

Defeating Goliath with his Own Sword: sue corporations for human rights violation

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The research proposes an approach to combine investment arbitration and human rights law, in order to hold multinational corporations responsible for human rights violations including poor labour condition and environmental pollution.

Much like the invincible strength of Goliath, large corporations possess an asymmetric advantage caused by the defect of traditional international human rights law, which imposes obligations on states and not capable of directly punishing an individual corporation.

To turn Goliath's sword against himself involves a shift in the investment arbitration law, a legal system invented originally for foreign corporations to sue states for unfair regulations. By devising the currently existing "counter-claim" procedure, a state can become the plaintiff that sues the corporations for the damages caused by their commercial activities in an efficient manner.

This research analyses the cases involving human rights violation, suggesting that the arbitrators are proven more inclined to rule against large corporations in human rights violation cases.

This research examines the several arbitration procedural rules and confirms the possibility to use human rights as counterclaims against wrongdoing corporations.

However, this research still discovers the potential risk of corporations evading the legal responsibility by choosing an arbitration forum that doesn't contain a counter-claim procedure.

In conclusion, both the existing legal instruments and case law interpretation support the revolutionary new approach of holding corporations responsible through counterclaims in investment arbitration.