the ‘race to the bottom’ between nations and between governments within the same nation in order to prevent multinational corporations from exploiting these vulnerabilities to further exploit labor and environmental damage. This paper's research is limited due to its secondary research methodology and the lack of relevant literature on the question, ‘Can national governments effectively regulate large corporations?’ While research and analysis have yielded some insights for this paper, additional research is required in several areas. First, future research could investigate the role of non-governmental actors (such as international organizations or civil society) in supplementing or enhancing government regulation of large corporations. Secondly, given the limitations of this paper’s research, it is necessary to determine whether the paper’s findings can be independently confirmed in certain countries, such as China. Given the recent rapid development of online technologies and digital platforms, future research could also investigate whether these emergent technologies can provide governments with more effective regulatory tools.

References


