

INTERNATIONAL JOURNAL OF LAW
MANAGEMENT & HUMANITIES
[ISSN 2581-5369]

Volume 8 | Issue 4

2025

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Closing the Gaps: Strengthening Extraterritorial Corporate Accountability Under the UN Guiding Principles

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ABSTRACT

The UN Guiding Principles on Business and Human Rights (UNGPs) constitute a key international framework outlining the duties of states and the responsibilities of corporations to protect, respect, and remedy human rights violations linked to business operations. In an era of globalisation and increasingly complex transnational corporate activities, ensuring accountability for human rights abuses committed across borders remains a pressing challenge. This paper critically examines the UNGP's weak stance on extraterritorial obligations, particularly as reflected in Guiding Principle 2, which permits but does not mandate states to regulate corporate conduct abroad. The analysis argues that this permissive approach undermines the UNGP's objectives, especially in contexts where host states are fragile, corrupt, or conflict-affected. The discussion explores the political, legal, and economic factors behind this limitation, including state capacity constraints, corporate resistance to regulation, governance challenges, and sovereignty concerns. By tracing the historical evolution of extraterritorial obligations, assessing the legal basis of the UNGP, and contrasting mandatory versus voluntary frameworks, the paper proposes recommendations for strengthening regulatory mechanisms to ensure greater corporate accountability for human rights impacts beyond national borders.

I. INTRODUCTION

The UN Guiding Principles (UNGPs) on Business and Human Rights represent a significant international framework that outlines the responsibility of the states and corporations to protect, respect and remedy human right violation arising out of business operation.² With the rise of globalisation and increased complexity of business operation activity across the globe, it became critical to address human rights violations linked to business operation and conduct.³

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² UN OHCHR, *Guiding Principles on Business and Human Rights: Implementing the United Nations "Protect, Respect and Remedy" Framework* (United Nations 2011)

³ John Gerard Ruggie, *Just Business: Multinational Corporations and Human Rights* (W. W. Norton & Company 2013) <https://humanrights.media.uconn.edu/wp-content/uploads/sites/3236/2022/05/2013-UN-Guiding-Principles-for-Business-and-Human-Rights_John-Ruggie.pdf> accessed 22 April 2025.

One of the central challenges in this context is ensuring accountability and establishing clear jurisdiction over transnational corporations operating across multiple borders.⁴

The core issue discussed in this article revolves around the ambiguity reflected in the UNGP's weak stance on extraterritorial obligations, which contributes to a lack of accountability for corporate human rights abuses committed outside the home state's territory. Guiding Principle 2 addresses this issue diplomatically by stating that while states may regulate corporate activities abroad, they are not explicitly obligated to do so.⁵ This stance is unsatisfactory because it fails to achieve the purpose and goals of the UNGP. Home states must be held responsible for their companies' conduct overseas, especially in situations where the host state government are weak, corrupt, or conflict-ridden.⁶ Therefore, it becomes essential for the state to step in for any human rights violations.

In this essay, the author argues that the UNGP have set too low a standard with respect to the extraterritorial human rights obligations of states in relation to the activities of business enterprises. There are several factors for this weak stance such as limited capacity of the states to regulate cross border business activity, corporation's reluctance to integrate the regulations into their business operations due to profit-driven motives, governance challenges at both national and international levels and sovereignty concerns.⁷ These issues will be analysed in detail in the subsequent sections.

The ongoing debate between mandatory versus voluntary approaches is the core issue associated with the international instrument including UNGP as they are classified as soft law. This essay is structured into five sections. The first section outlines the history and evolution of extraterritorial obligations within international law. The second section specifically examines Guiding Principle 2 and its limitations. The third section explores the legal foundation of the UNGP. The fourth section reflects on the political, legal, and economic reasons behind the UNGP's weak stance. Finally, the fifth section proposes recommendations for developing a stronger regulatory framework to ensure greater corporate responsibility for human rights impacts across borders.

⁴ Ibid.

⁵ Principle 2 UNGP

⁶ Surya Deva, 'Acting Extraterritorially to Tame Multinational Corporations for Human Rights Violations: Who Should "Bell the Cat"?' (SSRN) <<https://ssrn.com/abstract=630421>> accessed 22 April 2025.

⁷ David Bilchitz and Surya Deva, 'The Human Rights Obligations of Business: A Critical Framework for the Future' in Surya Deva and David Bilchitz (eds), *Human Rights Obligations of Business: Beyond the Corporate Responsibility to Respect?* (Cambridge University Press 2013) 1–26 <<https://www.cambridge.org/core/books/human-rights-obligations-of-business/human-rights-obligations-of-business-a-critical-framework-for-the-future/B7A575942A030A8BE91FECA727BC5360>> accessed 23 April 2025.

II. EXTRATERRITORIAL OBLIGATIONS

To understand the adoption of Guiding Principle 2 under the UN Guiding Principles on Business and Human Rights (UNGPs), it is imperative to examine the evolution of the concept of extraterritorial obligation.

Extraterritorial obligations refer to the legal responsibilities and obligations of states toward individuals located outside their territorial jurisdiction.⁸ The concept and idea that states hold responsibilities for human rights beyond their borders first emerged in international law in the case of *Nicaragua v. United States*. However, discussions around extraterritorial human rights obligations remained limited at that time⁹

According to Skolgly, the term “extraterritorial” is a more appropriate term as compare to “transborder”, “transnational” or “crossborder” as it more accurately depicts the geographical relationships between the state and their obligations towards individual who may be located thousands of miles away.¹⁰ A significant milestone in the formalisation of extraterritorial obligations was the adoption of the Maastricht Principles on Extraterritorial Obligations of States in the Area of Economic, Social and Cultural Rights.¹¹ Principle 8 of the Maastricht Principles clearly establishes that states have obligations to respect, protect and fulfil human rights not only within their territories but also beyond their borders, whenever they are in a position to influence or prevent human rights violations.¹²

Despite these developments, one major challenge to extraterritorial obligations remains the principle of state sovereignty. Traditionally, human rights obligations have been confined within the state's territorial jurisdiction. According to Gibney, states act lawfully only within their own jurisdiction and intervention beyond its borders without permission risks violating another state's sovereignty.¹³ This traditional view is also articulated in Article 2(1) of the International Covenant on Civil and Political Rights (ICCPR), which obliges states to respect and ensure human rights to individuals "within their territory and subject to their jurisdiction."¹⁴

⁸ Elena Pribytkova, ‘Extraterritorial Obligations in the United Nations System: UN Treaty Bodies’ in *The Routledge Handbook on Extraterritorial Human Rights Obligations* (Routledge 2021) 95–109 <<https://www.taylorfrancis.com/chapters/oa-edit/10.4324/9781003090014-10/extraterritorial-obligations-united-nations-system-un-treaty-bodies-elena-pribytkova>> accessed 23 April 2025.

⁹ Ibid.

¹⁰ Mark Gibney, ‘On Terminology: Extraterritorial Obligations’ in Malcolm Langford and others (eds), *Global Justice, State Duties: The Extraterritorial Scope of Economic, Social, and Cultural Rights in International Law* (Cambridge University Press 2012) 32–48 <<https://www.cambridge.org/core/books/abs/global-justice-state-duties/onterminology/0F5B4E5CDE10D2F4A00865BD47F2C7AF#c01277-988>> accessed 23 April 2025.

¹¹ *Maastricht Principles on the Human Rights of Future Generations* (adopted 3 February 2023).

¹² Ibid.

¹³ Gibney (n9)

¹⁴ International Covenant on Civil and Political Rights (adopted 16 December 1966, entered into force 23 March

As a result, extraterritorial obligations remain a relatively new and evolving concept, facing considerable difficulties and challenges due to states reluctance to undertake responsibilities beyond their borders and the persistent tension with the principle of sovereignty. Nevertheless, in an increasingly globalised world where corporate activities regularly transcend national boundaries, strengthening extraterritorial obligations has become essential to effectively protect human rights.

III. GUIDING PRINCIPLE 2 AND ITS LIMITATIONS

The United Nations Guiding Principles on Business and Human Rights (UNGPs) represent a remarkable and influential framework designed to integrate human rights considerations and policies into the global operations of businesses. The UNGPs outline a set of principles that guide both state and corporate actors to incorporate human rights into their business activities not only within their own jurisdictions but also across borders, thereby enhancing global corporate standards and practices.¹⁵

According to Melish, a critic of the Guiding Principles, recognises the framework as a meaningful development in bringing human rights into the regime of business practice.¹⁶ Although she points out certain shortcomings, including the principles nonbinding nature and limited enforceability but she emphasises that the UNGPs establish an essential starting point for future efforts to strengthen corporate accountability for human rights impacts.¹⁷

The entire UNGP framework was developed based on John Ruggie's 'Protect, Respect and Remedy' framework, which advocates three core principles.¹⁸ The first is protection, which emphasises the role of the state in safeguarding human rights against abuses by third parties, including businesses.¹⁹ States are encouraged to implement policies and enforce laws that align business operations with their human rights obligations. The second is respect, which concerns the corporate responsibility to respect human rights by conducting due diligence across all business activities, including within supply chains and subsidiaries.²⁰ The third is remedy,

1976) 999 UNTS 171 <<https://www.refworld.org/legal/agreements/unga/1966/en/17703>> accessed 22 April 2025.

¹⁵ Barnali Choudhury (ed), *The UN Guiding Principles on Business and Human Rights: A Commentary* (Edward Elgar Publishing Limited 2023) <<https://ebookcentral.proquest.com/lib/nottingham/reader.action?docID=7246813&ppg=39>> accessed 24 April 2025.

¹⁶ Tara J Melish and Errol Meidinger, 'Protect, Respect, Remedy and Participate: "New Governance" Lessons for the Ruggie Framework' in Radu Mares (ed), *The UN Guiding Principles on Business and Human Rights* (Brill Nijhoff 2012) <https://doi.org/10.1163/9789004225794_013> accessed 24 April 2025.

¹⁷ Ibid.

¹⁸ UN Human Rights Council, 'Protect, Respect and Remedy: A Framework for Business and Human Rights – Report of the Special Representative of the Secretary-General on the Issue of Human Rights and Transnational Corporations and Other Business Enterprises, John Ruggie' (2008) UN Doc A/HRC/8/5.

¹⁹ Ibid.

²⁰ Ibid.

which highlights the importance of providing effective grievance mechanisms to ensure that individuals affected by business-related human rights abuses have access to justice and appropriate reparations.²¹

Following the adoption of the UNGPs in 2011, numerous member states integrated these principles into their national action plans and legal frameworks to enhance corporate accountability for human rights. The European Union, for instance, revised and reinforced its approach to Corporate Social Responsibility (CSR), aligning it more closely with the UNGPs.²² This alignment is reflected in the EU's emphasis on human rights due diligence, transparency in global supply chains and the promotion of responsible business conduct within and beyond its borders.

However, with the rise of globalisation, business operations have increasingly become transnational, often extending beyond the regulatory authority of any single state. This shift has highlighted the need for a comprehensive framework to govern the cross-border activities of multinational corporations. Guiding Principle 2 of the UNGPs addresses this challenge by encouraging states to regulate the conduct of businesses domiciled within their jurisdiction, even when those businesses operate abroad. The aim is to ensure that such operations comply with international human rights standards, regardless of where they take place.²³

(A) International Interpretations Supporting Extraterritorial Corporate Accountability

According to the author, existing international legal frameworks do not explicitly require states to regulate the activities of companies operating outside their territorial jurisdiction. However, various human rights bodies have developed soft law instruments and interpretive principles aimed at promoting state responsibility in addressing human rights violations involving business enterprises. Two key frameworks are particularly relevant in this context.

First, the UN Committee on Economic, Social and Cultural Rights (CESCR) in its General Comment No. 24 outlines the obligation of states to take reasonable measures to prevent human rights violations committed by companies domiciled within their jurisdiction but operating abroad.²⁴ It further emphasises that states must exercise oversight over parent companies that

²¹ Ibid.

²² European Commission, 'Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions – A Renewed EU Strategy 2011–14 for Corporate Social Responsibility' COM (2011) 681 final.

²³ UN OHCHR, *Guiding Principles on Business and Human Rights: Implementing the United Nations "Protect, Respect and Remedy" Framework* (United Nations 2011)

²⁴ UN Committee on Economic, Social and Cultural Rights, General Comment No. 24 (2017) on State obligations under the International Covenant on Economic, Social and Cultural Rights in the context of business activities (2017), UN Doc E/C.12/GC/24, paras. 14–16.

control subsidiaries, make foreign investments, or engage in business activities beyond national borders.²⁵

Second, paragraph 46 of the UN Committee on the Rights of the Child similarly obliges states to establish a comprehensive legal framework to regulate the transnational operations of businesses, with a specific focus on protecting children's rights.²⁶ It also mandates that companies carry out human rights due diligence processes aimed at identifying and addressing potential risks to children who may be involved in or affected by their business operations.²⁷

These soft law developments are a positive step toward clarifying state responsibilities, but their nonbinding nature remains a major limitation and is not sufficient to achieve their goals. Stronger, enforceable obligations are needed to ensure real accountability for corporate abuses abroad.

(B) Rationale Behind the Weak Stance

The UNGPs represent one of the most authoritative international frameworks widely endorsed by states to define the responsibilities of both governments and companies operating within and beyond their territorial boundaries.²⁸ Even though it has been contributed positively to eradicate human right violation in business activities such as job creation working condition, discrimination, health, safety, labour laws, sexual harassment but it has faced some challenges with respect to the global governance and transborder operation due to nonbinding nature and structural limitations of the UNGPs.²⁹ In the following section, the author will examine several issues and limitations of the UNGPs in relation to extraterritorial obligations. The challenges include international cooperation and state resistance to adopting the principles, concerns surrounding state sovereignty, the absence of a centralised international regulatory body to enforce international legal standards and the structural separation between parent companies and their subsidiaries operating in different jurisdictions, which often impedes effective accountability.³⁰

²⁵ Ibid.

²⁶ UN Committee on the Rights of the Child, *General Comment No 16 (2013) on State Obligations Regarding the Impact of the Business Sector on Children's Rights*, CRC/C/GC/16, 17 April 2013 <<https://www.refworld.org/legal/general/crc/2013/en/102811>> accessed 24 April 2025.

²⁷ Ibid

²⁸ Surya Deva and David Bilchitz (eds), *Human Rights Obligations of Business: Beyond the Corporate Responsibility to Respect?* (Cambridge University Press 2013) <<https://www.cambridge.org/core/books/human-rights-obligations-of-business/02EE5AFAD3E476FFAD95F0C3C1B21FB8>> accessed 25 April 2025.

²⁹ Ibid

³⁰ René Wolfsteller and Yingru Li, 'Business and Human Rights Regulation After the UN Guiding Principles: Accountability, Governance, Effectiveness' (2022) 23 *Human Rights Review* 1 <<https://doi.org/10.1007/s12142-022-00656-2>> accessed 25 April 2025.

a. Governance gap and transparency

The weak stance of the UNGPs regarding extraterritorial obligations can be traced back to the Draft on the Responsibilities of Transnational Corporations and Other Business Enterprises with Regard to Human Rights (UN Norms), which acknowledged the inherent difficulty in imposing direct obligations under international law on transnational corporations.³¹ The UN Norms recognised that there is no single silver bullet to address the business-related human rights violations and highlighted the complexity of establishing binding legal duties for corporate actors operating across jurisdictions.³²

According to Jägers, the UNGPs recognise the significance of transnational private regulation by corporations however, the framework ultimately falls short by failing to establish concrete mechanisms for its implementation.³³ Furthermore, the UNGP relies heavily on the voluntary acceptance of responsibility by corporate entities, which significantly limits its effectiveness in ensuring accountability for human rights impacts.³⁴

Political dynamics and the constraints imposed by civil regulatory frameworks are among the primary reasons why corporations resist accepting private regulation.³⁵ With the rise of capitalism, businesses increasingly seek to operate autonomously in order to maximise profits.³⁶ Moreover, the obligation to disclose business information as part of transparency requirements may discourage companies from fully complying. This is because making such information public could reveal sensitive data to the general public and competitors, which may negatively impact their operations and competitive position in the market.³⁷

According to the author, it is essential that information provided by corporations is readily accessible in order to ensure transparency and establish accountability. Such access would also assist states with the necessary data to develop, adjust, and implement regulations that enhance corporate responsibility. However, the divergent positions adopted by various stakeholders have

³¹ UN Human Rights Council, 'Business and Human Rights: Mapping International Standards of Responsibility and Accountability for Corporate Acts: Report of the Special Representative of the Secretary-General on the Issue of Human Rights and Transnational Corporations and Other Business Enterprises' (9 February 2007) UN Doc A/HRC/4/035, para 88.

³² Ibid

³³ Nicola Jägers, 'Will Transnational Private Regulation Close the Governance Gap?' in Surya Deva and David Bilchitz (eds), *Human Rights Obligations of Business: Beyond the Corporate Responsibility to Respect?* (Cambridge University Press 2013) 295 <<https://www.cambridge.org/core/books/human-rights-obligations-of-business/will-transnational-private-regulation-close-the-governance-gap/00F8238308FCAE57AF8247A0B5A9C1F8>> accessed 25 April 2025.

³⁴ Ibid

³⁵ David Vogel, 'The Private Regulation of Global Corporate Conduct' (2006) <https://faculty.haas.berkeley.edu/vogel/princeton_press_private_regulation.pdf> accessed 26 April 2025.

³⁶ Ibid

³⁷ Ibid

contributed to the overall weakness of the principles, undermining their effectiveness.

b. Corporate law

Differences in corporate criminal liability across jurisdictions and the challenge of determining a company's nationality are among the key factors contributing to the weak stance on extraterritorial corporate liability.³⁸ In some states, corporations cannot be subject to criminal prosecution, as corporate criminal liability is not universally recognised. Additionally, there is no uniform standard for determining the nationality of a company.³⁹ To impose liability, it is crucial to establish the nature of the relationship and the degree of control exercised by a parent company over its subsidiaries.⁴⁰

According to the author, even initiating enforcement actions against corporations for extraterritorial activities presents significant challenges. Conducting inquiries and collecting evidence abroad often requires extensive cooperation from foreign governments. Furthermore, variations in legal standards and available remedies between jurisdictions can result in inconsistencies and legal disparities, thereby undermining effective accountability.

c. Traditional approach

The traditional approach adopted by the UNGPs concerning the extraterritorial obligations of states reflects a significant weakness, particularly in the context of economic globalisation which challenges the classical Westphalian model that strictly linked rights and obligations to a state's territorial boundaries.⁴¹

According to the author, as corporations have expanded their global presence, many have grown more economically powerful than some states, thereby increasing their capacity to influence public policy and evade accountability for human rights violations.

With the rise of privatisation, it has become increasingly important for states to protect individuals from human rights abuses committed by powerful private actors, especially in jurisdictions where regulatory frameworks are weak or poorly enforced. Consequently, the UNGPs would have benefited from adopting a firmer and more contemporary approach when

³⁸ Jennifer Zerk, *Extraterritorial Jurisdiction: Lessons for the Business and Human Rights Sphere from Six Regulatory Areas* (Working Paper No 59, Harvard University, June 2010) <https://www.hks.harvard.edu/sites/default/files/centers/mrcbg/programs/crj/files/workingpaper_59_zerk.pdf> accessed 26 April 2025.

³⁹ Ibid

⁴⁰ Ibid

⁴¹ Daniel Augenstein and David Kinley, 'When Human Rights "Responsibilities" Become "Duties": The Extra-Territorial Obligations of States That Bind Corporations' in Surya Deva and David Bilchitz (eds), *Human Rights Obligations of Business: Beyond the Corporate Responsibility to Respect?* (Cambridge University Press 2013) 271–94 <<https://www.cambridge.org/core/books/abs/human-rights-obligations-of-business/when-human-rights-responsibilities-become-duties-the-extraterritorial-obligations-of-states-that-bind-corporations/517E239D29158DB0AFE0077AAF22213D>> accessed 26 April 2025.

defining the principles governing corporate human rights responsibilities.

d. Sovereignty

John Ruggie, in his report on the issue of human rights and transnational corporations and other business enterprises introduced the concept of the "extraterritoriality matrix" to describe how states may exercise authority beyond their territorial boundaries in regulating corporate conduct.⁴² He explained that states are not strictly confined to domestic jurisdiction when addressing corporate human rights impacts and that certain forms of extraterritorial action are not only permissible under international law but may be necessary to uphold human rights standards in the context of global business operation.⁴³ Direct extraterritorial jurisdiction and domestic measures with extraterritorial implications are the two primary forms of state action in the context of regulating corporate conduct beyond national borders.⁴⁴

This distinction clarifies that not all forms of extraterritorial action are extreme or legally problematic. States may regulate overseas corporate activities through domestic laws that have extraterritorial implications.⁴⁵ For example, a state can require parent companies domiciled within its jurisdiction to submit human rights due diligence reports concerning the operations of their foreign subsidiaries. Such measures enable states to influence corporate conduct abroad while remaining within the bounds of international legal norms.

According to the author, the UNGPs adopted a permissive framework in order to build consensus and secure acceptance from all stakeholders. This approach deliberately softened expectations placed on both states and corporations aiming to encourage broad participation. While this strategy may have compromised stronger legal protections, it was considered necessary to promote the framework's uptake and advance the overarching goals of human rights protection.⁴⁶

According to Professor Ascensio, the extraterritorial application of law is a well-established and accepted principle in international law.⁴⁷ In the context of human rights law, jurisdiction is centred on the protection of individuals and states may exercise effective control and authority

⁴² UN Human Rights Council, 'Business and Human Rights: Further Steps towards the Operationalization of the "Protect, Respect and Remedy" Framework' (9 April 2010) UN Doc A/HRC/14/27, para 55.

⁴³ Ibid

⁴⁴ Ibid

⁴⁵ Ibid

⁴⁶ David Kinley, 'Civilising Globalisation' (2009) 447 *Lawyers Weekly* 10, Sydney Law School Research Paper No 09/96 <<https://ssrn.com/abstract=1475016>> accessed 26 April 2025.

⁴⁷ Hervé Ascensio, 'Extra-territoriality as an Instrument' (Report prepared for an Expert Meeting on Exploring Extra-territoriality in Business and Human Rights, Boston) <https://media.business-humanrights.org/media/documents/31691c168cfe77e298345cf255b337e4748fb57d.pdf> accessed 26 April 2025.

even beyond their territorial boundaries.⁴⁸ Therefore the UNGPs could have adopted a stronger position on extraterritorial application, particularly given that corporate activities often directly affect fundamental human rights in developing countries with weak or ineffective governance structures.

IV. RECOMMENDATIONS

(A) Stakeholder Involvement

Jagers has suggested that while the UNGPs advocate for transnational regulation to improve corporate respect for human rights, the mere existence of such a framework is insufficient without robust oversight mechanisms.⁴⁹ He recommends the active involvement of independent stakeholders, such as non-governmental organisations (NGOs) and civil society groups to monitor and verify corporate reports.⁵⁰ These actors can play a crucial role in holding companies accountable by ensuring the accuracy and integrity of disclosures related to human rights performance.

According to the author, it is essential to implement stronger regulatory measures that promote transparency policies within corporate governance structures. Beyond mandating disclosures, states should foster a culture of openness by providing incentives to companies that proactively share business data, particularly regarding human rights due diligence and social impact. Encouraging such voluntary transparency through reward-based systems could enhance compliance and gradually shift corporate behaviour toward more ethical and rights-respecting practices.

(B) Gap in regulation

The UNGPs do not impose strict or legally binding obligations on corporations, as they primarily rely on voluntary compliance. This approach reflects the broader nature of international legal instruments in the business and human rights sphere as many of which are considered soft law. Notably, the OECD Guidelines for Multinational Enterprises also adopt a nonbinding framework, further depicting the reliance on voluntary standards rather than enforceable legal mandates.⁵¹

According to Bonita, the limited voluntary measures can be beneficial, such as by encouraging

⁴⁸ Ibid.

⁴⁹ Jägers (n32)

⁵⁰ Ibid.

⁵¹ Olivier De Schutter, *The Accountability of Multinationals for Human Rights Violations in European Law* (2005) <<https://crldho.uclouvain.be/documents/autres.documents/De%20Schutter%20WP%2001%2004.pdf>> accessed 28 April 2025.

improved business practices and establishing minimum industry standard but they are ultimately insufficient to achieve the broader goals of human rights protection.⁵² This is because such measures rely heavily on corporate goodwill and reputational concerns which do not provide a consistent or enforceable basis for accountability.⁵³ She further argues that the current global context necessitates the imposition of strict legal obligations. This could be achieved by implementing a direct legal framework for corporate liability which would hold corporations accountable for human rights violations in a manner comparable to the responsibilities imposed on states.⁵⁴

According to the author, establishing a uniform and formal system of reporting and redress mechanisms for all corporations could be a transformative step if incorporated into the international framework. Although such a proposal may face criticism from various stakeholders, in the long term it would significantly strengthen the principle of accountability and enhance the enforcement of human rights standards in business operations.

(C) Corporate law reform

The international frameworks and external regulations have played an important role in promoting corporate respect for human rights but there has been a lack of focus on reforming internal company laws and governance structures.⁵⁵ Strengthening internal company laws, such as those governing transparency, director duties and corporate accountability, could significantly improve the human rights performance of businesses.⁵⁶

According to Deva, greater attention must be directed toward reforming the internal governance of corporations.⁵⁷ If company law is structured to mandate the disclosure and reporting of information relating to human rights, environmental impact and social responsibility it will naturally influence business outcomes in a more ethical and sustainable direction.⁵⁸ Internal reforms can enforce accountability mechanisms at the core of corporate decision-making,

⁵² Bonita Meyersfeld, 'Business, Human Rights and Gender: A Legal Approach to External and Internal Considerations' in Surya Deva and David Bilchitz (eds), *Human Rights Obligations of Business: Beyond the Corporate Responsibility to Respect?* (Cambridge University Press 2013) 193–217 <<https://www.cambridge.org/core/books/abs/human-rights-obligations-of-business/business-human-rights-and-gender-a-legal-approach-to-external-and-internal-considerations/B0CF366707701A57FB79112696310051>> accessed 18 April 2025.

⁵³ Ibid

⁵⁴ Ibid

⁵⁵ Beate Sjøfjell, 'How Company Law Has Failed Human Rights – and What to Do About It' (2020) 5(2) *Business and Human Rights Journal* 179 <<https://doi.org/10.1017/bhj.2020.9>> accessed 29 April 2025.

⁵⁶ Ibid.

⁵⁷ Surya Deva, 'Business and Human Rights: Alternative Approaches to Transnational Regulation' (2021) 17 *Annual Review of Law and Social Science* 139 <<https://doi.org/10.1146/annurev-lawsocsci-113020-074527>> accessed 30 April 2025.

⁵⁸ Ibid

thereby fostering a culture of respect for human rights from within.

According to the author redefining the fundamental purpose of business through national legislative reforms in company law by member states would bring meaningful progress in the field of business and human rights. Such reforms should clearly outline the rights and responsibilities of directors, require robust risk management systems and institutionalise principles of sustainability and shared prosperity. Insertion of these elements into corporate law would help align business conduct with societal values and international human rights norms in a more enduring and enforceable manner.

V. CONCLUSION

From the above discussion, we can conclude that significant challenges persist regarding the extraterritorial obligations of states in regulating corporate conduct. The UN Guiding Principles on Business and Human Rights (UNGPs), while a valuable step forward, adopt a weak and nonbinding stance that has ultimately left a regulatory gap. This missed opportunity to establish firm legal obligations has limited the capacity of states to hold corporations accountable for human rights violations occurring outside their territories.

Principle 2 of the UNGPs encourages states to implement due diligence requirements however, it does not impose a legal obligation to regulate the extraterritorial conduct of corporations. In practice, this has allowed many corporations to operate abroad without adequate oversight. Recent cases involving oil companies have demonstrated the serious human rights impacts of such regulatory failures especially on vulnerable groups including women, children, Indigenous peoples, and local communities.⁵⁹

This permissive approach has directly undermined the core principle of accountability that the UNGPs seek to promote. As discussed throughout the essay, stronger mechanisms are required to ensure meaningful enforcement and oversight. The author has proposed several recommendations in the relevant section, which may be summarised as advocating for an alternative approach that strengthens both state duties and corporate responsibilities. Such an approach must prioritise legal reform, transparency, stakeholder involvement and the alignment of national laws with international human rights norms to bridge the gap between principle and practice.

⁵⁹ Daniel Augenstein, 'The Human Rights Dimension of Environmental Protection in EU External Relations Post-Lisbon' (26 September 2011) <https://ssrn.com/abstract=1933675> or <http://dx.doi.org/10.2139/ssrn.1933675> accessed 30 April 2025.

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