
COPORATE HUMAN RIGHTS OBLIGATIONS: EVALUATING LEGAL FRAMEWORKS IN INDIA THROUGH A COMPARATIVE LENS

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ABSTRACT

The expanding role of corporations in a globalized economy has brought renewed attention to their involvement in human rights violations, ranging from exploitative labour practices to environmental harm and displacement of vulnerable communities. While international frameworks such as the United Nations Guiding Principles on Business and Human Rights have articulated the normative expectations of corporate conduct through the “Protect, Respect, and Remedy” framework, their largely voluntary nature has limited their practical impact. In India, this concern is further intensified by the absence of a dedicated legal regime that explicitly recognizes and enforces corporate liability for human rights violations, with existing laws addressing such concerns only indirectly.

This paper adopts a qualitative and comparative legal approach to examine the interaction between international standards and the Indian legal framework. It identifies a persistent gap between normative commitments and enforceable accountability, reflected in the dominance of soft law, procedural barriers to justice, and jurisdictional challenges in regulating corporate actors, particularly multinational enterprises. The analysis suggests that these structural limitations weaken both preventive and remedial mechanisms, allowing corporate misconduct to persist with limited legal consequences. The paper argues that bridging this accountability gap requires the development of a more coherent and binding legal framework in India, supported by stronger enforcement mechanisms and closer alignment with evolving international standards on business and human rights.

Keywords: Corporate Human Rights, Corporate Accountability, Soft Law, Enforcement Gap, Multinational Corporations, Indian Legal Framework.

I. Introduction

In the contemporary global economy, corporations have assumed a position of unprecedented influence, operating across borders through complex supply chains, investment networks, and production systems. Their role in driving economic growth and development is undeniable; however, this expanding corporate presence has also been accompanied by increasing instances of human rights violations. Concerns relating to exploitative labour practices, unsafe working conditions, environmental degradation, and the displacement of vulnerable communities have brought renewed attention to the question of corporate accountability. The problem is not merely theoretical—historical incidents such as the ¹Bhopal Gas Tragedy continue to serve as stark reminders of the devastating consequences of inadequate corporate regulation and weak enforcement mechanisms.

At the international level, significant efforts have been made to define and regulate corporate responsibility in relation to human rights. Frameworks such as the ²United Nations Guiding Principles on Business and Human Rights have played a pivotal role in articulating the normative foundation through the “Protect, Respect, and Remedy” framework. These principles recognize that while states bear the primary duty to protect human rights, corporations also have a responsibility to respect these rights and ensure access to remedies for affected individuals. Despite this normative clarity, the effectiveness of such frameworks remains limited due to their non-binding nature, resulting in inconsistent implementation and weak accountability across jurisdictions.

The issue assumes particular significance in the Indian context. As one of the world’s fastest-growing economies and a major participant in global supply chains, India hosts a vast number of domestic and multinational corporations. While the Indian legal system provides certain safeguards through constitutional guarantees and sector-specific legislation, there is no comprehensive statutory framework that directly addresses corporate liability for human rights violations. Existing laws, including labour, environmental, and corporate regulations, tend to address these concerns only indirectly, often leading to fragmented enforcement and limited remedies for victims. Additionally, procedural barriers, jurisdictional limitations, and

¹ *Union Carbide Corp. v. Union of India*, (1989) 1 S.C.C. 674 (India).

² U.N. Human Rights Council, *Guiding Principles on Business and Human Rights: Implementing the United Nations “Protect, Respect and Remedy” Framework*, U.N. Doc. A/HRC/17/31 (Mar. 21, 2011).

asymmetries in access to legal resources further exacerbate the challenges faced by affected communities.

This gap between normative recognition and enforceable accountability forms the central concern of this study. Despite the evolution of international norms, corporate accountability continues to operate largely within the realm of voluntary compliance, particularly in jurisdictions like India where enforcement mechanisms remain underdeveloped. The absence of binding obligations, coupled with the complexities of transnational corporate structures, allows corporations to evade liability and perpetuates a broader culture of impunity.

Against this backdrop, this paper argues that the existing framework governing corporate accountability for human rights violations is fundamentally inadequate. It contends that while international principles have succeeded in shaping expectations of corporate conduct, their reliance on soft law mechanisms³ has limited their practical impact. In India, this limitation is further compounded by fragmented legal provisions and weak institutional enforcement. Accordingly, the paper seeks to demonstrate that bridging this accountability gap requires the development of a more coherent and binding legal framework, supported by stronger enforcement mechanisms and greater alignment between international standards and domestic law.

II. Global framework on corporate human rights accountability

The development of corporate accountability for human rights violations has evolved gradually alongside the ⁴expansion of globalisation and the growing influence of transnational corporations. Historically, international law was primarily state-centric, focusing on the obligations of States rather than non-state actors. However, as corporations began to operate across jurisdictions with significant economic and social power, concerns regarding their impact on human rights intensified. From early instances of corporate abuse, such as the operations of colonial trading companies, to modern multinational enterprises embedded in global supply chains, the potential for corporate involvement in human rights violations has

³ David Bilchitz, *The Ruggie Framework: An Adequate Rubric for Corporate Human Rights Obligations?*, 7 SUR Int'l J. Hum. Rts. 199, 210–15 (2010).

⁴ John Gerard Ruggie, *Just Business: Multinational Corporations and Human Rights* 1–5 (W.W. Norton & Co. 2013).

consistently raised questions about regulation and accountability⁵.

Initial attempts to address this issue at the international level were fragmented and largely unsuccessful in creating binding obligations. Efforts such as the proposed UN Code of Conduct on Transnational Corporations and later initiatives like the ⁶UN Global Compact relied heavily on voluntary compliance. While these frameworks contributed to the recognition of corporate responsibility, they lacked enforceability and depended primarily on reputational incentives. Over time, this led to the emergence of a broader normative framework aimed at clarifying the role of businesses in relation to human rights.

A significant milestone in this evolution was the adoption of the United Nations Guiding Principles on Business and Human Rights⁷, which consolidated existing standards into the widely accepted “Protect, Respect, and Remedy” framework. Under this structure, States are required to protect individuals from human rights abuses, corporations are expected to respect human rights in their operations, and both State-based and non-State mechanisms must ensure access to effective remedies. The UNGPs apply broadly to all States and business enterprises, regardless of their size or sector, and have become the central reference point in the field of business and human rights.

Despite their normative significance, the UNGPs do not create binding legal obligations. The distinction within the framework itself is telling: while States are said to have a “duty,” corporations merely have a “responsibility.” This reflects the continued reliance on soft law mechanisms, where compliance is encouraged through guidance, policy frameworks, and reputational pressures rather than enforceable legal sanctions. As a result, implementation remains uneven, and corporations often retain significant discretion in determining the extent of their human rights commitments. The absence of a binding international treaty or uniform enforcement mechanism has allowed gaps in accountability to persist, particularly in cases involving transnational operations and complex corporate structures.

The limitations of soft law have given rise to ongoing debates regarding the need for binding international regulation. Recent initiatives within the United Nations, including efforts to negotiate a legally binding treaty on business and human rights, reflect a growing recognition

⁵ Andrew Clapham, *Human Rights Obligations of Non-State Actors* 25–30 (Oxford Univ. Press 2006).

⁶ U.N. Global Compact, *The Ten Principles of the UN Global Compact* (2004).

⁷ U.N. Human Rights Council, *Guiding Principles on Business and Human Rights: Implementing the United Nations “Protect, Respect and Remedy” Framework*, U.N. Doc. A/HRC/17/31 (Mar. 21, 2011).

that voluntary standards alone are insufficient. However, these efforts face significant political and practical challenges, including disagreements among States and concerns about the impact of stricter regulation on global investment and economic growth.

An additional dimension to the discussion on corporate accountability emerges in the context of transitional justice. In situations of conflict and post-conflict reconstruction, corporate actors have, in certain instances, contributed to or benefited from human rights abuses, particularly in relation to resource extraction and supply chains. Transitional justice mechanisms, such as truth commissions and judicial processes, have increasingly begun to acknowledge the role of businesses in such contexts. Nevertheless, accountability for corporate involvement remains limited, as most mechanisms continue to focus primarily on State actors and individual perpetrators. This further illustrates the broader structural gap in addressing corporate responsibility within international legal frameworks.

The evolution of corporate human rights obligations also reflects a gradual shift in the understanding of responsibility under international law. While corporations have long been recognised as legal persons in domestic systems, their status at the international level remains uncertain. Although developments in areas such as customary international law and international criminal law suggest a growing willingness to extend accountability beyond States, the absence of direct and binding obligations on corporations continues to restrict meaningful enforcement.

In this context, the global framework on corporate human rights accountability can be characterised as normatively advanced but legally underdeveloped. Instruments like the UNGPs have played a crucial role in shaping expectations and guiding corporate conduct, yet their reliance on soft law limits their practical impact. The persistence of enforcement gaps, jurisdictional challenges, and limited access to remedies underscores the need for a more robust and binding international framework. Without such developments, corporate accountability is likely to remain fragmented, leaving victims of human rights violations with inadequate avenues for justice.

III. Corporate accountability in India: Legal and Constitutional

- **Constitutional Foundations of Corporate Accountability**

The Indian constitutional framework does not explicitly impose human rights obligations on corporations; however, it establishes a normative structure within which corporate accountability is mediated through State responsibility. Fundamental Rights under Part III—particularly Articles 14, 19, and 21—serve as the primary legal foundation for the protection of human dignity and equality.

Article 14 ensures non-arbitrariness and equal protection of the law, which extends to State regulation of corporate actors. Article 21, interpreted expansively, guarantees the right to life and personal liberty, encompassing a wide range of derivative rights such as health, livelihood, environment, and dignity. Although these rights are enforceable against the State, their relevance to corporate accountability arises through the State's duty to regulate private actors whose conduct affects these rights.

Judicial observations in *Kesavananda Bharati v. State of Kerala* and *I.C. Golaknath v. State of Punjab* underscore that ⁸Fundamental Rights are rooted in natural and inalienable rights. This philosophical grounding strengthens the argument that human rights obligations cannot be confined to State action alone, particularly in a globalised economy where corporate actors exercise significant power.

At the same time, Directive Principles of State Policy (Part IV), though non-justiciable, articulate socio-economic goals such as labour welfare, public health, and equitable distribution of resources. These principles indirectly shape corporate regulation by guiding legislative and policy frameworks.

However, the constitutional model remains State-centric, and corporate accountability depends largely on the effectiveness of State intervention. This creates an inherent structural limitation, as rights are constitutionally guaranteed but ⁹not directly enforceable against private entities.

- **Judicial Expansion and the Indirect Regulation of Corporate Conduct**

The Indian judiciary has played a central role in transforming the Constitution into a dynamic instrument for human rights protection. Through an expansive interpretation of Article 21,

⁸ *Kesavananda Bharati v. State of Kerala*, (1973) 4 S.C.C. 225 (India); *I.C. Golaknath v. State of Punjab*, (1967) 2 S.C.R. 762 (India).

⁹ *Jolly George Varghese v. Bank of Cochin*, (1980) 2 S.C.C. 360 (India); *ADM Jabalpur v. Shivkant Shukla*, (1976) 2 S.C.C. 521 (India).

courts have developed a range of unenumerated rights that have direct implications for corporate accountability.

¹⁰In *Maneka Gandhi v. Union of India*, the Supreme Court established that any restriction on personal liberty must be “just, fair and reasonable,” thereby integrating Articles 14, 19, and 21 into a unified framework. This interpretive approach laid the foundation for subsequent judicial innovations.

The Court has, over time, recognised rights such as privacy, legal aid, speedy trial, and environmental protection as integral to Article 21. Cases such as ¹¹*Hussainara Khatoon v. State of Bihar* (right to speedy trial) and ¹²*Nilabati Behera v. State of Orissa* (compensation for rights violations) illustrate the evolution of remedial jurisprudence.

Particularly significant is ¹³*Vishaka v. State of Rajasthan*, where the Court relied on international conventions to formulate binding guidelines on workplace sexual harassment in the absence of domestic legislation. This case represents a critical moment where judicial creativity directly influenced corporate conduct.

Despite these developments, judicial intervention remains **episodic and reactive**. Courts primarily respond to violations after they occur, rather than establishing comprehensive preventive frameworks. Moreover, access to judicial remedies is often limited by procedural barriers, costs, and delays. Consequently, while judicial expansion has strengthened rights discourse, it has not fully bridged the gap between recognition and enforcement.

- **Corporate Liability under Indian Law: Fragmentation and Limitations**

Corporate liability in India is recognised across multiple areas of law, including company law, tort law, labour law, environmental law, and consumer protection. Corporations are treated as separate legal entities, capable of holding rights and bearing obligations. Liability is typically attributed through doctrines such as vicarious liability and the identification principle, whereby the actions and intent of key managerial personnel are imputed to the corporation.

¹⁰ *Maneka Gandhi v. Union of India*, (1978) 1 S.C.C. 248 (India).

¹¹ *Hussainara Khatoon v. State of Bihar*, (1980) 1 S.C.C. 81 (India).

¹² *Nilabati Behera v. State of Orissa*, (1993) 2 S.C.C. 746 (India).

¹³ *Vishaka v. State of Rajasthan*, (1997) 6 S.C.C. 241 (India).

However, the existing legal framework does not provide a coherent or unified regime for corporate human rights accountability. Instead, liability is ¹⁴fragmented across sector-specific statutes, each addressing limited aspects of corporate conduct.

Several structural challenges further weaken corporate accountability:

- (i) The doctrine of separate legal personality allows parent companies to avoid liability for the acts of subsidiaries, particularly in transnational contexts.
- (ii) The attribution of mens rea to corporate entities remains complex, especially in criminal law.
- (iii) Jurisdictional barriers hinder effective adjudication of cross-border violations.
- (iv) Enforcement agencies often lack the institutional capacity or independence required to regulate powerful corporate actors.

These limitations are exacerbated in a globalised economy, where corporate structures are deliberately designed to diffuse responsibility. As a result, even where legal provisions exist, their practical effectiveness is often limited.

- **Interface Between International Law and Domestic Corporate Accountability**

India adopts a dualist approach to international law, under which international treaties do not automatically become enforceable unless incorporated through domestic legislation. Article 51(c) of the Constitution encourages respect for international law, but as a Directive Principle, it is not judicially enforceable.

Judicial decisions reflect a nuanced approach to the use of international law. In *Jolly George Varghese v. Bank of Cochin*, the Supreme Court clarified that international covenants are not directly enforceable in the absence of legislative incorporation. Similarly, in *ADM Jabalpur v. Shivkant Shukla*, the majority declined to rely on international human rights norms.

However, in situations where domestic law is ambiguous or silent, courts have adopted a more progressive approach. In *Vishaka v. State of Rajasthan*, international conventions were used to

¹⁴ Surya Deva, *Regulating Corporate Human Rights Violations: Humanizing Business* 112–18 (Routledge 2012).

fill legislative gaps, while in ¹⁵*Apparel Export Promotion Council v. A.K. Chopra and Chairman Railway Board v. Chandrima Das*, international human rights principles were invoked to strengthen constitutional interpretation.

This jurisprudence establishes three guiding principles: the primacy of domestic law, the use of international law for harmonious interpretation, and its role in filling legislative gaps. Nevertheless, the reliance on international law remains largely persuasive rather than binding, limiting its capacity to impose direct obligations on corporations.

- **The Structural Gap: Rights Recognition versus Enforcement**

A critical feature of the Indian legal framework is the disconnect between the recognition of rights and their effective enforcement, particularly in the context of corporate accountability.

While the judiciary has expanded the scope of Fundamental Rights to include environmental protection, labour dignity, and socio-economic entitlements, violations in these areas remain widespread. Industrial pollution, unsafe working conditions, labour exploitation, and displacement of communities continue to occur despite existing legal safeguards.

This gap can be attributed to multiple factors:

- (i) Weak regulatory implementation and inadequate monitoring mechanisms;
- (ii) Institutional limitations within enforcement agencies;
- (iii) Economic pressures on the State to prioritise investment and growth over strict regulation;
- (iv) Procedural and financial barriers that limit access to justice for affected individuals.

Additionally, the increasing influence of corporations in a globalised economy often leads to a regulatory environment where enforcement is inconsistent or diluted. The State's dual role as both regulator and promoter of economic development further complicates this dynamic.

¹⁵ *Apparel Export Promotion Council v. A.K. Chopra*, (1999) 1 S.C.C. 759 (India); *Chairman, Railway Board v. Chandrima Das*, (2000) 2 S.C.C. 465 (India).

IV. Comparative analysis and key challenges

The regulation of corporate accountability in India must be understood within a broader global framework shaped by globalisation, historical patterns of corporate abuse, and evolving legal responses. While both India and international systems increasingly recognise the human rights impact of corporate activity, a consistent pattern emerges: normative recognition of corporate responsibility coexists with weak enforcement mechanisms.

- **Globalisation and the Expansion of Corporate Power**

Globalisation has fundamentally altered the traditional State-centric legal order by enabling corporations to operate across jurisdictions with unprecedented economic influence. Transnational corporations now control complex global supply chains, often exceeding the regulatory reach of individual States. This transformation, discussed in literature on global economic integration, highlights how corporate power has expanded faster than regulatory frameworks.

India reflects this global trend. Liberalisation policies have integrated the Indian economy into global markets, encouraging foreign investment and corporate expansion. However, this has also resulted in regulatory dilemmas: while the State retains formal sovereignty, its capacity to regulate powerful corporate actors is often constrained by economic considerations. Similar concerns are visible globally, where States compete to attract investment, sometimes at the cost of strict enforcement of labour and environmental standards.

Thus, globalisation has created a structural imbalance—corporations operate globally, while regulation remains largely domestic—leading directly to accountability gaps.

- **Soft Law vs Binding Legal Obligations**

At the international level, corporate accountability is largely governed by soft law frameworks, such as the ¹⁶UN Guiding Principles on Business and Human Rights and OECD Guidelines. These instruments articulate standards of responsible conduct but lack binding enforceability. As a result, corporate compliance often depends on voluntary adoption rather than legal

¹⁶ U.N. Human Rights Council, *Guiding Principles on Business and Human Rights: Implementing the United Nations “Protect, Respect and Remedy” Framework*, U.N. Doc. A/HRC/17/31 (Mar. 21, 2011); Org. for Econ. Co-operation & Dev. (OECD), *OECD Guidelines for Multinational Enterprises* (2011).

compulsion.

India mirrors this approach. While domestic laws regulate specific sectors—labour, environment, consumer protection—there is no comprehensive binding framework that directly imposes human rights obligations on corporations. Corporate Social Responsibility (CSR) obligations under company law represent an important step, but they remain limited in scope and do not substitute enforceable liability.

The reliance on soft law, both globally and domestically, demonstrates a key challenge: the absence of binding, uniform standards allows corporations to evade accountability, particularly in cross-border contexts.

- **Access to Remedies and the Enforcement Gap**

A major issue identified in both global and Indian contexts is the ¹⁷enforcement gap—the disconnect between legal recognition of rights and the ability of victims to obtain effective remedies. Although international law increasingly acknowledges corporate responsibility, enforcement mechanisms remain weak, fragmented, and often inaccessible.

In India, constitutional protections under Articles 14 and 21 provide a strong foundation for rights. Courts have expanded these rights through progressive interpretation, sometimes relying on international standards. However, enforcement remains inconsistent due to procedural delays, limited institutional capacity, and barriers faced by affected communities.

Globally, similar challenges persist. Victims of corporate abuse often encounter jurisdictional hurdles, lack of legal standing, or high litigation costs. Even where remedies exist, they are frequently ineffective in addressing large-scale or transnational harm. This reflects a systemic issue: legal frameworks recognise violations but fail to ensure timely and meaningful redress.

- **Corporate Criminal Liability and Structural Limitations**

Corporate criminal liability remains underdeveloped both in India and internationally. While domestic legal systems recognise corporate liability in certain contexts, practical enforcement

¹⁷ U.N. Office of the High Comm'r for Human Rights, *Improving Accountability and Access to Remedy for Victims of Business-Related Human Rights Abuse*, U.N. Doc. A/HRC/32/19 (May 10, 2016).

is limited by doctrinal challenges such as attributing intent (*mens rea*) to a corporate entity.

At the international level, this gap is even more pronounced. Institutions such as the¹⁸International Criminal Court exercise jurisdiction only over natural persons, not corporations. This creates a significant accountability vacuum, particularly in cases involving serious human rights violations linked to corporate activity.

India similarly lacks a coherent framework for addressing corporate involvement in grave human rights abuses. Liability is often indirect, mediated through regulatory statutes rather than a unified human rights-based approach. Consequently, corporations may face civil or administrative penalties, but criminal accountability remains limited.

- **Jurisdictional Challenges and Multinational Corporations**

One of the most complex issues in corporate accountability is jurisdiction. Multinational corporations operate through subsidiaries, contractors, and supply chains spread across multiple countries. This¹⁹fragmented structure allows parent companies to avoid liability by distancing themselves from the actions of local entities.

Globally, courts struggle with doctrines such as *forum non conveniens* and limitations on extraterritorial jurisdiction, which often prevent cases from being heard in appropriate forums. India faces similar challenges, particularly when corporate conduct involves foreign entities or cross-border harm.

These jurisdictional barriers reinforce a critical concern: the legal system remains territorially bound, while corporate operations are transnational, creating significant enforcement loopholes.

V. Conclusion

The analysis undertaken in this paper demonstrates that the contemporary framework governing corporate human rights accountability both globally and within India is characterised by a fundamental structural imbalance. While there is increasing normative clarity regarding the responsibilities of corporations, particularly through international instruments such as the

¹⁸ Rome Statute of the International Criminal Court art. 25(1), July 17, 1998, 2187 U.N.T.S. 90.

¹⁹ Andrew Clapham, *Human Rights Obligations of Non-State Actors* 195–200 (Oxford Univ. Press 2006).

UN Guiding Principles, this recognition has not translated into effective and enforceable legal obligations. The persistence of this gap reflects a broader systemic issue in which legal frameworks have evolved more rapidly at the level of principle than at the level of implementation.

In the Indian context, this challenge is particularly pronounced. The constitutional framework provides a robust foundation for the protection of human rights, and judicial innovation has significantly expanded the scope of these rights. However, the State-centric design of constitutional protections, coupled with fragmented statutory regulation, limits the direct accountability of corporate actors. As a result, corporate liability remains indirect, dispersed across multiple legal regimes, and often insufficient to address complex, large-scale violations.

At the global level, similar patterns are evident. The dominance of soft law mechanisms, the absence of binding international obligations, and the jurisdictional limitations of existing institutions—including bodies such as the International Criminal Court—highlight the inadequacy of current enforcement structures. Corporations, particularly multinational enterprises, continue to operate within regulatory environments that are territorially confined, allowing them to exploit legal fragmentation and avoid meaningful accountability.

The comparative analysis thus reinforces a central conclusion: the problem is not the absence of legal norms, but the weakness of their enforcement architecture. Both India and the international legal system reflect a broader pattern in which corporate accountability is recognised in theory but remains under-enforced in practice. This disconnect undermines not only the protection of human rights but also the credibility of legal institutions tasked with upholding them.

Addressing this gap requires a shift from fragmented and voluntary approaches toward a more coherent and binding regulatory framework. In the Indian context, this would involve developing a unified legal regime that explicitly recognises corporate human rights obligations, strengthens enforcement mechanisms, and reduces procedural barriers to justice. At the international level, greater convergence toward binding standards and enhanced cooperation between jurisdictions will be essential.

Ultimately, the effectiveness of corporate human rights regulation will depend on the ability of legal systems to adapt to the realities of a globalised economy. Without such adaptation, the

imbalance between corporate power and legal accountability is likely to persist, leaving affected communities with limited avenues for meaningful redress.