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Corporate Accountability and Human Rights: A Legal Analysis of the UN Guiding Principles

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Abstract

This study aims to analyze the role of the United Nations Guiding Principles on Business and Human Rights (UNGPs) in strengthening corporate accountability for the protection and promotion of human rights. The UNGPs as a global normative framework affirms the state's obligation to protect, corporate responsibility to respect, and access to recovery for victims of human rights violations. Through a normative juridical approach, this study examines the relevance of these principles in international legal practice and their implementation in national law, and identifies the extent to which these instruments are able to encourage corporations to act ethically, transparently, and accountably. The results of the analysis show that although UNGPs have significant normative power, their soft law characteristics pose challenges in consistent application across jurisdictions. Nevertheless, the UNGPs have contributed to the establishment of global standards that encourage companies to integrate human rights principles in business governance, as well as providing an important reference for policymakers and judicial institutions in handling cases of abuse. This study emphasizes that to strengthen the effectiveness of UNGPs, it is necessary to harmonize regulations, more stringent law enforcement mechanisms, and increase corporate awareness of their social responsibilities in the international and national legal systems

Keywords: Corporate Accountability, Human Rights, UN Guiding Principles, Soft Law

1. Introduction

The development of economic globalization has had a significant impact on international business dynamics, especially with the increasing role of multinational corporations in the global supply chain (Wettstein, 2015). Corporate expansion beyond national borders has made a positive contribution to driving economic growth, job creation, and technology transfer. Nevertheless, globalization also presents new vulnerabilities, especially in terms of business practices that have the potential to ignore human rights standards (McVey, 2022). Many companies move their production operations to developing countries with weak regulations, thus raising the risk of labor exploitation, labor rights violations, and environmental damage that impacts the rights of local communities (Ruggie, 2011; Muchlinski, 2021). The implications of this phenomenon show that economic globalization is not only economic, but also closely related to legal and ethical aspects. Multinational corporations are often in a dominant position that allows them to evade accountability through complex cross-jurisdictional structures. Practices such as outsourcing, supply chain management, and cross-border investment open loopholes for human rights violations without adequate accountability mechanisms. Therefore, an international regulatory framework is needed that is able to balance business interests with the protection of human rights, one of which is through the United Nations Guiding Principles on Business and Human Rights (UNGPs) which seeks to fill the legal vacuum in this realm (Deva & Bilchitz, 2013; Wettstein, 2022).

The increasing intensity of cross-border business activities has posed new challenges in the protection of human rights (Chamberst & Vastardis, 2021). On the one hand, multinational corporations contribute greatly to global economic growth, but on the other hand their activities are often associated with human rights violations, such as labor exploitation, land grabbing, and environmental pollution. This condition shows the existence of a normative gap in international law, where trade and investment regulations are much stronger than human rights protection instruments (Ruggie, 2020). Therefore, there is an urgent need for an international legal instrument that can integrate business standards with the obligation to respect human rights, so that economic interests are no longer placed above human values (Ruggie, 2008; Clapham, 2006).

This need is increasingly evident with the birth of the United Nations Guiding Principles on Business and Human Rights (UNGPs) which became the initial milestone in uniting business interests with the protection of human rights (Melish, 2017). Although it is a soft law, the UNGPs provide a normative framework that regulates the state's obligation to protect, corporate responsibility to respect, and access to recovery for victims of violations (McCorquodale, 2012). This instrument is seen as an answer to the weak corporate accountability mechanism in international law which previously emphasized state sovereignty. Thus, the UNGPs are an important foothold in seeking a balance between global economic interests and universal human rights protection (Deva & Bilchitz, 2013; Nolan, 2014).

The birth of the United Nations Guiding Principles on Business and Human Rights (UNGPs) in 2011 was a response to the growing global demand to balance business interests with the protection of human rights. The UNGPs are based on the "Protect, Respect, and Remedy" framework that affirms three main pillars: the state's obligation to protect its citizens from human rights violations by third parties, including corporations; corporate responsibility to respect human rights in all its business activities; as well as access to effective recovery for victims of violations (Wolfsteller & Li, 2022). As a soft law instrument, the UNGPs do not have direct binding power, but their influence is very significant in shaping global normative standards that become references for countries, international organizations, and the private sector (Ruggie, 2011; Nolan, 2014). The implementation of the UNGPs is also an important turning point in the international legal discourse related to corporate accountability. This instrument encourages countries to adopt policies and regulations that are more responsive to business and human rights issues, such as through National Action Plans (NAPs) developed in various jurisdictions. On the other hand, UNGPs requires corporations to apply the principle of human rights due diligence in their supply chains, thereby preventing systematic human rights violations (Favotto & Kollman, 2022). By emphasizing state obligations, corporate responsibility, and access to recovery, UNGPs seeks to create more equitable, transparent, and accountable global governance, while strengthening the integration of human values in modern business practices (Deva & Bilchitz, 2013; Wettstein, 2022).

The fundamental problem with the United Nations Guiding Principles on Business and Human Rights (UNGPs) lies in its nature as soft law, which means that it does not have legally binding power. This poses a serious challenge in ensuring consistent implementation across jurisdictions. Many multinational corporations only make the UNGPs an ethical guideline or voluntary commitment, with no enforceable legal obligations (Chambers & Martin, 2022). As a result, the implementation of UNGPs often relies on corporate awareness or pressure from civil society and consumers, so its effectiveness in encouraging accountability is still limited (Ruggie, 2013; McCorquodale, Smit, Neely, & Brooks, 2017).

In addition, the diversity of the national legal system adds to the complexity of the implementation of UNGPs. Some countries have adopted National Action Plans (NAPs) to internalize these principles, but many countries still do not have adequate legal instruments to bind corporations in the context of human rights. This creates legal uncertainty and opens up space for forum shopping practices, where corporations can take advantage of jurisdictions with weaker regulations. (Kaleck & Saage-Maaß, 2010) Therefore, although UNGPs is an important milestone in building global standards, its soft law nature shows limitations in ensuring corporate accountability, so it is necessary to strengthen it through more binding legal instruments at the international and national levels (Deva & Bilchitz, 2013; Wettstein, 2022). McCorquodale et al. (2017) found that most companies only adopt these principles in the form of voluntary policies without strict monitoring mechanisms. A similar study by Bueno and Bright (2020) emphasized that the limitations of the UNGPs make human rights protection still highly dependent on internal corporate commitments as well as external pressure from civil society and consumers, so that legal accountability has not been fully achieved. In addition, the research of Deva and Bilchitz (2013) highlights the need for more binding international legal instruments to complement the UNGPs, given the inequality between global corporate power and weak enforcement mechanisms at the national level. Wettstein (2022) also emphasized that without strengthening legal instruments, the risk of human rights violations in global supply chains will continue. Thus, relevant academic studies show that UNGPs are an important step in business governance and human rights, but their effectiveness can only be ensured if followed by regulatory reform and a firmer commitment to implementation in various jurisdictions.

2. Research Methods

This study uses a normative juridical approach with a qualitative analysis method. This approach was chosen because the focus of the research is to analyze international legal norms, principles, and instruments related to corporate accountability in relation to human rights. The main data sources come from primary legal materials, such as the United Nations Guiding Principles on Business and Human Rights (UNGPs), international treaties related to human rights, and national legal instruments that adopt these principles. Secondary legal materials in the

form of academic literature, international journal articles, international organization reports, and policy documents are used to strengthen the analysis and provide a comparative perspective.

The analysis method used is descriptive-analytical analysis with a qualitative approach. The analysis is carried out by describing the content of the norms contained in the UNGPs, assessing the implementation of these principles in various jurisdictions, and comparing their effectiveness with other binding legal instruments. In addition, this study also uses comparative methods to identify differences and similarities in the implementation of UNGPs in a number of countries, as well as examine the challenges and opportunities that arise in the context of globalization. Thus, this methodology is expected to be able to produce a comprehensive understanding of the role of UNGPs in strengthening corporate accountability and human rights protection.

3. Results and Discussions

The Role Of Companies In Implementing Human Rights Due Diligence

Companies have a central role in ensuring that their business activities do not negatively impact human rights. The concept of human rights due diligence (HRDD) as stipulated in the United Nations Guiding Principles on Business and Human Rights (UNGPs) emphasizes that every company is obliged to identify, prevent, mitigate, and be accountable for human rights impacts that may arise from its operations and supply chains. Thus, HRDD becomes a proactive mechanism that ensures companies are not only legally compliant, but also integrate ethical and sustainability values in business governance (Ruggie, 2011; Nolan, 2014).

The implementation of HRDD requires companies to conduct a thorough human rights risk assessment. These risks include labor exploitation, discrimination, labor rights violations, and environmental damage that impacts local communities. According to research by McCorquodale et al. (2017), companies that successfully integrate HRDD typically build a rigorous internal audit system and engage an independent third party to assess compliance. In this way, HRDD serves as a preventive instrument that encourages companies to be more responsible towards society and the environment (Buhmann, 2015). Furthermore, HRDD also plays a role in strengthening corporate transparency. By openly reporting potential and addressing human rights violations, companies can increase public trust and social legitimacy. A study by Backer (2015) shows that companies that consistently implement HRDD tend to be more accepted by investors and consumers, as they are perceived as committed to sustainability principles. Transparency in HRDD also helps companies minimize reputational risks that can harm their business in the long term (Asnur et al., 2024; Suyatmo et al., 2023; Uluk et al., 2024; Zulyusri et al., 2023)

However, implementing HRDD is not without obstacles. The main challenge lies in complex global supply chains, where companies often struggle to ensure their suppliers and subcontractors comply with human rights standards. Wettstein (2022) emphasizes that even when large companies implement HRDD, violations often occur at the supplier level operating in countries with weak regulations. This suggests that companies must be more proactive in establishing oversight mechanisms and fair partnerships with their suppliers. Furthermore, HRDD provides strategic opportunities for companies to create competitive advantages. According to Deva & Bilchitz (2013), companies that consistently respect human rights tend to be more competitive in the global marketplace, as consumers and business partners increasingly pay attention to ethical aspects. Thus, HRDD is not just a moral obligation, but also a sustainable business strategy that can create long-term added value for the company (Lindsay et al., 2013)

Ultimately, a company's role in HRDD will only be effective if supported by adequate regulations and collaboration with the state and civil society. Several countries, such as France through its Duty of Vigilance Law and Germany through its Supply Chain Due Diligence Act, have begun mandating HRDD in their national laws. These policies demonstrate that companies can no longer rely solely on voluntary commitments but must instead position HRDD as an integral part of their legal and ethical obligations. Thus, HRDD becomes a key instrument for ensuring a balance between business interests and human rights protection (Muchlinski, 2021; Bueno & Bright, 2020).

Corporations and Human Rights Due Diligence

The role of corporations in implementing human rights due diligence (HRDD) is crucial in the context of global supply chains. The UNGPs emphasize that companies are responsible not only for their internal operations but also for the human rights impacts disregarded by their suppliers and business partners. Through HRDD, companies are expected to identify, prevent, and mitigate potential human rights violations throughout their supply chains (Fasterling & Demuijnck, 2013). Ruggie (2011) emphasized that HRDD is not merely a moral obligation but a governance instrument that must be integrated into global business strategies. The effectiveness of internal corporate policies in preventing human rights violations depends heavily on the extent to which HRDD principles

are actually implemented. Many multinational companies have formulated codes of ethics, sustainability policies, and internal audit mechanisms as a form of commitment to human rights. According to McCorquodale et al. (2017), effective internal policies are those accompanied by independent monitoring mechanisms, transparent reporting, and clear sanctions for suppliers who violate them. However, if policies are merely declarative without enforcement mechanisms, HRDD risks becoming merely symbolic (window dressing).

Despite the widespread adoption of the UNGPs, case studies show that human rights violations in global supply chains remain common. For example, cases of child labor and hazardous working conditions in the Bangladeshi textile industry following the 2013 Rana Plaza tragedy continue to raise serious questions about the effectiveness of corporate commitments to HRDD (Reinecke & Donaghey, 2015). Similarly, a 2016 report by Amnesty International revealed the exploitation of child labor in the cobalt supply chains of global technology companies, despite the companies having adopted human rights policies in line with the UNGPs (Feeney, 2017). These cases demonstrate that the adoption of the UNGPs and the implementation of HRDD have not fully addressed the gap in human rights violations, particularly in countries with weak regulations. Wettstein (2022) emphasizes that the success of HRDD depends not only on internal corporate commitments but also on the existence of external regulatory mechanisms that can enforce accountability. Without a robust legal framework, companies can still shift risks to suppliers in less stringent jurisdictions, thus undermining the primary purpose of HRDD. Thus, while HRDD is an important instrument in building corporate accountability, its effectiveness can only be achieved through a combination of strong internal policies, independent monitoring, and binding regulatory support. Deva & Bilchitz (2013) suggest the need for a hard law international legal instrument to complement the UNGPs, so that companies do not rely solely on voluntary commitments. Therefore, the role of corporations in HRDD must be understood not only as an ethical obligation, but as part of equitable and sustainable global business governance (Muchlinski, 2021).

4. Conclusion

This study demonstrates that the role of companies in global supply chains is crucial in preventing and minimizing the risk of human rights violations. Although the UNGPs provide a normative framework through the principles of "protect, respect, and remedy," their soft law nature leaves gaps in implementation, particularly in cross-jurisdictional contexts. This poses serious challenges, particularly when companies operate in countries with weak regulations or limited law enforcement, risking the continuation of business practices that potentially violate human rights. However, the effectiveness of internal corporate policies in preventing human rights violations is determined not only by formal compliance but also by a substantive commitment to integrating due diligence principles throughout the supply chain. Case studies show that human rights violations continue to occur despite the adoption of the UNGPs, indicating a gap between international norms and practical implementation on the ground. Therefore, efforts are needed to strengthen corporate accountability through more binding regulatory mechanisms, increased transparency, and collaboration between states, corporations, and civil society to ensure effective and sustainable respect for human rights

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