

Analysis on the Responsibility of Transnational Corporations to Protect Human Rights

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Abstract. With the acceleration of the process of world economic integration, the overall strength of multinational corporations is becoming stronger and stronger, and profoundly affects the world's politics and economy, and gradually forms a new pattern of powerful countries. Multinational corporations have played an active role in promoting global economic development and improving international people's livelihood. However, the actions of some multinational corporations have had a positive impact on their actions at the expense of human rights. More and more multinational companies have caused serious harm to human health due to violations of labor standards and environmental pollution. On this issue, the international community generally attaches great importance to the relationship between transnational corporations and human rights. Therefore, in recent years, the issue of human rights responsibilities of transnational corporations has become a common concern in the world. In this context, this study analyzes the human rights violations of transnational corporations, and from the perspective of the current international predicament, puts forward suggestions to improve international legislation and establish responsibility mechanisms of companies, home countries and host countries.

Keywords: Multinational corporation, human rights, responsibilities.

1. Introduction

After entering the 21st century, multinational corporations have been rapidly expanding and developing under the influence of economic globalization. According to the world investment report 2017 officially released by the United Nations Conference on Trade and development (UNCTAD) on June 7, 2017, there are about 1500 state-owned multinational enterprises in the world, accounting for only 1.5% of the global multinational enterprises, but these more than 1500 multinational enterprises have registered more than 86000 overseas branches, equivalent to 10% of the total number of global multinational companies [1].

In recent years, China has conducted a lot of research on the human rights protection system of transnational corporations. Judging from the current international human rights protection situation, there are some deficiencies in China's supervision of multinational corporations' human rights responsibilities. The supervision and management of human rights responsibility of transnational corporations is a human rights protection mechanism based on external supervision methods, supervision by international organizations and the management methods of transnational corporations themselves. Businesses have an obligation to uphold human rights. In addition, many international intergovernmental organizations voluntarily signed human rights treaties to protect multinational companies, but they have not actually been implemented. How to establish a sound and effective human rights protection mechanism to effectively protect transnational corporations has become a top priority.

Therefore, people around the world are increasingly calling for strengthening human rights protection, and this requires multinational corporations to undertake more human rights obligations. This article starts from the deficiencies of existing international law and domestic law, and defines the human rights protection of transnational corporations. Strengthen international cooperation, promote the interaction between the home country and the host country, and promote international cooperation. The corporate responsibility system and the concept of safeguarding human rights.

Promoting multinational corporations to assume important responsibilities in human rights protection, both in theory and in practice.

2. The violation of workers' rights by transnational corporations

2.1. Infringement of workers' rights to life, body and health

In recent years, many multinational companies have violated labor rights. After the 1980s, multinational corporations from developed countries have transferred a large number of labor-intensive industries to developing countries. "Sweatshop" looks a little more similar to those multinational companies. Nike as a "representative" of the "sweatshop". In 1991, some media exposed the scene of Nike's "sweatshop" in Indonesia. The report mentioned that in the operation and production of factories, workers were exploited, corporal punishment, wage arrears, etc. In 2005, Nike released its CSR report for fiscal year 2004, and admitted that there was exploitation of employees in overseas OEM enterprises [2]. Factories in Asia are even worse, including forcing workers to work overtime, prohibiting employees from drinking water during working hours, and abusing and physically punishing workers to prove that Nike's factories abroad are "sweatshops". Not just Nike. It can be seen from this that in the process of economic transformation, multinational corporations exploit laborers and infringe on the lives of laborers. Physical rights are not limited to mandatory time-outs and corporal punishment. At the same time, the high-intensity labor and high-quality management system of the workers make the workers physically and mentally exhausted and depressed, which may eventually cause serious human rights violations.

2.2. Illegal employment of child labor

In multinational corporations, child labor is the most common and prominent phenomenon. So far, more than 1 million children have been forced into child labor due to armed conflicts and disasters. The International Labor Organization and the Free Movement Foundation, together with the International Organization for Migration, released the statistics on child labor in the world from 2012 to 2016, and announced the results and development trends. Almost half of the world's 155 million working children (64 million girls and 88 million boys) have a medical condition [3]. The Daily Mail reported that the outcome of the lawsuit was "slaves", comparing it to corporate labor abuse. Apple, Google, Dell, Microsoft, Tesla, these are all recent additions to the ranks of voracious predators. "Some multinational corporations were interviewed and said they were unaware of the existence of child labor in mining development. On the contrary, these multinational corporations were the biggest beneficiaries, victims of child labor and human rights abuses.

3. The dilemma of international regulation

3.1. Limitations of traditional rules of international law

Current international human rights law places serious constraints on the human rights responsibilities of transnational corporations. Traditional "national standards" are based on concepts. Many provisions of international law apply only to contracting States. These measures indirectly limit the behavior of multinational corporations outside the laws of their own countries, rather than taking responsibility for their human rights. On the other hand, the definition of multinational corporations' human rights obligations is not clear. Therefore, it is unclear whether transnational corporations will be able to fulfill their human rights obligations. Article 2 of the "International Convention on the Elimination of All Forms of Racial Discrimination" stipulates that States parties should take all appropriate measures to adapt to their country's special national conditions and needs, including legal prohibition and prevention of racial discrimination by any group or organization [4]. According to Article 2 of the Convention on the Elimination of All Forms of Discrimination against Women, the country firmly prohibits any form of discrimination against women and guarantees to provide all

necessary assistance for the investigation [5]. A common feature of these agreements is the prohibition of discrimination against women. That is, according to this, the State party is responsible for human rights. States parties indirectly restrict the actions of transnational corporations in their national circumstances. Therefore, in international law, there is no clear definition of the rights and obligations of transnational corporations, and the responsibilities of transnational corporations in promoting and protecting human rights should be regulated by national laws.

The preamble to the Universal Declaration of Human Rights calls upon all individuals and organizations to bear this fact in mind in order to promote respect for human rights and freedoms and to ensure universal and effective understanding and respect for all members and citizens of the United States. Within national jurisdictions, a number of international and domestic measures have been gradually adopted. Therefore, the social system plays a pivotal role in promoting the realization of human rights. Is business a social group? Many scholars see the corporation as a social institution, while others see the corporation as a larger social function that they integrate into their own systems. However, due to the rigorous and rigorous nature of legal documents, it cannot use subjective theories to judge the rights and obligations of a company. Also, interprets many international legal instruments, including economic, social and cultural; (b) (United Nations Human Rights Committee) International Covenant on Civil and Political Rights (Human Rights Committee) (Covenant on Human and Political Rights). Article 5 states that any country, organization or individual has the right to violate any right or freedom recognized in any agreement. Agreement [6]. Some scholars believe that this organization does not target fascist groups and countries during World War II, but multinational corporations; There are many explanations for its historical evolution [7]. In many international legal documents, the human rights responsibilities undertaken by multinational companies are mostly ambiguous, without clear clauses, and can only be realized through reasonable interpretation.

3.2. Limitations of international soft law document management

Since the Second World War, many countries have participated in some important soft law documents, such as the "Statement of Principles of the Second Party of Multinational Enterprises and Social Policy" (hereinafter referred to as "Statement of Multinational Enterprises"). International Labor Organization, OECD International Business Rules, and United Nations Global Contracts. These important documents cannot be used to manage the human rights responsibilities of transnational corporations. The main problem is that these documents are neither legally binding nor enforceable [8]. As such, they cannot play a significant role in managing the human rights responsibilities of transnational corporations.

3.3. International organizations cannot directly supervise

At present, there is no direct legal regulation mechanism regarding the human rights obligations of transnational corporations. When transnational corporations violate human rights, they are also restricted by their countries and host countries. However, in practice, due to the great differences in the legislation and judicial standards of different countries, it is difficult for the host country and the home country to achieve fairness when supervising multinational companies. Therefore, in recent years, human rights violations by transnational corporations have not only not decreased, but the human rights violations have not been properly resolved.

In recent years, organizations such as the World Human Rights Council, the Labor Organization, the Human Rights League, and the OECD have all made substantial contributions to the human rights obligations of transnational corporations. This is a multinational corporation. This is of great significance to standardize the operation and management of enterprises in our country. But in fact, they are not very active in the violation of human rights by multinational corporations. Nationwide prevents corporate human rights violations against people with disabilities nationwide, including the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights, the International Convention on the Elimination of Discrimination against Women and the Convention on the Rights of Persons with Disabilities ". But this does not mean that

only the government will bear the responsibility for breach of contract. Only countries can limit the human rights violations of transnational corporations. However, on a global scale, no transnational corporation can directly supervise international human rights laws, nor has it effectively regulated the human rights responsibilities of transnational corporations. It is a more practical and effective international approach to establish a special agency to monitor human rights violations by transnational corporations. International organizations have the ability to restrict and solve such problems. Its branches can give full play to their role on a global scale, implement effective supervision on multinational companies, and provide fair and just solutions for multinational companies.

4. Thoughts on developing and improving the human rights responsibility mechanism of Transnational Corporations

4.1. Improve international legislation

In recent years, international NGOs and other countries have also made important contributions to the formulation of international law rules. In an effort to improve international law, in June 2018, the UN Human Rights Council recognized the relationship between multinational corporations and other businesses and human rights issues. In the fourth intergovernmental free-seat working group, representatives of countries drafted a new, binding legal regime for international human rights law governing multinational corporations and other business firms. In order to reach an agreement, the two sides conducted in-depth discussions on China's laws and regulations related to multinational companies. The introduction of the "zero draft" also shows that in international economic law, the human rights protection responsibility of transnational corporations has been recognized by all countries, and there will be similar multilateral treaties around the world to protect the human rights of transnational corporations [9].

Strengthening the respect and protection of human rights by the international community and formulating binding international laws and regulations are what must be done. The plan also provides funding for the establishment of human rights accountability mechanisms and readiness for multinational corporations. In international human rights conventions, international NGOs should recognize the international human rights obligations of transnational corporations. Although some advantages of transnational corporations have been recognized by the whole world, its role can only be exerted through bilateral or multilateral agreements, not the international community. Therefore, it is necessary to break through the traditional thinking of "country-oriented" and assume the international responsibilities of multinational corporations on a global scale, so as to maximize their international status. Second, the formulation of relevant laws and regulations should be in line with international standards. In order to avoid legal conflicts and balance interests among countries, when formulating relevant laws, lessons should be learned from foreign legislative experience and formulate laws from the perspective of human rights; developed countries such as the United States, France and Germany have already from the perspective of labor law, this paper studies the laborer's right to rest; the "Tort Liability Law" has certain reference significance in the protection of human rights [10]. Fourth, in the international human rights conventions, the international legal responsibilities of countries towards multinational corporations should be based on the norms of international law.

4.2. Establishing the human rights responsibility mechanism of Transnational Corporations

Currently, the responsibilities of transnational corporations in the field of human rights are mainly addressed through international norms. law, but is not directly regulated by the international community. In the long run, this situation will lead to two major problems. Although international economic law has effectively supervised multinational corporations, its supervisory function is limited to itself and cannot directly accept the supervision of the international community [11].

However, doing so will also lose the only reference to the study of international law, without any legal binding force. Therefore, the human rights obligations of transnational corporations should be supervised from three levels.

One is to strengthen cooperation between the United Nations and non-governmental organizations, and promote countries' accession to international multilateral treaties. First of all, the author believes that as a non-governmental organization, it should formulate a set of binding, comprehensive and binding legal norms to regulate the behavior of multinational companies. This system provides a common international norm for the human rights responsibility system of transnational corporations, and at the same time provides it with direct international monitoring. Second, in order to enable the world to accept direct constraints on transnational corporations and recognize direct international management methods, the United Nations Human Rights Council should call on all countries to actively participate; negotiate and sign an internationally unified convention.

The second is agreements between governments and governments. This is a collaboration of direct management and indirect management on a global scale. In order to prevent separation of international and domestic controls, international organizations require specialized controls. International organizations should first respect the supervisory power of sovereign states, and only monitor human rights violations by transnational corporations in individual cases.

Third, the rights and responsibilities system of multinational corporations should become an incentive and incentive to promote the protection of their own interests. This paper argues that the establishment of a human rights obligation system for multinational corporations can not only protect their human rights, but also hold them accountable for breach of contract. Also, in their implementation, transnational corporations should encourage the promotion and respect of human rights. If multinational corporations want to fully safeguard human rights on a global scale, they must actively undertake the important task of promoting human rights. "For example, international organizations can regularly report to multinational corporations on the progress of human rights work and encourage them to contribute to the promotion of human rights [12].

4.3. Improve the human rights responsibility mechanism of home countries to supervise transnational corporations

Supervising the state's human rights responsibilities is an important means for states to realize their rights and obligations. To this end, China's human rights organs should work together with sovereign states to strengthen the human rights supervision of multinational corporations to make them comply with international and domestic human rights laws and regulations; third, to effectively protect international human rights.

First of all, in the international arena, such as the United Nations and other international non-governmental organizations, the same is true when formulating norms of international law; under the framework of "extraterritoriality", state responsibilities for transnational operations should be incorporated into their internal governance. "Powers and Duties" is intended to enhance national oversight and oversight of the human rights responsibilities of transnational corporations.

The second is to strengthen human rights and human rights conventions, and formulate relevant laws and policies to respect, realize and protect the human rights of transnational corporations. file. From the perspective of personal jurisdiction, the operation and holding of foreign-funded enterprises in China are closely related. "Extraterritorial power and responsibility of the state" is a new kind of international relations. Chinese scholar Chen Jun maintains that all countries should safeguard their legitimate rights under their respective legal systems [13]. A country violates human rights if it does not take effective measures to prevent and prevent violations of human rights. "Therefore, people must shoulder the heavy responsibility of international human rights laws and various human rights treaties, and effectively strengthen the protection of human rights. In order to guard against foreign multinational companies, people must fundamentally protect their own rights to prevent them from being violated.

4.4. Improve the host country's responsibility mechanism for managing transnational corporations

First, the host country's legislation should make up for the relevant legal deficiencies as much as possible. On this basis, conduct all-round monitoring of multinational companies before, during and after the event. Prior to this, relevant laws and regulations such as foreign-funded enterprise law, company law, and enterprise legal person law should be formulated as soon as possible, and the conditions and qualifications for the establishment of multinational companies should be reviewed. There are "Product Quality Law", "Environmental Protection Law", "Resource Exploration and Development Law"; through the formulation of "Workers' Rights Protection Law" and other laws and regulations, it has played a supervisory role in the realization of the company's human rights and social responsibilities. Then, relevant legal responsibilities such as the Tort Liability Law and the Consumer Rights Protection Law can be investigated. A sound system of laws and regulations and an ever-increasing regulatory capacity will exert coercive pressure on multinational corporations [14].

The second is to strengthen the legal system of the host country, speed up the pace of integration with international standards, and vigorously promote the implementation of the "Company Law" and "Foreign Investment Law". Legally, host countries are expected to actively respect human rights. The standards that promote domestic human rights protection are consistent with international standards for the protection of human rights. Because home and host countries share the same responsibility as the international community to protect human rights, there is overlap in content. The standards of human rights protection should be consistent with international standards. 15 Therefore, in terms of human rights protection, the higher the legal standard of an international organization, the higher its code of conduct [15].

5. Conclusion

Transnational corporations play an important role in the international community and play an important role in promoting global human rights. However, in recent years, the human rights violations of many multinational corporations have not been properly dealt with. The UN Commission on Human Rights created a task force to strengthen the human rights responsibilities of multinational corporations. The article believes that the construction of a new system of human rights obligations of international institutions has become the direction of joint efforts of all countries in the world. On this basis, more international cooperation and more active international exchanges will be carried out. Under the new human rights system, the operation of multinational enterprises will be a big obstacle. Internationally, building a sound system of human rights obligations can not only strengthen the human rights obligations of transnational corporations, but also enhance their sense of responsibility for human rights. At the same time, this paper also proposes to strengthen cooperation with international human rights organizations, build a sound human rights protection mechanism for transnational corporations; strengthen international relations, establish specialized agencies, and strengthen cooperation and exchanges with host countries. country, country. However, in the long run, China still has a long way to go to establish a sound human rights accountability mechanism for multinational corporations. First, the development of international law is time-consuming and labor-intensive, and requires the active participation of all States. In the short term, it is difficult for international institutions to establish connections. Secondly, multinational corporations are more or less constrained by their own financial system, and it is difficult to impose mandatory constraints on their own multinational corporations. In short, on a global scale, strengthening transnational operations also requires countries to further strengthen cooperation with the international community; to promote the further improvement and development of international law and international human rights law. An author's talent is limited. It is hoped that it will be helpful to the human rights protection work of Chinese multinational enterprises in the international environment.

References

- [1] UNCTAD. 2017 World Investment Report [EB/OL]. http://unctad.org/en/PublicationsLibrary/wir2017_overview_en_.pdf.2020-3-24.
- [2] Nike.2004 Corporate Social Responsibility Report[R].
- [3] Guangming Daily, China Society for Human Rights Studies: The long-standing problem of gender discrimination in the United States seriously hinders the realization of women's human rights [EB/OL]. http://news.gmw.cn/2019-11/27/content_33351991.htm.2020-2-6.
- [4] See article 2 of the International Convention on the Elimination of All Forms of Racial Discrimination.
- [5] See article 2 of the Convention on the Elimination of All Forms of Discrimination against Women.
- [6] See article 5 of the International Covenant on Economic, Social and Cultural Rights, Article 5 of the International Covenant on Civil and Political Rights.
- [7] Qiangde Chi.On the Human Rights Responsibility of Transnational Corporations from the Perspective of International Law [J]. Dongyue Essay, 2016.
- [8] Xintong Han, Yao Lin, Zhiwei Feng. Research on the Guarantee of Human Rights Responsibility of Transnational Corporations [J]. Chinese Journal of Law, 2015: 147-151.
- [9] ZeroDraft [EB/OL]. <http://www.ohchr.org/Documents/HRBodies/HRCouncil/WGTransCorp/Session3/DraftLBI.pdf>. 2020-3-10.
- [10] Chunlin Li. Human rights responsibilities of transnational corporations: Basic current situation and development trend [J]. Social Sciences in Yunnan, 2012: 119-124.
- [11] Shijun Qin.On the Human Rights Responsibility of Transnational Corporations [D]. Shanghai:Shanghai Normal University, 2014: 35.
- [12] Chunlin Li. Human rights responsibilities of transnational corporations: Basic current situation and development trend [J]. Social Sciences in Yunnan, 2012: 119-124.
- [13] Xin Jun. On the extraterritorial human rights obligations of the home country to regulate transnational corporations [J]. Journal of International Economic Law, 2016: 148-171.
- [14] Liyin Guo. Research on the Status Quo and Countermeasures of MNCs' Lack of Social Responsibility in China [J]. Hubei Social Sciences, 2011: 105-108.
- [15] Yanlong Cheng. Research on the Legal Issues of Human Rights Responsibility of Transnational Corporations [D]. Hebei: Hebei University of Economics and Business. 2015: 20.