

## Dual Challenges in Host State Regulation on Transnational Corporate Damages: China's Dilemma and Breakthrough

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**Abstract :** Regulating environmental and human rights damages caused by transnational corporations in host States is a core issue in the business and human rights discourse. In current regulatory practices, host States, which are territorially based and should bear primary regulation responsibility, face dual challenges at both domestic and international levels, leading to their continued marginalization. Specifically, host States as TNC damage regulators are constrained domestically by territorial jurisdiction limitations and internationally by the neoliberal international economic order exemplified by investment protection mechanisms. Taking China as a sample, it currently lacks a comprehensive regulation system to address TNC damages; while domestic constraints manifest as the marginalization of judicial regulation, the absence of corporate duty of care, and inadequate extraterritorial regulation effectiveness, international constraints are reflected in the absence of foreign investor obligations in investment agreements and the asymmetry of dispute resolution clauses, challenging regulatory sovereignty. As China continues to advance its policy of high-quality opening up, the risks of negative externalities from transnational capital will continue to increase, necessitating a focus on building and perfecting a regulation mechanism for TNC damages within the framework of international law. To address domestic constraints, it is essential to clarify the division of regulation responsibilities between judicial and administrative bodies, promote the normalization of judicial regulation, and enhance judicial oversight of governmental settlements. Improving the choice of law rules for cross-border torts and the standards for parent company liability for omissions, and enhancing extraterritorial judicial effectiveness through transnational judicial dialogue and cooperation mechanisms are also crucial. To counteract international constraints, specifying investor obligations in investment treaties and designing symmetrical dispute resolution clauses are indispensable to eliminate regulatory chill. Additionally, actively advancing the implementation of TNC obligations in business and human rights treaty negotiations will lay an international legal foundation for the regulation sovereignty of host States.

**Keywords :** transnational corporate damages, home state litigation, optimization limit, investor-state dispute settlement

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