

Status Quo of the Human Rights Responsibilities of Transnational Corporations and Countermeasures for Legal Improvement

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Abstract. As economic globalisation took shape, the establishment of transnational corporations (TNCs) expanded rapidly. Transnational corporations bring huge benefits to the economy, However, the principle of trade liberalisation, with its preoccupation with profit maximisation, ignores the human rights obligations that transnational corporations should fulfil. With the increase in the number of lawsuits alleging human rights violations by transnational businesses and the increasing number of transnational firms that have come out to admit to committing a significant number of violations of human rights, violating labour standards, polluting the environment, or acting as accomplices to human rights abuses by Governments. The international community is starting to pay more and more attention to the connection between multinational companies and human rights. Existing legislation and accountability frameworks for abuses of human rights by multinational businesses are insufficient. By strengthening the legislation, transnational firms' obligations to uphold human rights may be controlled and monitored. This essay compares and contrasts the obligations of various nations to regulate obligations related to human rights by analyzing pertinent multinational firms and international human rights cases.

Keywords: Transnational corporation; international human rights; responsibilities.

1. Introduction

Human rights abuses by transnational corporations have existed since the early days of their existence. For example, in the sixteenth and nineteenth centuries, the East India Company set up by Britain and In Asia, Africa, and the Americas, the Netherlands had started to misuse their authority by overthrowing local governments, abusing the populace, and grabbing local resources. During the period spanning the fifteenth to the nineteenth centuries, the East India Company, which was jointly created by Britain and the Netherlands, started exerting its authority across Asia, Africa, and the Americas in a manner characterised by harsh practises, usurping the power of existing local governments, exploiting the resources and labor of local people, and seizing resources for their own gain. This marked the beginning of an era of colonialism and exploitation by foreign powers, which would have far-reaching consequences in the centuries to come. These companies even trafficked opium to other countries and did not hesitate to harm the lives and health of the people of those countries in order to reap huge profits. In the year 1999, a sequence of legal actions were initiated in the courts of the United States against firms originating from Germany, Austria, and the United States, The charges put up assert that these corporations or their affiliated entities engaged in the use and exploitation of forced labour throughout the period of the Second World War. Based on the results of surveys, During the Second World War, it has been documented that over 400 German enterprises engaged in the use of slave labour provided by the Nazi regime. The estimated number of individuals subjected to this kind of forced labour reached a staggering figure of 10 million. These corporations are not obligated to provide any kind of compensation to these employees, and they are granted explicit authorization to employ these labourers until their demise. Several prominent multinational firms, including Ford Motor Company, Siemens Electronics, Volkswagen, Daimler, Mercedes-Benz, and IBM, have faced allegations of deriving advantages from the use of forced labour [1]. Regarded as the first legal case involving transnational slave labour, *Iwanowa v. Ford Motor Company*, in 1998,

a class action lawsuit was initiated against Ford Motor Company in the United States Federal District Court located in Newark, New Jersey.

In China, The issue pertaining to the human rights obligations of multinational businesses is of comparable significance. China, as an emerging nation, has garnered the highest volume of foreign investment globally. Furthermore, it is noteworthy that over 450 out of the 500 most prominent multinational businesses worldwide have established offices or regional headquarters inside the borders of China. China has emerged as the world's leading destination for foreign investment, with more than 450 of the world's 500 largest multinational corporations operating branches or regional headquarters there. The country has experienced remarkable economic growth over the past decades, and continues to attract significant amounts of foreign investment. China's economic advancements have positioned it as a significant participant in the global economy, therefore establishing a solid groundwork for future expansion. The economic expansion and integration of China into the global market may be attributed to the contribution of transnational companies (TNCs) via their direct investment, often known as foreign direct investment (FDI). However, at the beginning of this century, scandals of human rights abuses by some transnational corporations in China erupted one after another. As an example, it was revealed that KFC had used Sudan red in their food items, while Nestle's milk powder was found to have an excessive amount of iodine. Disney was sued in the United States and banned from exporting toys produced by its toy foundry in China because they contained toxic ingredients. Wal-Mart has been exposed as having prevented the formation of trade unions for a long time, and the Nike factory in Guangdong has been accused of being a sweatshop. Simultaneously, multinational businesses are encountering the need of fulfilling their human rights obligations in relation to their foreign investments. This is particularly evident in several African nations that have attracted the attention of certain international human rights groups in recent times [2].

2. Responsibility of Transnational Corporations for The Protection of Human Rights, Obligations and Their Bases

2.1. Multinational Businesses Breaking Labour Laws for Their Profits

Iwanowa v. Ford Motor, a class action against Ford Motor Company filed in 1998 in the United States District Court for the Federal District of Newark, New Jersey. The indictment alleges that Ford knew that its German subsidiary, Ford Werke, was using slave labour (forced labour) and still benefited financially from the profits derived from the use of such slave labour. Ford Werke The company participated in the proceedings as a co-defendant. The indictment alleges that Ford Werke intentionally used forced labour under inhumane conditions and profited substantially from it. In 1943, 25 per cent of the company's workforce consisted of unpaid forced labour, The fraction had an increase to 50 percent in the year 1944. The yearly revenues of Ford Werke saw a threefold increase in 1943 as a result of the widespread use of unpaid slave labour [1].

2.2. The Primary International Human Rights Duties of Multinational Businesses Inside The Legal Domain

The international human rights commitments that multinational firms should adopt may be categorised into two fundamental groups: One of the primary aspects is to the inalienable and intrinsic entitlements of individuals, particularly including the right to life, liberty, and bodily integrity, in which transnational corporations are subject to the same obligations as States. Transnational corporations should assume international human rights obligations that are based on two fundamental categories: inalienable and inherent rights of human beings, and the rights of States. Such rights include the right to life, liberty and physical integrity, and are applicable to transnational corporations just as they are to States. The second classification of rights arising from the persons and organisations impacted by the activities of multinational businesses primarily include worker rights and

environmental rights [3]. In the realm of international human rights law, there exists a safeguarding of fundamental rights such as the right to life, liberty, and bodily integrity. This protection is achieved by the prohibition of actions that compromise the intrinsic dignity and security of individuals. Examples of criminal crimes include acts of genocide, arbitrary massacres, and many forms of cruel and inhuman treatment or punishment [4]. Universal international human rights agreements, including the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights, the European Convention for the Protection of Human Rights and Fundamental Freedoms, and the American Convention on Human Rights [5,6]. The basic human right to life, liberty, and bodily integrity is widely recognised, and employment rights are included within this framework, serving as a legal foundation for safeguarding worker rights.

The second is the right to the environment. From an environmental point of view, the development of trade activities increases the scale of production and consumption activities, and this increase in scale inevitably leads to investment. The development of trade activities has the potential to create a positive environmental impact by increasing the scale of production and consumption activities, leading to greater investment in renewable energy sources, improved resource efficiency, and more sustainable production processes. The development of trade activities has the potential to bring about positive environmental impacts, such as increased investment in renewable energy sources, improved resource efficiency, and more sustainable production processes. This, in turn, can lead to larger production and consumption activities, which can benefit businesses and the environment in the long run. Furthermore, the implementation of policies that are focused on sustainable trade, such as green taxation and environmental protection, can help ensure the lasting success of the trade sector. However, this increase in scale can also lead to an increase in greenhouse gas emissions, water and air pollution, and other environmental harms, unless businesses and governments take steps to ensure that production and consumption activities are carried out in a sustainable manner. Specifically, the proliferation of cross-border investment will result in heightened utilisation of natural resources and the generation of waste emissions, thereby contributing to environmental degradation [6]. In addition, the global liberalisation of investment and trade has expanded the scale and scope of economic activity, and a country's natural resources, while under its sovereign control. However, their use is no longer limited to the territory of a single State, and natural resources have become a common object of global economic activity [7]. Transnational corporations shall be subject to civil liability for environmental breaches and civil liability for environmental torts.

2.3. Transnational Firms' Commitment to Social Responsibility

Corporate Social Responsibility (CSR) is essentially an objective requirement for companies under specific economic and social conditions, meaning that enterprises should abide by the law, "do well by themselves" and, on that basis, voluntarily assume moral obligations towards stakeholders and society [8]. The definition of Corporate Social Responsibility (CSR) that is often used and acknowledged by scholars and practitioners alike is the one put out by the World Business Council for Sustainable Development (WBCSD): Corporate Social Responsibility (CSR) refers to the enduring dedication of a corporation to conduct its operations in an ethical manner, while concurrently fostering economic progress. This commitment entails enhancing the well-being of its employees and their families, as well as striving towards an improved standard of living for the local community and society at large [9]. Chinese scholars generally view CSR as the initiative of enterprises to take responsibility for the environment, society and stakeholders while earning profits [10].

3. Legal Suggestions on Regulating The Human Rights Responsibility of Transnational Companies

3.1. The Incorporation of The International Human Rights Responsibilities of Transnational Corporations Into The WTO Framework

The main benefit for TNCs stems from the rules of international organisations of the WTO, which treats TNCs better in trade and establishes a lot of rights and benefits for them, but stipulates less in terms of obligations. Make its rights and obligations show obvious asymmetry, which is also the transnational corporations so "arrogant", difficult to regulate one of the main reasons. Integrate the oversight of multinational firms' human rights obligations into the existing structure of the World Trade Organisation (WTO). The WTO's three complete and progressive legal hierarchies of rule-making, dispute settlement and enforcement of judgements, and in particular its fast and efficient dispute settlement procedures, are superior to those of any other international body, including the United Nations, and can overcome the lack of sanctioning and monitoring of the existing model of human rights accountability. The United Nations has assumed a significant role in addressing human rights concerns; yet, the absence of efficient implementation and monitoring systems has resulted in a limited ability to govern the human rights obligations of multinational enterprises. In this context, one could posit that the convergence of the United Nations' human rights doctrine and the World Trade Organization's dispute settlement mechanism, along with the establishment of a collaborative framework between the two, would enhance the international framework for holding transnational corporations accountable for human rights obligations. Simultaneously, by fostering collaboration between the World Trade Organisation (WTO) and the United Nations (UN), the human rights principles upheld by the UN and the dispute resolution mechanism employed by the WTO can be integrated. This integration aims to establish a cooperative framework between the two organisations, thereby enhancing the approach to assuming international human rights obligations of transnational corporations. The establishment of the Trade-Related Aspects of Human Rights (TRIPS) Council within the World Trade Organisation (WTO) system and the potential establishment of the Commission on Human Rights and Trade within the United Nations framework are plausible avenues for institutionalising human rights considerations in the context of international trade. The former entity should assume a function within the General Council of the World Trade Organisation (WTO) and engage in collaboration with other United Nations entities that address matters pertaining to human rights, Examples of institutions that address human rights issues include the Commission on Human Rights and Trade, as well as the United Nations Commission on Human Rights. It is essential to thoroughly examine the intricate connection between trade and human rights in order to prevent the World Trade Organisation (WTO) from disregarding human rights concerns during the formulation of global trade policy [3].

3.2. Regulation of Transnational Corporations for Supply Chain Transparency

Supply chain transparency has been a topic of discussion and action as a result of globalization and the expansion of industry supply networks into developing nations [11]. There are potential strategies listed below. There may be more channels for public disclosure, including corporation websites. wherein select businesses are required to display information about their anti-trafficking practices on their websites by the Californian law of the United States [12]. Other than the government, NGOs and labor groups carry out some social monitoring, and a variety of interests, including the UNGP, take part in supply chain laws. Agreements are struck with interested parties or international organizations to encourage open supply chain oversight [13].

3.3. Regulation Through The Establishment of A Shared Intelligence Network

Partnerships enhance group collaboration by combining diverse expertise, amplifying messages, and utilizing resources, thereby supporting efforts and enabling more effective group work than a single entity or sector. Partnerships are invaluable tools for facilitating group collaboration. By

combining the diverse knowledge, skills, and resources of multiple entities or sectors, partnerships can amplify messages, increase efficiency, and streamline processes, leading to more effective group work than what is achievable with a single entity or sector. Partnerships are essential for achieving success in today's interconnected world. Governments are utilizing various collaborations to assist in prevention, defense, and prosecution, including [14]. Task forces among law enforcement agencies collaborate to share intelligence and coordinate across jurisdictions, while alliances between governments and business associations aim to create protocols and compliance mechanisms for slavery-free supply chains. Regional partnerships, such as those of the Organization of American States (OAS) and the European Union (EU), are crucial in combating human trafficking. Partnerships between NGOs and the government facilitate advocacy, service provision, information sharing, and networks of survivors, whose experiences inform the broader trafficking movement [15].

4. Conclusion

Through the research this paper finds that global transnational corporations have certain human rights violations, and there are also large differences, advantages and disadvantages in the identification and legal regulation of human rights violations in various countries. From the perspective of ameliorating human rights abuses by transnational corporations (TNCs), this paper analyses and compares different cases of TNCs' human rights abuses in different countries, highlighting the historical nature of TNCs' human rights abuses as well as the social responsibility of TNC. This paper therefore summarises the corresponding human rights obligations and responsibilities of TNCs. The analysis enumerates several measures to ameliorate human rights abuses by TNCs, and to improve and regulate some of the behaviour of TNCs in the context of the WTO architecture and legislation. Bridging the legislative gaps of States, government departments, transnational corporations (TNCs) and international agencies to ensure that enterprises fulfil their social responsibilities with regard to human rights without ensuring the economic efficiency of TNCs is an objective that should be accomplished at this time. It is worth some reference and inspiration for future research.

Due to the limited number of cases cited in this paper, it is not possible for this paper to go deeper and further analyse the context under the influence of different themes to further analyse the different economic models of legislation. Designing corresponding sound policies according to different policy contexts and assuming different levels of social responsibility for human rights where appropriate may also be one of the ways to better guard against human rights abuses. Future research endeavours might potentially enhance their specificity and depth by conducting comprehensive analyses of various situations across different nations. This approach could provide a broader range of viewpoints and concerns, therefore transcending the current confines of studying just the human rights obligations of multinational firms.

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