Preface

When I applied to open a bank account at a branch of HSBC Bank in Turkey with a view to using it during my visit to the UK, I was told that HSBC-Turkey and HSBC-UK are different companies and thus my account would not be valid in the UK. At that moment, my curiosity about multinational enterprises began. This interest led me to conduct research on the structure and liabilities of MNEs at Queen Mary College, University of London, which is the origin of this book.

The book examines problems related to tort liabilities of multinational enterprises (MNEs). The reason for the existence of the problems is that the legal theories and practice fail to take into account interdisciplinary features of MNEs. Thus there have been no satisfactory solutions to the problem of tort liability of MNEs.

In order to understand the questions of liability, there should be an examination of the concept of multinational enterprise using interdisciplinary methodology. Thus the book, in Part I, examines the social, economic, managerial and legal characteristics of MNEs and compares the findings of this examination to the current understanding of MNEs in the way that tort liability is applied to them. It concludes that there is a conflict between the legal understanding of the structure of MNEs and contemporary realities. First, a problem arises on the application of limited liability and separate legal personality principles to MNEs. Secondly, liability theories developed within the existing system misconceptualize the organizational characteristics of MNEs; while legal practice considers MNEs as simple vertically structured organizations, an interdisciplinary examination reveals more complex horizontal structures with unique characteristics. This conflict also creates problems of liability and prevents satisfactory solutions to problems of tort liability in the context of MNEs.

In Part II, the book examines the existing laws and principles related to liability of MNEs from a variety of jurisdictions. The aim of this examination is to assess whether these laws are adequate for the challenges that modern MNEs create. The book seeks, in each chapter, to understand how groups of companies are conceived by these laws and how tort liability rules would be different if modern understandings of MNEs are applied in these cases.

In Part III, the book identifies obstacles that should be tackled to solve the problems. Finally, the book proposes solutions to the problems of tort liability of MNEs based on the findings in the first and the second parts of the book.

In the process of preparing the book, I owe the biggest thanks to Professor Janet Dine, Queen Mary, University of London, for her invaluable support during the last four years. She was more than an adviser; she gave me many opportunities and inspired me with her immense knowledge and endless energy. I also thank Professor Peter Muchlinski, School of African and Oriental Studies, University of London for introducing me to the study of MNEs. I would like to thank my PhD examiners, Professor Paddy Ireland of University of Kent and Professor Mads Andenas of Institute of Advanced Legal Studies, for agreeing to examine my PhD and particularly for their encouragement to pursue this publication.

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The Institute of Advanced Legal Studies Library was not only an excellent place to conduct academic research but also a perfect place to meet academics and students from all over the world. During the last four years, I met numerous people and discussed my ideas. It is difficult to count them all, thus I would like to thank them all. With this opportunity, I would like to thank IALS library staff for their help and kindness during my research.

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