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IDENTIFYING LIABILITIES OF FOREIGNNESS AND STRATEGIES TO MINIMIZE THEIR EFFECTS: THE CASE OF LABOR LAWSUIT JUDGMENTS IN THE UNITED STATES

JOHN M. MEZIAS*
Department of Management, University of Miami, Coral Gables, Florida, U.S.A.

Most foreign direct investment (FDI) theories assume that foreign subsidiaries are at a disadvantage relative to domestic firms; that is, they suffer a liability of foreignness. Following this reasoning, most FDI research has focused on advantages foreign investors must possess to overcome whatever disadvantages they face. Research directly investigating the sources of foreign subsidiary disadvantages has been notably lacking, despite the fact that understanding disadvantages could uncover ways to reduce exposure to these liabilities of foreignness and improve management of FDI. This study focuses on whether labor lawsuit judgments represent a liability for foreign subsidiaries operating in the United States (U.S.). Specifically, I tested whether 486 British, German, and Japanese subsidiaries operating in the U.S. had more labor lawsuits brought to judgment than a matched sample of U.S.-owned firms. Results indicate that foreign subsidiaries faced significantly more labor lawsuit judgments in both federal and state jurisdictions. I also investigated several variables hypothesized to be associated with a reduction in labor lawsuit judgments facing foreign subsidiaries. Foreign subsidiaries who used American top officers or whose parent firms had more U.S. operations faced fewer lawsuits, while foreign subsidiaries using human resource professionals actually faced more labor lawsuit judgments. Implications of these findings and avenues for future research are discussed.

INTRODUCTION

Most foreign direct investment (FDI) theories assume that foreign subsidiaries face disadvantages or experience liabilities of their foreignness relative to domestic firms because of information asymmetries and transaction costs (Hymer, 1976), distance impeding decision making (Kindleberger, 1969), and local biases (Vernon, 1977). Recognizing subsidiary disadvantage, Caves (1971) argued that firms investing abroad must possess enough specific asset advantages to counter these disadvantages. Following this logic, most FDI research has focused on sources and types of advantages that foreign investors must possess to overcome whatever disadvantages they may face. While advantages, such as intangible assets, do affect subsidiary performance, disadvantages facing foreign subsidiaries also affect performance (Zaheer, 1995; Mezias, 1999, 2000). Investigating these disadvantages could uncover strategies that reduce exposure to these liabilities of foreignness and improve management of FDI. However, few studies document a specific liability of foreignness within a focal country and investigate strategies that might reduce exposure to this disadvantage.

Recently several studies reported evidence of labor-related subsidiary disadvantage in the United States (U.S.) stemming from higher employee expenses (Mincer and Higuchi, 1988; Lipsey, 1994) or lower profitability associated with not

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*Correspondence to: John M. Mezias, Department of Management, University of Miami, 414 R. Jenkins Building, Coral Gables, FL 33124-9145, U.S.A.

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adopting locally accepted practices (Zaheer, 1995). However, these studies have some limitations. Mincer and Higuchi (1988) compared only Japanese and U.S. firms; so, higher employee expenses could represent different human resource (HR) approaches by Japanese firms rather than a liability of foreignness. Lipsey (1994) focused exclusively on manufacturing firms, despite the fact that service firms represent a rapidly growing proportion of U.S. gross domestic product. Zaheer (1995) was first to tie liability of foreignness to the failure to adopt host country practices. However, because she studied only firms in Tokyo and New York City, it is possible that this liability is specific to these cities rather than more broadly applicable. Additionally, transfer pricing or income shifting between subsidiary and parent could affect her profitability measure. In this study, I build on this research by investigating foreign subsidiaries from three countries, operating in both service and manufacturing industries, and using a measure unaffected by transfer pricing—labor lawsuit judgments. I examine if labor lawsuit judgments represent a liability of foreignness for foreign subsidiaries operating in the U.S. Specifically, I compare the number of labor lawsuit judgments against 486 British, German, and Japanese subsidiaries operating in the U.S. with the number of labor lawsuit judgments against 486 U.S.-owned firms operating in the same industries and cities. Using a subsample of the 486 foreign subsidiaries, I go a step further by examining whether foreign subsidiary behaviors, such as key staffing strategies, level of autonomy, number of affiliated firms a multinational enterprise (MNE) has in the U.S., and foreign subsidiary age, affect exposure to labor lawsuit judgments.

Why study labor lawsuit judgments? First, it is important to identify how the U.S. legal environment, which embodies legal, social, and cultural norms (Edelman and Suchman, 1997), can create liabilities for foreign subsidiaries. Second, while most performance measures aggregate advantages and disadvantages, labor lawsuits only measure labor-related disadvantage. Also, income shifting or transfer pricing between parent and subsidiary do not affect this measure. Thus, labor lawsuits provide a unique window to directly assess disadvantages. Third, there are significant costs of noncompliance with U.S. labor laws. Jury Verdict Research Corporation reports that employee plaintiffs won 78.9 percent of defamation cases, 70.0 percent of sexual discrimination and harassment cases, and 58.4 percent of wrongful discharge cases. The average jury award exceeded $600,000 and awards of several million dollars were not uncommon (Edwards, 1994). Legal fees for employment cases going to trial average $100,000 and often firms pay over $1,000,000 (Nye, 1995). Potentially more serious than legal costs are workforce disruptions, reputational loss, and potential boycotts of nonconforming firms. Lastly, research on this phenomenon is sparse, which is especially surprising given that employee discrimination suits increased 20 times more than civil suits from 1969 to 1989 (Donohue and Siegelman, 1991). The subsequent passage of the 1991 Civil Rights Act and the Americans with Disabilities Act has likely fueled further increases.

In this study I address two issues. First, I examine if labor lawsuit judgments represent a liability of foreignness for foreign subsidiaries operating in the United States. Second, I examine if foreign subsidiary behaviors affect this liability. In the following section, I address the first issue by reviewing literature on the U.S. legal environment and diffusion of accepted HR practices. I interpret this literature to suggest that foreign subsidiaries will be more likely to face labor lawsuit judgments than their domestic counterparts. I then investigate the second issue by developing hypotheses about which foreign subsidiaries will be most likely to face labor lawsuit judgments based on strategies and subsidiary characteristics. In the ensuing section, I describe my sample and research design. Then, I present and discuss the empirical results. I close with a discussion of implications and avenues for future research.

THE LEGAL ENVIRONMENT AND DIFFUSION OF ACCEPTED HR PRACTICES

Complexities of the legal environment pose a serious challenge for all organizations operating in the U.S. especially in the area of labor law. Compliance with some labor laws is obvious (e.g., minimum wage, regulated work hours), but other laws are more complex (i.e., the Equal Pay Act of 1963 and Title VII of the Civil Rights Act of 1964). On the surface these laws seem straightforward, but how exactly does a

firm demonstrate compliance with antidiscrimination legislation? Although these laws exert a strong influence on employee–employer relationships, they do not provide specific prescriptions for compliance or mandates for changing employment practices.

Legal environment theory (Edelman, 1990,1992) addressed how adopting certain HR practices helps organizations achieve at least the perception of compliance with ambiguous laws. This theory builds on institutional arguments that societal norms influence both organizational structure and behavior (Meyer and Rowan, 1977; DiMaggio and Powell, 1983; Scott and Meyer, 1983; Scott, 1983). Edelman (1990: 1402) argued that ambiguous 'law creates and helps to constitute, a normative environment to which organizations must adapt.' According to this perspective, interplay between organizations and the public legal order determines which organizational practices are perceived as legitimate and become accepted (Edelman, 1990, 1992). Documenting this complex process with respect to labor practices, Baron, Dobbin, and Jennings (1986) detailed the idiosyncratic evolution of bureaucratic personnel practices in the United States. The challenge is twofold: Firms must identify and successfully implement accepted HR practices.

This challenge may be especially daunting for foreign subsidiaries. Legal and cultural norms are specific to nations and culture strongly influences laws and the diffusion of accepted HR practices (Edelman, 1990, 1992). Managers of non-U.S. operations are likely less familiar with U.S. culture and laws than managers of U.S. firms. Given short training periods and lengths of international assignments, it is difficult for expatriates to develop a deep understanding of their host country's society, culture, and workplace regulations. Yet, identifying and successfully implementing accepted HR practices requires a deep understanding of legal and cultural norms. Additionally, expatriates may not be ready for the complex array of U.S. labor laws and regulations (Payson and Rosen, 1991). The fragmented nature of the U.S. legal environment adds to the complexity because case precedent and cycles of judicial progressiveness differ by court at both the federal and state level (Abzug and Mezias, 1993). Consequently, foreign managers are at a disadvantage relative to domestic managers.

Other factors may also contribute to labor problems facing foreign subsidiaries. Foreign subsidiaries often use, at least initially, their home country business practices, which likely differ from accepted U.S. practices. Ewing (1982) argued that when society views certain practices (i.e., due process) as fair, not adopting these practices creates perceptions of unfair governance even if these practices do not violate employees' rights. If societies perceive that some foreign subsidiaries violate their norms of appropriate HR practices, this perception may create a bias against all foreign subsidiaries, including those using accepted HR practices. Perceptions of unfairness and biases against foreign subsidiaries, regardless of justification, could lead to labor lawsuits. Consequently, foreign subsidiaries may face more labor lawsuits than their domestic counterparts. Other things being equal, this suggests that they are more likely to face labor lawsuits that go to court and eventually result in judgments against them. Stated formally, I test if foreign subsidiaries face a disadvantage with respect to labor lawsuit judgments.

Hypothesis 1: Foreign subsidiaries face more labor lawsuit judgments than their domestic counterparts.

REDUCING EXPOSURE TO LABOR LAWSUIT JUDGMENTS

Foreign subsidiary staffing strategies

I have argued that foreign subsidiaries experience a liability of foreignness with respect to labor lawsuit judgments. It is important to take the next step to examine which staffing strategies might help foreign subsidiaries reduce their exposure to labor lawsuit judgments. As mentioned above, both identifying and implementing accepted HR practices is a crucial task that requires a deep understanding of legal and cultural norms. Americans likely have a better understanding of U.S. legal and cultural norms and have more experience working with U.S. employees. Foreign subsidiaries with Americans in charge of HR issues may benefit from their deeper understanding of norms and their experience with U.S. employees. Subsidiaries with expatriates in charge of HR issues miss out on these benefits and may be at a disadvantage identifying and implementing accepted HR practices. Consequently, subsidiaries with expatriates in charge of HR issues may face more labor lawsuits. Stated

formally, I test whether foreign subsidiaries with an American in charge of HR issues face fewer labor lawsuit judgments.

Hypothesis 2: Foreign subsidiaries with Americans in charge of HR issues face fewer labor lawsuit judgments than subsidiaries with expatriates in charge of HR issues.

A separate issue is whether foreign subsidiaries use an HR professional instead of a functional or departmental manager to handle HR issues in addition to their other duties. Past research has shown that HR professionals played an important role in the complex evolution of modern U.S. personnel practices (Baron *et al*., 1986). Indeed, Edelman (1990, 1992) found that personnel professionals' networks and mobility correlated highly with the diffusion of legitimizing organizational practices. Foreign subsidiaries with HR professionals may benefit from their previous experience and network connections and, thus, may be better able to identify and implement accepted HR practices. Consequently, HR professionals may help foreign subsidiaries reduce their exposure to this liability. Stated formally, I test whether foreign subsidiaries with HR professionals face fewer labor lawsuit judgments.

Hypothesis 3a: Foreign subsidiaries with HR professionals face fewer labor lawsuit judgments than subsidiaries without HR professionals.

While past theory and research suggest that HR professionals could help foreign subsidiaries reduce exposure to labor lawsuit judgments, it is important to note the potential for reverse causation in this relationship. That is, a foreign subsidiary may only hire an HR professional if it is having labor problems. Given the lag time in filing and resolution of labor lawsuits, it might appear that those foreign subsidiaries with HR professionals actually experience more labor lawsuit judgments. This 'hire to put out the fire' strategy may result in findings opposite to what was predicted in Hypothesis 3a. Therefore, I test a competing hypothesis. Stated formally, I test whether having an HR professional will be associated with a greater number of labor lawsuit judgments.

Hypothesis 3b: Foreign subsidiaries with HR professionals face more labor lawsuit judgments than subsidiaries without HR professionals.

Although HR professionals are trained to deal with labor problems, hiring an HR professional may not be sufficient to reduce labor lawsuits judgments. HR professionals often lack the managerial discretion to significantly change practices, especially if those practices are used successfully by their parent firms. Perhaps changing HR practices and influencing implementation requires the support and understanding from those higher in the hierarchy. To understand more fully the effect of staffing strategies on labor lawsuit judgments, it is necessary to examine who is the top officer at these foreign subsidiaries. There is extensive literature on top officers influencing their organizations' actions (Barnard, 1938; Andrews, 1971; Hambrick and Mason, 1984; Hambrick, 1989). American top officers are more familiar with U.S. cultural and legal norms than expatriate top officers are. Consequently, having an American top officer could help a foreign subsidiary identify and especially implement accepted HR practices that may reduce labor lawsuit judgments. Stated formally, I test whether having an American top officer reduces the number of labor lawsuit judgments foreign subsidiaries face.

Hypothesis 4: Foreign subsidiaries with American top officers face fewer labor lawsuit judgments than subsidiaries with expatriate top officers.

Subsidiary/parent relationship

All subsidiaries face conflicting pressure to maintain internal consistency with their parent's organizational practices and to adapt locally (Prahalad and Doz, 1987; Evans and Doz, 1989; Bartlett and Ghoshal, 1989). Although Kerr *et al*. (1960) argued that management practices were becoming more similar globally, Dunlop *et al*. (1975) concluded that total convergence was impossible because of the social, political, and cultural diversity of managerial approaches. The level of adaptation to host country practices likely depends on the level of autonomy given foreign subsidiaries. A key issue in autonomy is the chain of reporting among operations in an MNE. Fayerweather (1969) discussed how 'communication gaps' between parent and subsidiary may inhibit a foreign subsidiary's ability to respond quickly and effectively to host country problems. Bartlett and Ghoshal (1989) specifically tied communication

gaps to autonomy levels of subsidiary managers. Greater autonomy from parent firms, which are likely less in tune with host country norms and practices than the foreign subsidiary's managers are, may facilitate foreign subsidiary adaptation to local conditions. Indeed, some MNEs may provide greater autonomy to encourage subsidiaries to adopt local practices. Stated formally, I test if greater autonomy from parent firms reduces the number of labor lawsuit judgments foreign subsidiaries face.

Hypothesis 5: Foreign subsidiaries with greater autonomy from their parents face fewer labor lawsuit judgments.

Extent of a MNE's involvement in the host country

Recent research suggests that subsidiaries of MNEs with more affiliated U.S. operations were more likely to survive (Shaver, Mitchell, and Yeung, 1997) and expand (Hennart and Park, 1994). Other studies found evidence of learning and diffusion of innovation across a network of affiliated organizations (Argote, Beckman, and Epple, 1990; Cool, Dierickx, and Szulanski, 1997). An affiliated network may be a foreign subsidiary's best opportunity for vicarious learning; that is, learning from the experience of others (Miner and Mezias, 1996). The argument is straightforward: It is easier to identify and understand successful practices of affiliated firms than the practices of unaffiliated domestic firms. This organizational learning argument suggests that affiliated foreign subsidiaries may benefit from learning and diffusion related to identifying and implementing accepted HR practices. There is also an institutional argument why foreign subsidiaries affiliated with more U.S. operations might be less likely to experience labor lawsuit judgments: They have higher profiles and are more visible. Greater visibility may result in greater care to be in compliance because more visible foreign subsidiaries are more vulnerable to normative pressures (Edelman, 1990). Both arguments suggest that more host country affiliations may reduce labor lawsuit judgments. Stated formally, I test if having more affiliated U.S. operations reduces the number of labor lawsuit judgments foreign subsidiaries face.

Hypothesis 6: Foreign subsidiaries of parent firms with numerous U.S. operations face fewer labor lawsuit judgments.

Organizational age has long been an important predictor of population vital rates. Following Stinchcombe (1965), the predominant view of the effect of age, supported by considerable empirical evidence (Baum, 1996), has been a liability of newness: Young organizations are at a survival disadvantage. This ecological argument is consistent with an organizational learning argument that lack of experience and learning opportunities put younger firms at a disadvantage. While affiliation with numerous subsidiaries may facilitate vicarious learning, age may be a measure of experiential learning; that is, the extent to which firms learn from their own experience (Miner and Mezias, 1996). Thus, older foreign subsidiaries may have learned to minimize their exposure to labor lawsuit judgments. There is also a pure selection argument why older foreign subsidiaries may face fewer labor lawsuit judgments: Younger foreign subsidiaries with numerous labor problems may decide to shut down host country operations. So, both a learning and selection argument would suggest that older firms would experience fewer labor lawsuit judgments. Stated formally, I test if increased age reduces the number of labor lawsuit judgments foreign subsidiaries face.

Hypothesis 7: Older foreign subsidiaries face fewer labor lawsuit judgments.

EMPIRICAL SETTING

Sample description

The foreign half of the sample consists of 486 British, German, and Japanese subsidiaries. By foreign subsidiary I am referring to any host country operation (e.g., sales offices, branch offices, plants, or local headquarters) controlled by a foreign parent. I identified foreign subsidiaries using the *Subsidiaries of German Firms in the U.S.*, the *Directory of Japanese Affiliated Companies in the U.S.A. and Canada*, and the *U.K./U.S.A. Directory: A Directory of Bilateral Investment*. The industries represented include both service and manufacturing and span numerous Standard Industrial Classification (SIC) codes. The second half of the sample consists of 486 U.S. firms operating in the same 4-digit SIC code and in the same location as the foreign subsidiaries. For example, if three Japanese, two German, and four British-owned hotels operating in San Francisco were included among the

foreign subsidiaries, then nine U.S.-owned hotels were randomly selected from the total population of U.S.-owned hotels operating in San Francisco.

The four locations satisfy several important selection criteria. First, while anecdotal evidence suggests that foreign subsidiaries have location biases, Shaver (1998) found differences in the location patterns of foreign and U.S.-owned manufacturing firms in the United States. He ranked states according to foreign subsidiaries' location preferences. For the states included in my sample, Georgia was most favored, Illinois was moderately favored, California was moderately disfavored, and New York was highly disfavored. Sampling from these locations provides variance on factors not directly measured, e.g., right to work legislation, average wage rates, and unionization. The intention is to prevent spurious findings linked to those factors. Second, federal district courts have jurisdiction over specific geographic regions corresponding to groups of states. Because legal application and interpretation vary across courts and judges, selecting locations under different federal district court jurisdictions affords a more diversified national test of these hypotheses. Obviously, these locations also provide state-level jurisdictional diversity. Sampling from a single metropolitan area within each state avoids problems associated with intrastate jurisdictional differences. For example, New York State has 1076 different courts. Third, selected locations need sufficient British, German, and Japanese subsidiaries to ensure a large enough sample. Based on these criteria, the Atlanta, Chicago, New York City, and San Francisco metropolitan regions were the chosen locations.

Testing my hypotheses requires tying each judgment to the specific organization generating the dispute. This allows me to track which staffing strategies, practices, and characteristics are associated with that labor lawsuit judgment. Court jurisdiction provides an easy way to identify the focal organization generating the dispute in a particular metropolitan area. However, this is problematic when organizations in a metropolitan area have the exact same name, most notably branch offices of banks. Because litigants' addresses are not provided, it is almost impossible to identify which of these same-named organizations generated the dispute leading to a judgment. Accordingly, I excluded all same-named organizations operating in the same metropolitan area. I also excluded foreign subsidiaries with fewer than 10 employees because these smaller operations likely use mostly expatriates. Expatriates would be reluctant to air grievances with their parent company or its subsidiary operations in a host country forum such as the U.S. courts (Clermont and Eisenberg, 1996).

Originally, I identified 549 foreign subsidiaries; of these, 3 moved outside their original metropolitan area, 8 went out of business, 1 was acquired, and 51 were unreachable. Consequently, these 63 subsidiaries were dropped; the remaining 486 subsidiaries comprised the sample to test Hypothesis 1. Table 1 depicts their national origin and metropolitan locations; there is a matched U.S. firm for each foreign subsidiary in the analysis to test Hypothesis 1. To obtain some of the data to test Hypotheses 2 through 7, I created a survey and sent it to each foreign subsidiary. Initially, 192 foreign subsidiaries responded and 64 more responded when I re-sent the survey, yielding 256 foreign subsidiaries and a response rate of approximately 53 percent. However, missing items left me with only 176 usable surveys; as a result, the sample size for models testing Hypotheses 2 through 7 was 176.

Dependent variables

While performance measures, such as profits or return on investment, aggregate a firm's advantages and disadvantages, labor lawsuit judgments

Table 1. Foreign subsidiaries by national origin and metropolitan area

	Atlanta	Chicago	New York	San Francisco	Totals
Germany	15	4	43	5	67
Japan	38	29	122	44	233
United Kingdom	23	17	134	12	186
Totals	76	50	299	61	486

The U.S. firms selected identically match this locational distribution.

directly measure only the disadvantages. Additionally, accounting techniques such as transfer pricing or income shifting between parent and subsidiary cannot manipulate this measure, which is an important concern when assessing foreign subsidiary performance. Thus, labor lawsuit judgments provide a unique window to assess directly a liability of foreignness. I use two dependent variables to track labor lawsuit judgments brought against each firm. One is the count of labor lawsuit judgments brought in federal courts, and the other is the count of those brought in state courts. Tracking both federal and state judgments provides a more comprehensive assessment of whether foreign subsidiaries operating in the U.S. face a liability of foreignness with respect to labor lawsuit judgments. Since my hypotheses are tied to the activities at specific subsidiary locations, I count only labor lawsuit judgments from courts with jurisdiction in the focal firm's specific location: either Atlanta, Chicago, New York City, or San Francisco.

Why use labor lawsuit judgments rather than simply counting labor lawsuit filings? Unfortunately, records of lawsuits filed are only broken down into two categories: civil and criminal. In addition to labor lawsuits, civil filings include product liability, contract disputes, patent infringements, insurance, securities, antitrust, and a host of other types of civil actions. Since civil filings are commingled, it is extremely difficult to disaggregate labor lawsuit filings from other civil filings and in many cases this is not possible. Consequently, it does not seem reasonable to use civil lawsuit filings to test labor-related hypotheses because the count would include different types of civil actions. In addition, using labor lawsuit judgments provides a conservative test of the hypothesis of liability of foreignness. Evidence strongly suggests that foreigners are much more likely to settle or abandon U.S. lawsuits rather than litigate. Based on their study of more than 94,000 federal lawsuits from 1987 to 1994, Clermont and Eisenberg (1996: 1133–1134) concluded that foreign firms:

> . . . are reluctant to litigate in American courts for a variety of reasons, including the apprehension that American courts exhibit xenophobic bias and the pecuniary and non-pecuniary distastes for litigating in a distant place.

Of course, it is this reluctance to litigate as defendants that is most relevant: They specifically argue that foreign subsidiaries satisfy most claims prior to going to litigation. Since foreigners are more likely to satisfy claims before they come to judgment, any bias or endogeneity stemming from a potential settlement bias works in favor of the null hypothesis. Thus, testing if foreign subsidiaries face more labor lawsuit judgments is a conservative test.

Although filing procedures for federal courts are not appreciably different from those for state courts, there are key differences that influence a litigant's choice of jurisdiction. Federal statutes can create rights, such as family-leave legislation, unavailable in some states. If you work in a state without an equivalent statute, then you must file family-leave lawsuits in federal court. Lawsuits with parties from different states also fall under federal jurisdiction. In addition, remedies in federal and state courts may differ substantially. For example, federal courts limit punitive damages under Title VII to $300,000, while California does not limit punitive damages for suits filed under its equivalent statute. Federal and state courts also differ in terms of who decides cases; for example, until recently there was no right to a jury trial in Title VII federal suits. Similarly, federal jury verdicts require a unanimous vote of all six jurors, while California jury verdicts require only nine of twelve jurors. In addition to these differences between federal and state courts, the fragmented nature of the U.S. legal environment creates variance in cycles of progressiveness and case precedent across courts (Abzug and Mezias, 1993). For all of these reasons, it is necessary to analyze federal and state labor lawsuit judgments separately. At the same time, examining both provides a more comprehensive test of this liability of foreignness.

I used the Labor Library of Lexis-Nexis to track labor judgments. This library documents all labor lawsuit judgments against firms except for rare cases in which the judge does not allow the judgment to be made available. I also used *The American Bench* (Finn, 1996), a reference source for all U.S. courts, to identify federal and state courts with jurisdiction over the selected metropolitan areas. The period of analysis is 1995–96 because detailed data on foreign subsidiaries, specifically subsidiary size data, have only recently become available and are not available on a consistent basis. I use two

dependent variables to track the number of labor lawsuit judgments:

- *Federal* is the count of federal labor lawsuit judgments against a firm in 1995 and 1996.
- *State* is the count of state labor lawsuit judgments against a firm in 1995 and 1996.

Independent variables

Most data on foreign subsidiaries came from the British, German, and Japanese chambers of commerce and trade. Some data came from the *Directory of Corporate Affiliations* and some data came from the Lexis-Nexis state incorporation database files and the American Business Information file. A survey instrument provided data on foreign subsidiary staffing strategies and it supplemented data on number of employees, number of affiliated U.S. offices, and subsidiary reporting requirements. The list of the independent variables follows:

- *Foreign* is a dummy variable representing if the focal firm is foreign or domestic. Foreign subsidiaries were coded 1 and U.S. firms were coded 0.
- *USHR* is a dummy variable representing if the focal subsidiary has an American in charge of HR issues. Those using Americans were coded 1 and those using expatriates were coded 0.
- *HRPro* is a dummy variable representing if the focal subsidiary's officer in charge of HR issues is an HR professional. If HR or Personnel is part of this officer's title, then the variable was coded 1, if not the variable was coded 0.
- *USTopExec* is a dummy variable representing if the focal subsidiary has had an American top officer (titles vary from CEO, President, to Chairman). Subsidiaries with American top officers were coded 1 and subsidiaries with expatriate top officers were coded 0.
- *ReportUS* is a dummy variable reflecting the reporting chain of command for the focal subsidiary. Subsidiaries reporting directly to an affiliated U.S. operation were coded 1 and subsidiaries reporting directly to its parent were coded 0.
- *USOffices* is the total number of affiliated U.S. operations of the focal subsidiary's parent.
- *Age* represents the number of years the focal firm has operated in the particular metropolitan location, rounded to the nearest year.

Control variables

Although I do not offer substantive hypotheses for these variables, it is important to control for the effects of size and location. Only three of the four location variables could be included in the analysis. I included them based on alphabetical order, leaving San Francisco as the excluded category. Table 2 reports correlations and descriptive statistics. The following are the control variables:

- *Size* represents the total number of employees working in the focal firm.
- *Atlanta* represents firms located in the Atlanta metropolitan area, which were coded 1 and all other firms were coded 0.
- *Chicago* represents firms located in the Chicago metropolitan area, which were coded 1 and all other firms were coded 0.
- *New York* represents firms located in the New York City metropolitan area, which were coded 1 and all other firms were coded 0.

Estimation method

These dependent variables are counts of rare events. Using ordinary least-squares regression on this type of data would provide unbiased estimation, but would be less efficient than estimation techniques designed for limited dependent variables. A Poisson process is designed specifically for limited dependent variables and provides more efficient estimation than ordinary least-squares regression for such data. In addition, count data is bound from below (i.e., zero); therefore, a firm cannot have a negative count of lawsuits. However, using ordinary least-squares regression could yield a negative count estimation, which is meaningless in terms of practical interpretation. Accordingly, I use the Poisson process as the baseline model (Maddala, 1984). These models are commonly used to study patents (e.g., Zucker, Darby, and Armstrong, 1998; Wang, Cockburn, and Puterman, 1998), organizational founding rates (e.g., Ranger-Moore, Banaszak-Holl, and Hannan, 1989, 1991; Mezias and Mezias, 2000), and FDI entries (e.g., Kogut and Chang, 1991; Anand and Kogut, 1997).

The basic Poisson model for event count data is the following:

$$\Pr(Y_t = y) = e^{-\lambda(X_{i_t})}[\lambda(X_{i_t})^y / y!],\ y = 0, 1, 2, \ldots, \quad (1)$$

Table 2. Correlation matrix and descriptive statistics

Variable	1	2	3	4	5	6	7	8	9	10	11	12	13	14
1 Federal	1													
2 State	0.308**	1												
	(972)													
3 Foreign	0.069*	0.131**	1											
	(972)	(972)												
4 USHR	0.044	0.074		1										
	(248)	(248)												
5 HRPro	0.175**	0.190**		0.229**	1									
	(224)	(224)		1										
6 USTopExec	0.220	0.013		0.268**	0.118	1								
	(236)	(236)		(231)	(207)									
7 ReportUS	−0.033	−0.034		0.152*	0.056	0.283**	1							
	(306)	(306)		(222)	(200)	(210)								
8 USOffices	−0.020	−0.035		0.139*	0.051	0.087	0.187**	1						
	(245)	(245)		(237)	(215)	(228)	(220)							
9 Age	0.024	0.000	−0.060	0.022	−0.055	−0.066	−0.062	0.096	1					
	(972)	(972)	(972)	(248)	(224)	(236)	(306)	(245)						
10 Size	0.163**	0.162**	−0.017	0.170**	0.348**	0.185**	−0.023	0.109	0.056	1				
	(972)	(972)	(972)	(248)	(224)	(236)	(306)	(245)	(972)					
11 Atlanta	−0.037	−0.059	0.000	0.073	0.048	0.130*	0.112*	0.037	−0.038	−0.076*	1			
	(972)	(972)	(972)	(248)	(224)	(236)	(306)	(245)	(972)	(972)				
12 Chicago	−0.013	−0.043	0.000	−0.123	0.135*	0.043	0.152**	0.038	0.007	−0.023	−0.146**	1		
	(972)	(972)	(972)	(248)	(224)	(236)	(306)	(245)	(972)	(972)	(972)			
13 New York	0.071*	0.108**	0.000	−0.102	−0.047	−0.095	−0.300**	−0.056	0.057	0.099**	−0.544**	−0.428**	1	
	(972)	(972)	(972)	(248)	(224)	(236)	(306)	(245)	(972)	(972)	(972)	(972)		
14 San Francisco	−0.052	−0.055	0.000	−0.044	−0.105	0.046	0.181**	0.006	−0.049	−0.042	−0.163**	−0.128**	−0.479**	1
	(972)	(972)	(972)	(248)	(224)	(236)	(306)	(245)	(972)	(972)	(972)	(972)	(972)	
Mean	0.07	0.10	0.50	0.82	0.38	0.62	0.32	16.89	21.08	112.84	0.16	0.10	0.62	0.13
S.D.	0.51	0.65	0.50	0.39	0.49	0.49	0.47	29.42	15.66	331.36	0.36	0.30	0.49	0.33
Minimum	0	0	0	0	0	0	0	1	2	10	0	0	0	0
Maximum	13	11	1	1	1	1	1	200	106	6000	1	1	1	1

*$p < 0.05$; **$p < 0.01$; (n)

where λ is the rate at which events occur. This is a function of the matrix of independent variables X_{it} where $i =$ the ith independent variable and $t =$ time. The Poisson distribution of Equation (1) has expected value and variance of

$$E[Y_t] = VAR[Y_t] = \lambda X_{it}$$

This model assumes that the expected number of events and the variance of the expected number of events equal the rate at which events occur, λX_{it}. This parameter is estimated using the values of X_{it} to predict λ_t in the following equation: $\lambda_t = e^{(X_{it})\varepsilon_t}$.

Some count data can be heterogeneous, which would violate the assumption of equal mean and variance. Tracing their argument back to Greenwood and Yule (1920), Ranger-Moore *et al*. (1991) recommended using the negative binomial regression model to correct for violations of this assumption. The negative binomial model has a scaling parameter to deal with unexplained heterogeneity or overdispersion, and it offers a more efficient estimation than the Poisson model when dealing with heterogeneous data. Like the Poisson model, the negative binomial is a generalized linear model that provides more efficient estimations for count data than ordinary least-squares regression. I used *LIMDEP* (Greene, 1989) software for the analysis because it estimates both the Poisson and negative binomial models. For all analyses, both models were run to see if the negative binomial offered any improvement over the Poisson model.

RESULTS

Table 3 reports negative binomial regression results of a federal and a state model testing Hypothesis 1. In both models, the alpha variable was significant, suggesting overdispersion in the data; accordingly, negative binomial regression was used. Both models included a constant, a dummy variable indicating if the firm was foreign, location variables, Age, and Size. The number of observations was 972; this included the 486 foreign subsidiaries as well as the 486 matched American firms. Positive coefficients indicate the variable is correlated with an increased number of labor lawsuit judgments; negative coefficients indicate the variable is correlated with a reduced number of labor lawsuit judgments.

Table 3. Negative binomial regression results for labor lawsuit judgments against U.S. and foreign firms

Variable	Federal	State
Constant	−15.708	−6.856
	(0.000)	(−5.152)**
Foreign	0.984	2.592
	(2.235)*	(1.854)*
Atlanta	11.004	0.478
	(0.000)	(0.326)
Chicago	11.679	1.151
	(0.000)	(0.919)
New York	11.903	2.318
	(0.000)	(1.282)
Age	0.010	0.004
	(0.680)	(0.150)
Size	0.002	0.002
	(3.968)**	(1.954)*
ALPHA	8.195	13.263
	(3.466)**	(3.824)**
Chi-square	100.411	200.218
d.f.	6	6
p-value	0.000	0.000
N	972	972

*$p < 0.05$; **$p < 0.01$ for one-tailed tests (t-statistic)

The federal model tested federal labor lawsuit judgments; the state model tested state labor lawsuit judgments. For both models the variable Foreign was significant in the predicted positive direction, indicating that foreign subsidiaries had significantly more labor lawsuit judgments even after controlling for location, age, and size. These results strongly support Hypothesis 1 at both the federal and state levels of jurisdiction, indicating that foreign subsidiaries operating in the U.S. do experience a liability of foreignness with respect to labor lawsuit judgments. Size was positive and significant, indicating that firms with more employees faced significantly more labor lawsuit judgments. Intuitively, more employees should increase the probability of facing a labor lawsuit. The chi-square 'goodness of fit' test for both models was highly significant. The location variables were not significant, suggesting that this liability is nationwide.

Table 4 reports Poisson regression results of a federal and a state model testing why some foreign subsidiaries may face fewer labor lawsuit judgments (Hypotheses 2–6). Statistical tests did not detect overdispersion in either model; accordingly, Poisson regression was used. The federal and state

Table 4. Poisson regression results for labor lawsuit judgments against foreign subsidiaries

Variable	Federal	State
Constant	−2.819	−2.980
	(−3.192)**	(−2.767)**
USHR	−0.046	1.377
	(−0.054)	(1.310)
HRPro	1.419	2.213
	(2.170)*	(3.946)**
USTopExec	−0.700	−1.096
	(−1.049)	(−2.536)**
ReportUS	0.794	−0.144
	(1.224)	(−0.264)
USOffices	−0.053	−0.042
	(−1.788)*	(−2.236)*
Age	−0.006	−0.041
	(−0.290)	(−2.277)*
Size	0.002	0.002
	(3.084)**	(5.071)**
Chi-square	21.114	87.575
d.f.	7	7
p-value	0.004	0.000
N	176	176

*$p < 0.05$; **$p < 0.01$ for one-tailed tests
(*t*-statistic)

models included a constant and controlled for Size. Some of the data to test these hypotheses came from a survey sent only to foreign subsidiaries; the sample size of 176 represents the number of usable responses to that survey. Results were consistent across both models, including chi-square 'goodness of fit' tests, which were highly significant.

Hypothesis 2 (USHR) tested if foreign subsidiaries using Americans to handle HR issues face fewer labor lawsuit judgments. At both the federal and state levels, USHR was not significant; this hypothesis was not supported. The nationality of the officer handling HR issues did not affect a foreign subsidiary's exposure to labor lawsuit judgments. Although Americans may better understand U.S. culture and laws, this did not mitigate the disadvantage of foreign subsidiaries with respect to labor lawsuit judgments. Understanding culture and law may be a necessary condition for identifying and implementing accepted practices, but it may not be sufficient.

To test Hypotheses 3a and 3b, the dummy variable HRPro, indicating whether an HR professional was in charge of HR issues, was used. Hypothesis 3a predicted a negative effect for this variable, while Hypothesis 3b predicted a positive effect. For both the federal and state models, HRPro was significant and positive, indicating that foreign subsidiaries using HR professionals actually faced more labor lawsuit judgments. These results provide support for Hypothesis 3b and, consequently, its competing Hypothesis 3a was not supported.

Hypothesis 4 (USTopExec) tested if foreign subsidiaries with American top officers faced fewer labor lawsuit judgments. Although USTopExec was not significant in the federal model, it was significant in the predicted negative direction in the state model. These mixed findings illustrate the importance of incorporating jurisdictional differences into research designs (Abzug and Mezias, 1993). Perhaps American top officers were more effective at reducing state-level labor lawsuit judgments because, unlike federal laws and statutes, state laws vary nationally. It seems that the benefits of American top officers are more likely to emerge in the less universalistic state legal environments.

Hypothesis 5 (ReportUS) was not supported at the federal or state level. Autonomy, as measured by reporting requirements, had no significant effect on the number of labor lawsuit judgments. For my data, there is no indication that increased autonomy helps foreign subsidiaries avoid labor lawsuit judgments. USOffices was significant in the predicted negative direction in both the federal and state models, indicating strong support for Hypothesis 6: Foreign subsidiaries with more affiliated U.S. operations faced fewer labor lawsuit judgments. Hypothesis 7 received limited support. Age was significant and negative in the state model, indicating that older foreign subsidiaries faced fewer labor lawsuit judgments. However, Age was not significant at the federal level. As mentioned above, mixed findings illustrate the importance of incorporating jurisdictional differences (Abzug and Mezias, 1993). Lastly, the control variable Size was positive and significant in both models indicating that firms with more employees face more labor lawsuit judgments.

Discussion

Findings at both the federal and state levels indicate that foreign subsidiaries face more labor lawsuit judgments than their domestic counterparts. Having documented this liability of foreignness, I take the next step by examining foreign subsidiaries' strategies and characteristics associated with reduced exposure to this liability. Based on

past literature, I predicted that this liability is largely a knowledge deficit with respect to understanding legal and cultural norms and to identifying and implementing accepted HR practices. Thus, I argue that foreign subsidiaries should hire people with this knowledge. Only a third of the foreign subsidiaries surveyed had HR professionals on location; most had functional managers handle HR issues. American managers likely have a better understanding of legal and cultural norms, but the findings suggest that putting American functional managers in charge of HR is not sufficient to help foreign subsidiaries reduce labor lawsuit judgments. Given that HR professionals helped establish accepted labor practices, I argued that minimizing labor problems and reducing labor lawsuit judgments may require that managers in charge of HR be professionally trained. Interestingly, foreign subsidiaries with HR professionals on location actually faced more labor lawsuit judgments.

There are two primary explanations for why foreign subsidiaries using HR professionals had more labor lawsuit judgments. First, it is possible that HR professionals exacerbate labor problems. However, evidence about their experience and network connections argues against this explanation. Alternatively, reverse causation is a plausible second explanation. That is, foreign subsidiaries wait until labor problems surface before hiring HR professionals. Although Rosenzweig and Nohria (1993) argued that the HR function requires the most local adaptation, Rosenzweig and Singh (1991) cautioned that adopting host-country practices depends heavily on the presence of a legal imperative. Labor lawsuit judgments provide a legal imperative. Although data on the timing of these hires was not available, which is a limitation of my study, follow-up phone calls revealed that several foreign subsidiaries with labor lawsuit judgments only hired HR professionals after HR problems arose. This 'hire to put out the fire' explanation suggests that, in addition to nationality and professional training, the timing of foreign subsidiary staffing strategies may be critical to reducing exposure to this liability.

Another subsidiary strategy likely to affect exposure to labor lawsuit judgments is staffing of the top manager position. Reducing labor lawsuit judgments may require support and understanding of a leader with sufficient managerial discretion to adopt local practices, which may be contrary to those of the parent firm. A subsidiary's top officer presumably has such discretion and limited support for Hypothesis 4 suggests that foreign subsidiaries benefit from having host country nationals as their top officers. Using American top officers was not associated with fewer federal-level labor lawsuit judgments; this suggests that perhaps expatriate top officers have less trouble complying with the more universalistic federal laws. However, the presence of an American top officer was associated with fewer labor lawsuit judgments at the state level, suggesting that the advantage of using American top officers emerged in the more idiosyncratic state legal environments.

Aspects of the parent–subsidiary relationship could also affect exposure to this liability. In particular, I tested if the level of reporting autonomy was associated with fewer labor lawsuit judgments. Reporting to a U.S. headquarters, rather than directly to the home country headquarters, made no significant difference in the number of labor lawsuit judgments. One interpretation is that increased autonomy does not help foreign subsidiaries adopt local HR practices. However, it is also possible that a better measure of autonomy is needed. Operationalizing USReport as a binary variable may capture overall autonomy, but may miss subtleties of the reporting relationship that are relevant to labor issues.

The findings that subsidiaries of MNEs with more affiliated U.S. operations were associated with fewer labor lawsuit judgments are consistent with an organizational learning argument (Argote *et al*., 1990; Cool *et al*., 1997): Knowledge about identifying and implementing successful HR practices is transferred across affiliated operations helping all affiliated subsidiaries. These results suggest that foreign subsidiaries may engage in vicarious learning about handling labor problems. They are also consistent with the institutional argument that greater visibility results in increased vulnerability to normative pressure and greater care to demonstrate compliance. It is important to recognize a potential selection bias: From an ecological perspective, firms encountering fewer problems are more likely to survive and expand.

With respect to Age, limited support for Hypothesis 7 is consistent with a liability of newness (Stinchcombe, 1965). Age was associated with fewer state-level labor lawsuit judgments, but was not significant at the federal level. State laws vary, which may make direct experience in a specific state more critical to reducing state-level

lawsuit judgments. If Age better captures experiential learning at a specific location, then that may explain why it was associated with fewer state-level labor lawsuit judgments. Because federal laws apply nationally, direct experience may be less critical at the federal level. Again, it is important to recognize a potential selection bias: From an ecological perspective, firms encountering numerous labor lawsuit judgments are more likely to leave that location.

CONCLUSIONS AND IMPLICATIONS

This is one of the first studies that both documents a liability of foreignness and examines strategies designed to minimize its effects on foreign subsidiaries. It is part of an emerging research stream designed to broaden the scope of FDI research by specifically investigating host country disadvantages. I provide empirical evidence of a specific liability of foreignness: Foreign subsidiaries operating in the U.S. are at a disadvantage with respect to labor lawsuit judgments. I investigate this liability at both the federal and state jurisdictional levels and across geographic regions to ensure a comprehensive test of this liability. Further, since foreign subsidiaries settle or abandon most claims (Clermont and Eisenberg, 1996), investigating labor lawsuits brought to judgment is a conservative test of this liability.

Understanding and responding to U.S. labor laws challenge all firms operating in the United States, but these findings indicate that it is especially daunting for managers of foreign subsidiaries. From this perspective, the relative ability of U.S. firms to avoid labor lawsuit judgments stems from decades of adjusting to civil rights legislation and societal and cultural norms that permeate business practices. This experience and familiarity with norms make it easier for domestic firms to both identify and implement accepted HR practices that help ensure compliance with labor laws. Foreign subsidiaries are relatively unfamiliar with U.S. cultural, social, and legal norms. They are also inexperienced in dealing with U.S. employees, the myriad of state and federal laws and regulations, and court-enforced labor rights.

Endogenous factors can also affect the number of labor lawsuit judgments foreign subsidiaries face. For example, MNEs producing locally may worry about local rivals appropriating their proprietary technology. Fear of appropriation may encourage foreign investors to use expatriates rather than host country nationals in key managerial positions. Regardless of intention, exclusive use of expatriates in managerial positions is likely to run afoul of U.S. labor laws that prohibit discrimination based on national origin.

Entry mode decisions may indirectly affect labor relations at foreign subsidiaries. It is an open question as to whether acquisitions or greenfield investments would differentially affect exposure to labor lawsuit judgments. Conceptually, what about an acquisition might affect a foreign subsidiary's exposure to legal liability? On the negative side, changing established HR practices of an acquired firm could lead to employee resentment and labor problems. Alternatively, there are at least three potentially positive effects from an acquisition: local information, host country managerial experience, and embeddedness in local systems. The information issue is problematic despite the fact that acquired firms presumably have greater local information than foreign acquirers do. As Shaver *et al*. (1997: 814) cautioned, 'the ultimate responsibility for decision-making and implementation falls on the investing firm's managers who have an incomplete understanding of the host nation operating environment.' Host country experience and local embeddedness may be more promising positive effects from acquisition because foreign investors may benefit from the experience and network connections of local managers staying with the acquired firm. The complexity of these effects, and the fact that not all occur with every acquisition, suggest the need to develop the more direct measures I employed in this study. Indeed, investigating nationality and professional training of key managers, autonomy, the number of affiliated host country operations, and age more directly assesses labor lawsuit exposure than a dummy variable indicating entry mode decision can. These more direct measures better capture variance with respect to this particular liability and reduce the potential for spurious findings. Additionally, the findings with respect to these variables provide some evidence of which strategies and characteristics are associated with reduced exposure to labor lawsuit judgments. Entry mode decisions affect many aspects of foreign subsidiary performance, but are made for many reasons. To fully investigate this complex relationship is beyond the scope of this study, but future researchers should investigate how entry

mode decisions affect specific liabilities of foreignness.

Overall, these results have several implications for expatriate managers. Foreign subsidiaries should recognize managing U.S. employees as an important challenge and adjust their strategies accordingly. These findings suggest that incorporating U.S. executives in decision making can reduce a foreign subsidiary's exposure to this disadvantage. Additionally, subsidiaries should utilize affiliated operations as resources to help guide them in identifying and implementing U.S. accepted practices. They could transfer experienced employees across affiliated operations to more effectively deal with labor problems.

A lack of embeddedness in local systems may contribute to liabilities of foreignness. Embeddedness facilitates information spillovers and vicarious learning, which may be especially important for those unfamiliar with host country social, cultural, and legal norms. Early efforts to 'plug-in' to local systems could help foreign subsidiaries gain knowledge and legitimacy and appear less foreign. Foreign managers that join trade or industry groups, expatriate organizations, and attend professional conferences may benefit from information spillovers and vicarious learning. Other activities, such as sponsoring local charities, may also help foreign subsidiaries enhance their reputations, gain legitimacy, and appear less foreign. While these activities may not directly reduce exposure to liabilities of foreignness, they may provide useful information and learning opportunities and create positive perceptions that may indirectly help minimize exposure.

My study provides foreign investors with a rudimentary guideline for deciding when to choose local adaptation over maintaining parent firm practices. When operating in host countries with powerful institutions, such as the U.S. courts, foreign subsidiaries are under greater pressure to comply and face higher costs of noncompliance. In such environments, subsidiaries identifying and implementing host country practices increase their legitimacy and reduce their exposure to liabilities of foreignness. The problem is that these practices are often tacit, culture-based understandings, which may not be easily detected or implemented by foreign managers.

Although my research focuses on a liability of foreignness with respect to labor lawsuit judgments, foreign subsidiaries operating in the U.S. could suffer liabilities in other legal areas as well as in areas not related to law. Many liabilities stem from difficulties in understanding the more tacit aspects of cultural and social norms, which vary by country. Given the idiosyncratic nature of liabilities of foreignness, developing a theory of liabilities of foreignness requires that researchers identify specific liabilities in different countries. It also requires taking the next step to investigate strategies that may minimize the effects of these liabilities. This next step increases our understanding of a specific liability, sheds light on frameworks investigating liabilities of foreignness, and is informative to managers of MNEs.

My study provides a framework for identifying liabilities of foreignness and investigating strategies that reduce exposure to them. Key subsidiary staffing strategies, parental experience and commitment in the host country, and direct subsidiary experience are all likely to affect exposure to most liabilities of foreignness. The timing of implementing liability-reducing strategies may also be critical. Unfortunately, the cross-sectional nature of my data is a limitation in trying to investigate the issue of timing. Identifying when liability-reducing strategies are implemented and utilizing longitudinal data could help us better understand mechanisms affecting liabilities of foreignness. Future research could overcome this limitation by using longitudinal data to investigate when foreign subsidiaries hire HR professionals. This would help to determine if HR professionals hired from the start reduce labor lawsuit exposure or if HR professionals hired after labor problems arise succeed in minimizing current and future labor problems. In general, using a longitudinal design could help better identify mechanisms and processes foreign firms use to learn and overcome liabilities of foreignness. Another possible limitation of my study is the use of a global measure of subsidiary autonomy. Rather than measuring the general level of autonomy, future researchers should measure autonomy related to the specific liability of foreignness, e.g., autonomy with respect to labor issues.

Researchers investigating any liabilities of foreignness should examine different dimensions of each liability (e.g., federal and state levels), sample in several regions, and carefully consider control variables. For my study, measuring size as the number of employees was most relevant. However, my data were not disaggregated into expatriates and host country nationals. Future research might

try to investigate how the ratio of expatriates to host country national employees affects exposure to liabilities of foreignness.

As more firms engage in FDI, research designed to improve our understanding of the liabilities of foreignness becomes more critical. The predominate focus of FDI research has been investigating sources and types of advantages foreign subsidiaries must possess to operate successfully abroad and overcome whatever local disadvantages they may encounter. While these advantages strongly determine performance, minimizing liabilities of foreignness facing foreign subsidiaries also affects subsidiary performance. Better understanding of specific liabilities of foreignness can uncover ways to minimize exposure to these disadvantages and thus improve the management of FDI. These research streams are important and complementary, but the paucity of research investigating disadvantages limits efforts to improve our understanding of a range of important factors that affect the success of FDI.

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REFERENCES

Abzug R, Mezias SJ. 1993. The fragmented state and due process protection in organizations: the case of comparable worth. *Organization Science* **4**: 433–435.

Anand J, Kogut B. 1997. Technological capabilities of countries, firm rivalry and foreign direct investment. *Journal of International Business Studies* **28**: 445–465.

Andrews KR. 1971. *The Concept of Corporate Strategy*. Dow Jones-Irwin: New York.

Argote L, Beckman SL, Epple D. 1990. The persistence and transfer of learning in industrial settings. *Management Science* **36**: 140–154.

Baron JN, Dobbin FR, Jennings PD. 1986. War and peace: the evolution of modern personnel administration. *American Journal of Sociology* **92**: 350–383.

Barnard CI. 1938. *The Functions of the Executive*. Harvard University Press: Cambridge, MA.

Bartlett CA, Ghoshal S. 1989. *Managing Across Borders*. Harvard Business School Press: Boston, MA.

Baum JAC. 1996. Organizational ecology. In *Handbook of Organizational Studies*, Clegg SR, Hardy C, Nord W (eds). Sage: London; 77–114.

British–American Chamber of Commerce. 1995. *The UK/USA Directory: A Directory of Bilateral Investment*. British–American Chamber of Commerce: New York.

Caves RE. 1971. International corporations: the industrial economics of foreign investment. *Economica* **38**(149): 1–27.

Clermont KM, Eisenberg T. 1996. Commentary: xenophilia in American courts. *Harvard Law Review* **109**(5): 1120–1143.

Cool KO, Dierickx I, Szulanski G. 1997. Diffusion of innovations within organizations: electronic switching in the Bell system, 1971–1982. *Organization Science* **8**: 543–557.

DiMaggio PJ, Powell WW. 1983. The iron cage revisited: institutional isomorphism and collective rationality in organizational fields. *American Sociological Review* **48**: 47–160.

Donohue J, Siegelman P. 1991. The changing nature of employment discrimination litigation. *Stanford Law Review* **43**: 983–1000.

Dunlop JT, Harbison HH, Kerr C, Meyer CA. 1975. *Industrialism and Industrial Man Reconsidered*. Inter-University Study of Labor Problems in Economic Development: Princeton, NJ.

Edelman LB. 1990. Legal environments and organizational governance: the expansion of due process in the American workplace. *American Journal of Sociology* **95**: 1401–1440.

Edelman LB. 1992. Legal ambiguity and symbolic structures: organizational mediation of civil rights law. *American Journal of Sociology* **97**: 1531–1576.

Edelman LB, Suchman MC. 1997. The legal environments of organizations. *Annual Review of Sociology* **23**: 479–515.

Edwards R. 1994. Reshaping employee protections for a global economy. *Challenge* **37**: 34–39.

Evans P, Doz YL. 1989. The dualistic organization. In *Human Resource Management in International Firms: Change, Globalization, and Innovation*, Evans P, Doz Y, Laurent A (eds). Macmillan: London; 219–242.

Ewing DW. 1982. Due process: will business default? *Harvard Business Review* **60**(6): 114–122.

Fayerweather J. 1969. *International Business Management: A Conceptual Framework*. McGraw-Hill: New York.

Finn MT (ed.). 1996. *The American Bench: Judges of the Nation*. Forster-Long: Sacramento, CA.

German American Chamber of Commerce. 1996. *Subsidiaries of German Firms in the US1996/97*. GACC: New York.

Greene WH. 1989. *LIMDEP*. Econometric Software: New York.

Greenwood M, Yule GU. 1920. An inquiry into the nature of frequency distributions of multiple happenings, with particular reference to the occurrence of multiple attacks of disease or repeated accidents. *Journal of the Royal Statistical Society*, Series A **83**: 255–279.

Hambrick DC. 1989. Guest editor's introduction: putting top managers back in the strategic picture. *Strategic Management Journal*, Summer Special Issue **10**: 5–15.

Hambrick DC, Mason PA. 1984. Upper echelons: the organization as a reflection of its top managers. *Academy of Management Review* **9**: 193–206.

Hennart J, Park Y. 1994. Location, governance, and strategic determinants of Japanese manufacturing investment in the United States. *Strategic Management Journal* **15**(6): 419–436.

Hymer SH. 1976. *The International Operations of National Firms: A Study of Direct Foreign Investment*. MIT Press: Cambridge, MA.

Japan External Trade Organization.. 1997. *The Directory of Japanese Affiliated Companies in the USA and Canada 1997–1998*. Japan External Trade Organization: Tokyo.

Kerr C, Dunlop JT, Harbison HH, Meyer CA. 1960. *Industrialism and Industrial Man*. Harvard University Press: Boston, MA.

Kindleberger CP. 1969. *American Business Abroad: Six Lectures on Direct Investment*. Yale University Press: New Haven, CT.

Kogut B, Chang SJ. 1991. Technological capabilities and Japanese foreign direct investment in the United States. *Review of Economics and Statistics* **73**: 401–413.

Lipsey RE. 1994. Foreign-owned firms and US wages. Working paper 4927, National Bureau of Economic Research.

Maddala GS. 1984. *Limited Dependent and Qualitative Variables in Econometrics*. Cambridge University Press: Cambridge, U.K.

Meyer JW, Rowan B. 1977. Institutional organizations: formal structure as myth and ceremony. *American Journal of Sociology* **83**: 343–363.

Mezias JM. 1999. Labor lawsuits: a source of disadvantage for foreign subsidiaries in the United States. Doctoral dissertation, New York University.

Mezias JM. 2000. Do labor lawsuits represent a liability of foreignness for foreign subsidiaries operating in the United States? In Best Paper Proceedings, Academy of Management Meeting: Toronto.

Mezias JM, Mezias SJ. 2000. Resource partitioning, the foundation of specialist firms and innovation: the American feature film industry, 1912–1929. *Organization Science* **11**: 306–322.

Mincer J, Higuchi M. 1988. Wage structures and labour turnover in the US and Japan. *Journal of the Japanese and International Economies* **2**: 97–133.

Miner AS, Mezias SJ. 1996. Ugly ducklings no more: pasts and futures of organizational learning research. *Organization Science* **7**: 88–99.

Nye D. 1995. When the fired fight back. *Across the Board* **32**(6): 31–34.

Payson MF, Rosen PB. 1991. Playing by fair rules. *HR Magazine* **36**(4): 42–43.

Prahalad CK, Doz YL. 1987. *The Multinational Mission: Balancing Local Demands and Global Visions*. Free Press: New York.

Ranger-Moore J, Banaszak-Holl J, Hannan MT. 1989. Effects of density and environmental conditions on founding rates of financial institutions. Technical Report 89-3, Department of Sociology, Cornell University: Ithaca, NY.

Ranger-Moore J, Banaszak-Holl J, Hannan MT. 1991. Density-dependent dynamics in regulated industries: founding rates of banks and life insurance companies. *Administrative Science Quarterly* **36**: 36–65.

Rosenzweig PM, Nohria N. 1993. Influences on human resource management practices in multinational corporations. *Journal of International Business Studies* **26**: 229–251.

Rosenzweig PM, Singh JV. 1991. Organizational environments and the multinational enterprise. *Academy of Management Review* **16**: 340–361.

Scott WR. 1983. The organization of environments: networks, culture, and historical elements. In *Organizational Environments: Rituals and Rationality*, Meyer JW, Scott WR (eds). Sage: Beverly Hills, CA; 155–175.

Scott WR, Meyer JW. 1983. The organization of societal sectors. In *Organizational Environments: Rituals and Rationality*, Meyer JW, Scott WR (eds). Sage: Beverly Hills, CA; 129–153.

Shaver JM. 1998. Do foreign-owned and US-owned establishments exhibit the same location pattern in American manufacturing industries? *Journal of International Business Studies* **29**: 469–491.

Shaver JM, Mitchell W, Yeung B. 1997. The effect of own-firm and other-firm experience on foreign direct investment survival in the United States, 1987–92. *Strategic Management Journal* **18**(10): 811–824.

Stinchcombe AL. 1965. Social structures in organizations. In *Handbook of Organizations*, March JG (ed.). Rand-McNally: Chicago; 153–193.

Vernon R. 1977. *Storm over the Multinational: The Real Issues*. Harvard University Press: Boston, MA.

Wang P, Cockburn IM, Puterman ML. 1998. Analysis of patent data: a mixed Poisson regression model approach. *Journal of Business and Economic Statistics* **16**: 27–41.

Zaheer S. 1995. Overcoming the liability of foreignness. *Academy of Management Journal* **38**: 341–363.

Zucker LG, Darby MR, Armstrong J. 1998. Geographically localized knowledge: spillovers or markets? *Economic Inquiry* **36**: 65–86.