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International Human Rights Law, Economic Globalization and FDI

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Abstract: ***The intersection of International Human Rights Law and Foreign Direct Investment (FDI) highlights a critical dimension of globalization that affects global business practices and human rights protections. As multinational corporations expand their operations across borders, the impact of their activities on human rights becomes increasingly significant. Ensuring that FDI respects and upholds international human rights standards is crucial for fostering ethical and sustainable development. Economic globalization refers to the increasing integration and interdependence of national economies through the cross-border exchange of goods, services, information, and capital. FDI plays a central role in this process as a critical mechanism for international capital flow. FDI occurs when a firm from one country establishes or expands business operations in another, influencing the host country's economic development, trade, and employment. FDI fosters economic growth by enhancing technology transfer, improving management practices, and increasing competition. However, it also raises concerns over potential labor exploitation, environmental degradation, and erosion of local industries. The relationship between FDI and globalization highlights the opportunities and challenges countries face as they become more interconnected in the global economy. Policymakers aim to balance attracting FDI while protecting domestic interests and promoting sustainable and inclusive growth. This paper examines the intersection of Foreign Direct Investment FDI and international human rights law, focusing on developing economies. It highlights the benefits of FDI in fostering economic growth, technology transfer, and employment while addressing concerns over labor exploitation and environmental degradation. The study explores how international legal frameworks, such as the UN Guiding Principles on Business and Human Rights, can help mitigate these risks, offering strategies for aligning FDI with human rights standards in developing countries. This study is significant as it provides insight into how developing countries can benefit from FDI without compromising their commitment to human rights protections, a critical balance in the era of economic globalization. This study will examine these problems with specific reference to the developing countries. 1) The influx of FDI either improves human rights standards or exacerbates human rights violations in developing economies. 2) International human rights standards legally bind MNCs, who are held accountable when violations occur in host countries. 3) Economic globalization has facilitated stronger human rights protections but also created challenges for enforcement in developing countries. 4) Institutions like the IMF and World Bank ensure that their policies promote FDI while respecting human rights standards, and these measures are adequate to varying degrees. 5) Developing countries can adopt specific strategies or legal frameworks to ensure that FDI aligns with human rights obligations. 6) Current international legal instruments, such as the UN Guiding Principles on Business and Human Rights, are adequate in addressing human rights violations linked to FDI.***

Keywords: Economic Globalization; Foreign Direct Investment FDI; International Human Rights Law; MNCs; Developing economics

1. Introduction

In the era of globalization, the world economy is no longer closed to one country or an autonomous and independent region. Still, it has become an economy that knows no borders, is invisible, connected via cyberspace, and measured in multiples. This encourages people to expand strategies in the economy to gain greater profits. One of the human trials is e-commerce, which can connect people very quickly by approaching several terms, namely land, labor, production, demand, and supply. With advances in the era of globalization and significant economic changes, economic models that are built no longer run according to plan, so they cannot work with mathematical precision but instead work based on probability, making the future unpredictable. Ohmae summarizes the global economy: "So the global economy is borderless, invisible, cyber connected, and measured in multiples." [1]

There are many changes in the era of globalization, and many countries must be ready to face the changes that occur and have a mindset to make changes, one of which is Japan. Japan once banned imports of American beef and raised the price of imported American beef to increase Japanese beef production and prevent Japanese people from buying local meat. This had a worse impact on Japan than America because Japan had to spend a lot of money to help the industry produce enough for their country. It can be said that when someone invests, they will get enormous profits; to get more significant gains, they have to spread their wings to develop; this is the principle of globalization. Globalization means going out to acquire more knowledge, more wisdom, more means, and more ways of doing things profitably. [2] It has become an economy without borders, invisible yet connected through cyberspace, and measured globally.

2. Literature Survey

Some scholars have examined the interplay of intellectual property law, security of foreign investment, and international investment law. This part reviews existing literature on FDI and its influence on human rights in the context of economic globalization.

Extensive research and analysis have examined the role and impact of FDI in developing countries. This literature review will critically examine critical studies that provide insights into the risks and benefits of FDI, explicitly focusing on Japanese investments in Asia and Africa.

In "Foreign Direct Investment and Development: The New Policy Agenda for Developing Countries and Economies in

Transition," Moran (1998) explores the evolving strategies that developing countries must adopt to attract FDI.[3] Moran argues that while FDI can be a powerful engine for economic growth, it requires a conducive policy environment that includes stable legal frameworks, protection of intellectual property rights, and incentives that align the interests of foreign investors with national development goals. This book provides a comprehensive overview of the policy tools available to developing countries and emphasizes the importance of creating a stable and transparent investment climate. Moran's work highlights that developing countries must create attractive investment climates through transparent legal systems, reliable investor protection, and policies encouraging sustainable development. Understanding these policy environments is crucial for Japanese investors as they navigate the complexities of investing in diverse and often volatile markets in Asia and Africa.

Using Japanese firm-level data, Bertrand and Betschinger (2024) investigate the interplay between development aid and FDI. Their study, published in the Journal of International Business Studies, highlights how development aid can complement FDI by mitigating some risks associated with investing in developing countries.[4] They find that development aid often paves the way for FDI by improving infrastructure, enhancing governance, and reducing political risk. This empirical study underscores the synergistic relationship between development aid and FDI and provides evidence that targeted aid can significantly improve the attractiveness of developing countries to foreign investors. The study reveals that Japanese firms benefit considerably from the infrastructural and regulatory improvements facilitated by development aid, reducing investment risks.

Operational risks involve challenges related to infrastructure, local business practices, and supply chain disruptions. The specific focus on Japanese investments provides practical guidance on managing these risks effectively through strategic planning and local partnerships.

The article "Diversifying Economic Risks: Japan's Economic Hedging Toward China" by Vidal López, Pelegrín Solé, and others (2024) examines Japan's strategic economic policies to reduce dependence on China by diversifying its investment portfolio. Published in the academic journal "Relations of Asia," this study analyzes how Japan uses FDI for economic hedging.[5] By investing in various developing countries in Asia and Africa, Japan seeks to spread its economic risks and reduce vulnerabilities associated with over-reliance on a single country. This strategy helps mitigate geopolitical risks and promotes sustainable economic relationships with various countries. This diversification strategy is crucial for Japanese investors as it reduces the impact of potential economic disruptions in any country. The study highlights how spreading investments across multiple developing countries can lead to more stable and sustainable returns.

Boltayeva (2024), in her book "The Role of Foreign Investments in the Development of Developed Countries in the World," published by Global Book Publishing Services, explores the impact of FDI from a macroeconomic perspective.[6] Although the primary focus is on developed countries, Boltayeva's findings apply to developing countries. She argues that FDI can lead to technology transfer, skill development, and improved managerial practices, which are crucial for economic development. However, she also points out the potential downsides, such as profit repatriation and the crowding out of local businesses, which can negate some of the benefits of FDI. Boltayeva's analysis provides a balanced view of FDI's impact, emphasizing the importance of strategic planning and regulation to maximize benefits while minimizing adverse outcomes. Understanding these dynamics is essential for Japanese investors to make informed investment decisions that contribute to sustainable development in host countries.

3. Problem Definition

This study will focus on these questions and problems that form the basis for investigating the complex relationship between human rights law, economic globalization, and FDI, offering a comprehensive foundation for further research.

1) How does the influx of FDI impact the human rights situation in host countries—does it improve human rights standards or exacerbate violations, particularly in developing economies?
2) What are the legal obligations of multinational corporations (MNCs) under international human rights law, and how are they held accountable when violations occur in host countries?
3) How does economic globalization influence international human rights standards enforcement, and has it facilitated stronger protections or created challenges, particularly in developing countries?
4) What role do international financial institutions, such as the IMF and World Bank, play in balancing human rights with the promotion of FDI, and how effective are their policies in ensuring that FDI aligns with human rights standards?
5) Can developing countries attract FDI without compromising their commitment to human rights protections, and what strategies or legal frameworks can they adopt to ensure that FDI aligns with human rights obligations?
6) To what extent are current international legal frameworks, such as the UN Guiding Principles on Business and Human Rights, effective and adequate in addressing the adverse human rights impacts and violations of Foreign Direct Investment (FDI) in host countries?

4. Methodology / Approach

This study primarily adopts a qualitative research methodology approach to analyze secondary sources such as legal documents, journal articles, and case studies. It will include academic articles, books, and reports from think tanks or NGOs focusing on human rights, FDI, and globalization. Data from global indices such as the World Bank's "Ease of Doing Business" index and UNCTAD's FDI reports will also be included. This methodology provides a structured approach to understanding the legal and economic dynamics

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that shape the relationship between international human rights law, globalization, and FDI.

5. Results & Discussion

5.1 Many scholars emphasize the impact of FDI on the process of economic globalization[7] and analyze the effects of FDI on economic development.[8] Some authors investigate FDI attracting factors[9], while others try to assess the level of globalization by one or a few FDI indicators.[10] Following the insight of the law market and the dissection of globalization and jurisdictional competition, we can realize how law forces work in international jurisdictional competition.[11] First of all, since globalization lowers exit costs across borders and enhances firm and capital mobility, globalization leads to international Jurisdictional competition for worldwide mobile factors of production by offering better laws and institutions.[12] The ILD(International Law development) has been an evolving force since the end of the Second World War, when it emerged to address the economic disparity between the developed world and the newly independent states, especially in Africa and Asia.[13] The ILD has undergone significant changes over sixty years.[14] In the past, traditional notions of development centered solely on economic growth. At the same time, the social, political, cultural, and environmental issues might be considered significant; they were considered separate from the core development issues.[15]

5.2 International human rights law also recognizes the right to a healthy environment, culminating in the recent adoption by the U.N. General Assembly of the human right to water and sanitation.[16] Several global and regional legal instruments incorporate sustainable development.[17] However, it is argued that the social pillar of sustainability, which includes health, needs to be firmly embedded in sustainable development law despite this concept promoting human health.[18] Emerging human rights jurisprudence and treaty law demonstrate a gradual move towards converging human and environmental rights.[19] The 1981 African Charter on Human and Peoples Rights (Charter), a major regional human rights treaty, proclaims environmental rights broadly, equally protecting the right of all peoples to the "best attainable state of physical and mental health and a generally satisfactory environment.[20]

5.3 The tendencies of FDI mainly are described with indicators of FDI positions and flows, and the indicators of FDI position measure the inputs of FDI into the economic globalization or flows as a percentage of GDP. FDI has become one of the most essential economic flows in the global economy.[21] It is a critical source of capital for developing countries and remains a significant source of investment in the developed world. FDI has grown in terms of books and stock over the past few decades, although the financial crisis has weakened this channel.[22] Most FDI is undertaken by multinational corporations (MNCs), although Sovereign Wealth Funds (SWFs) have accounted for a small but growing fraction. MNCs use FDI to build their global production networks and to service host markets.[23] However, the discussion about the distinction between casual and consequential interrelations of FDI as a key factor of globalization is still missing, and there is a lack of attempts to assess the level of economic globalization with a complex set of FDI indicators. The Organization for Economic Co-operation and Development[24] recommends a extensive set of FDI indicators to measure economic globalization. Traditional approaches to aid and spending have failed to achieve sustainable economic development, particularly for the least developed economies, as Vitalis (n.d.) reported from a round table discussion on sustainable development focusing on official development assistance and foreign direct investment to improve synergies. Similarly, FDI flows were too unevenly distributed to imply that such a mechanism could replace the gap left by decreased ODA.[25] While there is convergence, especially in recent years, over the need to promote universal standards for sustainable development, there is not one canonical source of the ILD.[26] Instead, the modern view attempts to promulgate international standards by applying various regulatory frameworks from IGOs and NGOs that elaborate best practices and guidelines for effective, sustainable development[27]; the modern view of development takes a more holistic approach, recognizing the relevance of economic, social, environmental, and cultural aspects of development and incorporating them into a fuller strategy.[28]

5.4 Proposed FDI indicators are differentiated by the role of FDI in international economic integration and the extent of globalization, the contribution to globalization by the host and investing economy, by the significance of globalization for individual economic sectors, by the geographical concentration of FDI and by the competitiveness and attractiveness of economies or economic sectors: However, there is a lack of the differentiation of FDI indicators based on causal and consequential interrelations.

That kind of segmentation of interrelations would enable to compile a set of FDI indicators for an assessment only the causal aspect of FDI in economic globalization process and assess the extent of economic globalization process. FDI inward flows or inward positions as a share of GDP are mostly used for an assessment of the level of globalization. These indicators are counted in Kearney Globalization Index[29] and KOF Globalization Index[30] for measuring the level of globalization on a country 's level. OECD proposes three different indicators for the assessment of the role of FDI in the extent of globalization.[31]

5.5 FDI inward and outward financial flows, FDI inward and outward income flows and FDI inward and outward positions as a percentage of GDP. An increase of the ratio of FDI and GDP implies a greater share of FDI thus increase of the level of globalization. FDI flows (inward and outward) as a percentage of GDP indicate the degree of global investment activities of the economy for a given time period and reflects the changes between two periods. FDI positions (inward and outward).

As a percentage of GDP indicate the extent of involvement of the country in the global economy at a given point in time. Whereas the share of inward FDI flows and stocks as a percentage of GDP reflects the dependence of the country 's economy on foreign capital and dependence on global capital movement, the share of outward FDI flows and stocks as a percentage of GDP reflects the competitiveness of the

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economy in attraction of FDI in the global market. By the opinion of Suttcliffe [32], comparing flow to GDP does not directly measure its significance and proposes to better compare FDI flows to the corresponding flow of total investment. OECD also points to the problem that FDI positions and FDI flows are not fully compatible measurements, nevertheless, in the absence of other more meaningful cross-country comparisons of the relative size of globalization, GDP remains as the best common reference.

5.6 The share of FDI inward and outward flows in total investment flows could be considered as a supplement relevant indicator for the assessment of the involvement of investing country in the global market and the dependence of the host country on the global capital movement. FDI inward and outward income flows as a percentage of GDP reflect the importance of the earnings of FDI in investing and host economies therefore should be considered as the indicators reflecting the consequential aspect of globalization, and suitable to assess the impact of globalization on economic development of a country. The same rationale is relevant for the indicator of FDI returns, which provides information regarding the profitability of FDI enterprises and therefore reflects the effects of the FDI aspect of economic globalization. For this reason, the indicators of FDI income flows and FDI returns as a share of GDP will not be calculated in the study. The indicators of FDI flows and stocks as a share of GDP, or as a share of total investment, assess the scope or deep of globalization. Another indicator, the ratio of FDI inward and outward flows reflects the direction and intensity of economic globalization process.

5.7 Globalisation is the process by which an increasing share of world production is traded internationally and the productive systems of different countries become increasingly integrated. Such integration with world markets bears the promise of prosperity for developing and in-transition economies. The market forces that are associated with globalization should increase productivity and possibly, economic growth. The process of globalization leads to integration of national economies, while bringing significant changes in market (products and financial), assisted by their common liberalisation and deregulation norms.

But due to such integration, liberalisation makes direct effect on labour has as skilled, unskilled or semiskilled in international market. The neo-capitalism model with the growth of Globalisation created a new mode of regulation, concept of welfare state among the advanced industrial societies in the postworld war II period. This period saw surpassing of the colonial rule which was based on direct political domination and is replaced by neo-colonialism that is based on economic domination. Neo-colonialism and globalization of commerce is bringing a multitude of technologies and large scale industrial projects to less developed nations (host countries). This growing pool increases global labor by including imports of final goods, off shoring of the production of intermediates and immigration. This ongoing globalization of labor has contributed to rising labor compensation in advanced economies by boosting productivity and output, while emerging market countries have also benefited from rising wages. Nevertheless, globalization is one of several factors that have acted to reduce the share of income accruing to labor in advanced economies. However, rapid technological changes have had a bigger impact, especially on workers in unskilled sectors.

5.8 Many institutions are designing strategies to encourage the development of small and medium enterprises (SMEs) and the food industry by utilizing more economical production factors through the exploitation of unskilled workers, channeling savings into capital investment, and providing training places for national entrepreneurs, Which is developing. However, developing countries have yet to fully benefit due to external obstacles such as difficulty obtaining bank loans. It is difficult to get a bank loan because a banker only has traditional financial analysis tools, so he cannot make reliable judgments in analyzing the risks that occur; sometimes, bankers are even reluctant to find out about the entrepreneur's reputation and background. Many small entrepreneurs needed help with the Central Bank's refinancing requirements, leading to distrust of bankers. However, the potential of SMEs and cottage industries in developing countries has not been fully exploited, partly because of their inherent weaknesses and external obstacles, such as the frequently cited difficulty of obtaining a bank loan.[33]

5.9 At least four factors play a role in providing bankers with an understanding of providing loans to SMEs: resource costs, administration costs, provisions for default, and loan interest rates. WAMU Commercial Bank's central funds come from Refinancing; this is related to the discount rate in determining resource costs so that the Central Bank can charge different interest rates. Administrative fees will be reduced by increasing the loan amount and reducing the loan maturity so that these costs are almost no different from the amount of credit provided. Banks also create reserve funds to cover the risk of default. Loan interest rates in developing countries will be determined based on price stability considerations. To better understand the banks' reluctance to lend to SMEs, we must examine how bankers calculate profitability.[34]

6. Conclusion

In summary, the relationship between International Human Rights Law and FDI underscores the need for a robust and integrated approach to safeguard human rights in the context of global investment. Effective regulation, corporate accountability, and community engagement are essential for ensuring that FDI contributes positively to economic development and human rights protections. The relationship between FDI and human rights in developing countries requires careful management. By adopting more robust legal frameworks, conducting thorough human rights due diligence, and encouraging responsible corporate behavior, FDI can contribute positively to economic development and human rights protections. Maintaining this balance will be crucial for fostering sustainable growth in developing economies as globalization expands.

7. Suggestions and recommendations

Addressing the challenges of international human rights law, economic globalization, and Foreign Direct Investment (FDI) in developing countries requires tailored strategies to ensure that human rights violations do not overshadow economic benefits. By adopting these recommendations, the international community and developing countries can work towards creating a more equitable and human rights-respecting environment for FDI, ensuring that economic growth benefits all stakeholders and does not come at the expense of fundamental rights.

Here are some specific suggestions and recommendations:

1) **Strengthen Local Legal Frameworks**
- **Enhance National Legislation**: Support developing countries in creating or strengthening national laws and regulations that protect human rights and govern FDI.
- **Improve Enforcement Mechanisms**: Build capacity within local institutions to enforce human rights standards and address violations related to FDI.

2) **Promote Human Rights Due Diligence**
- **Mandate Due Diligence**: Require companies investing in developing countries to conduct thorough human rights due diligence to identify, prevent, and mitigate adverse impacts of their operations.
- **Support Implementation**: Provide technical assistance and resources to help companies in developing countries implement due diligence practices effectively.

3) **Enhance International Support and Cooperation**
- **Provide Financial and Technical Assistance**: Offer targeted support to developing countries to help them build robust regulatory frameworks and institutions capable of managing FDI and enforcing human rights.
- **Facilitate Knowledge Sharing**: Encourage the exchange of best practices and experiences between developing countries and other nations to strengthen approaches to FDI and human rights.

4) **Integrate Human Rights into Investment Agreements**
- **Incorporate Human Rights Clauses**: Specific human rights provisions should be included in bilateral and multilateral investment agreements involving developing countries to safeguard against potential abuses.
- **Conduct Impact Assessments**: Ensure trade and investment agreements include human rights impact assessments to anticipate and address potential adverse effects on local communities.

5) **Support Community Engagement and Empowerment**
- **Involve Local Communities**: Ensure that local communities are consulted and involved in decision-making processes related to FDI projects, especially those affecting their rights and livelihoods.
- **Strengthen Civil Society**: Support the development of local civil society organizations that advocate for human rights and hold companies accountable for their impacts.

6) **Improve Corporate Transparency and Accountability**
- **Require Reporting**: Mandate that companies disclose their human rights practices and the impacts of their investments in developing countries.
- **Establish Grievance Mechanisms**: Develop accessible and effective grievance mechanisms for communities and workers to report abuses and seek remedies.

7) **Encourage Responsible Investment Practices**
- **Promote Sustainable Investment**: Encourage investments that contribute to sustainable development and respect for human rights rather than those that prioritize short-term economic gains.
- **Support Ethical Business Practices**: Advocate for and incentivize ethical business practices that align with international human rights standards.

8) **Foster Multilateral Engagement**
- **Strengthen Global Standards**: Support developing and implementing global standards for responsible investment, including human rights considerations.
- **Enhance Coordination**: Improve coordination between international organizations, governments, and development agencies to address human rights issues related to FDI in developing countries.

9) **Address Systemic Issues**
- **Tackle Corruption and Weak Governance**: Work to address corruption and governance issues in developing countries that may hinder the effective management of FDI and protection of human rights.
- **Promote Economic Diversification**: Support efforts to diversify economies in developing countries to reduce reliance on sectors prone to human rights abuses and to promote more sustainable development.

8. Future Scope

This research focuses on the future scopes for the researchers **to** Research innovative methods and metrics to more accurately measure both direct and indirect human rights impacts of FDI and conduct studies to understand the long-term effects and their evolution over time.

Examine how companies implement human rights due diligence across sectors and regions, identify best practices and gaps, and evaluate the effectiveness of current accountability mechanisms to propose improvements for greater corporate responsibility.

Compare the effectiveness of various national and international legal frameworks in protecting human rights related to FDI and explore new regulatory approaches or economic incentives to enhance protections.

Analyze human rights impacts of FDI in specific sectors (e.g., extractives, agriculture, technology) and conduct detailed case studies to understand the project-specific effects and the effectiveness of mitigation strategies.

Investigate the human rights implications of technological investments and digital economies, including privacy and labor rights issues, and research how existing frameworks can adapt to these challenges.

Study the role of local communities in shaping responses to FDI and enhance their involvement in decision-making while mapping out and analyzing interactions among stakeholders such as governments, businesses, and civil society.

Examine how global human rights standards are applied locally in developing countries, identify barriers and enablers, and explore how cultural and contextual factors influence FDI-human rights dynamics.

Investigate how FDI aligns with development goals like the SDGs to benefit human rights and social development and research strategies for economic diversification to reduce reliance on potentially harmful FDI.

Explore how global trends such as climate change and geopolitical shifts impact FDI and human rights, and study approaches to build resilience in developing countries to manage FDI implications better.

Research the effectiveness of international cooperation in addressing human rights issues related to FDI and identify opportunities for strengthening collaborative efforts and advocacy for stronger protections at national and global levels.

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