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CORPORATE ACCOUNTABILITY FOR HUMAN RIGHTS VIOLATIONSUNDER INTERNATIONAL LAW: A CRITICAL ANALYSIS

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ABSTRACT

Multinational corporations are gaining increasing power, and transforming the global economy. This has resulted in grave concerns about their accountability for human rights violations in accordance with international law. Corporations also contribute to economic growth, employment and technological progress, but they have also been linked to human rights abuses, such as labour exploitation, environmental degradation and forced displacement. Corporations often escape direct legal liability because of an accountability gap in the traditional framework of international law, where human rights obligations rest primarily with States.

The study critically evaluates the notion of corporate accountability for human rights violations under international law through an analysis of the existing international legal framework, judicial developments and current issues. This study is concerned with important international instruments, such as the standards of the International Labour Organization, the United Nations Guiding Principles on Business and Human Rights, the OECD Guidelines for Multinational Enterprises, the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights and the Universal Declaration of Human Rights. It discusses important court rulings including Kiobel v. Royal Dutch Petroleum Co., Jesner v. Arab Bank PLC, Vedanta Resources Plc v. Lungowe, Okpabi v. Royal Dutch Shell Plc, and Nevsun Resources Ltd. v. Araya, as well as significant corporate human rights incidents such as the Bhopal Gas Disaster and the Rana Plaza collapse.

The doctrinal research process of the study analyses main and secondary legal sources such as international conventions, court rulings, academic literature and policy papers. Some of the main obstacles to effective corporate responsibility are the notion of separate legal personality, the jurisdictional restrictions, the absence of enforcement instruments and the predominantly

voluntary nature of existing international norms.

The study concludes that while international legal frameworks have improved corporate human rights governance, large accountability gaps still exist. It asks for increased international cooperation, effective enforcement mechanisms, mandatory human rights due diligence, enhanced parent company liability, and better access to remedies to improve the accountability of corporations and safeguard human rights in such a rapidly globalizing economy

Chapter 1: Overview

1.1 The Study's Context

Globalization, international trade, technology, and foreign investment have all contributed to corporations' rise to prominence in the global arena. Multinational corporations have the same economic clout as governments and have a big influence on government policy, consumer preferences, labor markets, and environmental regulations.[1]

It is indisputable that corporate activity has an impact on economic growth, job creation, innovation, and raising living standards. However, there are also instances of corporate wrongdoing that have sparked serious worries about the defense of human rights. In many regions of the world, businesses have been accused of discrimination, child labor, forced community relocation, environmental harm, hazardous working conditions, and other violations of human rights.[2]

Numerous high-profile incidents have been linked to inadequate corporate responsibility. One of the deadliest industrial disasters in history, the Bhopal Gas Disaster in 1984 claimed thousands of lives and caused health issues. Similarly, severe carelessness and a lack of worker safety in international supply chains were exposed by the collapse of the Rana Plaza industrial building in Bangladesh. In the context of environmental debate, multinational oil and mining companies have once again demonstrated how corporate operations can have an impact on important rights problems of health, life, and human dignity.

Human rights protection has typically been addressed by international law from a state-centric standpoint. Human rights accord primarily impose obligations on states, or state governments, which are owed to the citizens of the states under their control. Instead of being directly governed by international law, corporations in this kind of arrangement are often governed by

[1] John Gerard Ruggie, *Just Business: Multinational Corporations and Human Rights* (WW Norton & Company 2013).
[2] Human Rights Council, *Guiding Principles on Business and Human Rights: Implementing the United Nations "Protect, Respect and Remedy" Framework* UN Doc A/HRC/17/31 (21 March 2011).

the home legal system.[3]

This may have worked in the past, but in the globalized world of today, it has shown to be unfeasible. Multinational firms may have complex subsidiaries, contractors, and suppliers, and they are typically dispersed over several jurisdictions. When human rights violations occur, these structures may make it difficult to assign blame. In many situations, victims find it challenging to get remedies due to a lack of robust regulatory institutions, jurisdictional barriers, and legally obligated international responsibilities that directly impact enterprises.

This has prompted a re-examination of the efficacy of the existing legislation, which is primarily focused on national corporations. The necessity for stronger accountability mechanisms to address contemporary human rights challenges and the question of companies' direct obligation under international law have drawn more attention both domestically and globally.

Through an assessment of the current situation, an examination of the evolution of corporate accountability under international law, and a conclusion regarding whether current procedures provide sufficient protections against corporate human rights breaches, the research focuses on these issues.

1.2 Problem Statement

The global economy has been altered by multinational corporations. These days, an increasing number of corporations possess the assets, clout, and operational reach of independent nations. Although corporate activity plays a significant role in economic growth and development, it can also be connected to grave human rights violations, including labor exploitation, environmental degradation, forced community displacement, hazardous working conditions, and violations of the rights to life, health, and dignity.[4]

While international law primarily functions in a state-centric framework, the impact of business actions on the exercise of human rights is increasing. States, not companies, are subject to the majority of international human rights commitments. As a result, internal regulatory and voluntary compliance procedures are essential to accountability. Governments frequently fall short of successfully regulating large, multinational corporations, particularly when those corporations have a dual interest in safeguarding economic interests and human rights.[5]

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[3] Andrew Clapham, *Human Rights Obligations of Non-State Actors* (Oxford University Press 2006).

[4] Surya Deva, *Human Rights Obligations of Business: Beyond the Corporate Responsibility to Respect?* (Cambridge University Press 2013).

[5] David Bilchitz (ed), *Human Rights Obligations of Business: Beyond the Corporate Responsibility to Respect?* (Cambridge University Press 2013).

Due to jurisdictional concerns, intricate corporate structures, weak enforcement mechanisms, and the absence of directly binding international obligations to corporations, there are still large accountability gaps and, in reality, victims of corporate human rights violations may find it difficult to obtain effective remedies for their rights violations. Whether the current international system can successfully hold corporations accountable or if new international law is required to hold multinational corporations directly accountable is a crucial subject that comes up.

1.3 Research Issues

The following questions are the focus of the study:

1) What kind and degree of corporate engagement exists in violations of human rights?
2) What is the current state of international law regarding corporate liability for human rights abuses?
3) Does holding corporations accountable require the creation of new international mechanisms?
4) What barriers exist for victims of multinational firms to obtain remedies?
5) Are businesses subject to direct international legal obligations?
6) What changes are required to guarantee that businesses are held more accountable for human rights issues?

1.4 Research Goals

This study's objectives are:

1) to investigate the relationship between human rights abuses and multinational corporate operations.
2) to assess the existing international legal framework regarding corporate accountability for human rights abuses.
3) to evaluate the efficacy of soft law tools, such as the OECD Guidelines for Multinational Enterprises and the United Nations Guiding Principles on Business and Human Rights.
4) to examine corporate responsibility issues in different legal and legislative contexts.
5) to determine the shortcomings of the current international system.
6) to determine whether international law should impose direct obligations on multinational enterprises.

7) to suggest changes that would increase corporate responsibility for human rights abuses.

1.5 The Study's Limitations and Scope

The research focuses on corporate accountability in international law, particularly as it relates to multinational corporations and fundamental human rights. It looks at court decisions, soft-law papers, international human rights documents, and contemporary developments in the area of corporate responsibility.

The research primarily focuses on international legal principles and a few seminal instances that have influenced the conversation about business and human rights. Additionally, it evaluates how well current procedures have responded to corporate involvement in human rights violations.

However, the study only examines international law; it does not offer a thorough review of the domestic business law systems of every nation. Since the topic is broad, important international events, specific legal systems, and significant rulings are highlighted. Although the work represents a variety of viewpoints, its primary focus is on the necessity of strengthening the accountability systems for corporations under international law.

1.6 Review of Literature

In today's legal literature, corporate responsibility for violations of human rights has attracted a lot of attention. Multinational firms have a lot of power, and Surya Deva thinks it's time to use that influence properly and legally rather than through voluntary compliance methods. [6]Similarly, David Bilchitz contends that companies have direct human rights responsibilities and that their influence on human rights might be comparable to that of the state.[7]

John Ruggie has made a substantial contribution to the United Nations Guiding Principles on Business and Human Rights. He focuses on remedies for victims, corporate responsibility to respect, and the state's obligation to protect. However, detractors claim that this is because the Guiding Principles are optional, which limits their usefulness.[8]

These scholars agree that corporations have an important role to play in the realization of

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[6] Surya Deva, *Human Rights Obligations of Business: Beyond the Corporate Responsibility to Respect?* (Cambridge University Press 2013).

[7] avid Bilchitz (ed), *Human Rights Obligations of Business: Beyond the Corporate Responsibility to Respect?* (Cambridge University Press 2013).

[8] John Gerard Ruggie, *Just Business: Multinational Corporations and Human Rights* (W W Norton & Company 2013); Human Rights Council, *Guiding Principles on Business and Human Rights: Implementing the United Nations "Protect, Respect and Remedy" Framework* UN Doc A/HRC/17/31 (21 March 2011).

human rights, but differ as to the appropriate legal response. Ruggie advocates a pragmatic framework based on the State's duty to protect, the corporate responsibility to respect and access to effective remedies. Deva and Bilchitz argue that voluntary frameworks are not enough and promote the need for stronger, legally enforceable corporate obligations. This divergence is indicative of the wider debate between soft-law approaches and binding international regulation of corporate behaviour.[9]

Olivier De Schutter and Andrew Clapham have also highlighted the evolving character of non-state entities in international law and the need for more stringent controls over corporate behavior. Recent literature has increasingly supported the necessity of human rights due diligence and a legally binding international treaty on business and human rights.

Recent scholarship has also noted a move toward mandatory human rights due diligence. Legislative trends in countries such as France, Germany and the European Union suggest that academic recommendations are increasingly likely to impact domestic and regional regulatory schemes. These developments show a move in the debate from whether corporations should be held accountable, to how accountability can be enforced effectively.[10]

Concerns regarding the current system's lack of accountability are becoming more prevalent, according to existing research. Although opinions on the extent of corporate responsibility vary, it is generally agreed that the existing corporate human rights frameworks are insufficient to provide victims of corporate human rights violations with sufficient remedies. This paper builds on these discussions by examining whether corporations should have any direct obligations under international law.

1.7 Research Approaches

In the current study, legal concepts, acts and treaties, court rulings, and academic articles on corporate liability in international law for human rights abuses are analyzed using the doctrinal research technique.[11]

The main and secondary materials serve as the foundation for the research. The United Nations Guiding Principles on Business and Human Rights, the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social, and Cultural Rights, the OECD Guidelines for Multinational Enterprises, the Rome Statute, the International Labour

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[9] Andrew Clapham, *Human Rights Obligations of Non-State Actors* (Oxford University Press 2006); Olivier De Schutter, *International Human Rights Law* (3rd edn, Cambridge University Press 2019).
[10] Organisation for Economic Co-operation and Development, *OECD Guidelines for Multinational Enterprises on Responsible Business Conduct* (OECD Publishing 2023).
[11] H McKerchar, *Designing and Conducting Research in Tax, Law and Accounting* (Lawbook Co 2010).

Organization conventions, and the Universal Declaration of Human Rights are a few international documents that are considered primary sources. Relevant court rulings like *Kiobel v. Royal Dutch Petroleum Co., Jesner v. Arab Bank, Vedanta Resources Plc v. Lungowe, Okpabi v. Royal Dutch Shell Plc,* and *Nevsun Resources Ltd. v. Araya*[12] are also highlighted. Books, journal articles, reports, and scholarly commentary by eminent business and human rights experts are examples of secondary sources. The study examines the efficacy of the current legal frameworks and identifies developments related to the growth of corporate accountability using analytical and comparative approaches.

The focus of the qualitative study is legal analysis. It seeks to analyze the need for greater accountability and assess the efficacy of the current international framework for the protection of human rights in the context of corporate activity.

Synopsis of the Chapter

This chapter introduces the idea of corporate accountability for human rights breaches and identifies the key topics that have been covered throughout the research. The research problem, goal, methodology, background, and viewpoints on corporate accountability have all been identified. The chapter also summarized the book's central argument, which is that because the current international regulatory framework is predicated on compliance and self-regulation, it is still insufficient. The philosophical underpinnings of corporate liability are covered in the second chapter, along with the connections between businesses and international law and human rights.

Chapter 2: Conceptual Structure

2.1 Overview

Understanding the fundamental ideas that guide the business and human rights debate is essential to the conversation about corporate accountability. Corporate accountability for human rights crimes results from the overlaps between international law, corporate law, and human rights law. In the past, these areas developed independently, with nations bound by international human rights legislation and businesses primarily subject to domestic rules.[13]

Globalization, however, has fundamentally altered this connection. Businesses now operate across multiple jurisdictions, manage substantial sums of money, and have an impact on people

[12] *Kiobel v Royal Dutch Petroleum Co* 569 US 108 (2013); *Jesner v Arab Bank PLC* 584 US ___ (2018); *Vedanta Resources Plc v Lungowe* [2019] UKSC 20; *Okpabi v Royal Dutch Shell Plc* [2021] UKSC 3; *Nevsun Resources Ltd v Araya* 2020 SCC 5.

[13] Andrew Clapham, *Human Rights Obligations of Non-State Actors* (Oxford University Press 2006).

and communities worldwide. This has brought up a number of issues regarding the extent of corporate obligations regarding the protection of human rights.[14]

The conceptual underpinnings of corporate liability are covered in this chapter. First, the definition of corporate liability is clarified. Next, the nature of corporations' involvement in human rights violations is described. Finally, the concept of corporate legal personality is examined, along with the question of whether corporations can be treated as subjects of international law.

2.2 What Corporate Liability Means

Any business or organization that harms individuals, communities, or society through its actions or inaction is subject to corporate liability. Liability may occur in civil, criminal, administrative, or regulatory courts, depending on the type of behaviour and the applicable legal system.

Corporate accountability has previously developed in domestic jurisdictions. Businesses may be held accountable for breaches of contracts, negligence, the environment, consumer protection, and regulations. Over time, the law started to recognize that companies should be held legally accountable for their conduct since they are artificial legal people with the potential to cause harm.[15]

When it comes to human rights, corporate liability refers to a company's responsibility for actions that violate internationally recognized human rights. Through subsidiaries, contractors, suppliers, or business partners, corporate behavior can be either direct or indirect.[16]

The following corporate actions may have an effect on human rights:

- Workplace exploitation.
- Child labor.
- Forced labor.
- Unsafe working circumstances.
- Pollution of the environment.
- Local communities were forcibly removed.
- Discrimination at work.
- Violations of Indigenous Peoples' rights.
- State officials' complicity in human rights abuses.

[14] ohn Gerard Ruggie, *Just Business: Multinational Corporations and Human Rights* (W W Norton & Company 2013).
[15] *Salomon v A Salomon & Co Ltd* [1897] AC 22.
[16] Human Rights Council, *Guiding Principles on Business and Human Rights: Implementing the United Nations "Protect, Respect and Remedy" Framework* UN Doc A/HRC/17/31 (21 March 2011), Principle 13.

Since many human rights violations occur in business environments rather than as a result of overt state action, the concept of corporate accountability has gained significance. Issues of accountability for corporate misconduct are at the center of the present legal debate in a period of ongoing commercial globalization.

However, one challenge is determining which law to use in order to hold the corporations responsible. International human rights legislation imposes unambiguous obligations on states, although there is disagreement over the extent of corporate obligations. This is a crucial question in the current discussion about business and human rights.

When used in a corporate setting, the term "human rights violation" might indicate many things. Human rights are basic liberties and rights that every person has only by virtue of being human. Numerous international agreements, including the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights, and the International Covenant on Economic, Social, and Cultural Rights, recognize and protect these rights.[17]

Human rights violations occur when a person's ability to exercise their rights is hampered by their actions or inaction. In the past, it was believed that the state, not individuals, was responsible for such offenses. Human rights breaches such as arbitrary arrests, torture, discrimination, and restrictions on freedom of expression were thought to be mostly committed by governments.

However, the contemporary world demonstrates that companies and other private actors can also have a significant impact on human rights. Civil, political, economic, social, and cultural rights can all be impacted by corporate actions.

For example, hazardous working conditions can endanger one's life or health. The right to decent and favorable working conditions can be negatively impacted by labor exploitation. Environmental contamination is likely to compromise the rights to health, clean water, and a reasonable quality of living. Housing rights, property interests, and cultural rights may be impacted by forced relocation brought on by mining and/or infrastructure developments.

A business may be connected to violations of human rights in a number of ways:

1) Direct Infractions

When companies themselves engage in actions that violate human rights, these are known as direct violations. This may include the systematic denial of workers' rights, the use of forced

[17] Universal Declaration of Human Rights (adopted 10 December 1948) UNGA Res 217 A(III); International Covenant on Civil and Political Rights (adopted 16 December 1966, entered into force 23 March 1976) 999 UNTS 171; International Covenant on Economic, Social and Cultural Rights (adopted 16 December 1966, entered into force 3 January 1976) 993 UNTS 3.

labor, or discrimination at work.

2) Indirect Infractions

Companies that support or profit from the abuses of others are guilty of indirect violations. This could include doing business with vendors who utilize child labor or even forming alliances with governments that violate human rights. One well-known instance is Doe I v. Unocal Corp., in which there were claims of corporate involvement in forced labor related to a pipeline project in Myanmar.[18]

3) Participation

Corporations become complicit in infractions when they intentionally assist, enable, or benefit from violations committed by third parties. Since many human rights abuses can be linked to private actors working with state ones, the concept of corporate complicity has expanded in recent years in international legal discussions and is becoming more and more significant.[19]
Calls for corporate accountability have been strengthened in recent years as the role of businesses in violations of human rights has been questioned more and more.

2.4 Legal Personality of Corporations

The foundation of modern corporation law is the idea of corporate legal identity. A corporation is regarded as a separate legal entity from its directors, workers, and stockholders. Corporations are legal entities with the ability to keep property, make contracts, be sued repeatedly, and carry on with their operations without ownership changes.

Salomon v. A. Salomon & Co. Ltd., one of the major corporation law cases, established the idea of independent legal personality. In that case, the court determined that a corporation is distinct from its owners or managers.[20]

Additionally, corporate legal personality has contributed significantly to economic expansion through trade and investment. By shielding investors from potential personal accountability for business debts, the limited liability idea promotes entrepreneurship and economic growth.

Despite these benefits, there have been significant issues with the philosophy about corporate responsibility. Numerous subsidiaries of multinational corporations are frequently registered in several nations. Using the theory of separate legal personality, parent firms may attempt to

[18] *Doe I v Unocal Corp* 395 F 3d 932 (9th Cir 2002).
[19] International Commission of Jurists, *Corporate Complicity & Legal Accountability* (Vol 1, 2008).
[20] *Salomon v A Salomon & Co Ltd* [1897] AC 22.

place the blame for violations of human rights on their subsidiaries.

The "corporate separateness" principle's proponents have come under fire for making it challenging to hold companies responsible when they engage in detrimental actions within their corporate groups. A remedy cannot be obtained for the victims if only subsidiaries with weak legal systems or small assets have been deemed accountable.

Judges are increasingly looking beyond the corporate structure to consider the true relationship between parent firms and their subsidiaries, as demonstrated by recent rulings. This is a change toward a more comprehensive understanding that, at least legally speaking, financial interest shouldn't shield businesses from accountability for serious human rights abuses.

One of the most important topics in contemporary business and human rights law is corporation legal personality and corporate accountability.

2.5 Businesses as International Law Subjects

One of the most contentious questions in modern international law is whether corporations should be acknowledged as subjects of international law.[21]

In the past, international law was seen as a law of states that governed interactions between independent nations. As a result, the states would have international rights and obligations and be recognized as the main actors in international law. Non-state actors, including people and businesses, were typically regarded as objects rather than subjects of international law.

Maintaining this conventional framework is getting harder and harder. International law today recognizes actors other than states, including people, international organizations, and armed groups in certain circumstances. International organizations have rights and obligations under international law, and individuals may face prosecution by international criminal tribunals.

Additionally, corporations play a significant role in the legal system on a global scale. They have access to arbitration, investment treaties, and international trade agreements. Many businesses are more powerful economically than numerous states. Corporations, however, are mainly exempt from international commitments despite possessing substantial rights inside the international system.

This disparity is difficult to defend, according to those who oppose direct corporate responsibility. They contend that organizations with authority, influence, and the capacity to affect international human rights ought to be held accountable for doing so. According to this viewpoint, international law ought to be revised to reflect contemporary circumstances rather

[21] Malcolm N Shaw, *International Law* (9th edn, Cambridge University Press 2021).

than being constrained by antiquated notions of state monopoly.

States should remain the primary actors in international law, according to critics. They contend that governments have a political duty and a democratic mandate that the private sector does not. Additionally, they contend that domestic rules provide states more power to regulate corporate behaviour.

While there is some merit to both views, the modern world is moving more and more in the direction of expanding corporate accountability. In terms of court rulings, due diligence laws, and international policy initiatives, there are indications that this discontent with a strictly state-centered approach to accountability is gaining momentum. The creation of the United Nations Guiding Principles and the ongoing discussions over a legally enforceable business and human rights treaty[22] serve as additional examples of the slow evolution of international legal thought. The author believes that one of the primary causes of the current lack of accountability is the failure to recognize direct corporate duties under international law. These days, businesses are powerful players on the international scene and have the ability to influence important human rights in various nations. It is difficult to defend the current "globalization" of legal rights in favor of businesses while imposing virtually no international obligations on them.

2.6 Synopsis of the Chapter

The conceptual frameworks of corporate responsibility for violations of human rights have been examined in this chapter. It has addressed the significance of the idea of corporate legal personality, refined the concept of corporate accountability, and looked at how corporate acts could affect human rights. The conflict surrounding the topic of international law—corporations—has also been discussed in this chapter.

The discussion demonstrates how the phenomenon of globalization and the international operations of business are posing a growing threat to traditional legal notions that were formed in a state-centric setting. The argument for stronger ideas of corporate responsibility is becoming more compelling as businesses become more important in both the social and economic spheres. The next chapter examines the extent to which the international legal framework for business and human rights can effectively regulate corporate behavior.

[22] Human Rights Council, *Guiding Principles on Business and Human Rights: Implementing the United Nations "Protect, Respect and Remedy" Framework* UN Doc A/HRC/17/31 (21 March 2011).

Chapter 3: International Law Regulation of Corporate Human Rights Responsibilities

3.1 Overview

Since globalization has increased and multinational firms' power and influence have expanded, corporate responsibility for human rights breaches has grown. Even while international human rights law is intended to regulate state behavior, contemporary economic conditions have raised a number of concerns regarding the responsibilities of private actors whose actions may significantly affect the exercise of human rights.

Through a variety of treaties, declarations, recommendations, and policy frameworks, governments, courts, international organizations, and civil society have attempted to address this issue in recent decades. These tools seek to build procedures for the defense of human rights in commercial operations and encourage ethical corporate practices.

However, the current system has a significant flaw. Nowadays, nations are still the primary target of most international institutions rather than corporations. Therefore, domestic regulatory and compliance systems may bear the risk of corporate accountability. This chapter examines the main international legal frameworks pertaining to human rights and business activity and evaluates how they handle corporate wrongdoing.

3.3 The Relationship Between Human Rights and Business

International human rights law has historically placed a strong emphasis on governmental actions. Governments were viewed as primarily responsible for upholding and defending human rights with the adoption of the Universal Declaration of Human Rights in 1948 and the start of the drafting of international human rights treaties. Since municipal law addresses the particular issues that individuals face that are typically not addressed by international law, the government is the one who would take care of the citizens in accordance with it. Additionally, each state is sovereign and does not want outside laws to interfere.

The size and influence of multinational firms increased during the second half of the 20th century. Globalization made it possible for corporations to grow into numerous nations, many of which have weak legal and governmental systems and inadequate human rights protection. Scholars and decision-makers started to question whether the conventional state-based approaches were sufficient in light of the increasing number of claims of labor exploitation, environmental violations, and corporate involvement in human rights violations.

Efforts to address business-related human rights issues increased during the 1990s. The need for greater corporate accountability is being emphasized more and more by advocacy groups, international organizations, and non-governmental organizations. Several important frameworks, including the United Nations Global Compact, the OECD Guidelines for Multinational Enterprises, and the United Nations Guiding Principles on Business and Human Rights, were eventually developed as a result of the movement.[23]

The evolution of human rights and business is a component of the larger evolution of international law. Although states continue to play a significant role, there is an increasing emphasis on the actions of powerful non-state actors that significantly affect human rights outcomes.

3.3 The UDHR, or Universal Declaration of Human Rights

The cornerstone of modern international human rights legislation is the UNDHR. The United Nations adopted the Declaration on December 10, 1948[24], and it includes a long list of universal freedoms and fundamental rights.

Numerous rights that are pertinent to corporate behaviour are included in the UDHR, including:

- The right to life.
- The right to safety and liberty.
- Freedom from forced labor and slavery.
- The right to work.
- The right to fair and advantageous working circumstances.
- The entitlement to health.
- The right to a respectable quality of life.

The Declaration has influenced the development of global human rights standards and corporate accountability frameworks, even if it does not specifically call for corporations to take action. The UDHR's recognized rights serve as the foundation for numerous business and human rights efforts.

Crucially, the preamble of the Declaration acknowledges that respect for human rights should be promoted by each and every member of society[25]. According to some observers, this wording supports the broader concept of corporate responsibility. Nonetheless, the UDHR does not establish any legally binding obligations that directly affect corporations and is still focused

[23] United Nations Global Compact (2000); Organisation for Economic Co-operation and Development, *OECD Guidelines for Multinational Enterprises on Responsible Business Conduct* (OECD Publishing 2023).
[24] Universal Declaration of Human Rights (adopted 10 December 1948) UNGA Res 217 A (III).
[25] Universal Declaration of Human Rights, Preamble.

on the responsibilities of the state.

As a result, even while the UDHR has been a crucial source for norm-setting, it does not adequately address the concerns brought up by today's multinational firms.

3.4 The International Covenant on Civil and Political Rights (ICCPR)

One of the most important international human rights treaties and a part of the International Bill of Rights[26] is the International Covenant on Civil and Political Rights (ICCPR). Numerous civil and political rights are guaranteed under the Covenant, including:

- The right to life.
- The absence of torment.
- The absence of slavery.
- The right to free speech.
- The ability to form associations.
- Legal equality.

Like the majority of international human rights treaties, the ICCPR mainly places obligations on states. Governments are required to uphold and protect the rights outlined in the Covenant and to offer appropriate remedies where such rights are violated.

Corporate responsibility is indirectly related to the ICCPR; yet, in order to prevent violations of protected rights, private organizations, including businesses, must be subject to state control. The state may face repercussions under international law if the firms' actions are not appropriately regulated.

For example, questions may be raised about whether the Covenant is being fulfilled if a government is unwilling to take reasonable steps to stop forced labor, discriminatory employment practices, or serious abuses by private firms in the workplace.

Although the ICCPR's limited state-centric architecture has led to its limitations, it has an indirect impact on corporate accountability. One significant weakness in the international law system is that the Covenant is not immediately enforceable against companies.

3.5 The ICESCR, or International Covenant on Economic, Social, and Cultural Rights

The International Covenant on Economic, Social, and Cultural Rights[27] protects rights that are directly related to business operations. Among them are:

[26] International Covenant on Civil and Political Rights (adopted 16 December 1966, entered into force 23 March 1976) 999 UNTS 171.

[27] International Covenant on Economic, Social and Cultural Rights (adopted 16 December 1966, entered into force 3 January 1976) 993 UNTS 3.

- Right to work
- The entitlement to just compensation.
- A safe and healthy work environment.
- Rights of trade unions.
- The entitlement to health.
- The right to education.
- The right to a reasonable level of living.

Many of the contemporary commercial human rights challenges revolve around these rights. Common abuses of rights under the Covenant include labor exploitation, hazardous working conditions, contamination of the environment, and insufficient worker protections.

The states are required by the ICESCR to take the appropriate steps to gradually realize these rights. Governments are therefore expected to provide guidelines for business conduct and legislation that can protect communities and employees against mistreatment.

The Covenant is significant but has limitations, just like the ICCPR. States still bear the majority of the responsibility, not businesses. Therefore, the ability and willingness of governments to successfully control corporate activity is essential to accountability.

The effectiveness of the Covenant may be significantly reduced if the state lacks the authority to regulate or if it prioritizes economic investment over the protection of human rights.

3.6 Standards of the International Labor Organization

The ILO[28] has played a significant role in establishing global labor norms pertaining to business conduct. Since its founding in 1919, the ILO has established numerous conventions and recommendations to guarantee workers' rights and respectable working conditions.

Several fundamental ILO standards are pertinent to various facets of corporate responsibility, including:

- The ability to form associations.
- Rights to collective bargaining.
- The end of forced labor.
- The elimination of child labor.
- Preventing prejudice in the workplace.

These standards aid in gauging company behaviour and are mirrored in national labor legislation. Numerous corporate rules of conduct and supply chain monitoring initiatives have

[28] Constitution of the International Labour Organization (1919).

also been communicated to them.

The strengthening of the worldwide labor protection system has been greatly aided by the ILO. However, there are still major obstacles to enforcement. Many infractions occur in intricate global supply chains, where monitoring and accountability can be difficult to obtain, and they frequently go unreported if they occur in the home market.

If the nations themselves did not effectively implement international labor rules, they would be of little service. The fact that labor exploitation occurs in a variety of industries serves as further evidence that international labor standards are insufficient without strong enforcement measures.

3.7 United Nations Business and Human Rights Guiding Principles

The 2011 United Nations Guiding Principles on Business and Human Rights marked a significant turning point in the sector. Under John Ruggie's direction, the Guiding Principles established the most significant global concept of corporate responsibility and human rights.

Three pillars form the foundation of the UNGPs:

First Pillar: State Obligation to Safeguard

States have an obligation to defend citizens against violations of human rights by companies and other third parties. To stop corporate wrongdoing, governments should enact the necessary laws, regulations, and policies.

Pillar Two: Business Obligation to Honor

It is the duty of corporations to uphold human rights and refrain from contributing to or causing abuses of those rights.

Among the fundamental ideas are:

- Upholding human rights that are acknowledged globally.
- Steer clear of human rights violations.
- Doing out due diligence on human rights.
- Recognizing and resolving possible threats to human rights.
- Supplying or assisting with remedies in cases of injury.

Pillar Three: Availability of Treatment

Effective legal and extrajudicial remedies should be available to victims of corporate violations of human rights. Grievance procedures should be made available, accessible, and efficient by states and enterprises.

International legal discussions, governmental policy, and corporate governance have all been impacted by the Guiding Principles. Numerous businesses have already put into practice human rights policies that are based on the UNGP framework, and some states have released National Action Plans that concentrate on putting the principles into practice.

However, there are serious flaws that must be fixed. The UNGPs have no legal force behind them. Compliance is mostly the result of local implementation and corporate voluntary activity. This indicates that there are no immediate legal repercussions for firms that violate the principles.

One of the best justifications for reform is this. Although the UNGPs have been successful in establishing standards for ethical corporate practices, the accountability gap between business and human rights has not been eliminated.

3.8 OECD Multinational Enterprise Guidelines

The OECD Guidelines[29] for Multinational Enterprises are another important global tool for corporate responsibility.

The Guidelines offer suggestions regarding:

- Human rights.
- Rights of labor.
- Preservation of the environment.
- The interests of customers.
- Measures to combat corruption.
- Conscientious commercial practices.

In order to facilitate the implementation of the Guidelines and address grievances regarding business conduct, the participating States have appointed National Contact Points.

The OECD Guidelines have influenced ethical business practices and raised corporate awareness of human rights issues. They are comparable to the UNGPs in that they are primarily voluntary. Because the National Contact Points are not legally enforceable, the system is typically not particularly effective. The Guidelines are not a cure-all, but they are a step in the right direction toward making businesses accountable for human rights abuses.

3.9 New Initiatives for a Binding Agreement

A legally binding international convention on business and human rights is becoming more and

[29] Organisation for Economic Co-operation and Development, *OECD Guidelines for Multinational Enterprises on Responsible Business Conduct* (OECD Publishing 2023).

more popular as people grow dissatisfied with a voluntary approach. The development of a tool to improve accountability and establish clear commitments has been discussed by the UN.[30]

Proponents claim that a treaty would aid in fixing many of the existing system's shortcomings. It could reduce chances for firms to exploit regulatory differences between jurisdictions, improve the capacity to seek remedies, promote international cooperation, and help establish shared standards.

The consequences for state sovereignty, execution, and potential impact on foreign investment have been criticized. However, there are indications that treaty negotiations are gaining steam and that voluntary standards may not be sufficient to resolve significant corporate human rights violations.

The very fact that treaty negotiations are taking place reveals a significant reality: many countries, academics, and civil society organizations have realized that the current state of affairs is insufficient.

3.10 An Analysis of the International Framework

The international legal framework for corporate responsibility has drastically changed during the past few decades. With the aid of documents like the UDHR, ICCPR, ICESCR, ILO standards, UN Guiding Principles, and OECD Guidelines, significant standards pertaining to ethical business practices have been established.

However, this framework's lack of consistency in the majority of its components is a major issue. States, not companies, are obligated by the great majority of instruments. Companies' obligations are recognized in some areas, although local action is still required for compliance. As a result, there are accountability gaps. Victims may find it difficult to obtain redress, and businesses may continue operating under different laws in different regions. Although there are many worldwide standards, they are not always successful.

Thus, it appears that the framework is succeeding in its goal of setting expectations, but it is failing in its goal of holding people accountable. The argument for legally binding international treaties that directly apply to MNEs[31] is strengthened by this constraint.

3.11 Synopsis of the Chapter

This chapter looks at the major international instruments that have an impact on business and

[30] Open-ended Intergovernmental Working Group on Transnational Corporations and Other Business Enterprises with Respect to Human Rights, *Updated Draft Legally Binding Instrument* (2023).
[31] Olivier De Schutter, *International Human Rights Law* (3rd edn, Cambridge University Press 2019).

human rights. Despite their significant contribution to the development of corporate responsibility standards, these have been heavily reliant on voluntary compliance methods and governmental oversight. It demonstrates how different current tools can provide helpful direction but are not well enforced. In Chapter 3, the potential for direct corporate accountability under current international law is examined, along with novel approaches to corporate responsibility.

Chapter 4: International Law's Impact on Corporate Liability

4.1 Overview

The last chapter examined the international legal framework pertaining to business and human rights, emphasizing that the majority of existing legal instruments place more emphasis on state obligations than corporate commitments. Thus, the topic of whether companies can be held directly accountable for abuses of human rights under international law is an intriguing one.

International law was historically based on the idea of "souveraineté" (sovereignty), which held that states were the primary participants in the system. The initial purpose of international dispute resolution processes, customary international law, and human rights texts was to regulate governmental behavior. Corporations were thought to be subject to local legal frameworks for regulation because they were not subject to state or federal law.

However, it has come under scrutiny because to the expansion of multinational corporations and the increase in business-related violations of human rights. The legislation, courts, academics, and international organizations have all looked for ways to hold businesses responsible for their acts that affect human rights.

4.3 Multilateralism and the Interdependence of the International Law System

International law has developed historically as a set of rules governing the interactions between sovereign states. Even if international human rights legislation has evolved after World War II, nations have, by far, been the entities granted legal obligations, while private entities have mostly been subject to domestic law control.[32]

In today's global economy, when transnational corporations usually have a significant economic imprint and operate in multiple areas, this territorial strategy presents challenges. International human rights procedures include obligations pertaining to public welfare, labor rights, and environmental protection, but they rarely hold businesses directly accountable for

[32] James Crawford, *Brownlie's Principles of Public International Law* (9th edn, Oxford University Press 2019).

their impact on human rights.

Because of this, victims of corporate violations of human rights are especially susceptible to the shortcomings or inaction of domestic legal systems, which seldom provide them with adequate remedies. Therefore, a major factor in the current accountability gaps is the continued reliance on governmental responsibility.

4.4 International Law's Direct Corporate Responsibility

The legal obligations placed on firms by international law are known as direct corporate responsibility. Supporters of multinational corporations contend that because of their immense influence, they ought to bear a large deal of responsibility.

Corporations should be held to international commitments, according to proponents, as they already have some rights and protections under international economic law. By directly holding businesses accountable and guaranteeing uniform standards across jurisdictions, accountability gaps can also be reduced.

Opponents, however, contend that domestic law should control corporate behavior and that nations should continue to be the main actors in international law. Nonetheless, there are indications of a growing desire to hold businesses more responsible, such as human rights due diligence and business and human rights efforts.

Multinational corporations' growing influence may make state-based remedies insufficient to address modern human rights concerns.

4.5 Criminal Liability of Corporations

The authority to prosecute corporations for criminal offenses is known as corporate criminal responsibility. While many domestic legal systems hold corporations accountable for offenses including fraud, corruption, and environmental crimes, international criminal law primarily targets individuals.

The Rome Statute of the International Criminal Court does not have jurisdiction over businesses[33], but it does have jurisdiction over natural individuals accused of crimes against humanity, aggression, war crimes, and genocide. This criterion has drawn criticism for its limitations, particularly when it might be applied to compensate corporations for flagrant violations of human rights.

Proponents claim that if corporate wrongdoing is acknowledged on a global scale,

[33] Rome Statute of the International Criminal Court (adopted 17 July 1998, entered into force 1 July 2002) art 25.

accountability and deterrence will increase. International legal study is becoming more interested in this area, even though there are still significant issues that need to be resolved in both practice and the law.

4.6: Corporations and Customary International Law

The standards inherent in states' consistent practices and the belief that these practices are legally binding constitute the foundation of customary international law. Some argue that in addition to states, companies should be subject to certain customary rules, such as those that forbid slavery, forced labor, genocide, torture, and crimes against humanity.[34]

This has occurred in several instances where businesses have been accused of grave violations of human rights. The dispute clearly demonstrates that the understanding of non-state actors' capacity to engage in the forbidden conduct has evolved, even though the scope of customary international law obligations on companies has varied in practice across different courts.

The conversation highlights the need to strengthen corporate accountability systems and demonstrates a slow shift away from state-centered methods.

4.7 Extraterritorial Authority

Because multinational corporations are worldwide, accountability is a challenge. It can be challenging to determine which court should hear allegations of human rights violations because corporations frequently operate through subsidiaries and supply chains in multiple nations.

The ability of a state to regulate or resolve actions outside of its borders is known as extraterritorial jurisdiction. If the victim's country has a poor or non-existent judicial system, this approach may be employed to provide them with some remedy. Courts in a number of jurisdictions have recently been more accepting of claims resulting from businesses' international operations.[35]

Despite certain concerns about state sovereignty and judicial overreach, extraterritorial jurisdiction has emerged as a crucial instrument to remedy accountability inadequacies brought on by globalization.

4.8 Liability of Parent Companies

A new topic in business and human rights law is parent company liability. The independent

[34] International Law Commission, *Draft Conclusions on Identification of Customary International Law* (2018).
[35] *Lungowe v Vedanta Resources Plc* [2019] UKSC 20.

legal personality principle was once utilized by parent firms to shield themselves from responsibility for the activities of its subsidiaries.

However, the actual connection between parent firms and subsidiaries has been the subject of recent judicial decisions. Courts may determine a duty of care[36] and permit lawsuits against a parent firm that has substantial control or oversight over a child company.

This strategy avoids the capacity of businesses to dodge accountability in intricate corporate structures and satisfies the demands of modern global enterprises.

4.9 Direct Corporate Obligations Are Necessary

Recent legal developments indicate a slow trend toward increased corporate accountability. However, practically all of the measures that have been implemented thus far rely on domestic implementation, and businesses are generally not subject to direct international duties.

This puts the businesses at risk of having limited obligations under international human rights law and disproportionate rights under international economic law. Given the increasing significance of international firms, there have to be obligations that match their influence.

Access to remedies, accountability, and the relationship between international law and the economy would all be improved if international law could be better tailored to the current economic environment and accountabilities could be strengthened by acknowledging direct corporate commitments.[37]

4.10 Synopsis of the Chapter

The nature of corporate responsibility in international law was examined in Chapter 1. It addressed a number of topics, including parent company liability, extraterritorial jurisdiction, international treaties on corporation criminal liability, and direct company responsibility.

The analysis demonstrates that while international law is predominantly state-centric, there has been a recent trend toward more extensive and profound forms of corporate accountability. The following chapter looks at significant court rulings and case studies of corporate violations of human rights.

CHAPTER 5: CASE STUDY AND JUDICIAL APPROACHES

[36] *Chandler v Cape plc* [2012] EWCA Civ 525.

[37] Surya Deva and David Bilchitz (eds), *Building a Treaty on Business and Human Rights: Context and Contours* (Cambridge University Press 2017).

5.1 Overview

One important factor in determining corporate liability for violations of human rights is court decisions. In a number of cases, courts have addressed parent company accountability, extraterritorial jurisdiction, and the application of international human rights norms to businesses. Major cases and situations that have affected corporate accountability are reviewed in this chapter.

5.2 Kiobel v. Royal Dutch Petroleum Co.

In this case, Nigerians alleged that Royal Dutch Petroleum had assisted the Nigerian government in violating human rights. The Alien Tort Statute (ATS) was used to file this suit in the United States.[38]

The general rule of the ATS, according to the U.S. Supreme Court, is that unless the claims are sufficiently related to U.S. territory, action on foreign soil is not covered by the Act. The decision exposed the limitations of "extraterritorial" litigation and restricted overseas victims' ability to sue foreign multinational corporations in US courts.

5.3: Jesner v. Arab Bank PLC

The Court was asked to decide whether foreign corporations might be sued under the Alien Tort Statute. Overall, the U.S. In ATS cases, the Supreme Court ruled that foreign firms were not accountable.[39]

The decision also lessened corporate responsibility in U.S. courts and brought attention to the challenges victims have in pursuing justice within the country's judicial system.

5.4 Lungowe v. Vedanta Resources Plc

Villagers in Zambia sued Vedanta Resources and its subsidiary for causing environmental harm as a result of its mining activities.

According to the UK Supreme Court, a parent corporation may have a duty of care[40] if it has substantial control over the subsidiary's operations. The decision was important because it recognized that parent businesses may be held accountable for damages caused by their subsidiaries.

5.5 Royal Dutch Shell Plc v. Okpabi

[38] *Kiobel v Royal Dutch Petroleum Co* 569 US 108 (2013).
[39] *Jesner v Arab Bank PLC* 584 US 241 (2018).
[40] *Vedanta Resources Plc v Lungowe* [2019] UKSC 20.

The claimants assert that the parent corporation had substantial influence over its subsidiary companies and that oil activities in Nigeria caused environmental harm.
The claims have been allowed to proceed by the UK Supreme Court, which also reminded the parties that the actual link between the parent and subsidiary companies is the basis for the idea of liability. The idea of parent company liability was upheld by the decision.

5.6 Nevsun Resources Ltd. v. Araya

At an Eritrean mine connected to Nevsun Resources, Eritrean laborers reported forced labor. Corporations may be subject to responsibilities under customary international law, according to a Supreme Court of Canada ruling. The decision was a significant advancement in the recognition of direct corporate responsibility under international law.

5.7 The Gas Disaster in Bhopal

The Bhopal Gas Disaster of 1984 was a fatal poisonous gas leak from a Union Carbide India Limited pesticide plant. Numerous people experienced long-term health consequences, and thousands were killed.[41]
The catastrophe was a significant instance of corporate irresponsibility leading to violations of human rights and demonstrated the absence of accountability systems in businesses.

5.8 The Collapse of Rana Plaza

When the Rana Plaza building fell in 2013, more than 1100 Bangladeshi garment workers perished.[42]
Poor circumstances in the global supply chain and the significance of greater corporate accountability and due diligence were brought to light by the occurrence.

5.9 Comparative Evaluation

Examples of divergent approaches to corporate accountability can be found in the various situations. The necessity for stronger international standards and accountability systems[43] is supported by this compilation of cases. Kiobel and Jesner were less inclined to limit access to remedies than Vedanta, Okpabi, and Nevsun were to hold businesses responsible. Other instances of the disastrous results of insufficient corporate regulation are the Bhopal and Rana

[41] *Union Carbide Corporation v Union of India* (1989) 1 SCC 674.
[42] International Labour Organization, *Rana Plaza Accident and Its Aftermath*.
[43] Larry Catá Backer, 'Moving Forward the UN Guiding Principles for Business and Human Rights' (2011) 38 *Syracuse Journal of International Law and Commerce* 1.

Plaza accidents.

5.10 Synopsis of the Chapter

Important court decisions and case studies on corporate responsibility for human rights were covered in this chapter. While some courts have adopted a cautious approach, others have started to demonstrate a growing awareness of direct corporate accountability and parent company liability. Nonetheless, there are significant gaps in accountability that necessitate strong legal frameworks and enforcement.

CHAPTER 6: DIFFICULTIES AND CRITICAL EXAMINATION

6.1 Overview

Corporate responsibility continues to be a significant legal obstacle in international law, notwithstanding significant advancements in business and human rights legislation. Human rights violations continue to occur in spite of the standards that governments, courts, and international organizations have set for corporate behavior. This chapter evaluates the effectiveness of the current international framework and examines the main problems that jeopardize a company's accountability.

6.2 The Gap in Accountability

One of the main problems in business and human rights law is the accountability gap, which is described as the difference between corporate power and corporate responsibility for human rights abuses.[44]

Some of the challenges that victims may face include financial constraints, jurisdictional difficulties, a lack of legal representation, and problems arising from corporate or business structures. These difficulties are particularly noticeable in underdeveloped nations with sometimes inadequate regulatory frameworks.

The existing structure reveals a substantial void for companies, which can only be filled if these players are held legally responsible and subject to sufficient punishment for exerting substantial influence.

6.3 Jurisdictional Difficulties

[44] John Gerard Ruggie, *Protect, Respect and Remedy: a Framework for Business and Human Rights* UN Doc A/HRC/8/5 (7 April 2008).

Supply chains, contractors, and other entities located in many jurisdictions make up multinational corporations. As a required result, choosing the appropriate court forum is frequently difficult.

The enforcement of foreign judgments, jurisdiction over foreign corporations, and the appropriate law are all ongoing concerns. Despite grave accusations in cases like Kiobel and Jesner, jurisdictional problems might negatively affect the availability of justice.

These difficulties can be attributed to the improper application of domestic legal systems to control multinational enterprises.

6.4 Separate Legal Personality and Corporate Veil

Companies' accountability may be limited by the idea of independent legal personality. Parent corporations may claim that because their subsidiary engaged in damaging behavior, they are not accountable.

This may lead to issues for subsidiaries with weak regulatory environments or limited cash creation. Despite rulings like Vedanta and Okpabi expanding the possibilities for parent company responsibility, independent legal personality remains a barrier in a number of jurisdictions.

6.5 Inadequate Enforcement Procedures

Inadequate enforcement practices are one of the main issues. Most international standards, including the OECD Guidelines and the UN Guiding Principles, are voluntary and significantly rely on compliance when put into practice.

Instead of being threatened with legal repercussions for their activities, companies are typically convinced to cooperate. Conversely, companies may pledge to uphold human rights without actually doing anything.

6.6 Soft-Law Approaches' Drawbacks

Soft-law tools have proved crucial in spreading awareness and encouraging ethical business practices. However, in situations when enforcement checks are weak and compliance is not required, they are not very helpful.

Frameworks like the UN Guiding Principles have typically assisted in the development of international norms, but they offer victims no adequate methods of accountability or recourse. Requests for stronger obligations have resulted from their fragility.

6.7 Should International Law Apply to Corporations?

The question of whether companies are subject to international law is one of the main points of contention. Because governments are the primary holders of rights and obligations under the framework of classical international law, companies are largely subject to domestic authorities. However, multinational businesses now possess significant economic and social power and can affect people's human rights anywhere in the globe without consequence. Because of these circumstances, some academics think that businesses should be held accountable based on their potential for harm.
Recognizing that there aren't many direct commitments would improve accountability, make solutions more accessible, and reflect the state of the economy.

6.8 Critical Assessment
Due diligence laws, judicial advances, and international norms have all contributed to some major changes in the current international system. There are still a lot of serious issues.
The great majority of international standards are optional; there is little enforcement of them; and victims still have trouble accessing remedies. In a global economy, where enterprises are frequently impacted by international operations, state control is particularly troublesome.
This analysis demonstrates that significant corporate accountability and higher levels of international commitments are required to close those gaps.

6.9 Notes from the Author
From this study, the following conclusions can be made. First, the significance of corporate actions for human rights is no longer seriously questioned. Second, there is increasing acceptance for the necessity of due diligence and legally binding requirements due to "dissatisfaction with voluntary solutions." Third, "dissatisfaction with voluntary solutions" leads to "growing support for mandatory due diligence and binding standards." Third, courts are more inclined to examine the real control exercised over a corporation rather than presuming that there is simply a formal control structure.
These achievements indicate a progressive trend toward greater corporate responsibility. In order to address the reality of global corporate dominance, the author concludes that improved international arrangements are required.

6.10 Synopsis of the Chapter
Some of these challenges to corporate accountability were examined in this chapter, including boundaries of accountability, separation of legal personality, inadequate soft-law tools, and

poor enforcement mechanisms. Although significant progress has been made, the analysis also revealed that the current systems do not offer sufficient accountability. These results highlight the need for stronger international agreements and procedures to address it.

Chapter 7: Suggestions and Conclusion

7.1 Suggestions

Although there has been considerable progress on business and human rights, there are still large gaps in accountability, as seen by the data analysed for this article. The following suggestions aim to improve human rights protection and corporate accountability.

Give money to countries that will step up their financial efforts to defend and advance human rights.

Adopting a legally binding instrument on business and human rights is one area where a legally binding international agreement would be greatly appreciated. The OECD Guidelines and the United Nations Guiding Principles provide current guidance[45], notwithstanding the lack of a single, legally binding framework. A legally enforceable agreement might establish basic international norms, facilitate international cooperation, improve enforcement, and make justice more accessible to almost all victims.

A convention of this kind would also be beneficial in establishing a more consistent corporate responsibility system and harmonizing national laws. By removing ambiguities and establishing explicit duties that apply to all spheres of jurisdiction, it would improve adherence to human rights norms.

7.2 Acknowledgment of Direct Corporate Human Rights Responsibilities

Corporations should eventually be acknowledged by international law as having direct human rights obligations. Its existence is a significant social and economic force that has the power to directly affect the exercise of fundamental rights. Direct duties would guarantee that legal accountability is equal to legal power and assist address present accountability issues.

The State's obligations to protect human rights would not be diminished by such acknowledgment. Rather, it would increase the extent of governmental accountability by making firms accountable for preventing and lessening the negative effects of their operations

[45] Human Rights Council, *Guiding Principles on Business and Human Rights: Implementing the United Nations "Protect, Respect and Remedy" Framework* UN Doc A/HRC/17/31 (21 March 2011); Organisation for Economic Co-operation and Development, *OECD Guidelines for Multinational Enterprises on Responsible Business Conduct* (OECD Publishing 2023).

on human rights.

7.3 Required Due Diligence for Human Rights

The government should enact legislation requiring businesses to perform due diligence on human rights[46]. It should include identifying possible hazards, reducing adverse effects, monitoring operations and supply chains, and addressing any emerging human rights issues. A more proactive approach to safeguarding human rights would be encouraged by requiring due diligence.

Additionally, it would increase corporate knowledge of the hazards associated with global supply chains and lead to the inclusion of human rights in the decision-making process. Lastly, prevention might be more successful than merely providing remedies after infractions have occurred.

7.4 Increasing the Liability of the Parent Company

In order to hold management over parent businesses accountable for infractions committed by their subsidiaries, the legal frameworks must further develop norms. In addition to the legal-corporate structures, courts must consider the partnership arrangements between parent and subsidiary businesses. It would make it harder for businesses to use intricate organizational structures to avoid their obligations.

The Vedanta and Okpabi[47] instances show that courts are becoming more interested in examining corporate practical control. A system of accountability that matches the realities of large, contemporary multinational corporations would be made possible by further development of this strategy.

7.5 Better Availability of Remedies

A victim of corporate human rights violations faces financial, procedural, and jurisdictional barriers to justice. Governments should improve access to remedies by enabling evidence access, lowering litigation costs, simplifying laws and procedures, and increasing collaboration in cross-border cases.

Effective remedies are also essential for mending the harm done to the victim and restoring public confidence in the legal system. Accountability mechanisms are only effective if people can use them.

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[46] Directive (EU) 2024/1760 on Corporate Sustainability Due Diligence.

[47] *See generally Vedanta Resources Plc v Lungowe* [2019] UKSC 20; *Okpabi v Royal Dutch Shell Plc* [2021] UKSC 3.

7.6 Extraterritorial Jurisdiction Expansion

States ought to implement well-thought-out offshore procedures that would enable judges to decide cases involving serious human rights abuses connected to business activities overseas. This is important in areas where good remedies have not been or will not be provided by local law.

While respecting sovereignty concerns is important, adequately thought-out extraterritorial jurisdiction can assist prevent businesses from taking advantage of legal gaps. If domestic justice is not available, it might also provide victims with alternative ways to seek justice.

7.7 Improving Corporate Reporting and Transparency

Public information on human rights hazards, supply chain practices, environmental effects, and compliance initiatives must be part of corporate responsibility. Transparency would improve public oversight of energy corporations, assist customers and investors in making educated decisions, and encourage ethical corporate practices.

Additionally, the reporting requirements would encourage businesses to monitor their own operations and identify potential risks that could lead to serious violations of human rights.

7.8 Global Collaboration

Since corporate human rights breaches frequently take place in many jurisdictions, international collaboration is required. Governments should work together more, for example, by exchanging information, enforcing court orders, looking into international behaviour, and harmonizing legal frameworks.

All facets of international business cannot be effectively regulated by a single state. Enforcement measures and the efficacy of the international business and human rights framework would be improved by greater transparency and cooperation.

Conclusion

In this region of the world, multinational firms have experienced great expansion, which has revealed a major shift in the global economic landscape and resulted in an exponential increase in the role that businesses play in regard to human rights. Businesses boost economic growth, foster innovation, and generate employment, yet their operations have been linked to serious violations of people's human rights worldwide.

By examining the theoretical foundations of corporate responsibility in international law, the international legal framework, pertinent judicial interpretations, and the major obstacles facing corporate accountability, this study took a broad approach to clarifying corporate responsibility issues in international law.

The study shows that universal mechanisms such as the United Nations Universal Declaration of Human Rights, the International Covenants, the ILO Conventions, the United Nations Guiding Principles on Business and Human Rights, and the OECD Guidelines have made great progress. The framework for business and human rights has also been improved by other judicial decisions pertaining to parent company liability and transnational corporation accountability.

However, there are still some limitations in place. In both situations, states are nonetheless primarily subject to international human rights commitments, and the great majority of corporate accountability procedures are based on national laws and customs. Jurisdiction is still an issue, corporate structures are still complicated, enforcement is still lax, and access to remedies is still limited.

This study concludes that the company's present human rights infractions cannot be addressed by the current international system. The influence of multinational corporations has grown quickly, but there are still insufficient accountability gaps due to the absence of international legal obligations.

As a result, higher corporate responsibility standards are required. Human rights protection would be greatly aided by a greater emphasis on direct corporate duties, the requirement for human rights due diligence, increased parent company accountability, improved access to remedies, and more international collaboration.

Lastly, as international law will inevitably change as a result of globalization, it should continue to be watchful. The protection of human rights depends on accountability mechanisms that can restrain more powerful social actors, including businesses, and ensure that economic growth does not conflict with the principles of equality, human rights, and human dignity.