

The Role of Corporate Social Responsibility in Advancing Economic, Social, and Cultural Rights: Legal Frameworks and Multinational Perspectives

Abstract

The legal basis for corporate social responsibility, especially for transnational corporations, is rooted in international law and the domestic laws of some countries. It outlines voluntary measures by companies towards society and their stakeholders in general. In international law, the position of corporate social responsibility focuses more on the fulfillment of social responsibilities by transnational companies and foreign investors. Many developing countries lack comprehensive legal frameworks that mandate CSR practices. This can lead to inconsistent application of CSR principles and a lack of accountability for businesses. It is part of soft law or customary law with procedural aspects. It derived from the laws produced by international organizations such as the United Nations, the International Labor Organization, and the Organization for Economic Cooperation and Development. Also it is made of common practice among companies. In domestic law, the institution of social responsibility includes specific regulations regarding the responsibilities of national and multinational companies. On the other hand, corporate social responsibility serves as a bridge between economic international law and human rights law and has a direct relationship with human rights norms, especially the progressive realization of economic and social rights, contributing to sustainable development and the right to development of nations. Due to the limited public resources of governments, especially in developing countries, it seems that corporate social responsibility can be a suitable source for financing and implementing development projects that are not inherently economically justifiable. This research, in a descriptive-analytical manner, focuses on the role of legal corporate social responsibility in international and domestic law, as well as the positive impact of fulfilling corporate social responsibility on the realization of economic, social, and cultural rights in developing countries. This research aims to provide recommendations and identify the role and legal basis of corporate social responsibility, as well as to determine its role in economic development and the realization of the second generation of human rights in developing countries. In this article, descriptive-analytical approach was used which is a research methodology that combines two key components: descriptive research and analytical research.

Keywords: Corporate Social Responsibility, Human Rights, International Organizations, Economic, Social, and Cultural Rights, United Nations Conference on Trade and Development (UNCTAD), Rights derived from the practices of international organizations.

Introduction

Since companies use the human, mineral, natural, and economic resources of society, they should not only be responsible for their shareholders' interests but also for the interests and welfare improvement of society. This is the foundation of corporate social responsibility.

The definition of corporate social responsibility in international economic law encapsulates voluntary management measures, which are based on the company's code of conduct and custom in regulating the relations between the company and its stakeholders, including its shareholders, customers, employees, agents of its supply chain, and the communities in which it operates. Corporate social responsibility is a set of measures through which the company's management acts toward the community in which it operates by using the corporate financial, human, and technical resources in the implementation of the projects it implements for the benefit of society. These projects include the management of the company, the implementation of projects for the provision of infrastructure, the payment of taxes, and the compliance with the laws that ensure the enjoyment of specific rights by members of society and by the productive factors of the company, namely the right to a healthy environment, the right to work, the right to development, human rights, the right to sustainable development, and the right to enjoy a healthy social and economic space free from corruption. Corporate social responsibility is also a set of management measures that are derived from global societal norms, local communities, conventions, and common business practices and aim to achieve the interests of the company and the interests of society. domestic and international laws that regulate the relations between their subjects have proceeded to systematize the rights of corporate social responsibility, and have formulated legal norms in this context.

Organizational social responsibility laws or laws on corporate social responsibility are laws and treaties on the role of companies in society. Corporate social responsibility, especially about multinational companies in international law and the domestic laws of countries, has legal and economic dimensions of 'how to deal with the employees of a company, the local communities in which the company's operations affect the public and the broader public interest'. Thus, the goals of corporate social responsibility are to respect human rights, labor standards, sustainable development, and transparent conduct, and to prohibit unwarranted political interference in the host country¹ (for multinational companies). Consequently, the spirit of corporate social responsibility is a spirit of human rights, labor rights, and solidarity rights, which is the third generation of human rights and seeks economic goals, especially the right to development, and the second generation of human rights that emphasizes the right to development or economic rights under the International Covenant on Economic, Social and Cultural Rights².

Historically, the birth of the norm of corporate social responsibility dates back to the 9th century AD, but in a more modern context, it was introduced with the publication of the article "The Social Responsibility of Businessmen" by Abraham in the United States in 1951. The role of religion in creating this peremptory norm should not be overlooked. Protestantism, by strengthening social

¹ Herdegen, Matthias, Principles of International Economic Law, translated by Mohammad and Sadeq Ziyayi Bigdeli, Tehran, Ganj Danesh, 1402

² International Covenant on Economic, Social and Cultural Rights 1966

expectations and spreading the concept of "Business Ethics," introduced this concept into legal literature³.

In the historical evolution, the concept of social responsibility as Carroll has presented is very important. From this premise, he has pointed out that companies have four responsibilities at the same time, namely the economic, the legal, the ethical, and the humanitarian. And he has pointed out that the last one, at the bottom of the pyramid of responsibilities, has a voluntary feature⁴. Nevertheless, in our view, that has not changed the way that scholars conceive this responsibility. In 2003, Carroll completed and updated his theory⁵.

Carroll has been advocating seven active principles for companies based on the 4 mentioned categories or a combination of those 4 categories we presented before. In any case, this concept is in a process of considerable transformation and expansion, and, indeed, we may say that the institution referred to was born not only as a philosophical ethics concept but also as an administrative concept. Moreover, the concept of social responsibility has been taken out of the national context. Here we are explaining its possible role in achieving important international norms⁶.

The legal concept of corporate social responsibility, especially for multinational corporations, is not considered as an established legal right in international law. It is customary and mostly derived from the practices of international organizations and corporate practices. "Many efforts have been made to develop standards for corporate social responsibility. A draft code of conduct for multinational companies was presented to the United Nations General Assembly in 1990, which was never fully approved. The Kofi Annan Global Compact, initiated by the former Secretary-General of the United Nations, aimed at the voluntary implementation of social responsibility by multinational corporations. Additionally, the Organization for Economic Co-operation and Development (OECD) has introduced guidelines for social responsibility, with an Investment Committee serving as the reference point for interpreting, implementing, and overseeing these guidelines⁷."

Based on the aforesaid, the concept of corporate social responsibility is more like customary and general principles of law based on convention and consensus⁸. Corporate social responsibility has become a cultural norm in developed countries, public demand and social norms have made it compulsory as a matter of course. There are regulations and laws to assist the fulfillment of corporate social responsibility, and also incentives to provide the legal basis and support the

³ Bowen, H. *Social Responsibilities of the Businessman*. New York: Harper & Brothers

⁴ Benaïcha, O. (2017). «La diffusion de la RSE dans les entreprises au Maroc : Facteurs déterminants, rôles et interactions des acteurs, p.30 (Retrieved Février 2020)

⁵ Etang, J. Public relations and corporate social responsibility: Some issues arising. *Journal of Business Ethics*, 13(2), 111–123. doi:<https://doi.org/10.1007/BF00881580>

⁶ Carroll, A. (2008). A History of Corporate Social Responsibility: Concepts and Practices. In A. Crane, A. McWilliams, D. Matten, J. Moon, & D. Siegel, *The Oxford Handbook of Corporate Social Responsibility* (pp. 19-46). Oxford University Press.

⁷ Herdegen, Matthias, *Principles of International Economic Law*, translated by Mohammad and Sadeq Ziyayi Bigdeli, Tehran, Ganj Danesh, 1402

⁸ Amina Saoussany, Nabila Kidaye, « La Responsabilité Sociétale des Entreprises : d'un Concept Philosophico-éthique à un Concept Managérial Orienté vers l'Action », HAL Id: hal-03269218 <https://hal.science/hal-03269218>
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implementation of their legal responsibilities in this regard. Some countries have promulgated laws on corporate social responsibility into their domestic legal systems.

The commitment of corporate social responsibility can't be ignored in the economic development. The meaning of corporate social responsibility is, ' The commitment of economic enterprises and commercial companies towards society. Policy researchers believe that the business entity has a duty of responsibility to society and the environment, enhancing the quality of lives and the well-being of the employees, the citizens, and other stakeholders⁹. Since the mid-20th century, controlling environmental pollution, workplace safety and health, equal job opportunities, enhancing the quality of products, and respecting the rights of the workers have been among the demands of social scientists and society from the factories and commercial companies.

In other words, all those social development activities and services that the company, whether governmental, private, or multinational, provides to society, the environment, consumers, employees, and shareholders that have a positive impact on the enjoyment of the right to development (as provided in the International Covenant on Economic, Social and Cultural Rights and other human rights instruments) are referred to as corporate social responsibility¹⁰.

The performance of these companies in the field of social and environmental responsibility contributes to governments in developing countries in answering social needs and economic development and in human rights and anti-corruption struggle¹¹. The performance of corporate social responsibility, especially for multinational companies operating in developing countries, contributes to their economic development and right to economic and social rights to be gradually realized through investment in the necessary infrastructure in the developing countries, such as investment in affordable housing and centers of education. Governments in developing countries usually do not have the financial capacity to finance development projects that contribute to the realization in the developing countries of the right to development to be gradually realized. The use of alternative financial instruments through debt instruments and capital market tools is not possible because of the lack of economic justification for such uses, so the right to development and the right to economic and social rights in developing countries can be realized only if those countries finance projects through corporate social responsibility. Hence, governments in developing countries can operationalize the right to development in the context of human rights law norms.

International organization-made rights have brought about corporate social responsibility. Other documents about corporate social responsibility include the Tripartite Declaration of Principles concerning Multinational Enterprises and Social Policy, drafted by the International Labor Organization (ILO) in 19 emphasizes individual and collective workers' rights based on the ILO's conventions and judicial decisions, and provides guidelines for governments, employing organizations and trade unions on the issue¹². The fourth edition of the Tripartite Declaration was

⁹ Sheikhi, Sina, Draft of Corporate Social Responsibility Law, Office of Social Studies of the Research Center of the Islamic Consultative Assembly, Tehran, 1402

¹⁰ Article 1 of the draft of the Corporate Social Responsibility Law prepared by the Research Center of the Islamic Republic of Iran's Parliament.

¹¹ International Covenant on Economics, Social and Cultural Rights (OHCHR)

¹² Buhmann, K. (2006). Corporate Social Responsibility: What Role for Law? Some Aspects of Law and CSR.

published in 2006¹³. International Labor Organization documents have laid the grounds for the labor rights that can be achieved by corporate social responsibility. As discussed, corporate social responsibility has legal and economic dimensions, which have been raised at the level of the United Nations and the Organization for Economic Co-operation and Development, as well as by the legislative powers of countries and domestic laws. Therefore, corporate social responsibility is based on the rules of customary international economic law, the practices of international organizations, corporate business practices, the social norms of the countries and the international community, and domestic laws.

The concept of Corporate Social Responsibility (CSR) has evolved significantly over the years, influenced by various factors including government initiatives, corporate governance frameworks, cultural contexts, and environmental considerations. This literature review synthesizes findings from three key articles: Wirba (2024), Lu & Wang (2021), and Carroll (2021), which collectively highlight the multifaceted nature of CSR and the determinants that shape its implementation in corporate practices.

Wirba (2024) discusses the critical role that government plays in promoting CSR initiatives among corporations. The study posits that government regulations and incentives can significantly enhance corporate engagement with socially responsible practices. The author argues that effective policies and frameworks can create a conducive environment for businesses to implement CSR strategies that align with national and global sustainability goals. The research highlights various governmental approaches, including regulatory measures, economic incentives, and public-private partnerships, that facilitate CSR activities. Furthermore, the article underscores the importance of collaborative efforts between governments and corporations to address societal issues, emphasizing the shared responsibility necessary for meaningful impact.

In their analysis, Lu and Wang (2021) examine the interconnectedness of corporate governance, legal frameworks, cultural influences, and environmental performance in shaping CSR disclosure practices on a global scale. Their findings indicate that effective corporate governance mechanisms are crucial in promoting transparency and accountability in CSR activities. The study also finds that legal requirements and cultural expectations significantly affect how corporations disclose their CSR efforts, with variations observed across different countries. The authors emphasize the need for harmonization of global reporting standards to facilitate better comparison and understanding of CSR practices internationally. This research not only highlights the complexities surrounding CSR disclosure but also proposes that strong governance frameworks can lead to improved corporate performance and stakeholder trust.

Carroll (2021) provides a comprehensive overview of the development of the CSR construct and its implications for future research and practice. The author traces the historical evolution of CSR, charting its transition from a mere philanthropic activity to a fundamental aspect of corporate strategy. Carroll introduces a conceptual framework for understanding CSR that encompasses ethical, legal, economic, and philanthropic responsibilities. This multifaceted approach highlights the necessity for businesses to integrate social and environmental considerations into their core operations. Carroll's insights call for ongoing exploration of the CSR construct, urging scholars to

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¹³ Herdegen, Matthias, Principles of International Economic Law, translated by Mohammad and Sadeq Ziyayi Bigdeli, Tehran, Ganj Danesh, 1402

consider emerging challenges such as technological advancements and global crises in future CSR discourse.

Promoting the culture of corporate social responsibility seems to be achieved not by creating coercive legal rules, but rather by being realized by the commercial practice and international economic customs or voluntarily by the companies themselves. Nevertheless, formulating laws related to corporate social responsibility in domestic law, especially the approval of the law on corporate social responsibility in the legislative bodies of developing countries, is proposed in this research. On the other hand, it seems that the existence of mandatory laws regarding corporate social responsibility will not be an obstacle to attracting domestic and foreign investment, as companies allocate a small portion of their income to finance social responsibility projects, especially nowadays, the annual income of many multinational companies is higher than the total gross domestic product of less developed countries¹⁴.

Methodology

The descriptive-analytical approach is a methodological framework often used in research, particularly within the social sciences, humanities, and natural sciences. This approach combines two main components: descriptive and analytical elements, each serving distinct purposes in the study of a subject or phenomenon.

- **Holistic Understanding:** It offers a comprehensive view by integrating observation with interpretation, facilitating a fuller understanding of complex issues.
- **Foundation for Further Research:** The detailed descriptions provide a solid ground for further studies, hypotheses testing, or policy-making.
- **Data-Driven Insights:** By combining qualitative and quantitative data, researchers can generate more robust and evidence-based conclusions.

This approach is widely applicable across various fields, including:

- **Sociology:** Understanding social behaviors and structures.
- **Psychology:** Analyzing cognitive and emotional responses.
- **Public Health:** Assessing health trends and outcomes.
- **Environmental Studies:** Describing ecological data while interpreting environmental changes.

In summary, the descriptive-analytical approach is a valuable framework for researchers aiming to systematically explore a topic through thorough documentation and thoughtful analysis, leading to meaningful insights and understandings.

¹⁴ Bantekas, I. (2004). Corporate social responsibility in international law. *BU Int'l LJ*, 22, 309.

First Discourse: The Legal Role of Corporate Social Responsibility in the International Legal System

The international legal system is a set of regulations that are created from primary sources including customary rules, treaties, customary international law, and general principles of law, as well as secondary sources including judicial decisions, doctrines, and new sources such as unilateral actions of states and decisions of international organizations, including resolutions of the General Assembly and the Security Council of the United Nations, which regulate the relationships between individuals and entities in the international community and determine the rights and obligations of states, international organizations, for-profit and non-profit organizations, liberation movements, and individuals. The United Nations defines the international legal system as a set of regulations that define the legal responsibility of states for their actions towards other states and the behavior of states towards individuals under their jurisdiction and within their territory, covering a wide range of global issues such as human rights, disarmament, international crimes, asylum, migration, statelessness, treatment of prisoners, international security, the use of force, and engagement in armed conflicts, systematically addressing global common goods and global issues such as the environment, sustainable development, international waters, outer space, international communications, and global trade. National, transnational, and multinational companies are recognized in international law as non-governmental organizations that are inactive subjects of international law, and international law has considered the rights and obligations of these organizations¹⁵. The social responsibility of companies in the international legal system is aimed at fulfilling the obligations of these organizations towards other subjects of international law, including individuals and states.

A) The nature of corporate social responsibility in the international legal system

Legal discussions on corporate social responsibility are a new legal basis that its evolutionary stage has not yet overcome. So far, the mandatory rules derived from treaties, customary law, or general legal principles regarding corporate social responsibility have not been formed, developed, and solidified in the international legal system. So, the rights of corporate social responsibility are not the established laws in the international legal system, but they are more likely to be certain common commercial behaviors of companies, commercial communities, and investment capitals, and certain voluntary managing ways of companies based on the soft law produced by international organizations and domestic legal system, and not fulfilling these rules may not lead to fine or compensation but it is considered as a violation of business ethics and social responsibility that impacts the reputation of companies in the market.¹⁶ The report of the United Nations Industrial Development Organization (UNIDO) pointed out that the fulfillment of social responsibility by small and medium enterprises should not lead to their financial instability and the UNIDO presented the major issues of corporate social responsibility as follows: environmental management, resource efficiency, corporate responsibility in the supply chain [In this type of responsibility, the company voluntarily considers social and environmental problems in the supply

¹⁵ United Nations (2024). International Law. Retrieved From: <https://unis.unvienna.org/unis/en/topics/international-law.html>

¹⁶ “Naming and Shaming” seems to be the best method to make the companies to participate in CSR.

chain, including the procurement of raw materials and the final production of the products, and makes the natural and non-natural resources involved in the production of goods and services responsibly and rationally, and conform to the goals of sustainable development and the social interests of current and future generations.], stakeholders, respect for labor conditions, dialogue with employees and local communities, social justice, human rights and other issues relating to or the measures taken to prevent the company from corruption.

As for environmental management, companies should minimize environmental damages caused by their activities by establishing sustainable production units and using technology in the operation of their businesses and supply chains.

As far as their employees and local communities are concerned, they can offer training and educational services related to their profession to local communities, get most of their required workforce from the Indigenous people in the operational areas of the company, and provide housing for their employees to contribute to the achievement of the right to education and housing.

Later in the year, the World Conference on Social Development, organized by the United Nations and taking place in the Danish capital of Copenhagen, brought together 117 countries that reiterated the importance of putting people at the center of development programs and endeavors to end poverty and create full employment. Prominent in discussions were ideas about the social responsibility of firms, the role of firms in social development, full employment, and the reduction of poverty¹⁷.

After the evaluation of the results of the World Conference in Copenhagen and the adoption of new policies¹⁸, the General Assembly met in Geneva for its twenty-fourth extraordinary session in 2000. 'Social and economic well-being are not two separate concepts, without economic prosperity governments cannot provide the social needs of their peoples,' Kofi Annan, the former UN Secretary-General said in this meeting. 'No nation can truly be said to be fully prosperous so long as it abandons sections of its citizens to illiteracy and ignorance, disease and daily misery¹⁹.'

Issues related to the reduction of poverty and the creation of employment at the global level were discussed, since then CSR were taken seriously at the level of international law, especially at the level of international organizations; social development documents were reviewed and published. Therefore, according to the United Nations, the fulfillment of the social responsibility of companies is the pathway to the social development of a country, and it is instrumental in reducing poverty, achieving full employment, and eradicating illiteracy.

The concept of corporate social responsibility in the international legal system is mostly derived from laws produced by international organizations, especially the United Nations, which has taken various measures and drafted documents to create soft laws regarding corporate social responsibility. For example, in 1985, consumer protection guidelines, which included corporate

¹⁷ United Nations Industrial Development Organization (2024). Corporate Social Responsibility. Retrieved From: <https://www.unido.org/our-focus/advancing-economic-competitiveness/competitive-trade-capacities-and-corporate-responsibility/corporate-social-responsibility-market-integration/what-csr>

¹⁸ World Summit for Social Development (WSSD), held in March 1995 in Copenhagen

¹⁹ United Nations (2024). World Summit for Social Development 1995. Retrieved From: <https://www.un.org/development/desa/dspd/world-summit-for-social-development-1995.html>

social responsibility, were published, and during global conferences in the 1990s, the issue of corporate social responsibility was raised multiple times, especially in 1999 when the Secretary-General at the time encouraged private companies to fulfill their social responsibilities for the realization of social development in the communities where they operate. The United Nations stated in various documents in the early 21st century that governments traditionally have the responsibility of providing national organizational mechanisms to facilitate economic progress and achieve balanced social development. However, with the globalization trend, the capacity of these public mechanisms has weakened, challenging the efficiency of governments in facilitating economic progress and social development. On the other hand, the prevalence of economic freedom, including the reduction of trade, financial, and investment barriers, has empowered the private sector, leading to continuous growth in global direct investment. This has extended the operations of companies beyond the jurisdiction and legal competence of governments. Today, governments have limited capacity to control the international operations of companies. While at the national level, they can develop regulations and ethical standards to regulate the behavior of companies towards ethical considerations, social justice, human rights, and environmental protection, at the global level, the United Nations deems it necessary for corporate social responsibility laws to be drafted by international organizations to systematically regulate the behavior of companies beyond the borders of countries and outside the legal jurisdiction of governments, especially when companies operate in international waters or outer space²⁰.

The United Nations Conference on Trade and Development (UNCTAD) pursues multiple objectives in the field of investment and international trade, including issues and problems surrounding foreign direct investment, employment, technology transfer, competition, dispute resolution, environment, behavior based on the Most-Favoured-Nation clause, taxation, etc., which are somehow related to international trade and foreign investment. However, in 2001, UNCTAD published an eighty-five-page document entitled "Social Responsibility in Trade and Investment," which addresses not only the social responsibility of companies but also the social responsibility of foreign investors. In this document, it is mentioned that Bilateral Investment Treaties (BITs) mainly focus on supporting and protecting investors, rarely including rules on the social responsibility of investors and parent companies²¹. While Bilateral Investment Treaties emphasize compliance with the laws and regulations of the host country by the investor, if there are no rules and regulations regarding social responsibility in the domestic laws of a country, then the fulfillment of social responsibility by the foreign investor is neglected, and the communities where the investment takes place are deprived of the benefits of social responsibility by the foreign investor and parent companies. However, it seems that in addition to the existence of supportive regulations in the domestic laws of countries for the social responsibility of companies and investors, it is necessary to include the required rules and regulations for voluntary social responsibility by foreign investors and parent companies in Bilateral Investment Treaties, so that the legal framework and legitimacy for the investor's actions in fulfilling their social responsibility can be provided. In this way, the host government can better fulfill its commitments based on

²⁰ United Nations (2024). Social Summit +5. Retrieved From: <https://www.un.org/development/desa/dspd/social-summit-5.html>

²¹ United Nations (2024). Corporate social responsibility A/AC - the United Nations. Retrieved From: <https://www.un.org/esa/socdev/rwss/docs/2001/20%20Corporate%20social%20responsibilities.pdf>

international law, especially its extraterritorial commitments in the fields of human rights and environment, with the financial and technical assistance of parent companies²².

The fulfillment of the legal obligations of governments arising from the international legal system has a direct relationship with the social responsibility of companies, which assists governments in fulfilling these legal obligations, especially about issues such as achieving sustainable development, human rights realization, compliance with international labour rights, transparency, combating corruption, environmental protection, protection of global common goods such as the ozone layer, water, soil, and air, compliance with extraterritorial commitments of the government, eradication of poverty and illiteracy, improvement of access to sufficient food, clean water, and air, and the realization of many other commitments of governments arising from international law through the fulfillment of social responsibility by companies.

B) Legal Position of Corporate Social Responsibility in the Practices of International Organizations

International law has a wide impact on the economy; sometimes the effects of this relationship are completely tangible, especially with the existence of institutions such as the World Trade Organization or the International Monetary Fund, which were established to regulate aspects of economic life. The relationship between international law and the economy has led to the attention of the international legal system and international organizations to the social responsibility of companies, which has economic, ethical, and environmental aspects²³.

The Draft United Nations Code of Conduct on Transnational Corporations²⁴ which considers a obligation upon transnational companies to, respect for national sovereignty and the laws, and regulations of the host country, adhere directions related to economic, developmental, and political objectives, adherence to social-cultural values and norms, respect for human rights and fundamental values, non-interference in the internal affairs of the host country, non-interference in international relationships of the host country with other countries; and refrain from or prevent any possible or likely corruption. This draft memorandum includes other commitments of these corporations in the economic, financial, and social responsibility fields including issues such as the responsibility of multinational corporations to facilitate the social and economic development of the host country, the responsibility of multinational corporations to comply with the financial policies of the host country regarding the balance of payments and financial transactions.

Besides, The Draft United Nations Code of Conduct on Transnational Corporations requires that multinational corporations take the initiative to transfer technology and upgrade technology in developing countries, abide by the national and international laws regarding the consumers' rights in producing and supplying goods and services, at the same time, abide by the laws and regulations related to environmental protection, use technologies in company operations that help to protect the environment, avoid tax evasion, and participate in achieving the economic growth and development. Overall, the draft UN code of conduct on transnational corporations considers four

²² UNCTAD (2024). SOCIAL RESPONSIBILITY. UNCTAD/ITE/IIT/22 Retrieved From: <https://unctad.org/system/files/official-document/psiteiitd22.en.pdf>

²³ Klabbbers, Jan. International Law. India, Cambridge University Press, 2020, P8

²⁴ The Draft United Nations Code of Conduct on Transnational Corporations

kinds of responsibilities for multinational corporations in financial, political, economic, and environmental aspects (as mentioned above). This understanding of corporate responsibility was far beyond the company's corporate social responsibility. Consequently, the company's responsibility and corporate social responsibility should be distinguished from each other²⁵.

The UN Commission on Transnational Corporations (advisory body on the role of MNCs in the world economy) drafted the memorandum that was adopted in the first session of the United Nations Economic and Social Council in 1987 by Resolution E/RES/1987/57, as a good reference of the obligations of MNCs with regards to the host country (regarding technology transfer, the respect of the host country's financial, tax and environmental legislation, etc). For example, in the memorandum, it is also stated that: The multinational corporation must negotiate in good faith with the host government for a fair conclusion of an investment agreement, free from intimidation, bribery, or any other form of corruption. And that: The host government has a right to regulate or restrict, as it chooses, for the entry of the multinational corporation, the form and methods of its investment, and participation in the national economy in an orderly manner. The host government has a right to expropriate or nationalize the assets and capital of multinational enterprises on terms and conditions that would be no less favorable than those accorded to nationals of the host country and other enterprises engaged in substantially similar activities, without discrimination and by international law in the public interest. In the event of expropriation or nationalization of a company's assets, it imposes full, effective, and immediate compensation, but the principle of the draft is that the payment of Adequate Compensation suffices. It states that the settlement of the dispute stemming from the expropriation or nationalization of assets is a domestic matter and, therefore, the host country's judicial authorities have jurisdiction to hear these disputes²⁶.

It appears that, unlike corporate social responsibility guidelines, The Draft United Nations Code of Conduct on Transnational Corporations focuses more on the demands of governments and less on the rights of companies and their stakeholders. The social responsibility of companies is primarily concerned with regulating the relationships between companies and its stakeholders, especially human societies, while the responsibility of multinational corporations is more focused on regulating the relationships between companies and governments. Therefore, these two differ from one another.

In 2001, International Investment and Multinational Enterprises committee of the Organization for Economic Co-operation and Development (OECD) prepared a 106-page document comprising 256 guidelines for the private enterprise sector on all aspects of corporate social responsibility and how it is fulfilled, and the advantages for companies' growth and performance improvement that follow from fulfilling social responsibility. Besides defining the social responsibility of private companies, it clarifies the role of governments and tax policy in facilitating corporate social responsibility. The OECD document states that 'businesses and the societies in which they operate are interdependent' and adds the caveat that 'companies will not thrive in a society of scarcity and underdevelopment', while companies may help to strengthen the community and its available

²⁵ UNCTAD (2024). SOCIAL RESPONSIBILITY. UNCTAD/ITE/IIT/22 Retrieved From: <https://unctad.org/system/files/official-document/psiteiitd22.en.pdf>

²⁶ UNCTAD (2024). DRAFT UNITED NATIONS CODE OF CONDUCT ON TRANSNATIONAL CORPORATIONS. Retrieved From: <https://investmentpolicy.unctad.org/international-investment->

resources by investing in the very public sectors used by businesses and other members of society. An effective tax system allows companies to contribute to the development of communities where they operate, by perceiving and practicing tax discipline. Furthermore, corporate social responsibility ‘contributes to improving economic, social and environmental conditions.’ At the heart of corporate social responsibility is consensus on how businesses are managed or run in such a manner as to provide not only decent work opportunities but also to extend public welfare and enhance people’s quality of life²⁷.

For example, the OECD guidelines, which includes the code of conduct about companies actions applying to multinational companies operating in the territories of the organization member states, in its first section outlines commitments regarding labour rights, environmental management, human rights, consumer protection, transparency, and anti-corruption; and in its second section, it focuses on company management, it deals with the manager responsible for the daily operations in the company and its system of oversight and reporting on how social responsibility is fulfilled – generally guided and reinforced by monitoring of management practices by inspection of offices, consultancies and specialized social institutions meant to provide companies with advice on their social responsibility²⁸.

As the management or administration of the company is directly related to the actualization of corporate social responsibility, Business Management students in universities and business educational facilities are taught about corporate social responsibility and how to implement it. On the other hand, to provide the management capabilities for the actualization of the principles and regulations of social responsibility through the daily management of firms, institutions that support or oversee daily management have been developed. These include the development of management standards, professional societies, specialized consulting and auditing services, and reporting systems. From the perspective of the Organization for Economic Cooperation and Development (OECD), widespread agreement or common acceptance of behavioral norms between societies and companies are needed, and these behavioral norms will not be realized effectively by strict monitoring and punishment of offenders, especially because compliance in democratic societies is more voluntary than it is externally enforced. However, if we look at the responsibilities of companies from the perspective of corporate social responsibility, as the intangible assets of communities, it is the the human capital of communities who contributes to the monitoring effectiveness of the performance of companies, either from the public sector or from civil society to comply with their SCR.

According to the OECD viewpoint, corporate social responsibility should initially be voluntarily by companies and laws and regulations should have a supportive or facilitative feature towards fulfilling their responsibilities, such as the laws in the United States regarding occupational health and safety, the Swiss anti-money laundering law, the U.S. food safety law, etc. These laws and regulations support and provide the necessary infrastructure for companies' voluntary actions in

²⁷ The Organization for Economic Co-operation and Development (OECD) (2024). CORPORATE RESPONSIBILITY. Retrieved From: <https://www.oecd.org/daf/inv/corporateresponsibility/35315900.pdf>

²⁷ Ibid

²⁸ The Organization for Economic Co-operation and Development (OECD) (2024). CORPORATE RESPONSIBILITY. 2001, P09. Retrieved From: <https://www.oecd.org/daf/inv/corporateresponsibility/35315900.pdf>

fulfilling their social responsibilities and give legal legitimacy to their actions. According to the OECD document, the role of governments is of great importance. Studies conducted in Asia, Europe, and North America indicate that legislation by governments, the use of taxes, and the establishment of mandatory standards, especially the use of ISO 14000 standards by the International Standard Organization (ISO), have had a significant impact on companies' performance in the environmental field and overall social responsibility. The role of governments and their legislative, taxation, policy-making, and monitoring tools has undeniable effects on the performance of national and multinational companies. The mention of the voluntary nature of corporate social responsibility in the international legal system does not mean that governments and domestic legal systems have no role in this regard.

C) The Role of Corporate Social Responsibility in Realization and Observance of Human Rights

Corporate social responsibility is the mechanism for resolving conflicts between international economic law norms and international human rights, especially those guaranteeing economic and social rights. Nowadays, international economic law is intertwined with human rights. Moreover, corporate social responsibility, which is part of the international economic law legal entity and its framework, plays an influential role in this regard which enables companies to be capable of respecting human rights²⁹.

The observance of the human rights rules by companies under the umbrella of social responsibility contributes to the enhancement of human dignity, which is one of the goals of contemporary international law. International law is defined as a set of rules and regulations governing the international community, a community in which, alongside a primary and more active role of governments, there have been gradually the formation of other actors such as international organizations, multinational companies, NGOs, national liberation movements, and ultimately human beings. The expansion of the international community should not be understood as a mere quantitative expansion of international community, because apart from the statehood aspect, which is the basic feature of all actors in international relations, their credibility and non-real identity, the enhancement of the status of human beings as the only real and thinking beings will give such a development a qualitative nature. Therefore, with the formation of the international community in contemporary international law, governments, and international organizations are not the only subjects of international law anymore, and companies along with others such as individuals are inactive subjects of international law. The observance of the human rights rules by companies will help avoid the infringement of individuals' rights and protect them from any damages to their well-being and property, and the respect for human rights and the prevention of human rights violation by companies will be possible only through the fulfillment of corporate social responsibility³⁰.

In the international legal system, more emphasis is placed on the responsibility of transnational companies rather than national companies. It seems that the behavior of national companies should be regulated by the domestic laws or customs present in national legal systems, while international law demands more systematic regulation of the behavior of transnational companies through

²⁹ Zamani, Sayyed Ghasem, *Twenty-One Discourses on International Human Rights Law*, Tehran, Khorsandi, 1395

³⁰ Tomuschat, Christian, *Human Rights*, translated by Hossein Sharifi Tarazkuhi, Tehran, Mizan, 1386

human rights and corporate social responsibility. Currently, there is a prevailing trend among human rights lawyers indicating that multinational companies should also be subject to human rights obligations. Many provocative articles have been written to highlight this necessity. The reality is that, especially in developing countries, multinational companies bear a heavy ethical responsibility due to their economic power, which may sometimes exceed the responsibilities of the host government. However, in terms of positive law, at least, it has had very little realization. The Organization for Economic Cooperation and Development (OECD), which has designed and presented the guidelines for multinational companies, has always emphasized that the implementation of these principles, which are more of a recommendation, is optional.

According to the second paragraph of Article 2 of the International Covenant on Civil and Political Rights and the first paragraph of Article 2 of the International Covenant on Economic, Social, and Cultural Rights, member states are obligated to pass legislation to implement the rights enshrined in the covenants³¹. States have both territorial and extraterritorial human rights obligations and are responsible not only for individuals under their jurisdiction but also for the global community as well. The government must not only help realize human rights through legislation but also exercise strict oversight over the observance of human rights by natural and legal persons regarding the rights of individuals under their jurisdiction and other individuals outside the state's jurisdiction. In this case, the activities of commercial companies and businesses that have domestic and extraterritorial impacts must be regulated by enacting domestic laws and regulations to prevent violations of the state's extraterritorial obligations in human rights matters. This will be achieved by drafting and approving laws on corporate social responsibility in the domestic legal systems³².

Since the operations of companies and their management directly impact human rights in societies, the United Nations Human Rights Council approved The UN Guiding Principles on Business and Human Rights (UNGPs) in 2011³³. These principles are based on three main principles. First, the government is obliged to support the human rights of individuals against third-party violations, this third party can be commercial companies and businesses. Second, businesses and commercial companies, under the framework of corporate responsibility, are obligated to respect human rights. Third, mechanisms for legal and non-legal remedies must be made available to victims whose human rights have been violated by companies and businesses, and these legal and administrative means should be expanded³⁴.

According to the UN Guiding Principles on Business and Human Rights, the behavior of commercial companies affects employees, consumers of goods and services, and local communities where the company operates. Through employment policies, environmental measures, and other company actions, human rights can be promoted or violated for employees,

³¹ Augenstein, Daniel, Home-State Regulation of Corporations, The Routledge Handbook on Extraterritorial Human Rights Obligations, Taylor and Francis, New York, 2022, P284

³² The UN Guiding Principles on Business and Human Rights (UNGPs), Issued on 2011 By The United Nations Human Rights Council.

³³ Van Ho, Tara, Obligation of International Assistance and Cooperation in the Context of Investment Law, , The Routledge Handbook on Extraterritorial Human Rights Obligations, Taylor and Francis, New York, 2022, P325

³³ International Labor Organization (ILO)

³⁴ United Nations (2024). The UN Guiding Principles On Business and Human Rights An Introduction. Retrieved from:https://www.ohchr.org/sites/default/files/Documents/Issues/Business/Intro_Guiding_PrinciplesBusinessHR.pdf

consumers, and local communities³⁵. According to this document, governments are required to take necessary measures to protect and support international human rights by all means, and its observance by any natural or legal person including industries and companies, and must make companies aware of the damages caused by their behavior. Legislation should prevent the continuation of damages caused by company behavior. Governments should also prevent human rights violations by companies and, in case of violations, hold them accountable under legal prosecution and punishment. Furthermore, companies' responsibility for their human rights commitments in this document is recognized, and companies are required to comply with all human rights generations along with approved labor regulations of the International Labor Organization³⁶.

The regulations outlined in the UN Guiding Principles on Business and Human Rights should define within the framework of corporate social responsibility to ensure that companies take action to realize human rights, including economic and social rights, for their employees and generally its stakeholders.

Second Discourse: The Impact of Corporate Social Responsibility on the Realization of Economic, Social, and Cultural Rights

Since its inception, the capitalist system has undergone several transformations, reforms, and reproductions in diverse parts of the world through many innovative legal entities such as labor laws, trade union rights, the International Labour Organization, and other similar inventions that have helped to avert crises in history by the capitalist system. The latest innovation in the capitalist system is the new legal structures of CSR that mark a new stage of transformation and reform in capitalism. Since then the capitalist system has become an economic system tied to human activities and needs. On the other world, the function of CSR in the capitalist system is to manage the system's vulnerabilities, humanize the system, and in particular, to help realize the second and the third generations of human rights.

A) The concepts of second-generation of human rights and their gradual realization

The International Covenant on Economic, Social, and Cultural Rights of 1966 is the major framework of second-generation human rights. Second-generation human rights such as social and economic rights are mostly positive rights, which necessarily require certain conditions and facilities for their realization. Although second-generation rights have a positive aspect, they also have a non-intervention feature. In other words, they require non-interference by the government, i.e., respect for the rights and freedom of citizens – including the freedom to decide how to educate their children or what property rights they should have. The right to education, choose a place of residence, healthcare, a job, and a good living standard are examples of these second-generation rights. Despite the first-generation of human rights that require only non-interference by the government and respect for the fundamental rights and freedoms of the people to enjoy civil and political rights, second-generation human rights require interventions by the government for their realization. For instance, Article 2, paragraph 1 of the International Covenant on Economic, Social

³⁵ Hemati, Mojtaba, *Citizenship Rights and Second Generation of Human Rights*, Tehran, Khorsandi, 1393

³⁶ Esmaeil Nasab, Hossein, *Collection of the Most Important Practical Documents of International Law*, Tehran, Jangal, Javdaneh, 1393

and Cultural Rights states that: Each State Party to the present Covenant undertakes to take steps, individually and through international assistance and cooperation, especially economic and technical, to the maximum of its available resources, with view to achieving progressively the full realization of the rights recognized in the present Covenant by all appropriate means, including particularly the adoption of legislative measures. It is clear from Article 2, paragraph 1 of the Covenant that states are obliged to take measures and policies to initiate the realization of the rights enshrined in the Covenant through international cooperation and the maximum use of the resources of the states.

The concept of 'maximum available resources' in Article 2, paragraph 1 makes the states committed to mobilize all their financial, human, and natural resources to the maximum extent for the realization of the rights enshrined in the Covenant. The optimal utilization of the resources of a country towards the attainment of economic growth and the realization of second-generation human rights, such as the right to housing and the right to education, is one of the fundamental duties of the government. The government is also duty-bound to steer the utilization of available resources of companies through legislation and policy-making, such as the systemization of the CSR, for the realization of these rights.

According to Article 2, paragraph 1 of the Covenant, "rights recognized in the Covenant" refer to pre-existing norms which is named by the Covenant, which include fundamental human rights such as vocational and professional training for individuals, the right to work for livelihood as per Article 6 of the Covenant, legislative and governmental oversight for individuals to receive fair wages, workplace safety and health, rest, leisure, reasonable working hours and periodic holidays as per Article 7 of the Covenant, the right to social security as per Article 9, support for families and maternity leave for mothers, prevention of child labor and instead providing for their education as per Article 10, the right to an adequate standard of living including food, clothing, and adequate housing as per Article 11, the right to mental and physical health as per Article 12, the right to free universal education and equal educational opportunities especially in higher education for all as per Article 13, individuals' right to participate in cultural life, benefit from scientific and technological advancements, support intellectual property rights of inventors and researchers, and promote international cooperation and contacts in the fields of science and culture as per Article 15, and other rights including job security, the right to trade union support, etc. These recognized rights in the Covenant are economic, social, and cultural rights³⁷.

B) Corporate social responsibility norms and realization of economic, social, and cultural rights.

The norms of corporate social responsibility include economic, legal, ethical, and human norms that are implemented by companies to enhance the welfare and well-being of individuals and communities in which they operate, especially for the realization of the rights specified in covenants.

³⁷ Camoletto, S., Corazza, L., Pizzi, S., & Santini, E. (2022). Corporate Social Responsibility due diligence among European companies The results of an interventionist research project with accountability and political implications. *Corporate Social Responsibility and Environmental Management*, 29(5), 1124

At the end of paragraph one of Article 2 of the International Covenant on Economic, Social, and Cultural Rights, states are required to legislate for the progressive realization of rights within the Covenant, including the right to housing and education. Legislation to guide the social responsibility of national and transnational companies operating under the jurisdiction of states leads to the progressive realization of these rights³⁸.

Moreover, having laws at the international and domestic levels to guide companies in adopting due diligence to control company operations is essential. The term "Due Diligence" has historical roots in the legal domain, defining the process of reducing commercial and financial risks. This process usually involves conducting in-depth research on one company concerning another to identify misconduct that contradicts standard ethical principles. The legal basis of this concept is derived from Roman law; however, nowadays, due diligence extends to risks related to environmental and social areas as well.

Through this process, a company ensures that the goods and services it purchases from other companies comply with the standards of ethical principles, its code of conduct and that the producer company has adhered to its social responsibility towards its stakeholders while it produced the goods and services. This contributes to the effective role of companies in fulfilling their social responsibility to achieve sustainable development and economic, social, and cultural rights.

The objectives of the United Nations 2030 Agenda encourage companies to increase their awareness and attention to the negative impacts of their performance, including unsustainable development related to nature, people, and communities. Due diligence for social responsibility is achieved when a company aligns its operational and control processes with standards, frameworks, and codes of conduct for social responsibility. It seems that the existence of necessary laws to promote due diligence among companies to regulate their interactions with natural resources and human communities, continuous monitoring of company performance, and standardization of company operations within the framework of social responsibility contribute to enhancing societal welfare, achieving sustainable development, and realizing economic, social, and cultural rights.

C) Corporate Social Responsibility and Realization of Economic Rights

According to the second generation of human rights, economic rights of individuals include the right to development, the right to determination and defining or pursuing development of social, cultural, economic and political system, equal access to job opportunities and employment, private ownership, fair wages, the right to adequate housing, food, and clothing, eradication of poverty, hunger, and economic exploitation, especially of children, social security, and the right to benefits such as paid leave. In international law, the responsibility to protect individuals against human rights violations by third parties lies with the states. In many cases, the exploitative behavior of multinational companies in developing countries has deliberately violated economic, social, and cultural rights. Regulating corporate social responsibility, especially in developing countries, leads to the observance of human rights and, in particular, the realization of economic rights. In developing countries, governments have been unsuccessful in regulating corporate social responsibility and have not succeeded in promoting a culture of corporate social responsibility or

³⁸ Adeyeye, A. (2007). Corporate responsibility in international law: which way to go. *SYBIL*, 11, 142-143

enacting relevant laws. In the Ogoni case in 1996, the African Commission on Human and Peoples' Rights considered the violation of human rights, particularly economic rights such as the right to housing, food, and health, which occurred in the oil-rich regions of Nigeria, due to the request of Nigerian human rights organizations. This case raised awareness of violations of economic, social, and cultural rights. In the Velasquez Rodriguez v. Honduras case, the Inter-American Court of Human Rights emphasized that if a government allows groups or private individuals under its jurisdiction to remain immune to human rights violations; it provides the basis for the government's responsibility for violations of individuals' human rights by these individuals. Therefore, governments are obligated to prevent human rights violations by private individuals, including companies, and the best tool available to governments in this regard is the establishment of a legal framework for corporate social responsibility.

Additionally, because public projects such as the construction of educational centers or affordable housing usually do not have economic justification they require government funding, in developing countries, excessive government intervention in terms of paying subsidies for transportation, energy, or the prices of manufactured goods leads to budget deficit and high level of debt. Many developing countries have become trapped in a cycle of poverty and debt, which disrupts continuous and long-term economic growth³⁹. Therefore, governments in developing countries do not have enough budget resources or public funds to finance and implement projects that lead to the realization of economic rights. However, within the framework of social responsibility, companies can use some of their financial, technical, human, and equipment resources to facilitate achievement of economic, social, and cultural rights, and carry out public infrastructure projects such as constructing educational centers or affordable housing projects especially for their employees and local community, thus compensating for the inability of governments in developing and less developed countries.

Conclusion

Corporate social responsibility (CSR) plays a crucial role in promoting economic, social, and cultural rights while helping to resolve conflicts between international economic law and human rights. It is guided by soft international law, norms from international organizations, and common business practices. CSR differs from multinational and transnational corporate responsibility, encompassing ethical, economic, and environmental dimensions that govern relationships between companies and stakeholders, particularly communities.

Governments are essential in steering companies toward fulfilling their social responsibilities, as highlighted by various international guidelines from organizations like the International Labour Organization and the Organization for Economic Cooperation and Development (OECD). Although CSR is currently voluntary and not legally mandated, governments and international bodies are encouraged to create supportive mechanisms and laws to promote it. The United Nations Conference on Trade and Development (UNCTAD) advocates for incorporating social responsibility provisions into Bilateral Investment Treaties (BITs) to balance the rights and benefits of foreign investors with the interests of host communities. CSR can significantly contribute to developing nations by addressing economic, social, and cultural rights, particularly in funding infrastructure projects when governments face budget constraints. While developed countries lead in CSR initiatives, developing nations often

³⁹ Pease, Kelly-Kate, International Organizations, translated by Hossein Sharifi Tarazkuhi, Tehran, Nashr Mizan, 1392

lack recognition and regulatory frameworks for CSR. Multinational companies often engage in CSR to enhance their reputation and foster relationships with local communities, ultimately benefiting both the companies and the societies in which they operate.

Scientific Contributions to the Research

The following recommendations is made based on the results:

1. **Examine Legal Frameworks:** Analyze the existing legal frameworks that govern corporate social responsibility (CSR) and their effectiveness in promoting economic, social, and cultural rights across different jurisdictions.
2. **Case Studies of Multinational Corporations:** Include detailed case studies of multinational corporations that have successfully integrated CSR into their business practices, highlighting the impact on various rights and the communities they operate in.
3. **Engage Stakeholders:** Recommend engagement strategies for corporations to involve local communities, non-governmental organizations (NGOs), and governments in their CSR initiatives to enhance accountability and effectiveness.
4. **Assess Global Standards and Guidelines:** Evaluate the role of international standards (e.g., UN Guiding Principles on Business and Human Rights) and their adoption by corporations to align with the advancement of economic, social, and cultural rights.
5. **Corporate Accountability Mechanisms:** Suggest mechanisms for ensuring corporate accountability in CSR efforts, including monitoring, reporting, and impact assessments that align with human rights frameworks.
6. **Focus on Sustainable Development Goals (SDGs):** Encourage companies to align their CSR strategies with the United Nations Sustainable Development Goals to address broader economic, social, and cultural rights issues.
7. **Cultural Sensitivity in CSR Practices:** Highlight the importance of cultural sensitivity in CSR initiatives, suggesting how corporations can adapt their strategies to respect and promote local cultures and traditions.
8. **Training and Education:** Recommend the implementation of training programs for employees and management on the importance of human rights and CSR, fostering a corporate culture that prioritizes these values.
9. **Collaboration with International Organizations:** Encourage collaboration between corporations and international organizations (like the ILO or WHO) to address rights violations and promote best practices in CSR.
10. **Policy Advocacy:** Stress the importance of corporations advocating for public policies that support the advancement of economic, social, and cultural rights at local, national, and international levels.

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