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Human Rights violations - A valid ground to pierce the corporate veil?

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In the age of corporatization, human rights infringements by subsidiaries of multinational companies have become a topic of great discussion. A company is considered to be a separate legal entity in the eyes of law. However, the doctrine of the lifting of the corporate veil is applied to prevent the misuse of the concept of a separate legal entity. Human rights violations by the agents of the subsidiaries are contained within the sphere of a foreign subsidiary by strategically applying the concept of lifting of the corporate veil. This aids the parent company in washing off its liability. Therefore, it can be contended that the current human rights model is inadequate to deal with human rights abuses. The paper tries to analyze the concept of lifting the corporate veil in light of human rights violations and whether the parent company should be held liable for the acts of its subsidiaries or not. It also analyses whether the current legal framework is sufficient or not.

Keywords: *companies act, corporate veil, human rights, corporate entity.*

INTRODUCTION

Liberalization of markets and the concept of ‘world as a global village’ has brought us to the emergence of a significant no. of corporates & multinational companies throughout the world. Multinational firms have distributed their productional works & further did the distribution to various dealers to increase their capacities by themselves into newer territories to maximize their

profits. Compartmentalizing multinational companies is often provided with by company laws and has led to shifting of risk, excessive risk-taking, and lack of proper redressal for the victim.

The surge in awareness about protecting human rights internationally has further increased the significance of this issue. The primary concern is to save the basic human necessities globally and to provide adequate redressal for the loss incurred.

The parent companies, when sued, perpetually rely on the twin principles of separate legal entity and limited liability. Company laws prevailing in various jurisdictions have incorporated the concept of corporate personality or separate legal entity directing that the shareholder and the company, as well as the subsidiaries and the company, are separate legal entities and thus have their own set of assets, rights and obligations. The principle, followed in India after the House of Lords judgment of *Saloman v. Saloman & Co*¹, implies that the parent company cannot be legally held liable, for both acts and omissions of its subsidiaries. This makes it extremely difficult for the victim, to claim something in opposition to the main sued firm as the exposure is capped. Apart from this, the principle of limited liability confines the investors' liabilities merely to the corporate conduct to the extent of their investments in the company. In this way, they can restrict their loss by way of keeping their assets separated.

This causation lead to the chain reaction to preserve the status quo so as to prevent the fraudulent activities taking place within the company by disregarding the corporate personality and delving into the reality beyond the legal façade and find the individual members who try to take shelter under the corporate veil.²

In *US v. Milwaukee Refrigerator Co*³, the court contended that 'as a general rule, the corporate will be looked upon as a separate legal entity. However, when this notion is used for fraudulent activities.'⁴

¹ *Saloman v Saloman & Co* UKHL 1 AC 22

² *Prest v Petrodel Resources Ltd* (2013) UKSC 34

³ *United States v Milwaukee Refrigerator Co* 142 F 247 (1905)

⁴ Sanjana Bharadwaj, 'Lifting the Corporate Veil' (*Savitribai Pune University*)

<<http://studymaterial.unipune.ac.in:8080/jspui/bitstream/123456789/4822/1/LIFTING%20OF%20CORPORATE%20VEIL-converted.pdf>> accessed 08 May 2021

Parent companies are eligible to pursue outsourcing without being proportionately responsible for the losses or the human rights violations of their subsidiaries.⁵ Writing off the corporate accountabilities by the parent companies often acts as an obstacle in accessing remedies. Therefore, it can be comprehended that the current territorial model that is responsible for regulating human rights violations by the corporates is insufficient and requires modifications.⁶ A proper system of checks should be designed to curb human rights violations by the companies that operate internationally and steps to boost compliance of corporates with their responsibilities pertaining to human rights should be imposed. This would lead to the benefit of the victim and would fulfill the collective goal of the international community.⁷

A major reason as to why the victims desire to sue the parent companies is the lack of financial resources with the subsidiaries. Also, a layman might not be able to decipher the complex corporate structure and hence might be oblivious to the distinction between the parent company and its subsidiaries.⁸

LITERATURE REVIEW

Key concepts and theories

- Doctrine of separate legal entity: It states that a corporation is a legal person and is thus separate in all spheres including its subsidiaries. This signifies that the company has its own set of obligations and liabilities that it is required to fulfill.⁹ This enables the company to act on its behalf. However, the concept of a separate legal entity is often misused by the shareholders to escape from the liability arising out of fraudulent activities or wrongdoing.

⁵ Bijan Brahmabhatt, 'Holding and Subsidiary Companies: Liability Sharing' (SSRN, 6 March 2008) <<http://dx.doi.org/10.2139/ssrn.1102271>> accessed 8 May 2021

⁶ S Deva, 'Corporate Human Rights Violations: A Case for Extraterritorial Regulation' in C Luetge (ed), *Handbook of the Philosophical Foundations of Business Ethics* (Springer, Dordrecht 2013)

⁷ H Steiner and others, *International human rights in context: law politics morals* (3rd edn, OUP 2008) 1394-1395

⁸ Piercing the Corporate Veil to impose criminal liability on Corporations <<https://indiancaselaws.files.wordpress.com/2014/04/piercing-the-corporate-veil-to-impose-criminal-liability-on-corporations.pdf>> accessed 08 May 2021

⁹ Rehman Waqas, 'Separate Legal Entity of Corporation: The Corporate Veil' 3(1) *International Journal of Social Sciences and Management* 1

- Doctrine of limited liability: one of the basic attributes of a company's legal personality is that it's a different lawful entity, from its shareholders and can thus enjoy a set of rights and duties which isn't accessible to the shareholders.¹⁰ It is also known as the 'no vessel, no liability' doctrine. A lot of consequences flow from this doctrine, which can be both in the interest of the shareholders as well as against them. This doctrine provided for a platform wherein investments weren't restricted to few wealthy partners, but also included small corporate shareholders. Although, a major drawback of this doctrine is that parent companies misuse it to protect themselves legally when high standards aren't maintained by the subsidiaries while performing risky tasks (E.g. - oil drilling).¹¹
- Doctrine of Lifting of the Corporate Veil: This doctrine acts as a check on the doctrines of separate legal entities and limited liability as it aims at 'looking beyond' the corporate personality to find out the actual perpetrators. It implies that if dishonest use of the legal identity of a company is made, then the concerned individuals will not be given the privilege to hide behind the corporate veil to escape liability.¹² Lifting of the corporate veil to hold the parent company liable for the acts of human rights violations by its subsidiaries is a highly contended issue because the parent companies often escape liability by hiding under the corporate veil.¹³

Review 1

➤ Liability of Parent Companies for Human Rights Violations of Subsidiaries¹⁴

Rolf H. Weber/Rainer Baisch

¹⁰ Virginijus Bite & Gintare Jakuntaviciute, 'Is the Limited Liability Doctrine Applicable to Company Directors?' (2014) 10(16) European Scientific Journal

¹¹ Irshad Hameed, 'The Doctrine of Limited Liability and the Piercing of the Corporate Veil in the Light of Fraud: A Critical Multi-Jurisdictional Study' (SSRN, 2013) <<https://dx.doi.org/10.2139/ssrn.2282306>> accessed 09 May 2021

¹² R Judith Priya and others, 'A Descriptive Study of the Doctrine of Lifting of Corporate Veil' (2018) 3(3) International Journal of Advance Research and Development

¹³ Editor, 'Lifting of Corporate Veil' (*Lawoctopus*, 5 June 2015)

<<https://www.lawctopus.com/academike/corporate-veil-2/>> accessed 09 May 2021

¹⁴ Rolf H Weber & Rainer Baisch, 'Liability of Parent Companies for Human Rights Violations of Subsidiaries' [2015] European business law review

The research paper focused on the human rights infringements by multinational enterprises and their effects on the victims. The concerns about incentives given to companies to structure themselves to escape liability were discussed and the risk attached to restricting the liability to the sphere of the subsidiary was highlighted. While the victims desire to invoke veil-piercing to hold the parent company straightaway liable, the parent companies often take shelter under the doctrine of lifting of the corporate veil, making the subsidiaries liable for their acts. Methods to establish a fair judicial process to hold the parent companies liable were discussed and a solution based on mandatory due diligence by the parent companies to adhere to the human rights was sought. An in-depth discussion of the case laws and judicial decisions as well as the prevailing statutory provisions was accomplished. Also, a critical analysis of the duty of care principle was done, while highlighting the role of the parent company in ensuring that the subsidiaries maintain the required amount of respect towards the human rights of the citizens. Principles of vicarious liability along with various other legal principles also find a mention in the research.

One of the key loopholes in the paper relates to the issue of unanswered questions. For example, the question about the level of potential impact necessitated to hold the parent company liable was raised but an adequate answer to the same wasn't provided. The lack of proper support of the answers to such questions created ambiguity at certain points.

Review 2

➤ Piercing the Veil of Business Incorporation¹⁵

Bello & Nrichel

This article aims at providing a deep review of the lifting of the veil of incorporation or the corporate veil. The article states that the sanctity of an organization lies on the veil of incorporation, deprivation of which can push the company towards corporate attack. It also

¹⁵ Bello & Nrichel, 'Piercing the Veil of Business Incorporation' [2014] American Research Institute for Policy and Development

highlighted the issues related to ‘attack by outsiders’ and the protection available to the members against such attacks.

However, the article missed incorporating the cases where individuals and/or other entities have used the corporate veil as a tool to commit wrongful acts and to perpetrate fraud. The recourse available against such misuse and the protection provided to the victims of such misuse didn’t receive adequate attention from the article.

UNDERSTANDING THE REVIEWS AND IDENTIFYING GAPS

The reviews helped by providing a better and deeper understanding of the topic and led to the exploration of newer angles. The intricate details mentioned in the research provided an opportunity to critically study the nuances of the topic and acted as a foundation stone for my study. An analogy about the primary question of research about whether the parent company should be held liable for the acts of its subsidiaries or not could be drawn with the help of these reviews.

RESEARCH OBJECTIVES

Human rights violations can be equaled with a situation of crisis, especially when the victims lack a proper mode of recourse. It is therefore very important to critically analyze the issue and find possible solutions to prevent the same. A similar pattern of human rights violations can be observed in the corporate sectors, where the parent companies hide behind the corporate veil and the subsidiaries are incapable of providing remedy.¹⁶ Therefore, the research tries to critically analyze the said concept with reference to human rights violations. The objectives of the same are as follows:

1. To analyze the concept of lifting of the corporate veil and its implications on the victims of human rights violations

¹⁶ Barcelona Panda, ‘Multinational corporations and human rights violations: Call for rebuilding the laws of twenty-first century’ (2013) 20(4) *Journal of Financial Crime* 422-432

2. To reflect upon the current legal position concerning the upsurge in human rights violations by MNCs in India and the need to curb it
3. To understand the role of parent companies concerning the acts performed by their subsidiaries and study the responsibility of the parent company to keep a check on the activities of its subsidiary
4. What can be the different factors and legal thresholds that can be responsible for making the parent company liable
5. To determine the reasons which render the victim helpless if aid is not provided by the parent company

RESEARCH QUESTION

1. Whether the parent company can be held liable for the human rights violations by its subsidiaries?
2. Whether the present legal framework is adequate to provide justice to the victims of human rights violations in India?

METHODOLOGY

The present paper is based on empirical and doctrinal research methodology using secondary sources including books, journals, research articles and e-sources.

SURVEY

A survey was conducted, as a part of the empirical research, to analyze whether human rights violations can be considered as a valid reason to pierce the corporate veil or not. The following observations have been made from the research conducted:

- i. Around 40% of people aren't fully aware of said veil itself
- ii. However, 80% people believe that the prevailing laws in the country aren't sufficient to hold the parent companies liable for the acts of their subsidiaries.

- iii. 86.7% of people are of the opinion that a single set of statutory provisions shall be adopted to govern and regulate the concept of limited liability and agree that the parent company should be held liable for the acts of their subsidiaries.
- iv. 46.7% of people believe that the concept of lifting of corporate veil tries to strike a balance between the interest of the public and a separate legal entity and 53.3% of people correspond to this possibility.

The results of the survey are attached below as Annexure I.

ANALYSIS

Companies expand their business to maximize profits in new markets and make deals with others in the competition and beyond. Various countries provide with the inflow of FDI along with international trade for their personal benefits like growth and development. One of the ways to support this free flow of capital is by providing a separate legal entity to the enterprise.

Companies maintain strategic control over their subsidiaries but leave the operations as well the safety mandates in the hands of local managers and governments. In this manner, while the parent company is still in control of the subsidiary, it can evade liability and step back when a violation arises.¹⁷

These subsidiaries often tend to violate the human rights of the people by pursuing unfair means. The subsidiaries are often found involved in gross human rights violations like child labor, pollution, price-fixing and mislabeling, etc. In India, the constitution guarantees some basic rights to the citizens under Article 21 namely the right to pollution-free air, the right to safe drinking water, right to a clean and healthy environment among others.¹⁸

When the companies pollute the waterways with toxic wastes or emit hazardous gasses through their chimneys, a gross violation of these rights takes place. However, little has been done to

¹⁷ *Harff v Kerkorian* 324 A 2d 215, 200 (Del Ch 1974)

¹⁸ *Shanti Star Builders v Narayan Totame* 1990 (1) SCC 520

safeguard these rights and provide for a fool-proof system to hold the companies liable to set a deterrent to avoid further violations and to compensate for the ones already committed.¹⁹

The States often fail to protect claimants of human rights violations that are caused by operations of these corporate groups. Their struggle to get remediation is further aggravated when they turn to the parent companies, who they believe are indirectly contributing to their harm or at least deriving benefits from it when they turn a blind eye towards them.

The parent companies are defended by the principle of a separate legal entity and limited liability which implies that the parent company cannot be held liable for the acts of its subsidiaries. This renders the victims of human rights violations helpless because all measures of recourse available to them are shut down. Therefore, a coalition of governments, multilateral banks and developed and developing nations is a must to deal with this problem.²⁰

Some of the reasons why subsidiaries fail to provide justice to the victims of human rights violations are:

- a. Lack of proper legislation to govern the behavior of the subsidiaries.
- b. Carelessness of the parent companies in administrating the actions of these subsidiaries.
- c. Unavailability of sufficient financial resources.
- d. Lack of understanding of the complex structure of the corporates by the layman.

Therefore, it is necessary to hold the parent company liable for the acts of its subsidiaries to:

- i. Provide justice to the victims of human rights abuse
- ii. Act as a deterrent, so that further violations can be curtailed
- iii. Establish a proper system of checks to provide security to the injured
- iv. Increase accountability of the companies towards the masses

¹⁹ Lena Ayoub, 'Nike Just Does It – and Why the United States Shouldn't: The United States International Obligation to Hold MNCs Accountable for Their Labor Rights Violations Abroad' (1999) 11 Depaul Bus L J 395, 400-01

²⁰ Barbara Crutchfield George & Kathleen A Lacey, 'A Coalition of Industrialized Nations, Developing Nations, Multilateral Development Banks, and Non-Governmental Organizations: A Pivotal Complement to Current Anti-Corruption Initiatives' (2000) 33 Cornell Int'l LJ 547, 550

- v. Prevent legitimization of risk-shifting from companies to victims
- vi. Curtail reckless investments (excessive risk-taking²¹) and socially irresponsible business decisions

A strategy for making the parent company liable for human rights violations, while respecting the concept of a separate legal entity shall be devised to strike the right balance b/w the rights and duties of the firm. The concept of a separate legal entity should in no way imply that the company cannot be held accountable for its acts.²²

LEGAL SCENARIO

The emergence of the issue being discussed is a direct consequence of the concept of separate legal entity as mentioned in the company laws. Company Law fails to create exceptions and provisions that could contain the excesses of the principle and the companies have thus, taken advantage of the same.

The principle is recognized in the civil as well as the criminal law countries and has therefore acquired a universal character.²³ The concept of holding a corporate liable for committing a criminal act under international law had emerged from the Nuremberg trials.²⁴ Later, in the Farben trials²⁵ the court recognized 'corporate obligations' that were cast upon these corporations as duties that were to be complied with.

Even though no specific laws exist under the Indian Constitution, the doctrine of duty of care mentioned under the law of torts makes a binding obligation on the companies to maintain reasonable care as a measure to cut down the possibility of causing harm. The court in the case

²¹ M Dearborn, 'Enterprise Liability: Reviewing and Revitalizing Liability for Corporate Groups' (2009) 97 California Law Review 206

²² OHCHR, Improving accountability and access to remedy for victims of business-related human rights abuse (A/HRC/32/19) 2016

²³ 'The Modern Corporation Statement on Company Law' (2016) Modern Corporation Project, Cass Business School, City University, London

²⁴ Steven R Ratner, 'Corporations and Human Rights: A Theory of Legal Responsibility' (2001) 111 Yale L J 443, 447

²⁵ *United States v Krauch* [The IG Farben Case], VIII Trials of War Criminals Before The Nuremberg Military Tribunals No 10 (1952)

of *Chandler v Cape*²⁶ established an exception based on the ‘assumption of responsibility’ by elaborating on the doctrine of responsibility. The lack of a legislative statute ends up creating ambiguity and confusion.

The differentiation between liability and non-liability settings is important to note as it creates a notable effect on the parent companies. The non-liability setting doesn’t bind the parent company to offer remediation. Some examples of laws created by different bodies are:

1. Accounting laws state that the company must issue consolidated reports which bind the parent company to present information about operations conducted by its subsidiaries. However, remediation is not included in the provision.²⁷
2. The product liability laws also portray a picture where the parent company and its subsidiaries are considered to be a single economic unit.²⁸ This gives space for the presumption that the parent company can be held liable for the acts of the subsidiaries.
3. Environmental laws also exemplify the concept of ‘parent liability’ along with cautionary lessons. An appropriate example is the CERCLA which mandates the parent company liable for clean-ups if the parent company was involved either as the owner or the operator of the polluted site.²⁹

The company law isn’t a sacrosanct and hence can’t prevent developments in other laws that might bind the parent company accordingly to achieve a specific objective.³⁰

CASE LAWS

²⁶ *Chandler v Cape* [2012] EWCA (Civ) 525

²⁷ Thomas K Cheng, ‘The Corporate Veil Doctrine Revisited: A Comparative Study of the English and the U.S. Corporate Veil Doctrines’ (2011) 34(2) Boston College International and Comparative Law Review 353

²⁸ Peter Behrens, ‘The extraterritorial reach of EU competition law revisited – The “effects doctrine” before the ECJ’ [2016] Discussion Paper, Institute for European Integration

²⁹ David Millon, ‘Piercing the Corporate Veil, Financial Responsibility, and the Limits of Limited Liability’ [2006] Washington & Lee Public Legal Studies Research Paper Series 12, 39

³⁰ R Skinner and others, ‘*The Third Pillar: Access to Judicial Remedies for Human Rights Violations by Transnational Business*’ [2013] International Corporate Accountability Roundtable

Some important cases where the concept of human rights violations and lifting of the corporate veil were discussed in detail are:

➤ *Union of India v. Union Carbide Corporation*³¹ – Bhopal Gas Tragedy

A case of gross human rights violations, this case has become an identity of India concerning company laws. The parent company, UCC is an American firm that had established a subsidiary in Bhopal under the name of Union Carbide India Limited (UCIL).³² The local administrators of the company, due to their negligent behavior, led to one of the most tragic events in the history of India. On 2nd December, 1984, when the whole city was asleep, 45 tons of methyl isocyanate escaped from an insecticide plant of the company.³³ Methyl Isocyanate is a poisonous gas that led to the death of several hundreds of people. Moreover, the effects of the gas can still be observed in the children of the mothers who were pregnant during the occurrence of the incident.

The question of lifting the corporate veil was posed in front of the court when the case was filed. While UCC argued that the court did not have any authority to lift the corporate veil, it was impossible to recover the losses from the subsidiary due to the lack of resources. The court believed that it would fail its duty if the corporate veil wasn't lifted in cases of such severe nature.

➤ *Hindustan Coca-Cola Pvt. Ltd. v. Perumatty Grama Panchayat*³⁴

The Coca-Cola Company in India is responsible for gross violations of human rights. The requirements of the company to prepare bottled drinks led to the release of contamination of water bodies due to the chemical waste also referred to as 'slurry'. This, along with plastic, paper, and metal waste was dumped in fertile agricultural fields under the pretext of manure.

³¹ *Union of India v Union Carbide Corporation* 1990 AIR 273

³² 'Union Carbide Corporation' (*Union Carbide*) <<https://www.unioncarbide.com/about-us.html>> accessed 11 May 2021

³³ Ratna Kapur, 'From Human Tragedy to Human Rights: Multinational Corporate Accountability for Human Rights Violations' (1990) 10(1) Boston College Third World Law Journal

³⁴ *Hindustan Coca-Cola Pvt Ltd v Perumatty Grama Panchayat* 2005 (2) KLT 554

In a timeline of around 6 months, water in the locality became unfit for drinking and cooking. This led to the draining of wells and watersheds nearby and also affected the yield from the paddy fields drastically.

➤ Walmart Inc.

Walmart has been accused of various human rights violations in India long before it was acquired a place in the Indian markets.³⁵ Gender-based violence is synonymous with Walmart in many parts of the globe. However, recently Walmart has agreed to pay a sum of \$287 million of penalties to India as well as various other countries because it failed to keep a check on matters related to bribery and corrupt practices.³⁶ This also led to the dissolution of the partnership between Bharti Enterprise and Walmart in India.³⁷

➤ Tata Engineering and Locomotive Co. Ltd. v. State of Bihar & Ors³⁸

A matter in which the applicants had simultaneously sought immunity within Art 286 & requesting the relaxation from paying taxes on the selling off or acquisition of commodities. According to the SC, 'if this claim is adopted, this might imply that if what organizations or firms can't directly carry on with, they might do covertly by depending on the notion of raising the veil.'³⁹

➤ Vijay Mallya's Case

The owner of the Kingfisher Airlines, Vijay Mallya had expanded and diversified from the initial liquor business by inaugurating Kingfisher airlines in 2005. From being the holder of the second largest share in India's domestic air travel market to running into debts and losses, Kingfisher

³⁵ 'World Report 2007' (*Human Rights Watch*, 2007) <<https://www.hrw.org/world-report/2007>> accessed 12 May 2021

³⁶ Walter Loeb, 'Walmart: What Happened In India?' (*Forbes*, 16 October 2013) <<https://www.forbes.com/sites/walterloeb/2013/10/16/walmart-what-happened-in-india/#630776727d1c>> accessed 12 May 2021

³⁷ *Ibid*

³⁸ *Tata Engineering and Locomotive Co Ltd v State of Bihar* 1965 AIR 40

³⁹ Bharadwaj (n 4)

airlines had witnessed huge changes.⁴⁰ Vijay Mallya had lent a high amount of money from the banks in the name of Kingfisher airlines however, this money wasn't used for due purpose. While trying to hide under the corporate veil, he pledged that he hadn't personally borrowed the money and that he was a separate person from the company and couldn't be held liable for merely being a guarantor.⁴¹ The banks had filed a suit requesting the application of the doctrine of lifting the corporate veil to find the culprit as this case had severely affected the lives and human rights of the workers associated with the company.

Various other companies like Vodafone⁴², Nestle⁴³, Apple⁴⁴, etc. have been allegedly accused for human rights violations throughout the world. Therefore, it becomes the prime responsibility of the whole global community to take immediate action to protect the rights of people.

CONCLUSION AND SUGGESTIONS

A pattern of behavior of the multinational enterprises has been observed with regards to their liability concerning subsidiaries. Therefore, it is necessary to probe deeper into the problem and increase the availability of redress to those injured. Human rights are the basic set of rights available to an individual and must be protected at all costs. It can thus be concluded that the parent company should be held liable for the acts of its subsidiaries and the risk of economic operations should be distributed in a fair manner between the company and its subsidiaries to maximize the rights available to the victims.⁴⁵

⁴⁰ Jayant Srivastava and others, 'Reason Behind Kingfisher Airline's Failure: An Eye-Opening Case Study Revealing Three Key Words for Aviation Industry Success: Costs, Costs, Costs' (*Jaipuria*, 2013) <<https://jaipuria.edu.in/pgdm/wp-content/uploads/2013/07/Reason-behind-Kingfisher-Airlines-Failure.pdf>> accessed 13 May 2021

⁴¹ Anshul Dhamija, 'Blog: The curious case of Vijay Mallya and India's PSU banks' (*Forbes India*, 9 March 2016) <<https://www.forbesindia.com/article/special/blog-the-curious-case-of-vijay-mallya-and-indias-psu-banks/42625/1>> accessed 13 May 2021

⁴² *Vodafone International Holdings BV v Union of India* Civil Appeal No733 OF 2012

⁴³ 'Human Rights Watchdog and Civil Rights Firm Sue Nestle, ADM, Cargill, for Using Forced Child Labor' (*International Labor Rights Forum*, 7 May 2015) <<https://laborrights.org/releases/human-rights-watchdog-and-civil-rights-firm-sue-nestle-adm-cargill-using-forced-child-labor>> accessed 14 May 2021

⁴⁴ Craig Simmons, 'China's besieged factories: Activists aim to expose unscrupulous labor practices to shame companies' (*Atlanta-Journal Constitution*, 14 February 2007) <<http://geography.fullerton.edu/taylor/geog100/chinaajc.htm>> accessed 15 May 2021

⁴⁵ Thomas K Cheng, *The Corporate Veil Doctrine Revisited: A Comparative Study of the English and the U.S. Corporate Veil Doctrines*, (2011) 34(2) *Boston College International and Comparative Law Review* 353

One should not overlook distinctions regarding multinational enterprises (equity or contract-based), liability (direct or vicarious), legislations (redress or non-redress settings), and various other factors as discussed while drawing out analogies. Making valid distinctions avoids misperception about the accountability of the parent company, making it convenient to provide redress.⁴⁶

While it is necessary to provide redressal, the complication existing in the principle of legal separation mustn't be ignored. The principle of a separate legal entity has aided the working of the companies on various occasions and has a far-reaching impact on the organization as well as the creditors and the market including a reduction in a multitude of costs.⁴⁷ Therefore, it becomes necessary to strike the right balance between the vast literature and reform proposals and the ramifications of the legal separation principle.

Another important aspect that needs to be considered while analyzing the remedies deals with the model of redressal adopted. Two major models are; the extended liability model⁴⁸ (aims at reversing the principle of separate legal entity) and the polycentric governance⁴⁹ (also known as the 'going around' principle). However, the primary concern should be laid upon the fact that both the models have their own set of benefits and limitations which might have a

⁴⁶ Martin Petrin, 'Assumption of Responsibility in Corporate Groups: Chandler v Cape plc' [2013] Modern Law Review

⁴⁷ Kenneth Ayotte & Henry Hansmann, 'Legal Entities as Transferable Bundles of Contracts' (2013) 111 Mich L Rev 715, 717

⁴⁸ Jean-Philippe Robé, 'The Legal Structure of the Firm (2011) 1(1) Accounting, Economics, and Law

⁴⁹ John Ruggie, 'Just Business: Multinational Corporations and Human Rights' [2013] Norton 188