

Harmonizing Essential Facilities

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The United States and the rest of the world have taken markedly different views of the essential facilities doctrine in recent years. In contrast to the criticism and limitations on the use of the essential facilities doctrine in the United States, there is a growing international consensus that it is sometimes appropriate to require a regime of nondiscriminatory access to infrastructure and related facilities. This essay suggests that a revitalized essential facilities doctrine in the United States would be beneficial and proposes substantive suggestions to better harmonize United States law and practice with the developing international consensus.