

Research on Corporate Human Rights Due Diligence Duty of Care in the Global Supply Chains

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Abstract. The U.N. Guiding Principles on Business and Human Rights pointed out that businesses should undertake human rights protection obligations, which often needs to be carried out by the way of civil liability. This paper will take the judicial practice of the U.K. and the Netherlands as examples to reveal the legitimacy of the parent company's duty of care to its subsidiaries under the premise of not applying the system of "piercing the corporate veil" from the perspective of comparative law. The duty of care not only refers to the relevant obligation of parent company and its subsidiary, but also means the same thing of companies in the whole supply chain, the phenomenon reflects a trend that the subjects of duty of care has expanded. On this basis, Article 1165 in the Civil Code of the People's Republic of China could be reinterpreted, demonstrating justificatory basis of the enterprise's duty of care.

Keywords: UNGPs; Parent Company; Supply Chain; Duty of Care.

1. Introduction

In the process of unprecedented globalization and commercialization, the unstoppable power of capital, the influence of multinational companies, and the sharp increase of human rights violations by enterprises are undeniably arising: enterprises do not do a good job in professional protection against employees and infringe on their rights to life, health and safety; chemical enterprises infringe on the environment due to pollution discharge; border rights, network platform enterprises infringe on freedom of speech by censoring and deleting users' speech, enterprises neglect professional protection of employees, infringe their rights to life and health and safety, etc. Therefore, how to correctly understand the relationship between industrial and commercial enterprises and human rights and their human rights obligations has increasingly become an important international issue. Countries around the world have successively legislated to impose responsibilities of enterprises within their own countries, making it not only the voluntary performance and irrelevant moral condemnation of enterprises.

Based on this situation, in 2008, John Ruge proposed the "protection, respect and remedies" framework, which aims to reduce corporate human rights violations through national protection, enterprises respect for human rights, and the provision of remedial measures. In June 2011, all member states of the United Nations Human Rights Council, including China, adopted the Guiding Principles for Industrial and Commercial Enterprises and Human Rights, thus putting "protection, respect and remedies" into practice. Germany, France, the United Kingdom, Netherlands and other countries actively promote legislation and judicial practice, especially the judicial precedents on corporate human rights duty of care obligations, represented by the British *Chandler v. Cape Company* and the Royal Dutch Shell Climate Change Litigation, have greatly enriched the theoretical understanding of the obligations of corporations to protect human rights in different countries. The cases strengthened the position of the principle of respect for human rights in corporate governance. The exploration of countries' obligations to pay attention to the human rights of enterprises has also provided a new way for China to interpret relevant legislation.

The research of the obligation to pay attention to the human rights of enterprises is conducive to further distributing the responsibility relationship within the enterprise and its upstream and downstream enterprises, so as to understand the constraints of human rights on corporate behavior and safeguard the foundation and belief of human rights from the perspective of the value norms of

human rights, internalizing the concept of human rights into corporate governance. It is also enough to effectively restrain enterprises to abide by human rights obligations in various forms to effectively protect human rights. In addition, the study of this issue can provide a basis for the legitimacy and justification of the interpretation of China's relevant legislation.

2. Implementation of Corporate Human Rights Due Diligence Obligations: Civil Liability

2.1. Definition of Corporate Due Diligence with Respect to Human Rights

In 2011, the United Nations Human Rights Council announced the *United Nations Guiding Principles on Business and Human Rights: Implementing the United Nations Framework to Protect, Respect and Remedy* (UNGPs), which indicated that addressing issues between business and human rights has officially become a widespread concern to the international community.¹ The UNGPs emphasizes various duties, including urging states to safeguard human rights, inspiring companies to uphold human rights, and providing aid to victims. This emerging discourse system clearly acknowledges the human rights obligations of the enterprise, making it the concept of the national human rights obligations and challenging the traditional cognition of the state as the subject of human rights obligations. However, the legal community is still controversial on the nature of corporate obligations on human rights: Is it just concept of *lex ferenda*, or has it become the concept of *lex lata*? Is it a new form of constitution concept like a national human rights obligation or a new form of ordinary legal obligations? The dispute reflects different positions of the horizontal effect of human rights.

Supporters of the horizontal effect of human rights compare the power gap between enterprises and individuals to the power relationship between the state and individuals, thus justifying the human rights obligations of enterprises on the basis of the "power gap" [1]. They argue that "as social governance structures and economic patterns change, certain non-state actors may also have enormous power and the ability to violate human rights." Therefore, in the theory of human rights law, such a concept appears: although the state is the direct obligation subject of human rights law, the subject of human rights responsibility shows a diversified trend, "private subjects who play the role of regulators or are in a dominant position must bear human rights responsibilities in some fields or to some extent based on their ability, role and whether they undertake public tasks [2]." In this sense, corporate human rights obligations are more likely to resemble constitutional obligations.

Opponents hold that corporate human rights obligations are not human rights law obligations in the true sense. The latter is the relationship of rights and obligations arising from the adjustment of the vertical relationship of "state-individual". Some scholars' criticism of the private effect or horizontal effect of the Constitution embodies the main views of the opponents. They have first concluded that there are two ways to support the private effect of the Constitution, namely the factual path and the normative path. The former advocates the private effect of the Constitution based on the existence of social force and the fact that individuals cannot escape from such force. The latter, based on the objective value order function of the Constitution or the protection duty of the state, argues that the Constitution has the private effect in the general sense [3]. For the former, the strength gap between companies and individuals is not equal to the power gap. In view of the latter, the Constitution does not provide substantive value standards for all social relations are considered; "fundamental rights and civil rights do not conform to common objective values"; It is a logical mistake to deduce the objective value order from the subjective rights of the state and then make the constitution radiate the whole legal order. In fact, ordinary legislative and judicial processes are sufficient to protect individuals from the undue influence of social forces [4].

¹ See "United Nations Guiding Principles on Business and Human Rights: Implementing the United Nations Framework to Protect, Respect and Remedy Framework", A/HRC/I7/31 (21 March 2011)

In fact, the concept of separation between public and private in the legal field has proportionally hindered the implementation of corporate human rights obligations into law. According to the concept of dividing public and private law, the subject of rights (individuals) and the subject of obligations (enterprises) are both private law subjects in the issue of business and human rights, and the human rights obligations that scholars trying to construct are regarded as public law obligations in the traditional cognition, where the irrational scene of “rights without remedies” appears commonly. In other words, even if it is recognized that human rights obligations can constrain the relationship between private persons in the sense of substantive law (that is, human rights level effectiveness), their implementation still needs to rely on private law relief mechanisms. For example, generally, countries with constitutional courts only allow individuals to sue the state and do not allow individuals to initiate constitutional litigations against other private violations of the constitution (violations of fundamental rights) [5]. Even if law empowers private rights to raise constitutional litigation, the substantive effect of that still presents the same thing as the litigation of a civil action. In this sense, the obligations of enterprises that should focus on the area in human rights are finally transformed into ordinary legal obligations.

2.2. Civil Liability: Orientation of Corporate Human Rights Due Diligence Obligations

In countries that have not yet accepted the separation of public and private law, the obstacles for corporate human rights obligations appear to be less. For example, in the United Kingdom, the horizontal effect of human rights could theoretically create an exclusive cause of action to achieve a kind of horizontal enforcement related to human rights in domestic courts [6]. Nevertheless, in judicial practice, judges are more willing to use the existing causes of action in civil law to achieve the horizontal effect of human rights (the horizontal effect of human rights is often manifested as civil liability in practice). It can be seen that no matter in the civil law system or the common law system, the corporate human rights obligation is difficult to become a real human rights obligation with an independent relief mechanism.

UNGPs construct corporate human rights responsibility in the conceptual sense, however, corporate human rights fees and human rights obligations need to be presented no matter how much emphasis is placed on them through some legal responsibility. If obligations cannot be ultimately translated into an enforceable responsibility, the issue of “business and human rights” is just nonsense. Human rights violations by enterprises may result to liability of civil, administrative and even penal. For victims, asking the enterprise to bear civil liability is usually the most direct and rapid means of relief. This is also a common demand in the current judicial practice of business and human rights. In order to solve the practical needs of victims' rights protection, From a civil liability perspective, the following sections will analyze the human rights duty of care of enterprises.

3. Key Point in Human Rights Obligations: Due Diligence

3.1. Issues Raised in Corporate Human Rights Due Diligence Obligation

What really matters in corporate human rights obligations is company human rights prudent obligation, which requires enterprises to take measures to prevent business partners from violating human rights. UNGPs requires industrial and commercial enterprises to “attempt to prevent or mitigate the negative human rights impact directly related to their business, products or services through their business relations, even if they do not cause such effects.”² This indicates that enterprises should not only bear their own human rights responsibilities, but also prevent their subsidiaries and supply chain enterprises from violating human rights.

The reason why the human rights prudent obligation of enterprises is important is that in modern business activities, enterprises often intentionally or unintentionally transfer to subsidiaries, holding enterprises or supply chain enterprises to implement unethical or even illegal actions such as firing

² See Ibid, Principle 11

child labor, forced labor and causing environmental pollution. The equity structure or modern supply system has become an critical barrier for enterprises to transfer human rights damage. From the perspective of judicial relief, holding direct perpetrators accountable only may not enable victims to receive adequate relief, or it might be difficult to curb human rights violations problem fundamentally. The above phenomena raises two important practical questions: Is the parent corporation responsible for the offence committed against the subsidiary? Is it up to the supply chain enterprises to take responsibility for the violations?

3.2. Fundamental Analysis Relating to the Raised Issues

For the above first type of issues (subsidiary responsibility issue), traditional research mostly seeks solutions in the field of company law. Specifically, it mainly expands the interpretation of the "piercing the corporate veil" theory to solve the human rights violations committed by subsidiaries under the excessive control of the parent company. It is interpreted as a situation that constitutes the "abuse of the independent status of the legal person of the company and the limited liability of shareholders" of the parent company, so that the parent company can bear joint and several liability [7]. To a certain extent, the research can solve the problem that the subsidiary has completely become a tool for the parent company to commit human rights violations. However, the issues of industry and commerce and human rights are complex and diverse. In many cases, the parent company or holding company and subsidiaries do not reach the level of personality confusion. At this time, if the "piercing the corporate veil" system is blindly launched, it will undermine the stability and predictability of the law. In fact, the legal personality denial system established in the Commercial Law is only a special case in which shareholders are responsible for the company's debts. The legislative purpose is to correct the problem of personality confusion between shareholders and companies. In addition to the legal personality denial system, there may be other circumstances in which shareholders are liable for the company's torts [8]. Especially in the context of French infringement, the parent company may have a variety of forms of responsibility.

However, few scholars discuss the civil liability of the parent company from the theoretical perspective of tort law. The "lost connection" or human separation between the company law and the tort law is not conducive to the final solution of the problem, even it may lead to improper invoking and over-reliance on the "piercing the corporate veil" system. Some scholars have questioned the risk of abuse of the "piercing the corporate veil" rule. In many cases, the parent company as a shareholder has not abused the independent status of the subsidiary, but the "veil" of the subsidiary has still been unveiled [9]. In 2019, the *National Court of Civil and Trial Work* made it clear that "piercing the corporate veil" is merely an exception to the independent character of the undertaking. The common principle states that shareholders are not accountable for the company's debts in certain circumstances as well as orders them to bear joint and several liability Use it if you use it. The general principle mentioned above obviously derives from the perspective of commercial law in the *National Court of Civil and Trial Work* ; but from the perspective of civil law, a person is completely likely to bear responsibility for the infringement of others. In this sense, it is not true that shareholders are not responsible for the company's debts.³ Although the *Minutes of the National Court of Civil and Trial Work* expresses the position of prudently applying the legal personality denial system, it does not clarify the possible liability of the parent company as a shareholder in the context of civil law infringement, especially whether it can generate civil liability equivalent to the essence of "piercing the corporate veil" based on the tort law.

For the above second type of issues (supply chain responsibility), the business and human rights discourse system requires enterprises to prevent supply chain enterprises from violating human rights. By its influence, some European countries have strengthened the supply chain due diligence legislation of enterprises, requiring enterprises to bear the responsibility of preventing supply chain

³ The National Court Civil and Commercial Trial Work Conference summary can be found at the Supreme People's Court of China at <https://www.court.gov.cn/index.html>.

infringement. Among them, France not only sets preventive measures in its legislation, but also empowers victims the right to claim damages [10]. Germany adopts a legislative model with administrative supervision as the core, it does not directly give victims an independent right to claim damages, but at the same time it reiterates that the law does not prevent victims from invoking the original responsibility system of civil law. Two legislative models in Germany and France have raised interesting questions: based on the general doctrines of civil law, can people deduce that enterprises owe a certain obligation of care for infringement in the supply chain, and what kind of civil liability does this obligation corresponds to? This issue is particularly important for countries that have not yet enacted supply chain legislation.

In recent years, no matter in the United Kingdom, or in Netherlands, both the two countries have not yet formulated special supply chain legislation, have explained the jurisdiction of corporate care obligations through judicial practice. The judicial practice in part of the UK and the Dutch area show that according to the general principles of civil law, enterprises have the obligation to pay attention not only to subsidiaries, but also to the infringement of their supply chain enterprises, and bear civil liabilities such as stopping infringement, removing obstacles, and compensating for losses according to the situation. By drawing on the experience and lessons of the comparative law, the following summarizes the legal concept of the enterprise's duty of care, in which the relationship between that and the limited liability system is also analyzed. On this basis, this article systematically interprets Article 1165 of the *Civil Code of the People's Republic of China* (the Civil Code) to obtain an interpretation for the enterprise's duty of care.

4. A Comparative Law Perspective Yields Insights: the Corporate Duty of Care

Judicial cases illustrate that the significance in Britain and Netherlands stands out because their general logic of law summarized without specific and clarified legislation brings some enlightenment to China.

4.1. Judicial Practice in Britain: the Duty of Care of Parent Companies

There was a judicial case adjudicated by the U.K. court, which referred to *Chandler v. Cape*. In this case, judges demonstrated that due attention to the behavior of its subsidiaries belong to the parent company. The basic situation of the case is as follows: when the employees of a subsidiary of a company found that they were suffering from an occupational disease, the subsidiary had already been canceled, but the parent company still exists. Therefore, the plaintiff sued the parent company, claiming that during the tenure, the parent company had the obligation to pay due attention to it, and the parent company violated this obligation and should bear the responsibility [11].

The British court had a three-stage test of duty of care which refers to: damage is predictable obligation; there is a relationship similar to proximity or neighborhood between the person and the right holder; the court considers that it is fair, just and reasonable to impose an obligation of care on the other party for the sake of one party's interests, The judge in the case held that the law did not generally require a person to prevent the third party from harming others. Of course, the parent company does not have the obligation to pay attention to the employees of the subsidiary. Whether the obligation of care is established needs to be judged according to the facts of the case.

As for the *Chandler* case, the defendant actually knew the plaintiff's working conditions and was predictable about the damage suffered by the plaintiff. Secondly, the evidence in the case shows that within the scope of the defendant's core business (including the business of subsidiaries), the defendant has a unified health and safety management policy for his entire group company. Therefore, the judge held that in this case, there was a proximity relationship between the employees of the parent company and the subsidiary. After proving the predictability and neighboring relationship, the judge held that there was no unfair, improper or unreasonable situation to impose the obligation on the defendant. Finally, the three-stage standards were met, and the parent company had to pay attention to the employees of the subsidiary. Obviously, court of first instance supported plaintiff's

claim that Cape Company and its subsidiaries were joint infringers and had joint and several liability for compensation. Since the subsidiary has been disbanded, the court ruled that the defendant should compensate the plaintiff for all the losses.

The defendant appealed to the court of second instance, in which it upheld the first-instance judgment, arguing that defendant should fulfill the supervision obligation to staff in subsidiary, and further pointed out that the most critical part in this situation was not to show whether there was an intervention between the parent company and subsidiary on some relevant policies, considering the complex circumstances, if it can be proved that the parent company intervenes in the daily business transactions of the subsidiary, such as production and capital matters, it can be concluded that the threshold for applying the duty of care meets the standard. After determining the establishment of the parent company's duty of care, the court of second instance held that although the role of the parent company was only advisory (in this case, the parent company did not urge the subsidiary to protect the health of employees), the parent company should bear joint and several liability with the subsidiary.

4.2. Judicial Practice in Netherlands: the Duty of Care of Enterprises towards their Supply Chain

The Hague District Court (HDC) applied the juridical of the parent company's duty of care in the climate change lawsuit against Royal Dutch Shell PLC(RDS) and even expanded duty of care for the supply chain. The case originated from a public interest lawsuit filed by a non-governmental organization Vereniging Milieudefensie against RDS on behalf of some residents, requiring RDS to assume quantitative emission reduction obligations. Based on the duty of care in the unwritten law mentioned in Dutch civil law, considering the development trend of international law and the need for human rights protection, the HDC recognized that RDS had an obligation to reduce emissions by 45% by 2030 compared with 2019 [12]. The most controversial issue in this case was how to understand the scope of emission reduction obligations. For fossil energy enterprises, their own emissions were relatively limited, while the emissions generated by the consumer side after the sale of petroleum products were relatively larger. In this regard, the court divided the emissions into three categories: the emissions of raw material suppliers, the emissions of RDS and all companies in the group, and those of product terminal enterprises. Among them, the second category were RDS's own emissions and emissions based on equity control, the first and third categories were the emissions of external enterprises. There was almost no dispute between the parties about the second type of emissions. From a worldwide perspective, it had always been a controversial issue whether the emission reduction responsibilities of enterprises should take into account the emissions of external enterprises. In this case, RDS did not question the aforementioned type emissions. In fact, RDS can effectively influence the supplier's emission policy through its own procurement strategy. The controversy in this case focused on the third type of emissions.

The judgment and reasoning of the HDC were very innovative. The court repeatedly invoked the Guiding Principles and adopted the view that enterprises have responsibility to ensure that their trading associates, such as subsidiaries as well as supply chains corporations, do not commit offences. Of course, judge held that RDS has the obligation to reduce emissions for the above three types of emissions, because the enterprise has the obligation to pay attention to the infringement of business partners such as the supply chain. However, the court did not impose an unreasonable burden on RDS, it reasonably defined RDS's different obligations to the above three types of emissions by distinguishing between the obligation of result and the obligation of action. The court held that for Class II emissions (RDS and inter-group companies), RDS's emission reduction obligation was a result obligation; for Class I and III emissions, RDS's emission reduction obligation was an obligation of action. In other words, although RDS had emission reduction obligations for all three types of emissions, its types of responsibilities were different: for the result obligation, it should ensure emission reduction; for the action obligation, RDS was not directly responsible for the emissions of external enterprises, but only expected to do its best and take necessary measures. Reducing emissions

through its own influence such as purchasing or sales to urge third parties. The court also pointed out that the obligation of action is not exempted by a third party's responsibility for its emissions. The distinction between behavioral obligations and outcome obligations on the issue of carbon emission reduction shows that the degree of duty of care obligation of enterprises is directly proportional to the control and influence of enterprises on third parties (subsidiaries, supply chains).

Judicial practice in Netherlands extends application expansion of duty of care, enterprise's obligation of attention to the infringement of subsidiaries also includes the attention to business partners, such as the whole supply chain. It reveals that the obligation of enterprise care comes from the control or influence of the enterprise over third parties. From the perspective of this case, duty of care, a special supervision, is not to make parent company bear direct responsibility due to the infringement of its subsidiaries, but to urge subsidiaries, supply chains and other trading partners to avoid infringement, or to facilitate the protection of the rights of victims as a litigation strategy in cross-border litigation. From this point of view, the obligation of enterprise care does not have a subversive impact on the modern corporate legal order, but an effective supplement to the rights relief deficit.

5. The Evidence of Enterprise's Duty of Care in China's Tort Liability Law Theory and Practice

In the context of tort law in China, the concept of the infringer can be divided into the direct and indirect subject, nevertheless, the latter is not a direct actor, he still needs to bear tort liability. From this perspective, it is not impossible to demonstrate the obligation of enterprises to pay attention to the infringement of subsidiaries and supply chains. The Civil Code lists several cases in which a person is liable for the infringement of others, it can be inferred that the tort liability law breaks through the traditional concept of "self-responsibility" and is in line with the new trend in tort law. Separation of liable subject and behavior implementation subject, indicating the subject of responsibility is not necessarily the actual tortfeasor, which has been accepted by modern tort law. The expansion of the scope of responsibility subject is mainly based on consideration of the control of non-actors over the actual behavior and the benefits obtained. For example, the security obligator is not the direct subject of the act, but under the control of the field, it should be responsible for the infringement of third party. Without unveiling company, parent company is regarded as an independent legality person, while the subsidiary also presents the same status. Nevertheless, control from parent company over the subsidiary and the fact that the former benefits from the latter's business activities may cause parent company to hold liable for the detriment of its subsidiary. In addition, enterprises can not only have control over other companies based on equity, but to a large extent, enterprises can also have considerable influence or control over upstream and downstream companies through procurement or sales policies. In this sense, enterprises should also have the obligation to pay attention to the infringement of supply chain enterprises commensurate with their ability and influence. In modern business activities, large enterprises often use the supply chain to essentially transfer the consequences of infringement, through which enterprises themselves do not engage in infringements such as harming labor and the environment, but transfer them to other supply chain enterprises. Of course, compared with equity control, the company's influence or control over supply chain enterprises is difficult to prove and quantify. For this factual issue, it can be solved through litigation technical means such as requiring enterprises to unilaterally disclose information and in combination with the economic model of the relevant supply chain. Therefore, the fact that the real relationship between the enterprise and the supply chain is difficult to prove does not hinder the legitimacy of the path itself that the enterprise has the obligation to pay attention to supply chain infringement.

The duty of care of subsidiaries and supply chains can be deduced from the specific clause. Paragraph 1 of Article 1165 in the Civil Code is recommended as follows: "If the perpetrator infringes

on the civil rights and interests of others due to his fault, he shall bear tort liability."⁴This is a general clause about liability for fault. Generally speaking, people bear tort liability for the positive acts they engage in, and do not bear tort liability for acts that have not been engaged in or have not been prevented. This is the traditional concept of the principle of "no action, no tort liability" [13]. In modern society, many countries restrict the principle of inaction and non-fault liability. Under specific circumstances, the tortfeasor is ordered to follow a certain positive obligation, and the perpetrator should bear tort liability for the damage of others in violation of such obligations [13]. The Supreme Court of France stated that "people have the obligation not only to act actively under laws, regulations and contracts, but also to act positively under a universal duty of care." Moreover, in the absence of legal obligations, whether a legal actor has obligation to act positively to others should be judged according to the standard of *bonus pater familias* [14]. The traditional concept of German academics is that obligations only derive from the requirements of decrees, contracts and previous dangerous behaviors. In order to cope with the changes in social life, German judicial practice has created "commodity security obligations", expanding the source of obligations, covering unwritten obligations. In a word, the expansion of infringement liability has become one of the development trends of tort laws in various countries.

Article 1165, in the the Civil Code shall be understood as an undefined provision. The basis for judging faults should include obligations from external sources. In context of this paper, Company Law in China is an important external source in terms of social responsibility. As early as 2005, China codified a social responsibility clause to the Company Law. Although there are few cases in judicial practice where enterprises are directly judged to bear responsibility based on social responsibility clauses. However, in many cases, the court takes this clause as a rational basis. The concept of corporate social responsibility has been widely recognized by Chinese society because of its natural moral legitimacy. Both the regulatory authorities and the enterprise itself claim to promote the implementation of corporate social responsibility. The social responsibility clause constitutes an external norm for the company's duty of care. In addition, external sources include not only social responsibility clauses, but also international legal documents such as UNGPs. The Civil Code should manifest the mind of a major country and an international vision. When people interpret and apply the Civil Code, they should also take note of prudential obligations on human rights of enterprises mentioned in UNGPs.

The obligation of enterprises to pay attention to the infringement of subsidiaries and supply chains are active obligations based on special relationships. In this regard, the expression of the Restatement of the U.S. Tort Law is more classic: unless there is a special relationship between the perpetrator and a third party, the special relationship gives the perpetrator the obligation to control the behavior of the third party, or unless there is a special relationship between the perpetrator and another person, the special relationship prevents the other person from being insured. Otherwise, the perpetrator does not have the obligation to control the behavior of the third party to prevent it from committing tangible damage. In China, this principle also works. If the enterprise knows or should know that the subsidiary and the supply chain are infringing, and has the ability to prevent it from infringing, the enterprise should take appropriate measures to prevent it. If prudential measures are not taken, they shall hold the liability of inaction. This is an obligation to act, not an obligation to result. In other words, the enterprise is not of course responsible for the infringement results of a third party (subsidiary, supply chain), but only for its own inaction.

6. Conclusion

The emerging agenda of "Commerce and Human Rights" in the international community requires enterprises to assume the duty of care, which often needs to be implemented through civil liability. Specifically in the field of civil and commercial affairs, the concept of human rights prudential obligations of enterprises means that enterprises have the obligation to pay attention to the

⁴ See Article 1165, Paragraph 1, the Civil Code of China

infringement not only of subsidiaries, but supply chains could not be neglected as well. Civil Code should refer to definition of this special obligation mentioned in UNGPs, and then justify it. The primary function of enterprise's duty of care do not result in the company's direct liability for damages on behalf of its subsidiaries or supply chain enterprises, but to encourage the enterprise to assume due diligence obligations in the whole process of operation and establish a intra-group and supply chain compliance system. Under normal circumstances, the duty of care of enterprises is mainly manifested in the claim of eliminating obstacles, stopping infringements and eliminating dangers. Only in the case of exceptions where subsidiaries or supply chain enterprises themselves are indeed unable to compensate, out of the need to protect the rights of victims, the liability for compensation of duty of care is initiated. At this time, the enterprise bears the responsibility of its fault. Responsibility. The Civil Code is highly inclusive. Through systematic interpretation, the duty of care of enterprises can be deduced, so there is no need to formulate a new law compared with clarifying the connotation and extension of the company's duty of care, reflecting the responsibility and responsibility of an influential country.

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