

Human Rights Violations By Multinational Corporations And The Role Of International Law: A Critical Analysis

Dr. Syed Raza Shah Gilani¹, Shehla Zahoor², Dr. Muhammad Haroon Khan³,
Muhammad Jan⁴, Asfandyar Khan⁵, Malik Kashif Ali Khan⁶, Afzaal Amin⁷, Imad Ali⁸

¹Assistant Professor, (Law) at Abdul Wali Khan University Mardan, Pakistan. Assistant Editor, *Journal of Islamic State Practices in International Law*; Editor, Book Review. (BRILL) *The Asian Yearbook of Human Rights and Humanitarian Law*.

²Assistant Professor department of Law, Shaheed Benazir Bhutto Women University, Peshawar.

³Deputy Registrar & Assistant Professor Department of Shariah & Law, Islamia College Peshawar, Pakistan.

⁴Assistant Professor, Department of Shariah and Law, Islamia College, Peshawar.

⁵BS Political science, Abdul Wali Khan University Mardan (AWKUM).

⁶M.Phil. Scholar University of Peshawar,

⁷PhD Scholar Department of Political Science AWKUM.

⁸PhD Scholar Department of Political Science AWKUM.

Abstract

There has been a growing focus on investigating human rights violations carried out by multinational corporations in different parts of the world. The transgressions include a wide range of offenses, including environmental pollution, labor exploitation, forced relocation of whole towns without permission, and involvement in war crimes. The efficacy of the framework of international law in regulating the activities of multinational corporations has been subject to scrutiny. The absence of legally binding mechanisms to hold enterprises accountable for violations of human rights is a significant barrier. While many international treaties and conventions may have implications for businesses, they often do not have direct applicability. This is because international human rights legislation largely focuses on the obligations of nations. Consequently, corporations have the freedom to engage in whatever actions they like in countries with lenient regulations and insufficient implementation. Efforts to hold multinational corporations accountable for human rights violations have made some headway, although they have not been sufficient in curbing this behavior.

Key Words: Multinational corporations and Human Rights, United Nations Guided Principles, Human Rights Violation.

Introduction

Human rights are traditionally protected within an international framework that places primary responsibility on nations to advance and not restrict human rights. This paradigm, however, has been seriously challenged by the participation of national and international private entities, notably multinational corporations (MNCs), in public services. States are no longer exempt from responsibility for protecting human rights and no

longer have a monopoly on violating them. The international community is coming to terms with the idea that multinational corporations (MNCs) should be included in human rights commitments and their enforcement if such rights are to be fully and universally realized. Yet, the weakness of the current international framework is revealed by the fact that it was not intended to apply to MNCs. (Deva, 2003) When a state is weaker than a multinational corporation (MNC), when it is in collusion with an MNC, or when it prioritizes

foreign investment over human rights enforcement, this insufficiency becomes more glaring. The current international method is nearly completely ineffective since it is not mandatory. Due to this deficiency, the current international framework of accountability and the position of MNCs under international law need to be rethought. Note that the question at hand is less about whether MNCs, which are created and run for profit, should adhere to human rights principles and more about what and how to do so. (Kamminga & Zia-Zarifi, 2021)

Human rights issues may be significantly impacted by multinational corporations (MNCs), especially in developing countries. This is particularly true for nations whose economies are in their early stages of development. Multinational corporations have been accused of violating the human rights of local people, animals, and workers in various nations where they have established or expanded operations. Multinational corporations have been accused of violating the human, labor, and environmental rights of those living in the communities where they have set up shop. In the event that a multinational corporation (MNC) is found to be responsible for human rights violations, it may be held liable for its actions under international law. For example, the United Nations Guiding Principles on Business and Human Rights (UNGPs) are a major part of international law that regulates the actions of multinational corporations. This branch of international law governs people's personal liberties. The United Nations Global Compact provides a comprehensive outline of the responsibilities of businesses in protecting human rights, addressing allegations of misconduct, and compensating victims. Despite its lack of binding legal force, the United Nations Global Compact has become an important guide for governments, NGOs, and businesses alike seeking to better understand their

responsibilities in the area of human rights. (Zenkiewicz, 2016)

There are still considerable obstacles to holding MNCs accountable for human rights crimes, notwithstanding the presence of international law. The absence of efficient enforcement tools is a major obstacle. Countries with poor governance and legal systems are less likely to defend their citizens' human rights, despite the fact that it is the responsibility of every state. Moreover, MNCs can utilize their considerable economic power to erode human rights safeguards and influence the regulatory environment. The establishment of a transparent chain of command presents additional difficulties. Multinational corporations typically have elaborated corporate structures that span borders. Because of this ambiguity, identifying the party accountable for a specific human rights violation can be challenging. (Gilani, Ali, & Zahoor, 2023)

Efforts to hold multinational corporations (MNCs) responsible for human rights crimes have met with some success. For instance, in 2011, the Supreme Court of the United States decided that Nigerian victims of human rights violations could sue Royal Dutch Shell in American courts. The precedent set by this judgment for extraterritorial jurisdiction was monumental, since it meant that victims might pursue justice against MNCs in nations with more robust legal systems. In conclusion, multinational corporations (MNCs) have far-reaching consequences for human rights, and international law plays a crucial role in controlling their operations. Holding MNCs responsible for human rights breaches are becoming easier, but there is still more work to be done. (Stephens, 2002) Governments, civil society, and corporations need to work together to strengthen human rights protections and hold MNCs accountable when they violate human rights. (Wettstein et al., 2019)

Definition of MC's and Human Rights

The task of delineating a multinational corporation (MNC) would be significantly simplified. Prioritize targeting multinational corporations that have investments in many countries and engage in commercial agreements with various suppliers and service providers. However, the objective is to hinder these economic organizations from exploiting the weaknesses of local governments by subjecting them directly to the international regulatory framework. An optimal characterization of a multinational company (MNC) would be impartial about its scope and willingness to restrict. In this article, a multinational company is defined as an economic organization, irrespective of its legal form, that has, governs, or oversees activities in two or more countries. [Ruggie, 2020] The crux of this term is the degree to which a firm oversees and controls operations outside the legal boundaries of its initial formation. This degree of control may be achieved by ownership of voting shares, the appointment of directors, or the management of day-to-day operations. The notion of "managing operations" encompasses the suppliers and contractors of the multinational corporation (MNC). (Gilani & Rehman, 2020) A multinational corporation (MNC) would have responsibility for both its own human rights violations and those perpetrated by its employees. Due to the possibility of facing legal consequences, it is imperative for a multinational company (MNC) to either demand strict adherence to human rights standards from its business partners or sever all connections with them. However, skeptics may contend that the proposed definition is too broad to be effective in practical application. An alternative viewpoint says that the word should be restricted to include only multinational firms that satisfy certain requirements, such as workforce size, annual revenue, number of subsidiaries, or provision of public services. Regarding this matter, I must clarify that our dispute lies solely in the approach

to achieve the objective rather than the goal itself, which should be defined in a precise and concise way. (Ruggie, 2020) The aforementioned constraints have been extensively deliberated about in several conferences. I firmly believe that implementing any of these restrictions will enable multinational corporations (MNCs) to evade the scope of the definition, which would contradict the purpose of the proposal being presented. For example, if the total number of employees is chosen as criteria, it may be difficult to agree on an appropriate quantity. Could you provide a number in the range of twenty to one hundred? Furthermore, there is the matter of how to precisely define the concept of "employment." By hiring freelancers or creating new subsidiaries, multinational corporations (MNCs) can get around the minimum employee requirement some nations impose. I am unlikely to accept other restrictive requirements included in the proposed definition due to comparable practical difficulties. (De Schutter, 2019)

Multinational corporations have been accused of human rights violations

Human rights breaches committed by multinational firms have been reported in a number of nations, including those with less robust legal safeguards and regulations than others. Multinational firms are often responsible for serious abuses of human rights, such as those listed below.

Environmental harm It has been said that multinational firms are responsible for damaging the environment and contributing to pollution in the nations in which they are active. This may have severe repercussions for the physical and mental well-being of the communities in the area. Abuse of laborer's Multinational firms have also been accused of exploiting employees by paying poor salaries, breaking labor regulations, and failing to provide safe working conditions. These allegations have been made in relation to the

second category of labor abuses. The third issue is known as "land grabbing," and it refers to allegations that certain multinational businesses have acquired property in developing nations without obtaining the free, prior, and informed permission of the local populations. This can result in people being forcibly evicted from their homes, the loss of their means of subsistence, and other abuses of human rights. Multinational firms have been accused of discriminating against particular categories of people, including women, members of minority groups, and communities of indigenous origin. Some multinational firms have been accused of providing assistance to oppressive regimes, either through financial or material support or by turning a blind eye to human rights abuses. This support can take the form of either providing financial or material support, or it can take the form of turning a blind eye to human rights abuses. (Ienca & Andorno, 2017). There have been efforts to hold multinational corporations accountable for these and other human rights violations, such as through lawsuits and international human rights mechanisms. However, these efforts are often hampered by the complex legal and political landscape in which multinational corporations operate.

Multinational firms have been implicated in various instances of human rights breaches across the globe. The following are a few examples: When the Nigerian government granted Shell oil exploration licenses in the 1990s, the Niger Delta suffered greatly from oil spills and pollution. This caused the locals to be uprooted, their economies to collapse, and their health to deteriorate. In 2019, the impacted towns in the Netherlands reached a \$15.5 million settlement with Shell after filing a lawsuit against the oil company. Coca-Cola in Colombia: The Company has been blamed for aiding paramilitary organizations in the country, which have been responsible for the deaths of union leaders and employees. The

lawsuit was brought in the United States, but the court ultimately ruled that there wasn't enough evidence to find the firm guilty. Nestle was accused of using children to harvest cocoa for their products in Ivory Coast. The lawsuit was brought in the United States, but the court ultimately decided to throw it out because the plaintiffs had failed to prove that Nestle had knowingly used child labor. In Myanmar, Unocal faced allegations that it had worked with the country's military government to build a gas pipeline using involuntary laborers. UNOCAL paid the plaintiffs \$30 million to end the matter without going to court. A gas leak at a Union Carbide (now Dow Chemical) pesticide facility in Bhopal, India, in 1984 killed hundreds and left thousands more with permanent health issues. Dow Chemical has purchased the facility. Union Carbide's victims claim that Dow Chemical, which acquired the company in 2001, has not compensated them enough. These incidents highlight the need to police multinational businesses for abuses of human rights and hold them accountable for their actions. Both the need to hold businesses responsible for their conduct and the importance of having effective means to do so are emphasized.

Human Rights Violations by Multinational Corporations; reasons and motives

There are several reasons why multinational corporations may engage in human rights violations:

1. **Profit Maximization:** The primary objective of multinational corporations is to maximize profits for their shareholders. In many cases, this may lead them to prioritize their financial goals over ethical considerations, including respect for human rights.
2. **Lack of Accountability:** Multinational corporations often operate across borders and in countries where legal and

regulatory frameworks may be weak or ineffective. This can create an environment of impunity where companies are not held accountable for their actions.

3. **Exploitation of Labor:** Multinational corporations may seek to cut costs by exploiting workers in developing countries who are paid low wages and have few if any, labor rights. Detrimental impacts on human health and well-being from environmental degradation are a potential fourth risk associated with the activities of multinational enterprises.
4. **Lack of Transparency:** Multinational corporations may lack transparency in their operations, making it difficult for stakeholders, including human rights defenders, to hold them accountable for their actions.
5. **Corruption:** Multinational corporations may engage in corrupt practices, such as bribery or kickbacks, to secure contracts or gain access to natural resources. This can undermine democratic institutions and the rule of law and lead to human rights violations.
6. **Competition:** Multinational corporations may face intense competition, which can lead to a race to the bottom in terms of labor and environmental standards. Companies may cut corners to remain competitive, leading to human rights abuses.

Challenges posed by applying U.S. law

To claims of human rights violations by international enterprises

Human rights claims against multinational businesses in the context of the United States judicial system may be difficult to pursue for a number of reasons. Some of the most pressing conceptual and methodological issues are discussed here. (Deva, 2003) Extraterritorial

jurisdiction: One of the main challenges in asserting human rights against multinational corporations is the question of extraterritorial jurisdiction. Multinational corporations often operate in multiple countries, and it can be difficult to determine which country's laws apply to a particular situation. In addition, there is a possibility that certain nations do not possess robust legal systems that allow for the protection and promotion of human rights. When this occurs, it can be difficult to hold multinational corporations accountable for the violations of human rights that they have committed. (Ratner, 2001)

Companies are not held legally responsible for their actions. Another obstacle is the court's refusal to recognize corporate accountability for human rights violations. Many countries still lack statutes that make it clear that businesses can be held liable for human rights abuses, despite developments like the United Nations Guiding Principles on Business and Human Rights. Despite the United Nations' Guiding Principles on Business and Human Rights, this remains the case. Because of this, holding corporations accountable for their actions is challenging. (Gilani & Rehman, 2020)

Procedural challenges: Bringing a lawsuit against a multinational corporation for human rights violations can be a complex and time-consuming process. There may be multiple legal systems involved, and it can be challenging to navigate the different laws and procedures. Moreover, multinational corporations often have significant resources and legal teams, which can make it difficult for individuals or groups to pursue legal action against them. (Verdier & Stephan, 2021)

Access to justice: Finally, the problem of access to justice is a major barrier to human rights advocacy against transnational businesses. Many victims of human rights violations may not have the resources or legal expertise to take on a global corporation. The court system itself can be

daunting, and victims may fear revenge or more damage if they come forward. Human rights claimants in the United States who are taking on multinational corporations encounter a variety of conceptual and procedural hurdles in the legal system. Though pressing, efforts are being made to create legal frameworks and procedures that can aid in holding corporations accountable for their actions.

Human Rights Violations by Multinational Corporations and United Nations

In recent years, several multinational companies (MNCs) have faced allegations of committing human rights violations. Both labor rights and indigenous peoples' rights, as well as environmental protections, have been violated. The rights of indigenous peoples, including human rights, have consistently been infringed upon, despite the existence of a set of regulations designed to ensure that multinational corporations are held accountable for their conduct. Notwithstanding the presence of these restrictions, this situation persists. The formation of international law was crucial in order to safeguard human rights and provide accountability for multinational corporations. The United Nations (UN) was the first to introduce the concept of establishing universally applicable rules to safeguard the fundamental liberties of individuals. (Verdier & Stephan, 2021)

The United Nations Human Rights Council granted unanimous approval to the Guiding Principles on Business and Human Rights in 2011. The state implemented this action due to its obligation to safeguard its citizens against human rights violations committed by non-state entities such as corporations, as these companies are obligated to uphold human rights and to ensure that victims of human rights abuses have more accessible means to seek effective redress. Furthermore, the United Nations Global Compact

is a voluntary endeavor aimed at assisting firms in enhancing their environmental and social performance. (Kamminga & Zia-Zarifi, 2021) The agreement's 10 principles include a wide range of subjects, including human rights, labor rights, environmental preservation, and anti-corruption measures. The agreement covers a wide range of subjects as well. Multiple institutions and authorities are actively engaged in ensuring corporate accountability for human rights violations, alongside the United Nations. The United Nations shares a similar goal. The International Labour Organization (Tsilonis & Tsanta) was established in 1919 as a non-governmental organization with the aim of improving working conditions for workers worldwide. The Organization for Economic Cooperation and Development (OECD) has developed comprehensive rules for multinational corporations (MNCs), including a wide range of subjects. Human rights and environmental conservation are but two instances of these more extensive issues. Due to the expansion of international laws and agreements, multinational companies (MNCs), often referred to as transnational corporations (TNCs), are obligated to comply with human rights legislation. The International Covenant on Economic, Social, and Cultural Rights (ICESCR) and the International Covenant on Civil and Political Rights (ICCPR) safeguard fundamental human rights such as the entitlement to employment, the privilege of a secure and wholesome working environment, and the freedom to form and participate in labor unions. The International Covenant on Human Rights serves as the overarching name for these agreements. The Convention on the Rights of the Child safeguards children against detrimental practices such as sexual exploitation for monetary purposes and guarantees their entitlement to fundamental needs such as education and healthcare. Ruggie (2013)

Multinational corporations are likewise subject to rules and regulations at the national level. Some nations have passed legislation mandating supply chain transparency, while others have set up regulatory agencies to keep an eye on corporations and make sure they aren't violating human rights. For this reason, the international community has enacted a number of laws, treaties, and conventions meant to safeguard human rights and hold multinational corporations (MNCs) accountable. More work is needed to guarantee that MNCs respect human rights and operate in a socially responsible way, but enforcement remains a barrier. (Petersmann, 2000)

The World Trade Organization (WTO) is a multilateral organization that regulates and supports international commerce. While the WTO's primary goal is to encourage trade, its rules and actions have the potential to undermine human rights. The WTO's relationship with human rights is complicated and frequently contentious. Some claim that the WTO's emphasis on trade liberalization can help human rights by fostering economic growth and development. Some, however, contend that the WTO's laws and practices can harm human rights, particularly those of underprivileged populations. (Ienca & Andorno, 2017)

One of the primary concerns levelled at the WTO is that its rules have the potential to worsen inequities and harm the environment. For example, the WTO's intellectual property laws might limit access to important medications, which can harm the right to health. Furthermore, the WTO's agricultural subsidy rules might benefit wealthy countries at the expense of impoverished ones, undermining the right to food. There have been requests for the WTO to play a more active role in human rights promotion. Some say that the WTO's policies and actions should embrace human rights

considerations. Others suggest that the WTO should collaborate more closely with other international institutions to promote human rights, such as the United Nations. (Bonnitcha & McCorquodale, 2017)

There have been several efforts in recent years to address the relationship between the WTO and human rights. For example, the World Trade Organization has established a Committee on Trade and Development entrusted with encouraging development and alleviating poverty. Furthermore, certain WTO agreements, such as the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS), have clauses that acknowledge the relevance of public health and other human rights concerns. While the WTO's major focus is on commerce, its rules and actions can have serious consequences for human rights. More interaction and coordination between the WTO and human rights organizations is required to guarantee that the WTO's policies and practices are in line with human rights values.

Human Rights Violations by Multinational Corporations how to accountable

When multinational corporations (MNCs) commit human rights violations, it is important to hold them accountable. Here are some steps that can be taken:

Raise awareness: One of the first steps is to raise awareness about the human rights violations committed by the MNCs. This can be done through media coverage, advocacy campaigns, and social media. **Document the violations:** It is important to document the human rights violations committed by the MNCs. This includes gathering evidence, testimonies, and other information that can be used to hold the corporations accountable. **Engage with the MNCs:** It is important to engage with the MNCs to try to resolve the issue. This can be done through dialogue, negotiations, and mediation.

The MNCs should be encouraged to take responsibility for their actions and take steps to remedy the situation. Use legal avenues: Legal action can be taken against the MNCs through national or international courts. This can include filing lawsuits, seeking injunctions, or pursuing criminal charges. (Cole, 2022)

It is crucial to push for policies that hold multinational corporations liable for the harm they do. This may be done in a number of ways, including by advocating for the work of international human rights agencies and urging countries to pass legislation protecting human rights. Help those who have suffered because of human rights abuses committed by multinational corporations. This involves making sure people have access to legal and mental health services as well as financial compensation for their losses. (Gilani, 2019) Collective action by citizens, states, and non-governmental groups is necessary to effectively hold multinational corporations accountable for human rights abuses. Human rights must be safeguarded, and businesses must be held accountable for their activities. (Butler, 2020)

Human Rights Violations by Multinational Corporations remedies.

Multinational corporations' (MNCs) systemic breaches of human rights need this approach. Since MNCs typically operate on a global scale and maintain locations in several different nations, it is notoriously difficult to bring them to justice for human rights violations. Nonetheless, measures such as the following can be taken to increase the likelihood that transnational corporations will respect human rights: Multinational corporations that violate human rights might be held legally liable for their actions. Multinational corporations (MNCs) may be sued for human rights violations in either the country where the violations occurred or the country where the MNC is headquartered.

(Amao, 2011) When corporations violate the rights of their customers, they might suffer legal ramifications. The International Covenant on Civil and Political Rights, the International Covenant on Economic, Social, and Cultural Rights, and the Universal Declaration of Human Rights all provide standards for the preservation of human rights across the world and are considered instruments of international human rights law. Using these tools, governments can punish corporations for their complicity in human rights abuses. (Gilani, Khan, & Zahoor, 2021)

By adopting a corporate social responsibility (CSR) position, multinational firms may aid in the protection of people's rights and the advancement of human rights. To do this, corporations must take into account the effects their actions have on people and the environment and make adjustments accordingly. Independent monitoring is the best method for ensuring that MNCs are behaving in compliance with international human rights legislation. Independent observers can look into allegations of human rights abuses and provide recommendations for improvements. The public's pressure might be an effective tool for bringing multinational corporations to justice for their complicity in human rights violations. Civil society groups, activists, and consumers may exert pressure on multinational firms to defend human rights by organizing product boycotts and protests and raising public awareness of human rights abuses. (Addo, 2014)

As a result, we may conclude that human rights breaches committed by MNCs are a major problem for which there are a number of potential solutions. Effective measures to guarantee that MNCs respect human rights include legal action, international human rights mechanisms, corporate social responsibility, independent monitoring, and public pressure. (Gilani & Rehman, 2020)

Conclusion:

It is not unusual for multinational corporations (MNCs) to violate human rights in order to increase their financial advantage. This conduct can manifest itself in a variety of ways, including, but not limited to, the exploitation of labor, the destruction of the environment, and complicity in the violation of human rights. Some of the ways in which communities are harmed by these violations include the loss of a means of subsistence, being forced to relocate, experiencing health problems, and experiencing social unrest.

Multinational corporations have a duty to protect the health of the areas in which they do business and the environment from any threats posed by their operations. Sadly, many MNCs put profits before people and refuse to uphold their legal responsibility to safeguard the rights of the communities in which they operate. As a result, pressure on corporations with global reach to explain their impact on people's fundamental freedoms has grown. Human rights violations committed by MNCs are the duty of governments across the globe to investigate and prosecute. States are permitted by international human rights law to regulate the activities of multinational businesses and to hold them liable for any adverse effects such activities may have on human rights. While these regulations do exist, they are often poorly enforced, making it difficult to bring multinational corporations to justice when they violate human rights. Finally, it is imperative that the issue of human rights violations by multinational corporations be addressed. There has been widespread abuse of this kind. Multinational firms have a responsibility to uphold human rights and environmental protections in all of their commercial dealings, regardless of the size of the operation. Governments need to step in and restrict the actions of multinational corporations when they entail human rights violations. In order to guarantee that communities harmed by human

rights breaches by multinational corporations have access to justice and reparation, stricter measures must be established.

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