

SPECIAL ISSUE

MULTINATIONAL ENTERPRISES, CORPORATE GROUPS AND SUPPLY CHAINS IN A GLOBALISED WORLD

INTRODUCTION

On 3–4 November 2017 the sixth International Corporate Governance and Law (ICGL) Forum was held in Hamburg. The Forum was co-sponsored by: the Alexander von Humboldt Foundation through the Anneliese Maier Research award that Professor Jean du Plessis received from 2013–2018; the Bucerius Law School (the organising host being Professor Jörn Axel Kämmerer who was acting as Director of the Institute for Corporate and Capital Markets at that time) and; the Deakin Law School. The theme of the Forum was ‘Multinational Enterprises, Corporate Groups and Supply Chains in a Globalised World: Regulatory Challenges and Approaches, and the Future Role of Company Law and Corporate Governance’. Articles arising from the papers of this Forum are published in this Special Issue of the *Deakin Law Review*.¹

The Forum theme was chosen because multinational enterprises have grown in significance over the last decades. These companies usually have a sophisticated corporate group structure, with subsidiary companies both in the home state of the parent company and abroad. In the era of globalisation these companies increasingly also rely on complex supply chains which often span different countries and continents. These developments pose significant challenges for traditional concepts of company law, regulation of corporate entities and especially corporate governance. For example, the concept and exact meaning of the company as a separate legal entity needs to be examined,

¹ The presentations themselves are available at <<http://2017-hamburg.icgl.org.au/presentations/>>.

and the principle that directors must act ‘in the best interests of *the company*’ needs to be tested. What different interests are represented in ‘*the company*’? What does this mean in the context of groups of companies? If corporate governance is to serve values such as human rights or the protection of the environment, how can we ensure that a multinational enterprise stays committed to these values? There is much discussion about a so-called ‘regulatory gap’ in supply chains which allows multinational enterprises to outsource not only the production, but also legal liability for harm caused by the enterprise to suppliers. The hitherto dominant soft law approach to addressing the issues posed by such business structures has been much criticised, but is there an alternative to it? In recent years, particularly following the release of the UN *Guiding Principles on Business and Human Rights*, much emphasis has been placed on corporate disclosure, but there are questions and some doubts about its impact.

The articles in this Special Issue of the *Deakin Law Review* focus on these and other issues. At the Forum the extent to which existing legal concepts are still fit for purpose was debated and it was asked whether new and modern concepts should be developed to deal with the many challenges associated with multinational enterprises, corporate groups and supply chains in a globalised world.

The 2018 Deakin Law Oration, delivered by Professor Mervyn King SC and also published in this Issue, serves as a timely introduction to the discussion of corporate law in a world challenged by climate change.

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