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# Transnational Corporate Accountability for Overseas Human Rights Violations: Normative Developments and Enforcement Gaps in International Law

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## ABSTRACT

*Globalisation has dramatically reshaped the business landscape in the twenty-first century. With the rise of multinational corporations (MNCs), businesses now operate on a global scale with supply chains that span across continents and a market presence in virtually every country. Forced labour, displacement of indigenous communities, environmental degradation and armed conflict, etc., have caused immense human rights violations that largely remain mediated through state action rather than imposing binding obligations on Corporations. This paper will critically examine the evolving framework of transnational corporate accountability for human rights violations under international law, highlighting both normative developments and persistent enforcement gaps.*

*Currently, several instruments and initiatives exist that aim to regulate corporate behaviour and ensure accountability, such as the UN Guiding Principles on Business and Human Rights (UNGPs), the ONGC Guidelines for Multinational Corporations, and ILO Standards. They have contributed to normative coherence but remain non-binding in nature. Countries have also enacted legislation in order to ensure companies are diligent in protecting human rights, signalling a gradual shift from voluntary standards towards enforceable obligations.*

*However, the cross-border supply chains maintained by MNCs create jurisdictional and enforcement barriers. Corporate criminal liability does not fall under the jurisdiction of the International Criminal Court (ICC), making it difficult to fix accountability. High-profile transnational litigation reveals systemic barriers faced by victims, including jurisdictional hurdles, corporate veil protections, and power asymmetries between corporations and affected communities.*

*This paper will delve into the insufficiency of current international legal regime governing transnational corporate accountability in addressing cross-border human rights harms effectively. It seeks to contribute to the discourse on reimagining corporate accountability*

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*in a manner that aligns global economic activity with fundamental human rights protections.*

**Keywords:** *Corporate Accountability, Human Rights, Environmental degradation*

## **I. INTRODUCTION**

Trade has served as a powerful force of global interconnectedness since ancient times, right from the silk road to the current highly integrated global economy. This has led to the emergence of multinational corporations (MNCs), whose unprecedented expansion in the era of globalisation has fundamentally reshaped economic governance, production systems, and labour markets across the world. Today, MNCs control nearly 80% of global trade through complex global value chains and exert enormous influence over natural resources, labour conditions, and public policy in both developed and developing economies.

Over the last few decades, MNCs have expanded due to liberalisation of trade policies, advancement in technologies, capital mobility and integration of global markets.<sup>3</sup> According to the International Labour Organization (ILO), approximately 25 million people worldwide are subjected to forced labour, a large part of which is indulged in corporate supply chains spanning sectors such as mining, agriculture, textiles, electronics, and construction.<sup>4</sup>

Environmental harm caused by MNCs has escalated into a global crisis. Corporate activities in extractive industries, fossil fuel production, large-scale agriculture, and manufacturing have contributed significantly to climate change, deforestation, biodiversity loss, and toxic pollution. Most of the world's population that faces the consequences of the operation of these MNCs lives at the bottom of the pyramid and in such developing or under developed countries where the protection of human rights is compromised. This affects their rights to life, health, water, a clean environment, along with the right to adequate wages, working conditions and cultural integrity. The MNCs affect the economic freedom of individuals by targeting the local economy of a region and destroying competition and taxation regimes.

Against the backdrop of all such human rights violations, it becomes essential to recognise the corporate criminal liability and to impose personal liability on corporate decision-makers. This research paper critically examines the historical evolution, scope, and limitations of

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<sup>3</sup> Saathi Mukherjee, Effect on MNCs of Globalisation. 08 (06) IJNRD 514 (2023) (Jan 25, 2026, 02:00 PM) <https://www.ijnrd.org/papers/IJNRD2306157.pdf>

<sup>4</sup> Data and Research on forced labour, INTERNATIONAL LABOUR ORGANISATION (Jan 15, 2026, 05:30 PM) <https://www.ilo.org/topics/forced-labour-modern-slavery-and-trafficking-persons/data-and-research-forced-labour>

international corporate accountability with a particular focus on lifting of corporate veil to bring home accountability for harm caused across borders.

### **A. Literature Review**

The existing literature on international corporate accountability traces its evolution from the papers written by authors such as Wallace B Donham, Howard R. Bowen, etc. who coined the term and started dialogue on holding MNCs liable for abuse of labour and environment. It gradually transitioned from a state-centric framework, in which international human rights and environmental obligations were imposed solely upon states, to a more global outlook where MNCs operating across borders were held directly accountable using international framework. With the expansion of global supply chains, scholars increasingly highlighted the regulatory gaps created by state governments and jurisdictional fragmentation. Scholarly research on labour rights, environmental protection, and indigenous peoples' rights reveals that MNCs often exploit voluntary regulatory guidelines, weak enforcement mechanisms, and state-centric treaty frameworks to evade accountability, particularly in developing and under developed regions. The literature converges on the view that voluntary frameworks and domestic measures are insufficient to address systemic corporate abuses, underscoring the need for stronger, binding international accountability mechanisms.

### **B. Research Gap**

Despite extensive scholarly research on corporate accountability, significant gaps remain in the existing literature. While the normative value of soft law instruments such as the UNGPs, OECD Guidelines, and ILO declarations has been widely discussed, there is limited critical examination of their actual enforcement mechanisms and their outcomes, particularly in developing and resource-rich regions. Similarly, although criminal accountability has been discussed extensively in theory, there is a noticeable research gap in examining the feasibility of extending criminal liability to MNCs. This research paper seeks to address these gaps by critically evaluating the existing framework and offering a holistic solution to the same.

### **C. Research Methodology**

The present research adopts a doctrinal research methodology which encompasses a legal analysis of international corporate accountability. The study primarily relies on secondary sources, including international treaties, conventions, declarations and reports of international organisations, academic books, journals, and policy documents. A qualitative analysis is used to examine the evolution of international corporate accountability by analysing international legal instruments. This method enables a systematic understanding of the normative structure

and limitations of existing legal mechanisms.

## **II. CORPORATE ACCOUNTABILITY**

Corporate accountability refers to the responsibility of MNCs to respect and promote human rights within their operations, including supply chain and business practices. It encompasses a broader ethical and social responsibility that organisations bear toward their stakeholders, the environment, and society at large. In the present global order, the corporations exercise immense influence over global economies and ecosystems. Understanding and practising corporate accountability is not just a matter of legal obligation, it is a fundamental pillar of sustainable development.<sup>5</sup>

This responsibility extends beyond mere legal compliance in their home country or the countries where they operate. It extends to all the countries wherever their supply chains extend. It encompasses a broader ethical and societal obligation to minimise harm and contribute in wellbeing of the places where they do business. The explanation of this principle rests on the understanding that corporations, particularly large multinationals, wield significant power and influence.<sup>6</sup> They have huge financial resources to ensure no harm is caused to labour, environment or economy and at the same time, mitigate the harmful consequences of their actions. The cross-boundary hazardous waste, migration of labour, displacement of tribals, etc., all require criminal accountability of MNCs. These concerns have compelled the international community to delve deep into this concept.

## **III. HISTORICAL EVOLUTION OF INTERNATIONAL CORPORATE ACCOUNTABILITY**

The concept of corporate responsibility is not new. It has its origin in ancient Mesopotamia, around 1700 BC, King Hammurabi introduced a code according to which the builders, innkeepers and farmers were put to death if their actions caused the death of others or inconvenience to the citizens.<sup>7</sup> In 1600 AD onwards, shareholders of the Dutch East India Company started objecting to “self-enrichment” of corporations and management secrecy. Similarly, in 1790, there was the first large-scale consumer boycott in England, which finally led to the end of the slave trade.<sup>8</sup>

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<sup>5</sup> Corporate Accountability: A key to sustainable development, FASTER CAPITAL (Feb 12, 2026, 11:00 AM) <https://fastercapital.com/content/Corporate-Accountability-Corporate-Accountability--A-Key-to-Sustainable-Development.html>

<sup>6</sup> International Corporate Accountability, SUSTAINABILITY DIRECTORY (Jan 25, 2026, 02:00 PM) <https://esg.sustainability-directory.com/term/international-corporate-accountability/>

<sup>7</sup> Abhishek Tripathi & Anupama Bains, Evolution of Corporate Social Responsibility: A journey from 1700 BC till 21st century 01(08) INTERNATIONAL JOURNAL OF ADVANCED RESEARCH 789, 788-796 (2013)

<sup>8</sup> Supra note 6.

The roots of Corporate Responsibility, in the eighteenth century, can be found in the actual business practices of companies such as Cadbury Chocolate. The makers introduced social responsibility practices which included scientifically managed laboratories, medical department, a pension fund, education and employee training. By the early 19th Century, industrialization, new technology led to the creation of jobs and improved living standards and industrialists in Europe and the USA amassed huge fortunes. This fortune encouraged them to set up subsidiaries in resource-rich regions and exploit their labour and resources in order to deepen their pockets.

In 1929, the Dean of Harvard Business School, Wallace B. Donham, for the first time commented within an address delivered at North Western University on the corporate accountability of big businesses towards future generations.<sup>9</sup> Thereafter, various authors wrote books and papers on “Social responsibilities of the businessman”.<sup>10</sup> After the world wars, due to heavy industrialisation, numerous legislations were enacted on state level, to regulate the conduct of businesses and to protect employees and consumers. The United Nations, which was an outcome of the World Wars, started working on the accountability of Corporations towards the environment and human rights violations, at global level. However, it primarily focused on the responsibilities of states, and the notion of corporate accountability for human rights violations was not explicitly addressed.<sup>11</sup>

The United Nations Commission on Transnational Corporations (UNCTC) was established by the UN in 1974. In the late 70's, both the Organisation of Economic Co-operation and Development (OECD) and UNCTC began developing codes of conduct in an attempt to control different aspects of corporate globalisation.<sup>12</sup> The turning point emerged in the late 20<sup>th</sup> century when high-profile cases, such as the Rana Plaza factory collapse in Bangladesh, the exploitation of child labour in the cobalt mines of the Democratic Republic of Congo, the Bhopal gas tragedy in India, etc., highlighted the urgent need to hold MNCs accountable. According to the United Nations, nearly 25 million people were subjected to forced labour globally, a significant portion

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<sup>9</sup> Mohd. Hossain, et.al., Historical Development of Corporate Social Responsibility- A Review on Early Studies.15 IISTE 15, 14-17 (2014)

Wallace B Donham commented “Business started long centuries before the dawn of history, but business as we now know it is new - new in its broadening scope, new in its social significance. Business has not learned how to handle these changes, nor does it recognize the magnitude of its responsibilities for the future of civilization.”

<sup>10</sup> *Id* at 15.

<sup>11</sup> Alok Gupta, Corporate Governance and Legal Accountability: A critical evaluation of global standards and practices. 07 (11) INTERNATIONAL JOURNAL OF ADVANCED MULTIDISCIPLINARY SCIENTIFIC RESEARCH 7, 1-12 <https://doi.org/10.31426/ijamsr.2024.7.11.7911>

<sup>12</sup> C. Vega, A. Wong & Amil Mehra. Holding businesses accountable for Human Rights Violation. FRIEDRICH EBERT STIFTUNG: INTERNATIONAL POLICY ANALYSIS (Feb 08, 2026 02:00 PM) <https://collections.fes.de/publikationen/ident/fes/08264>

of which could be traced back to corporate supply chains.<sup>13</sup>

In 1992, the Earth Summit or Rio Conference was organised by the United Nations Conference on Environment and Development (UNCED) to halt the destruction of irreplaceable natural resources and pollution of the planet. It led to the formation of the Climate Change Convention which further led to the Kyoto Protocol, the Rio Declaration on Environment and Development, Agenda 21, and Forest Principles. These imposed binding targets on states, but MNCs were impacted only indirectly as the real accountability was fixed upon states and not these cross border MNCs.

In 2000, the United Nations Global Compact was launched. It consisted of ten principles and invited companies to enact within their sphere of influence, a set of core values in the areas of human rights, labour standards, the environment, and corruption. Subsequently, in 2003, the UN Sub-Commission on the Promotion and Protection of Human Rights adopted Norms on the Responsibilities of Transnational Corporations concerning Human Rights.<sup>14</sup> They aimed make companies criminally liable in place of states but they remained a mere voluntary corporate responsibility initiative without legal enforcement.

#### **IV. CURRENT INTERNATIONAL LEGAL FRAMEWORK**

The international legal landscape plays a crucial role in shaping and regulating the conduct of multinational corporations concerning human rights. Various international instruments have been developed to establish a framework that holds corporations accountable for their actions. The United Nations Guiding Principles on Business and Human Rights (UNGPs) were introduced by the UN Special Representative, John Ruggie. The UNGPs provide a foundational framework by outlining the state's duty to protect against human rights abuses by third parties, including corporations, and the corporate responsibility to respect them. The UNGPs were endorsed by the UN Human Rights Council in 2011. The principles outline three key pillars: the state duty to protect human rights, the corporate responsibility to respect human rights, and the need for effective remedy mechanisms.<sup>15</sup>

However, the UNGPs, being non-binding, raise questions about their enforceability and efficacy. Various other international treaties and conventions contribute to the regulation of

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<sup>13</sup> Mariam M. & Atinuke O., Corporate Accountability for Human Rights Violations, 01 (12) JOURNAL OF CORPORATE LAW STUDIES, 1-11 (2024)

<sup>14</sup> Caroline F.H., UN Norms on the Responsibilities of Transnational Corporations, 04 (10) GERMAN LAW JOURNAL, 1065-1078 (2019) <https://doi.org/10.1017/S2071832200016643>

<sup>15</sup> Jin Hwang, Corporate accountability in human rights: Bridging the legal gaps, 09 (02) INTERNATIONAL JOURNAL OF MULTIDISCIPLINARY RESEARCH UPDATES, 01-11 (2015) <https://doi.org/10.53430/ijmru.2025.9.2.0022>

corporate behaviour in the context of human rights. For instance, the International Labour Organisation's (ILO) Tripartite Declaration on Multinational Enterprises and Social Policy and the Organisation for Economic Co-operation and Development's (OECD) Multinational Enterprises Guidelines, offer voluntary roadmap to MNCs to ensure responsible business conduct. However, the effectiveness of these instruments relies heavily on the willingness of states to enforce them and the commitment of corporations to comply voluntarily.<sup>16</sup>

Apart from the international guidelines, the Countries of the parent companies can also play a crucial role in making them criminally accountable. In this regard, some countries have adopted legislation that holds corporations accountable for human rights violations committed abroad. This approach seeks to fill the gaps left by the absence of an international binding treaty. However, challenges still remain in trying to apply and enforce these laws, including issues of jurisdiction, conflicts of law, and the reluctance of states to exercise authority over corporate activities outside their borders. The absence of an enforcement mechanism at the national level, along with a fragmented nature of international law contribute to the challenges in ensuring effective corporate criminal accountability.

## **V. CRIMINAL ACCOUNTABILITY OF BIG CORPORATES**

The position of corporate entities is not easily comprehensible. Accountability under international law presupposes the existence of legal personality. Under International law, the 1949 Geneva Conventions provide states with the duty to "Enact any legislation necessary to provide effective penal sanctions for persons committing, or ordering to be committed, any of the grave breaches" of the fundamental rules of international humanitarian law, without stipulating the mechanism for enforcement.<sup>17</sup>

Criminalising corporate entities for severe and systemic crimes that lead to human rights violations at the international level requires to hold one personally liable. As the corporate veil shields the acts of their respective persons, it can be difficult to fix liability. Here comes the need to pierce the corporate veil and bring out the persons responsible for such harsh decisions to transform human rights from a mere compliance requirement into a core corporate value. Unlike civil liability, which reduces human rights protections to a cost-benefit calculation,

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<sup>16</sup> Guiding Principles on Business and Human Rights: Implementing the United Nations "Protect, Respect and Remedy" Framework. OFFICE OF THE HIGH COMMISSIONER OF HUMAN RIGHTS, UNITED NATIONS. (2012) (16<sup>th</sup> Jan, 2026 11:00 AM) <https://www.ohchr.org/en/publications/reference-publications/guiding-principles-business-and-human-rights>

<sup>17</sup> Nwano, T.C. & C.J. Asoh, Corporate accountability for violations of International Humanitarian Law: Addressing accountability gap and emerging trends of inclusion. 5(1). INTERNATIONAL JOURNAL OF LAW, JUSTICE AND JURISPRUDENCE (2025) <https://www.doi.org/10.22271/2790-0673.2025.v5.i1.d.196>

international criminal liability imposes an expressive cost.<sup>18</sup> Criminal liability carries unique symbolic weight of fine and imprisonment. Civil penalties have the risk of being viewed as the “cost of doing business” and being passed on to consumers. Criminal liability, by contrast, represents societal condemnation and moral outrage. The success of the U.S. Foreign Corrupt Practices Act (FCPA), which converted bribery from a tolerated expense into an utterly unacceptable practice, illustrates the transformative potential of criminal law.<sup>19</sup>

Under international criminal law, the maxim *societas delinquere non potest* exposes the general view that corporations lack the requisite *mens rea* to commit a crime. However, judicial precedents, as heralded by the Nuremberg trial, down to the prosecution for crime by the International Criminal Court, seem to favour the fact that individuals should be held accountable if “criminal organisations cause human rights violations. This brings us to the foundation of international criminal responsibility, which is based on “individual criminal responsibility”.<sup>20</sup> States and corporations are abstract and artificial entities and it is by punishing individuals behind these entities that human rights abuse can be curbed and criminal accountability can be enforced. Hence, what the Court does is to “lift the veil” of the corporate bodies and bring out the drivers of the activities of these bodies and punish them individually.<sup>21</sup>

With the establishment of the permanent International Criminal Court under the Rome Statute, the trajectory of corporate accountability has taken a new turn. Ultimately, article 25(1) of the Rome Statute has been read to extend the Court’s jurisdiction to non-state actors. However, it only imposes responsibility on natural persons, clearly excluding corporate responsibility. In light of this, it has been suggested that even though the option to prosecute corporate executives exists within Article 25 of the Rome Statute, the modification of the Statute to include corporations would provide the most opportune solution for both victims and international justice.<sup>22</sup>

## VI. HUMAN RIGHTS VIOLATIONS AND GOVERNANCE GAPS

The human rights violations are most visible in developing and resource-rich regions where regulatory frameworks are weak, and communities lack access to effective remedies. Labour

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<sup>18</sup> Prachi Tripathi, The Dilemma of Corporate Liability: International Perspectives on Punishment and Compliance, 05 (3) INTERNATIONAL JOURNAL OF ADVANCED LEGAL RESEARCH (2025)

<sup>19</sup> Favio Yepes, Corporate Accountability for severe and systematic human rights violations: The Role of International criminalisation, MICHIGAN JOURNAL OF INTERNATIONAL LAW (2025) (10<sup>th</sup> Feb, 2026 05:00 PM) <https://www.mjilonline.org/corporate-accountability-for-severe-and-systematic-human-rights-violations-the-role-of-international-criminalization/#post-4261-footnote-ref-27>

<sup>20</sup> *Id* at 17.

<sup>21</sup> *Supra* note 6.

<sup>22</sup> *Supra* note 6.

rights violations constitute one of the most persistent forms of corporate abuse in the global economy. Reports by international organisations and civil society groups have further revealed that over 160 million children are engaged in child labour.<sup>23</sup> Developing countries, with weaker enforcement mechanisms and high dependency on foreign investment, have become sites for labour exploitation, unsafe working conditions, and environmental degradation.

Common labour rights violations include forced and bonded labour, child labour, unsafe and unhealthy working conditions, excessive working hours, non-payment of wages, and suppression of trade unions. ILO standards, primarily prepared by the ILO, recognise the core labour rights but are mostly binding on nations and not corporations. International frameworks such as the ILO Tripartite Declaration on Multinational Enterprises increasingly emphasise the responsibility of corporations to respect labour rights.<sup>24</sup> Nevertheless, enforcement of labour rights remains weak as nations fail to make it binding on their corporations.

Environmental violations by MNCs represent another critical dimension of international corporate accountability. Corporate activities in sectors such as mining, oil and gas extraction, manufacturing, and large-scale infrastructure development have caused widespread environmental harm, including air and water pollution, deforestation, biodiversity loss, climate change impacts, and large-scale industrial disasters. Various International Conventions, such as the UNFCCC, CBD, Kyoto Protocol, UNCCD, and the Ramsar Convention, hold countries accountable for environmental degradation. However, an enforceability mechanism is lacking on a global scale.<sup>25</sup> The recent trend of countries withdrawing from treaties has opened Pandora's Box for violations of these environmental conventions.

Corporate activities have also had a particularly severe impact on indigenous peoples, whose lands and resources are often targeted for extractive and development projects. They face forced displacement and loss of ancestral lands. Their traditional livelihoods are destroyed, culture gets eroded and are neglected in decision-making processes. The United Nations Declaration on the Rights of Indigenous Peoples affirms their rights to self-determination, land, territories, natural

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<sup>23</sup> Data and Research on forced labour, INTERNATIONAL LABOUR ORGANISATION. (12<sup>th</sup> Feb, 2026 12:00 PM) <https://www.ilo.org/topics/forced-labour-modern-slavery-and-trafficking-persons/data-and-research-forced-labour>

<sup>24</sup> Subhan Ullah, Et al., Multinational Corporations and human rights violations in emerging economies: Does commitment to social and environmental responsibility matter? 280 JOURNAL OF ENVIRONMENTAL MANAGEMENT (2021) (6<sup>th</sup> Jan, 2026 03: 45 PM) <https://www.sciencedirect.com/science/article/abs/pii/S0301479720316145>

<sup>25</sup> Korrapati Rohini (2025). An Overview: Impact by MNCs resulting in environmental degradation, 5 (4) INDIAN JOURNAL OF INTEGRATED RESEARCH IN LAW, 973-978 (2025) (15<sup>th</sup> Feb, 2026, 04: 20 PM) <https://ijirl.com/wp-content/uploads/2025/08/AN-OVERVIEW-IMPACT-BY-MULTINATIONAL-NATIONAL-CORPORATIONS-RESULTING-IN-ENVIRONMENTAL-DEGRADATION.pdf>

resources, and cultural preservation. While these norms are primarily directed at states, corporations are not held criminally liable for rights violation. Most of the norms remain soft laws without much implementation, and hence, there is a need to strengthen them to enforce corporate accountability.

## **VII. CONCLUSION**

With the changing global governance landscape, the existing international legal framework, which is mostly voluntary and state-centric, has proven to be inadequate to address the complexity of corporate-related human rights abuses. The persistent governance gaps, particularly in developing countries and resource-rich regions, have enabled corporations to exploit resources and labour. There is a need to convert soft laws into hard-binding conventions and treaties for responsible business conduct.

The absence of a centralised enforcement mechanism and the reluctance of states to exercise extraterritorial jurisdiction further exacerbate the accountability issue. Hence, the states also need to enact binding laws for holding MNCs criminally liable for human rights abuse on their land. Amendment of the Rome Statute would serve as a deterrent if ICC could prosecute MNCs for human rights violations. Holding corporate executives and decision-makers personally liable by lifting the corporate veil, while simultaneously recognising corporate accountability, would help dismantle the culture of impunity that currently prevails. Conclusively, corporate accountability can no longer remain a subsidiary concern in the global legal order. It is imperative to safeguard human dignity, environmental sustainability, and the rule of law, to ensure the service of justice and sustainable development.

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