

Corporate Accountability and Human Rights Responsibility

Dr. M. Ravibabu

Department Of Human Rights, S.V.University, Tirupati, Andhra Pradesh

Abstract

Effective regulation of corporate human rights responsibilities is challenging for a wide variety of reasons. Government-mandated Corporate Social Responsibility for the protection and development of human rights in society is adding meaning to the evolving nature of social responsibility. The continuous contribution of Trans corporations via CSR (keeping in mind their contribution to the growing abuse of these rights) is the need of the hour. This accountability regime is also impacting the functioning of businesses and in turn. This article aims at analyzing the function of Corporate Social Responsibility to address the human rights of development and protection in light of the globalizing socio-economic conditions.

1. Introduction

Corporate accountability and human rights responsibility refer to the obligation of companies to prevent, mitigate, and remedy human rights abuses across their global operations and supply chains. The framework shifts businesses from passive observers to active participants in safeguarding human rights. Corporate Social Responsibility (CSR) is a policy of corporations to express how their organization is taking the responsibility for the impact that it causes upon its employees, customers, environment, community etc. While, the Companies Act, 2013 mandates the inclusion of such policy for corporations within the cap limit that it states, various voluntary initiatives in the corporate sector are also booming for the contribution of their resources for social development via policies, programs, projects etc. While the growth of corporations creates an environment conducive for social development, on the parallel lines they have impacted the environment, raised employment concerns, workplace health, and safety issues.

The growing commercialization and globalization in the world need to be commensurate with the responsibility and accountability of the impact it creates upon its surroundings. The human rights paradigm around the rights of development, as well as protection, provides a way for the deliberate inclusion of public interest in corporate decision making. The article firstly poses the developmental changes that have led to an order that requires such accountability of corporations towards universal human rights: (a) the growth of the corporate sector; (b) the changing nature of development via trade; and (c) the emerging claims from victims of corporate activities. *Secondly*, the article portrays the interconnection and similarities in CSR and Human Rights, and further describing the human rights

which led to the rise of the fundamental nature of CSR. It puts forth the relevant human rights contentions *via* the prism of corporate responsibility. The article then analyses the benefits to corporations in return for engagement in human rights activities. *Lastly*, it discusses the mandatory nature of CSR in the Indian legal framework. This article *in toto* thus gives an initial examination and assessment of the viability of CSR's attempt in establishing a framework to protect, prevent, address and redress gross human rights violations and abuses.

In the 21st century, environmental degradation has become one of the most pressing challenges facing humanity, with multinational corporations frequently positioned at the center of this crisis. Activities such as large-scale deforestation, oil and chemical spills, unsustainable mining, industrial pollution and greenhouse gas emissions have caused widespread and often irreversible damage to ecosystems. Beyond environmental harm, these practices profoundly affect human communities, compromising health, food security, water access and the cultural integrity of populations particularly those in the Global South and indigenous territories. Despite the extensive and measurable harm, corporate accountability remains limited, with legal and regulatory frameworks often failing to deter destructive practices. Financial penalties are frequently treated as operational costs, while criminal liability for corporate environmental harm is rare, leaving victims with limited recourse.

Need For Corporate Accountability

The foundational international human rights regime indicated states as the sole duty-bearers as well as probable violators of human rights law.¹ With time, non-state actors have also been brought under the purview of this legal order, specifically the transnational corporations. This growing acceptance of the mandated duty of corporations to emanate social responsibility can be traced down to the following three major global developments. *Firstly*, the increase and multifold growth of corporate power, without a proportionate rise in accountability. *Secondly*, the definition of trade has been shifted from 'trade *via* development' to 'trade *via* investment', which in turn makes the corporations the main source of development. *Lastly*, the exponential rise in the victims of corporate exploitation in every sphere: economic, political, social, civil as well as cultural. Therefore, these transformations in the global economy, economic ideologies, and the rising growth and influence of corporate power have drastically restructured the mechanism for the promotion of human rights across the world.

Intersection of CSR and Human Rights

Corporate Social Responsibility is now being defined as a mechanism for organizations to create value and communicate with the stakeholders outside their contractual and legal relationships,² who have a direct or indirect influence on their commercial activities. It is an "umbrella term to define the moral responsibility of corporations to engage in business ethics. Business ethics are not legally definite³ and have an unsettled notion as of yet, thus being a discretionary responsibility of corporations to comply with moral obligations. On the other side, human rights are rights conferred simply because one is a human being.⁴ They are the rights that protect the most essential freedoms of an individual, thus are inalienable and universal. Thus, the intersection of human rights and business ethics-based CSR lies in this common moral discourse, laying emphasis beyond the monetary considerations of a business.

The human rights regime of CSR proposes the identity of corporations as "corporate citizens" and thusly encourages them to act in a socially responsible way. Corporate citizens in this context refer to the "legal entities with rights and duties as, in effect, 'citizens' of the states within which they

operate”⁵. CSR imposes the obligation on corporate firms to engage in business ethically as social actors.

Further, the legal compliance of human rights and the voluntary responsibility of CSR complement each other. Human rights specify as well as strengthen⁶ the structure of CSR. The all-encompassing nature of the ways to disseminate the responsibility of CSR, such as via protection of the environment, awareness drives, contribution to NGOs, sustainable development, etc; can *be* structured and synthesized by the UN and OCED mandated specific and particular regimes for human rights. Effective regulation of corporate human rights responsibilities is challenging for a wide variety of reasons, most prominently being first, the disconnect between the transnational nature of many business operations and the territorial and state-centric nature of the international human rights system, and second, the complexity of corporate structures and global value chains.

The Institutionalisation of Corporate Social Responsibility

The framework of CSR is said to have established on the cornerstones of two human rights, namely: human right to protection and human right to development. The human right to development, as reaffirmed by the 1986 UN General Assembly Declaration is a comprehensive economic, social, cultural, and political process, which aims at the constant improvement of the well-being of the entire population. The Declaration indisputably poses that the very *raison d’etre* for human development is the promotion of human rights in the world. It reaffirms the need for the development of the state in consonance with the development of human rights; and recognizes the strong complementary match of human rights and human development. As reiterated above with the very sources of development changing, it’s also imperative to further impress upon the duty bearers their social responsibility of disseminating human rights and the empowerment of right holders. Furthermore, the articulation of the State’s “duty to protect” was adopted at the 2005 UN World Summit on Social Development and is commonly referred to as the human right to protection. It holds that States have an obligation to protect their citizens. The State has the responsibility to protect its citizens against genocide, war crimes, and crimes against humanity. With the dark history of corporate exploitation, it is indubitable to analyze these harms and hold these corporations fully and expeditiously accountable for the violations of human rights done by them.

While the efforts of the Government and its actors are mandated for the implementation and institutionalization of these human rights, the continuous contribution of trans corporations via CSR (keeping in mind their contribution to the growing abuse of these rights) is the need of the hour. On the other side, this accountability regime is also impacting the functioning of businesses and in turn, is adding meaning to the evolving nature of social responsibility.

Corporate Social Responsibility: A Quid Pro Quo?

The corporate competitive advantage of CSR⁷ is another thread in the discussion to determine if CSR is anyway benefitting to corporations. In long term, CSR activities tend to have a positive impact on the financial performance of the firm. These strategic and socially driven engagements uplift the corporate image and the goodwill of the firms, and ultimately places legitimacy⁸ on the stakeholders and investors. CSR activities play out as marketing decisions, greatly influencing investor and customer decisions. In this integrated approach of CSR, corporate firms while discharging their social responsibility become sustainable and profitable in the long run. Human rights,

on the other hand, welcome a new actor for its implementation and realization in the society. It opens up a new avenue for the human rights regime in the sphere of growing corporate activities and its ever-increasing influence.⁹

CSR and Human Rights in the Indian Corporate Legal Setup: A Comparison with the Ruggie Framework

India has legally mandated CSR obligations for corporations. Further, the management of a company is also required to work for the best interests of the environment and the community. The Indian framework for CSR is devoid of ambiguity and promotes an obligation upon corporations to step up as implementers of human rights. The subsequent sanctioning for non-compliance with these obligations changed the rhetoric of corporate goals towards addressing the need for the protection of human rights in the country. The Companies Act, 2020 also dictates the disclosure of such CSR engagements, thus promoting transparency and accountability.

The Ruggie framework compounded by Professor Ruggie puts forth a “Protect, Respect and Remedy” policy, which was further unanimously, accepted by the UNHRC and was thusly accepted by various state and non-state actors. It propounds three main principles: *firstly*, it is the state’s duty to ‘protect’ individuals from violations of their human rights by third parties via regulations, policies, and law; *secondly*, it is the responsibility of corporations to ‘respect’ the human rights of the society by addressing the impact of their activities; and *thirdly*, the State and corporations need to collectively provide ‘remedy’ to the victims of human rights violations, judicially or non-judicially.

The first principle of protection by states has been duly envisaged in the Constitution of India through Fundamental Rights¹⁰ and Directive Principles of the State Policy.¹¹ These principles have also been horizontally applied to companies such as in the landmark case of *Vishakha vs. State of Rajasthan*.¹² The National Voluntary Guidelines on Social, Environmental and Economic Responsibilities of Business developed by the Ministry of Corporate Affairs has nine principles, one of them being, “Businesses should respect and promote human rights” envisages the responsibility of corporations to ‘respect’ the human rights of the citizens. The guidelines also encourage businesses to contribute beyond the minimum set standards.¹³

FRAMEWORKS AND STANDARDS

The UN Guiding Principles on Business and Human Rights (UNGPs)

Endorsed by the UN Human Rights Council, this framework separates duties into two distinct but complementary roles:

State Duty

States are bound to protect individuals from human rights abuses by third parties, including businesses.

Corporate Responsibility

Companies are expected to respect human rights and avoid infringing upon them.

Human Rights Due Diligence (HRDD)

A structured, six-step process companies use to "know and show" they are respecting human rights:

1. Making a formal policy commitment.
2. Assessing actual and potential human rights impacts.
3. Integrating findings and taking action.
4. Tracking the effectiveness of responses.
5. Providing or cooperating in remediation for abuses.
6. Communicating transparently on progress.

The Shift from Voluntary to Binding

While human rights were initially treated through voluntary Corporate Social Responsibility (CSR) initiatives, the landscape is transitioning toward strict, binding legislation.

Mandatory Due Diligence Laws

Regulations, such as the EU Corporate Sustainability Due Diligence Directive (CSDDD), require large companies to identify and address human rights and environmental violations within their supply chains.

International Law & Jurisprudence

The evolution of corporate accountability explores bridging the gap between national boundaries and international human rights law.

Navigating Enforcement and Recourse

Victims of corporate abuses face sophisticated corporate hierarchies and cross-border challenges. Effective implementation necessitates robust grievance mechanisms.

State-Based Mechanisms

States are encouraged to provide effective judicial and non-judicial grievance mechanisms.

Remediation

Corporate accountability hinges on providing adequate remediation—such as restitution, compensation, or guarantees of non-repetition—to those affected by corporate actions.

Conclusion

Of late, the power and influence of multinational corporations are driving the economic graph of the country, generating employment, and reducing poverty. With the new legal setup, it is now also contributing to the larger need for the protection of human rights. The fundamental notion of state responsibility is now being altered by companies, which subsequently shifts the compliance and respect

for internationally recognized human rights as an essential part of building a socially responsible corporation. Although significant advances have been achieved in addressing the concept of human rights duties to corporate actors through international law, non-binding nature of international law has remained as a bane to justice to the victims. The international framework that would allow the completion of the accountability gap and place corporate globalization in line with the universal values of human dignity, equity, and justice requires a legally binding mechanism that can be supported by effective implementation at the national level.

References

1. United Nations Economic and Social Council (2006), p.9.
2. Mcfarland, *Management and society: An institutional framework*, Prentice Hall (1982).
3. Scherer, A. G. and Palazzo, Toward a political conception of corporate responsibility: Business and society seen from a Habermasian perspective, *Academy of management review*, (2007)1096-1120.
4. Donnelly, *Universal human rights in theory and practice*, Cornell University Press, (2013).
5. Marsden, The new corporate citizenship of big business: Part of the solution to sustainability?, *Business and Society Review*,(2000).
6. Osuji, O. K. and Obibuaku, *Rights and Corporate Social Responsibility: Competing or Complementary Approaches to Poverty Reduction and Socioeconomic Rights?*, *Journal of Business Ethics*, (2014).
7. Porter, M. E. & Kramer, The Link between Competitive Advantage and Corporate Social Responsibility, *Harvard business review* (2007), Burke, L. and Logsdon, How corporate social responsibility pays off (1996).
8. Yang, X. and Rivers, Antecedents of CSR practices in MNCs' subsidiaries: A stakeholder and institutional perspective, *Journal of Business Ethics*, (2007).
9. Claire Dickerson, Human Rights: The Emerging Norm of Corporate Social Responsibility, *76 Tulane Law Review*, 1431 (2001)
10. These include the Right to Equality, Right to Freedom, Right against Exploitation, Right to Freedom of Religion, Cultural & Educational Rights, Saving of Certain Laws and Right to Constitutional Remedies.
11. These include 'right to social security, right to work, to free choice of employment, to just and favourable conditions of work and protection against unemployment, right to equal pay for equal work, right to existence worthy of human dignity, right to rest and leisure, right to freely participate in the cultural life of the community, right to free & compulsory education, promotion of welfare of people, equal justice & free legal aid and the principles of policy to be followed by the State.'
12. Access to Justice: Human Rights Abuses Involving Corporations, A Project of the International Commission of Jurists, (2011) URL: [http://www.icj.org/dwn/ database/ AccesstoJustice-India-ElecDist-July2011.pdf](http://www.icj.org/dwn/database/ AccesstoJustice-India-ElecDist-July2011.pdf)
13. Taxmann's : Circulars & Clarifications on Company Law; Taxmann, (2019)