

Chapter 2

Corporate Social Responsibility, Human Rights, and the Law

Hemendra Singh

O.P. Jindal Global University, Sonipat, India

ABSTRACT

This chapter explores the legal framework of corporate social responsibility (CSR) in light of human rights. The debate over corporate social responsibility and human rights started in response to growing concerns about the societal and environment impacts of business entities. It scrutinizes the United Nations guiding principles on business and human rights (UNGPs) and assesses how it has promoted corporate compliance across different levels. It also explores the concept of human rights due diligence to see how companies are proactively aligning their corporate behaviour with ethical standards and legal obligations. It further deals with the European Union's comprehensive framework on CSR, notably the directives on non-financial disclosure. Challenges in the field of CSR are inevitable and hence, they are examined, and innovative ideas are offered to empower businesses to embrace human rights as an intrinsic aspect of corporate culture.

INTRODUCTION

In the 1970s, the benefits derived by the business entities were gradually questioned. The media raised concerns regarding the unprecedented power of business entities and their negative impacts on people and the environment. This triggered massive calls for business entities to take greater governance responsibilities. Over time, the

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need for rules became more and more vital. In the early 1990s, a new idea called Business and Human Rights (BHR) was born out of legal studies and human rights work. BHR grew side by side with discussions about CSR (Ramasastry, 2015). Well-known BHR experts started a project to set the standards around how multinational companies should handle human rights (Weissbrodt, 2005). With Corporate Social Responsibility (CSR) coming into the picture, businesses found themselves balancing ethical matters and legal duties. CSR went from being just about charity to the point where businesses are responsible in the eyes of both national and international laws. The businesses now face not only societal expectations but concrete legal obligations. This evolution signifies a transformative shift where business must commit to human rights and societal well-being.

The regulatory framework began with the development of a three-pillared UN framework by the United Nations Secretary-General's Special Representative on Human Rights and Business Enterprises (SRSG) – Protect, Respect and Remedy. This framework was later recognized by the United Nations Human Rights Council in 2008. The framework provides for three things: The state has a duty to protect from human rights abuses by business enterprises, Corporations have a responsibility to respect human rights, and there is a need for effective access to remedies for victims suffering from the operations of business entities (Ogwezzzy, 2013).

The SRSG developed the United Nations Guiding Principles on Business and Human Rights (UNGPs) to serve as a platform for guidance and action to translate the above framework to practice. UNGPs were endorsed by the United Nations Human Rights Commission (HRC) in 2011. After the endorsement of UNGPs by HRC, various international bodies such as the Organisation for Economic Co-operation and Development and the International Labour Organization have incorporated the UNGPs. It was the first time that the United Nations had issued authoritative guidance on human rights and business.

This chapter focuses on the 'legal responsibility of corporates to respect human rights' as envisaged in the United Nations Guiding Principles on Business and Human Rights (UNGP). The legal character of corporate responsibility to respect human rights and its component, 'human rights due diligence,' are examined in detail. These United Nations principles are a compass for guiding businesses on a path that balances ethical and operational considerations. The principles provide not only for respecting human rights but also a framework for business entities to prevent and remedy human rights abuses within their business operations. These principles play a pivotal role in shaping global corporate behaviour. This chapter aims to answer some important questions regarding the effectiveness of the UNGPs in implementing Corporate Social Responsibility at different levels. Specifically, it explores whether the UNGPs have been successful in promoting compliance and inducing changes in corporate behaviour with respect to human rights. To do

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