
HOLDING CORPORATION ACCOUNTABLE UNDER NATIONAL AND INTERNATIONAL MECHANISMS FOR PROTECTION AND PROMOTION OF HUMAN RIGHTS

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Abstract: Corporate power has great impact on every individual's life and it has been forced upon through economically, culturally and environmentally to this globalized countries. There are several cases of lack of accountability in national and international perspective. For instance, Bhopal gas incident, incident of Coca Cola Company can be considered for national perspective and shell in Ogoniland, Nigeria Bougainville incident can be considered for international perspective. Recognising this reality, corporate victims were reported to the public tribunal court. UN adopted draft norms and the UN Norms on Human Rights and Environment. Some UN mechanisms for corporate social responsibility have been initiated by the Security Council, these are 1503 procedure of human rights commission, UN special procedure, special representative enact by the commission, United Nation guideline principle and its reporting framework. Supreme Court and high court decision, role of NGOs and role of media are also considerable for the national cases. The paper suggests that State and corporation should be transparent to the respective residents. States should promote respect for human rights by business enterprises with which they conduct commercial transactions. States, when acting as members of multilateral institutions that deal with business-related issues, should: (a) seek to ensure that those institutions neither restrain the ability of their member-states to meet their duty to protect nor hinder business enterprises from respecting human rights; (b) encourage those institutions, within their respective mandates and capacities, to promote business respect for human rights and, where requested, to help states meet their duty to protect against human rights abuse by business enterprises, including through technical assistance, capacity-building and awareness-raising; (c) draw on these Guiding Principles to promote shared understanding and advance international cooperation in the management of business and human rights challenges.

Keywords: Corporate Social Responsibility, Human Rights Mechanism, International Co-Operation.

Introduction: India is going through two different stages at the same time. One showing the bright part of India that is its rapidly developing infrastructure system and technology and other side, the dark part that resides in the core of India, hidden from the shine and glitter of India. We all are well aware of that part which contains poverty, unemployment, miserable life of villagers etc (Chauhan, 2014). Corporate Power have great impact on every individual's live and have forced through economically, culturally, and environmentally to this globalized countries. The terms "multinational corporation," "transnational corporation" and "global corporation" are often used interchangeably. If we look back into 18th century we saw that how MNCs grew in developed countries. Growth of corporate power emerged through seven sisters and transnational agribusiness. Standard Oil of New Jersey (subsequently named Exxon); Standard Oil of New York (subsequently named Mobil); Standard Oil of Ohio ; and Standard Oil of Indiana. These three Standards along with Gulf Oil, Texaco, Royal Dutch Shell, and British Petroleum (which was formed as Anglo-Persian in the early 1900s to operate a British concession in Iran), comprised the seven companies that came to be known as the 'Seven Sisters'. For a period of around three decades commencing 1928, these seven companies, five American, one British and one British-Dutch created international petroleum (Roach, 2007). These companies also had joint ownership of major crude oil production companies [throughout the middle-east]. A new global economic order is

emerging with agriculture. Countries' major part of economy depends on Agriculture. They were provided subsidies by their governments to increase their productivity. As productivity increased farmer's sales price was low. But when competition rose, Government privatized the production process due to lack of investment. TNCs increase the productivity through new technologies. TNCs at this stage include chemical and fertilizer companies, as well as manufacturers of greenhouses and other farming equipment. TNCs or international companies that provide farmers with different varieties of flowers, developed for size, colour, etc. International companies purchase flowers and operate as wholesalers. TNCs that market and distribute cut flowers directly to final customers through supermarkets, specialist flower shops and retail chains. Some supermarket chains – as large buyers – are involved in contract farming in developing countries. In Indian scenario we noticed that the paid up capital of government companies jumped up from only Rs. 73 crore in 1957 to Rs. 95,842 crore in 2000. Again, the paid-up capital of the private sector companies increased from Rs. 1,005 crore in 1957 to Rs. 1,72,056 crore in 2000. Among the private sector corporate units, the largest industrial activity in terms of paid up capitals is in processing and manufacture of metals and metal-products and then the same is followed by chemicals, textiles, leather and leather products, foodstuffs and processing, commerce, agriculture and allied industries, construction utilities etc(Sethy, 2016). It is very unfortunate that the CSR activities are involved in upbeat actions, are insignificant and more or less all cases are paying attention on approachable and post-disaster heights (Pathak and Gupta, 2013).

Corporate Social Responsibility: The Limits of Voluntary Initiatives Though a number of definition of CSR exists, one of the most comprehensive and widely used is Carroll's (1979) description of CSR as entailing economic, legal, ethical, and philanthropic responsibility. Specifically, *economic responsibility* requires that a business be profitable and produce goods and services which are desirable in a society. Monitoring employees' productivity or customer complaints are examples of activities signifying economic responsibility. The terms "CSR, corporate strategic volunteerism, social marketing, and strategic philanthropy, have penetrated the mainstream literature and multinational practices" in the developed world (Lattemann *et al.*, 2009). CSR can be defined as a "view of the corporation and its role in society that assumes a responsibility among firms to pursue goals in addition to profit maximization and a responsibility among a firm's stakeholders to hold the firm accountable for its actions" (Werther and Chandler, 2011 and Afsharipour, 2010)

The Emergence and Evolution of Corporate Social Responsibility: Corporate social responsibility (CSR) through the prism of the paradigm and practice of universal human rights (HR) as the latter has evolved internationally, over the past six decades, under the auspices of the United Nations (UN). It does so in response to three major global developments and trends over the past two decades. First, there has been an increasing, and now enormous growth of corporate power, without a commensurate accompanying growth of corporate accountability. Second, there has been a so-called paradigm shift from development through aid to development through trade and investment --- a shift that calls upon corporations to become the key (some would say prime) vehicles of development. Third, there has been a growing clamor from the "victims" of corporate activities who have had to bear the brunt of the adverse impacts of corporate activity: economic, social, cultural, civil and political; on the life, health and livelihoods of both individuals and communities.

CSR is a socially constructed value, and legitimacy is a core principle both for defining CSR and for determining the success of CSR activities (cf. Brown and Dacin 1997; David et al. 2005; Grunig 1979). Suchman (1995) described legitimacy as "a generalized perception or assumption that the actions of an entity are desirable, proper, or appropriate within some socially constructed system of norms, values, beliefs, and definitions" (p. 574). Accordingly, the standards for CSR differ by social context, and corporations can survive only when their activities meet the expectations of stakeholders and social norms. Fombrun (2005) demonstrated that each country had different criteria for CSR prizes and awards, CSR reports, CSR-related regulations, and CSR guidelines. David et al.'s (2005) study of consumer reactions to CSR initiatives found that consumers' purchase intentions were related to whether a company's ethics record exceeded their expectations.

Corporate Human Accountability under the Human Rights System: Developing countries, like India and China, after gaining independence, in order to maximising their economic stability maximized their productivity. But on that time countries needed good investment to increase their productivity and development. They approached to the World Bank. World Bank agreed to credit income and reliable to make a loan and encouraged them and advised to focus on their productivity to pay the debt. But in the 80's almost major developing countries enhanced their productivity. As a result the quantities of homogeneous products were increasing. Many claims about business and human rights are deeply contested. But international law firmly establishes that states have a duty to protect against non state human rights abuses within their jurisdiction, and that this duty extends to protection against abuses by business entities (Beyond the national territory, the duty's scope will vary depending on the state's degree of control. The UN human rights treaty bodies generally view states parties' obligations as applying to areas within their "power or effective control"). The duty to protect exists under the core United Nations human rights treaties as elaborated by the treaty bodies, and is also generally agreed to exist under customary international law. (International Law Commission, 2001) Moreover, the treaty bodies unanimously affirm that duty requires steps by states to regulate and adjudicate abuses by all social factors including businesses (States also have duties to respect, promote and fulfill rights, but the most business-relevant is the duty to protect because it focuses on third party abuse. Where corporations perform public functions or are state-controlled, the secondary rules of state attribution may also hold the state responsible for the abuse). The United Nations (UN) Human Rights Council serves several functions, one of which is to promote and monitor human rights worldwide through the establishment of special procedures. Special procedures are individual independent human rights experts, or groups of such experts, who report and advise on human rights issues. They are called by many names, including Special Rapporteurs, Special Representatives, Working Groups, and Independent Experts. Special procedures have either thematic or country-specific mandates. As of June 2015, the Human Rights Council oversees 41 thematic mandates and 14 country-specific mandates. The combined work of the special rapporteurs is broad enough to encompass civil, political, economic, social, and cultural rights. Guiding Principles are grounded in recognition of: (a) States' existing obligations to respect protect and fulfill human rights and fundamental freedoms; (b) The role of business enterprises as specialized organs of society performing specialized functions, required to comply with all applicable laws and to respect human rights; (c) The need for rights and obligations to be matched to appropriate and effective remedies when breached.

Discussion: In January 2000 SEBI has accepted the recommendations and directed Stock exchanges to implement all mandatory recommendations on corporate governance by making necessary amendments in their listing agreements. A new clause 49 was incorporated in the listing agreement about corporate governance (Praharaaj and Deshmukh, 2013). States should take additional steps to protect against human rights abuses by business enterprises that are owned or controlled by the State, or that receive substantial support and services from State agencies such as export credit agencies and official investment insurance or guarantee agencies, including, where appropriate, by requiring human rights due diligence. States should exercise adequate oversight in order to meet their international human rights obligations when they contract with, or legislate for, business enterprises to provide services that may impact upon the enjoyment of human rights. States should promote respect for human rights by business enterprises with which they conduct commercial transactions. in conflict affected areas the risk of gross human rights abuses is heightened in conflict affected areas, States should help ensure that business enterprises operating in those contexts are not involved with such abuses, including by:

- (a) Engaging at the earliest stage possible with business enterprises to help them identify, prevent and mitigate the human rights-related risks of their activities and business relationships;
- (b) Providing adequate assistance to business enterprises to assess and address the heightened risks of abuses, paying special attention to both gender-based and sexual violence;
- (c) Denying access to public support and services for a business enterprise that is involved with gross human rights abuses and refuses to cooperate in addressing the situation;
- (d) Ensuring that their current policies, legislation, regulations and enforcement measures are effective in addressing the risk of business involvement in gross human rights abuse.

States should ensure that governmental departments, agencies and other State-based institutions that shape business practices are aware of and observe the State's human rights obligations when fulfilling their respective mandates, including by providing them with relevant information, training and support. They should maintain adequate domestic policy space to meet their human rights obligations when pursuing business-related policy objectives with other States or business enterprises, for instance through investment treaties or contracts. States, when acting as members of multilateral institutions that deal with business-related issues, should: (a) Seek to ensure that those institutions neither restrain the ability of their member States to meet their duty to protect nor hinder business enterprises from respecting human rights; (b) Encourage those institutions, within their respective mandates and capacities, to promote business respect for human rights and, where requested, to help States meet their duty to protect against human rights abuse by business enterprises, including through technical assistance, capacity-building and awareness-raising; (c) Draw on these Guiding Principles to promote shared understanding and advance international cooperation in the management of business and human rights challenges.

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