

## Multinational Corporation's Human Rights Obligations Overview

Sadia Khattak<sup>1</sup>, Muhammad Zubair<sup>2</sup>, Hidayat-ur-Rehman<sup>3</sup>, Muhammad Aqeel Khan<sup>4</sup>

<sup>1,2,4</sup>Assistant Professor of Law at Abdul Wali Khan University, Mardan, Pakistan

<sup>3</sup>Lecturer of Law at Abdul Wali Khan University Mardan Pakistan

*Received: April 9, 2014*

*Accepted: July 14, 2014*

---

### ABSTRACT

The aim of this article is to study the various guidelines outlined for regulating the behaviour of the multinational corporations in the performance of their professional roles to shun the exploitation of human rights. The relationship between human rights and corporate business conduct is issue of much importance in a legal discourse. Earning profit and stimulating economic activities are no more considered the sole functions of the multinational corporations. As the most important non-state entity on the international plane, multinational corporations are responsible for protecting the human rights. The rise of the adverse impact of the Multinational corporations activities on the human rights, has caused a serious concerns at a domestic and international level. Thus corporations were called to show a socially responsible conduct towards the human rights in its business operations. This led to the development of the concept of the corporate social responsibility. Subsequently in the backdrop of this concept various international initiative, Guide lines and codes were given by the international organizations with reference to human rights responsibilities of the Corporations. Of the particular importance are the international soft law frame works, UN drafts norms on the responsibilities of the transnational corporations and business enterprise with regard to human rights, the frame work given by Professor Ruggie and the guidelines build on it as the latest effort for streamlining the business conduct of the multinational corporations is overviewed and analysed.

**KEY WORDS:** Corporation, social, responsibility, organizations, international.

---

### 1. INTRODUCTION

From time to time various regulations have been framed for regulating the conduct of the multinational corporations in the performance of its business functions to avoid the abuse of human rights. The Businesses have the human rights responsibilities is a commonly accepted norm today. Various diverse groups including corporate executives, investors, shareholders, states, civil society, trade unions, consumers and organizations believed now that corporations have social responsibilities apart from merely business operations, expansion and money making [1]. For protecting and realizing the human rights in the light of the corporate activities which contribute towards human rights violations various international human rights norms and standards have been formulated from time to time for effectively holding the Transnational Corporation accountable for causing adverse impacts on human rights. Though reasonable enough for giving social responsible conduct of the corporations, these initiatives were usually criticised for its coverage problem and enforceability mechanism leaving the gaps in the enforcement of corporation's human rights obligations [2]. For overcoming this situation The UN Special Representative for Human Rights and Business was appointed from (2005 -2011) to clarify the social responsibilities and accountability of the corporation. Professor Ruggie gave a Framework known as 'protect, respect and remedy' framework, which outlines the role of the corporations and states for the realization of human rights [2]. The article will focus discussion on various soft law instruments or regulations for Multinational corporations, UN Drafts Norms and mainly on the Ruggie Conceptual and Policy framework and the Guiding Principles based on it that eventually emerged as the global guidelines for the regulations of the corporation Conduct.

Before embarking the discussion on the long ongoing process to articulate the responsibilities of the corporations regarding the human rights it would be appropriate to discuss the concept of corporate Social Responsibility and the development of the concept in the legal discourse so far.

#### 1.1 Corporate Social Responsibility:

Start of globalization era has brought integration of world economies. It stimulated development and economic growth through trade. A transnational corporation is seen as a most prominent contribution of

---

\*Corresponding Author: Sadia Khattak, Assistant Professor of Law at Abdul Wali Khan University, Mardan, Pakistan.

globalization in the world trade. MNCs have played a prominent role in economic activity by bringing employment and generated trade and investment across the states boundaries. In the beginning MNCs were considered to be solely concerned with business and making profits[3]. However in recent years the relationship between human rights and transnational corporations was realized [4]. Transnational corporations has played a prominent role in advancing the economic growth of the host country by bringing in FDI which resulted in creation of job, diffusion of technology thereby contributed in improved living conditions of people in general, and has facilitated the enjoyment of wide range of human rights starting from food, health to the rights of information and right of free expression through new technologies [5]. It was realized that TNCS can not only be the facilitator of improved human right it can be the invader of human rights through its own business conduct or either may act in complicity with the host government plan for invasion of rights [6]. The states were the main duty holders for promotion and protection of human right instrument as the international framework of human right was state -centric [7]. However the threat to established human right framework was caused by MNCs because of its increased economic influence it wields in a host country. MNC holds strong economic and political position in a host country and thus can influence the host country to ignore human right abuses resulting from corporate activities [5]. MNCs have been accused of its direct or indirect involvement in human rights abuses such as forced labour, pollution of environment, disruption of population, rape, murder, extrajudicial execution and torture [8]. Such abuses acknowledge the MNCS responsibilities towards human rights in its business conduct. The responsible business conduct demand a responsibility on part of MNCs to disclosed detailed information about its business making activities. This brought a concept of Corporate Social Responsibility in a business culture worldwide which imply that business activities does not result in violations of human rights. Thus the corporate social responsibility established a link between business conduct and human rights.

## 2. WHY CORPORATIONS SHALL ADHERE TO HUMAN RIGHTS OBLIGATIONS

The states were considered to be the primary duty holders of individual sin the human rights frameworks. With increased economic activity across the boundaries of states the MNCs were brought into the framework of human rights. It was held that its increased economic activity has the potential of violating the human rights. It was argued that corporations wield influence and power while conducting their business in a state where its operate so it shall be socially accountable for its business activities as well as human rights obligations in situation where it is imputed for such violations. However the globalization has fully integrated the world which promotes economic activity irrespective of boundaries as well as it brought the complete adherence to human rights obligations and demands the same responsibility on part of the corporations as new duty holders [9]. Another group of thought argued against attaching human rights obligations on MNCS on the footing that MNCs are private entities, and enter the private domain excessively because of its private business [9]. They held that corporations accountability shall be called through national laws where it work and states shall only be questioned at international level through positive obligations for corporate misbehaviour relating to human rights obligations and international level states can be addressed for corporate misconduct [9]. While commenting on the rise of TNCs exhibiting power and resources and it potential for violating the human rights in the states Charles Handy said

‘If we haven’t bothered much about these things in the past, it is probably because we never thought of businesses as political institutions, but rather as engines and instruments of commerce, as machines not communities, We did not, apply the same rules to them as we would to a nation–state, where matters of human rights, free speech and the responsibility of the governors to the governed would be argued about and even fought over’ [9]. Similarly while commenting on the evolution of the Multinational Corporation and its accumulation of political and economic power at the international arena Raymond Vernon observed that,

‘TNCs, for better or worse, exhibited a powerful potential capable of displacing the ability of government to exert influence over their actions’ [10].

This statement is based on the quick developments that have taken place in the wake of globalization, which has assisted the TNCs to acquire the position of strength consequently outperforming the national economies of the states [11]. TNCS have changed the established notion that states are only the major players on the international plane by challenging the grip of the states on sovereignty internally as well as externally mainly because of its prominent role in global economic activity highlighted by the fact the activities of 100 corporations have grown faster than the nation – states [12]. The threats to states sovereignty due to the economic activities of the TNCS are variant, but the major threat which the states felt because of its activities is in the area of Human Right. Various debates took place discussing the corporate influence in areas of social importance and for regulation of its business conduct responsible for impacting human rights. This led to various definitions of corporate social

responsibility. The European Commission termed the phrase corporate social responsibility means 'Socially Responsible' [13]. Another scholar while defining the corporate social responsibility commented that the phrase include the relationship of the business with variant stakeholders e.g. Employees, customers, suppliers and shareholders, state, interstate institutions, and its business responsibility to the state in which it operates and to the global community [14]. Similarly Confederation of British Institutes defines the term as 'catch all title referring to the activities of companies, shareholders, customers, suppliers, employees and other players' [15]. Thus responsibility is demanded on part of the corporations to be aware of infringing the human rights during various stages of its function and addressing the harms that is caused of its activities.

Despite of socially responsible need the corporations are seen to violate its responsibility in many instances so far. Maximization of profit is the sole motive of corporations, while attaining this object it ignore its socially responsible conduct in its business a activities thus making it difficult for the host state to control business corporations [16]. A business corporation prefer to work in states, which have infrastructure favourable to them, and provides low subsidies[16]. A company of various nationalities connects to each other by mean of contract, managerial control and through shareholders, which constitutes them a big economic giant thus transcending the state authority and control [16]. For instance the corporations violate labour conditions in a state where they run their business, it preferred to work in states where Governments show slackness in implementing the standard labour working conditions. Corporations take benefit of such situations and earn huge usually because of low labour wages and non-maintenance of required standardized working conditions [17].They are evenly charged for influencing the state government by favouring them in terms of providing them with protection in instances where locals are showing resentment against corporation's exploitation [18]CAREY UNOCOL. They are accused of politically manoeuvring the situations in a states for securing the position of the government in power favourable to its business activities e.g. in Nigeria BP Shell and Royal Dutch supported the military regime against the movements for the land rights of Ogoni People, whose land was threatened by the oil mining ventures [19]. Apart from that the environmental pollution caused by the negligence oil spill by Exxon Valdez, Torrey Canyon, Rhine Pollution by Sandoz, Seresodioxin leak and Bhopal incident are few to be mentioned [16].

### **3. INTERNATIONAL SOFT LAWS FRAMEWORKS FOR MNCs**

Kinley and Chambers commented that the year 1990 witnessed the increased instances of human rights violations by TNCs variously .The reasons were liberalization of trade rules, growth of foreign direct investment in developing countries and gain in economic power and influence of MNCs [20].Various frameworks were produced by the international organizations from time to time with reference to human rights responsibilities of the corporation in the form of guidelines, principles and codes [2].Together it can be called 'international soft laws' frameworks [2]. Guidelines for Multinationals Enterprise given by the OECD in 1976 were the first effort in this regard. It is still considered as the 'most widely used instruments defining the obligations of multinational enterprise' [21].By making a reference to the Human right obligations of the enterprise it states that 'enterprise should respect the human rights of those affected by their activities consistent with the host government's international obligations and commitments' [22]. It also gives detailed provisions regarding the labour rights [22]. Another striking effort of the soft law framework was International Labour Organization (ILO) Tripartite declaration of principles concerning multinational enterprises [2].This framework was primarily concerned with the labour rights. The Article 8 of the framework required the corporations that it should 'respect the Universal Declaration of Human rights and the corresponding international covenants [2]. Another initiative that did not succeed for regulating transnational corporation conduct was the UN Draft code of conduct on transnational corporations .It failed because of the opposition from the western countries and business [23],besides these frameworks an alternative approach was created by UN called 'Global Compact Principles' [24]. It was the creation of the set of principle that the corporations voluntarily adopt by signing themselves up [2].

These soft laws framework are remarkable in regulating the corporation conduct for the protection and promotion of human in the sphere of businesses these initiatives have been criticised for having inherent limitation as well. For instance Global compact principles are criticized on the ground that it lack effective monitoring system neither it demand an earnest commitment on behalf of transnational corporations to human rights as well as it did not lay out defined and concrete obligations for it[25].Similarly OECD guidelines also lack an effective enforcement mechanism nether it offered detailed provisions on human rights [20]. The ILO framework is criticised despite it gives detailed obligations for transnational corporations regarding labour rights it did not offer any implementation mechanism [25]. Overall all these factors contributed in undermining the functioning of these frameworks. Each of these frame works and other initiatives like multi-stakeholders' initiative and self-regulatory schemes of the

corporation's (voluntary codes and policies) framed for regulating the conduct of transnational corporation for their human rights performance leave significant accountability gaps [2].

#### **4. UN DRAFTS NORMS ON THE RESPONSIBILITIES OF TRANSNATIONAL CORPORATIONS AND OTHER BUSINESS ENTERPRISES WITH REGARD TO HUMAN RIGHTS**

The UN norms can be exemplify as the first attempt to draft 'a common global framework for understanding the responsibilities of business enterprise with regard to human rights' [26]. For drafting a code of conduct for business corporations a working group was formulated by the UN sub commission on promotion and protection of human rights [27]. The reason was to correlating human rights and Business Corporation's conduct and overcoming the existing gap in regulating the business conduct in sphere of human rights. There port titled as the working group submitted 'Draft Norms on the Responsibilities of Transnational Corporations and other Business Enterprises with Regards to Human Rights' in 2004 to UN sub Commission [28]. The distinguishing features of the norms was that it sought to impose on the corporation's the binding obligations of human rights similarly which the states are under international law have accepted as a duties for themselves that is 'to promote, secure the fulfilment of, respect, ensure respect of, and protect human rights' [29]. It also attempted to consolidate all the principles on the corporation's code of conduct framed from time to time for instance universal declaration of human rights 1948, OECD, WHO, ILO, Rio Declaration on environment and Development 1992, UN world summit on sustainable development 2002 [30]. Another striking feature was its legally binding character rather than being voluntary as compared to previous regulations concerning conducts of transnational corporations that required implementation [30]. For this reason it was called 'first non-voluntary initiative accepted at the international level' [28]. The norms gives the implementation modes like, creation of internal rules by Transnational corporation for compliance with the norms, provisions relating to the monitoring of norms, provisions requiring state to establish administrative and legal frameworks for ensuring norms implementation, norms application in contracts with third parties, in instances of violations of the norms effective and prompt compensation to in case of violations of the norms to those affected by transnational corporations [2]. The business groups did not welcome the norms and were opposed to its adoption they were highly opposing the enforceability requirement of the norms unlike voluntarism while the human rights activist were favouring this endeavour [2]. The UN sub commission instead of adopting or rejecting the norms made a request to UN Secretary General regarding the appointment of special Representative on the issue of human rights and business [31]. Upon a request Professor John Ruggie was appointed as the UN Special Representative of the secretary general on the issue of human rights and business who was given the task to formulate the policy frame work delineating the transnational corporation conduct in the sphere of human rights. The following objectives were highlighted 'to identify and clarify the standards of corporate responsibility and accountability for businesses and human rights; clarify the implications for businesses of concepts such as 'complicity' and 'sphere of influence'; develop materials and methodologies for undertaking human rights impact assessments of the activities of transnational corporations and other business enterprises' [32].

#### **5. PRINCIPLE BASED CONCEPTUAL FRAMEWORK OR THE RUGGIE FRAME WORK**

The Ruggie framework given by the Professor Ruggie as a response to his mandate is also called 'principles based conceptual framework as it was not a quasi-legal instrument of regulation or the Ruggie framework [2]. The framework is devised on the three foundational principles of 'protect, respect, and remedy' [33].

##### **5.1. DUTY TO PROTECT:**

The duty of the state to protect is considered primary obligation of the state that is also the cornerstone of international human rights law. United Nations used this norm regularly in delineating the state's obligations with respect to all substantive human rights [2]. The Principle emphasized the state's duty to protect against the human rights abuses involving business corporations and recommended various domestic policies to hold corporations accountable in instances of human rights violations in a state. Ruggie gives various examples suggesting as to how the states can fulfilled and achieved its obligation of the duty to protect. Firstly, government by strengthening and supporting the 'market pressure on companies to respect rights' can assist in promoting the human right culture in a state [33]. Secondly he advised 'policy alignment' for attaining coherence between trade and investment obligations on one-hand and human rights obligations on other hand. For instance he argued that action must be taken against the stabilisation clauses in investment agreements causing hindrances in state's duty of protection and promoting of human rights as well as against the un-transparent investment procedures that have the effect of causing impact on public interest issues involving human rights

[33]. Also he added that through international co-operation states duty to protect could be enhanced such as the use of Security Council sanction in conflict zones to target human rights abuses [2].

## **5.2. DUTY TO RESPECT:**

The second principle was the corporation's responsibility to respect human rights or in other words it means 'to do no harm' [2]. The duty to respect 'in essence means to act with due diligence in order to avoid infringing on the rights of others' [33]. It required the identification of potential violation of human rights and taking action against it. In instances of failure to perform the duty can subject the corporations to censure of public opinion that includes civil society, employees, consumers, communities, investors as well as actual indictment in case of violations in courts of law [33]. For implementing the duty to respect the Ruggie gives various examples such as, integrating company's human rights policies throughout country, impact assessment of company's activities, creation of corporate human rights policies, monitoring and auditing of company human right policies, following of global compact and other important human rights instrument in its operations and working [33].

**5.3. RIGHT TO REMEDY:** The third principle covers the right given to the victim of access to remedy involving judicial and non-judicial mechanism of the state to 'investigate, punish and seek redress for abuses' [33]. Further the corporations were also recommended to set up grievance mechanism cell for reporting of human rights abuses [33]. Ruggie commented that the existing remedies that are available in instance of abuses of human rights are in many respect ineffective and needs to be strengthened. He suggested that states should take effective steps to 'strengthen judicial capacity to hear claims and enforce remedies' against all the corporations doing businesses in its territory and make provision of easy access to justice for the local and foreign victims of human rights. Ruggie also gives a list of non-judicial remedies such as state based non-judicial mechanism and company level grievance procedures meeting certain criteria e.g. legitimate, predictable, accessible, equitable, transparent and rights compatible in order to be effective and credible [33].

## **5.4. ASSESSMENT OF RUGGIE'S FRAMEWORK**

The conceptual based policy framework given by Ruggie was largely welcomed by both the working and campaigning groups unlike their previous polarised stands regarding the past initiatives that have been taken in this field. The reason was the participatory nature of the framework. The participation and involvement of these groups during its making, made it more receptive as compared to the UN norms. The participation and consultation with various stakeholders was missing during the formulation of the UN norms. Ruggie by interacting with various actors has enhanced the reception of his work [23]. Another important feature of the framework is the use of terms like 'protect' and 'respect' taken from the terminology of the existing human rights instrument and applied in the framework. This has the added effect of giving a holistic picture to the framework because the terms protect and respect are often used in many different legal instruments relating to wide range of actors and issues. The use of this terminology in the framework also give certainty to the main stakeholders, state and corporation of their respective duties of protecting and respecting the human rights [2]. Similarly the campaigning organization can rely well on the protect respect and remedy framework for enhancing the corporation's obligations in a varied policy areas and in creating more effective remedies for human rights violations by the corporations [2].

## **5.5. THE GUIDING PRINCIPLES:**

The UN membership supported the Ruggie policy framework [34]. His mandate was extended for next three years on 18 June 2008 for promoting and operationalizing the policy framework. It includes to 'Elaborate further on the scope and content of the corporate responsibility to respect all human rights and to provide concrete guidance to business and other stakeholders; identify, exchange and promote best practices and lessons learned on the issue of transnational corporations and other business enterprises, in cooperation with the efforts of the human rights working group of the Global Compact' [35].

Following this mandate Ruggie gave concrete recommendations in the form of guiding principle called Guiding Principles on Business and Human Rights: Implementing the United Nations 'Protect, Respect and Remedy' framework. The Guiding principles were endorsed by Human rights council on 16 June 2011 and established a working group for a period of three years for its dissemination and implementation [36]. Guiding principle has delineated states duties for protection of human rights against the corporation business activities as well as the corporation responsibilities for taking care to respect human rights during the operation of its businesses.

## **5.6. STATE'S DUTIES UNDER THE GUIDING PRINCIPLES:**

The most common criticism levelled against the guiding principles is that it did not establish any binding international obligations on transnational corporation. What it offers new is mainly elaborating

the implications of existing standards and practices for states and business; integrating them within a single, logically coherent and comprehensive template; and identifying where the current regime falls short and how it should be improved' [37].

Emphasizing the duty of the state principle 1 provides that the states ' must protect against human rights abuse within their territory and / or jurisdiction by third parties, including business enterprise [37].For the performance of this duty states are required to take 'appropriate steps to prevent, investigate, punish and redress such abuse through effective policies, legislation, regulations and adjudication' [37].Principle 4 provides further that states shall takes measures against human rights abuses by the corporations under the control or ownership of the states, as well as the ones that operate in conflict affected areas[37]. States are duty bound to ensure that in instances of privatising public services and entering into commercial transaction with the companies to ascertain that such companies respects human rights[37]Under principle 2 homes states o whose territory transnational corporations are working are encouraged to take extra territorial measures to ensure that transnational corporations operations are not abusing human rights [37]Further states laws and policies relating to the creation and functioning of the business enterprise must be framed enhancing the respect of human rights rather than constraining it [37].For ensuring that victims of human rights shall have an access to effective remedy in instances of violations by the conduct of companies States must take legislative, administrative, judicial and other measures for facilitating an access to remedy to the victims in instances of human right violations by the corporations [37].Remedies that can be available to the victims of human rights violations may range from apology to compensation, rehabilitation, injunction, restitution and punitive sanctions [37]. For addressing the corporate human rights abuses states are duty bound to establish judicial and non-judicial mechanism [37].For strengthening these mechanism states shall take procedural, legal and practical measures to overcome the barriers that deny an access to remedy to the victims such as the lack of legal representation, non-availability of class action, principle of separate legal personality, high litigation cost and doctrine of forum non convenient [37].

## **6. CORPORATIONS HUMANRIGHTS RESPONSIBILITIES UNDER THE GUIDING PRINCIPLES**

The Corporation are given the responsibility to respect human rights during the conduct of its business activities. A distinction is made under the guiding principle between responsibility and obligation. The responsibility to respect human rights 'means that business enterprise should act with due diligence and to avoid causing adverse impacts on human rights by contributing through its activities and to redress such impacts if it occurs [37]. It is not explicit whether the term activities cover the activities of the subsidiary of the parents company operating elsewhere so as to impute the responsibility of causing impact on human rights to its parent company [38]. Further for imputing the conduct of subsidiary company to its parent company will also depend whether the parent companies relyon the enterprise principle or the entity principle [38].The responsibility of the corporations is widened further by expecting from it that during the course of its business it shall adopt the policy of severing its business relationships with its business partners like contractors, suppliers, who happened to indulge in human rights violations. Responsibility to respect human rights include all the human rights instruments which are internationally recognized e.g. Universal declaration of human rights, ICESCR, ICCPR, principles regarding fundamental rights given in the convention of ILO , and rights of work [37].Beside that corporations are required for taking into consideration the rights relating to the specific groups of people e.g. rights of children, women, indigenous people and people with disability as well as rights relating to labour, environment and bribery [37]. Limiting the definition of human rights in Guiding Principle to 'internationally recognized human rights' left out many important norms relating to human rights which cannot be ignored by the business conduct of the corporations in present days[38], that is the goal of sustainable development under agenda 21[39], environmental rights, rights of vulnerable group including indigenous community, children and women [40].Corporations are further required to give its 'Statement of policy' approved at a more senior level, committing a respect for the human rights relevant to human rights documents and must received it s feedback for its policy from the internal and external experts [37]. This statement should be publicly available which shall specify corporation human rights expectations of its business partners, parties and personnel associated with its business operations, services and products and all the stake holders must be communicated of the same [37]. In the light of this guiding principle companies which have drawn voluntary codes of conduct, principles and charter which they can be revised and bring it in line with these recommendations. Corporations shall aim to include practical prescriptions for fulfilment of the human rights responsibilities in its statement of policy rather than offering merely inspirational or ambitious undertakings [38].

The central component of the corporate responsibility to respect human rights is the obligation of the due diligence. The centrality of the human right due diligence principle is evident from the fact that five

out of nine operational principles of the respect obligation pertained to the issue of 'human right due diligence' [41]. It means 'steps a company must take to become aware of, prevent and address adverse human rights impacts' [41]. A continuous exercise undertaken by the corporation itself depends on its nature, size business operations as well on the extremity of human rights perils thus varying from company to company [38]. It is also called a voluntary reporting and self-regulating process [38]. Human Right due diligence will help the corporations of addressing the legal claims brought against them on a ground that they have taken every reasonable precaution to avoid the risk of alleged human rights violations [37]. A due diligence Principle thereby can bring a positive change in the corporate cultures and managerial attitude by streamlining the position of the human rights in its decision-making processes [41]. This principle will be deemed successful only if it can really influence corporate actions relating to human rights. A transformational change cannot be accomplished by setting few examples rather substantial efforts must be taken by the corporations across globe for maintaining human rights while conducting its business operations [41]. Principle of due diligence to respect human rights work well with human right impact assessment processes. Human right impact assessment mean 'to identify and assess any actual or potential adverse human rights impacts with which companies may be involved' either as a result of its business operations or its own activities' [37]. Human right impact assessment process involves many procedural steps. It includes prioritisation and screening process to enable the companies to undertake assessment of situation involving greatest human rights perils [37]. Meaningful consultation with the stakeholders to recognized international human rights standards during its business operations [37]. Once assessment is done which reveals adverse effects on human rights, necessary action shall be taken to mitigate or prevent its adverse effects [37]. The monitoring and assessing the effectiveness of the remedial is obtained by responses of the corporation to the adverse human rights impacts [37]. Communicating the same to the relevant stakeholder about its remedial responses [37]. This can be achieved by providing concrete information in easily accessible format rather than in general or vague form [38]. If the remedial measures that are taken by the companies are verified independently it would further contribute to the validity of the report and will improve the much-needed trust between the community and business [38]. The due diligence principle undoubtedly can help the companies to preempt, assess and manage the risk of adverse impact on human right if it conducts its due diligence investigations regularly and effectively [42].

Along with the due diligence process, guiding principles provided for the remediation mechanism. Certain instances may arise, where in corporations are implicated for contributing or causing human rights abuses. In such instances remediation process comes into play [38]. The companies remedy the situation by relying either on its own inbuilt grievance mechanism or it may resort to judicial and non-judicial mechanism when serious human rights violations issues are involved [37]. Corporations shall cooperate in the remediation process undertaken by the state based mechanism cognizant of human rights allegations by responding to notices, providing information at request, and avoidance of delaying tactics which may cause hindrance to judicial process [38].

## **7. CONCLUSION:**

Over viewing the various human rights documents worked out for regulating the corporate business conduct suggests that businesses have a role to play in the realization of human rights. Among various initiatives taken so far the success of the guiding principle is ascertained from the fact that it is the first ever-corporate responsibility initiative, which has received the endorsement at the UN. It has given the consensual standards so far regarding the corporation responsibilities for the human right. The usefulness of the Guiding principles is that these can be practically employed by the corporations and monitored by the state. Though the Guiding principles are not binding corporations cannot ignore them. Because it embody the human rights norms that are binding on the corporations under international law and as well as domestic laws [38].

However, despite its practicability and usefulness it cannot be called the first ever initiative giving the corporations human right responsibilities while recalling UN norms and Global Compact principles neither it is a final panacea to prevent the further development in working out the norms for corporate business responsible conduct regarding human rights.

## **REFERENCES**

- [1] S.Ratner , 2001. Corporations and Human Rights: A Theory of legal Responsibility , Yale Law Journal 111 (3) 443
- [2] James Harrison, 2010. Human Rights and Transnational Corporations: Can more meaningful International Obligations be established? in Human Rights and Transnational Corporations :

- Establishing meaningful obligations in international law , Economic Globalization and Developing Countries ( eds Faundez and Tan ) Edward Elgar
- [3] Milton Friedman, The Social Responsibility of Business is to increase Profits, N.Y. Times Mag., SEP 30 1970.
  - [4] Leeladhara Bhandary, 2011. Relationship between Business Corporations and Human Rights: A legal Analysis. Available at SSRN.com <http://ssrn.com>
  - [5] Paul Redmond, 2003. Transnational Enterprise and Human Rights :Options for Standard Settings and Compliance, *Int L' Journal* 37 69-102
  - [6] Sarah Anderson & Cavanagh, 2000. Top 200: The Rise of Corporate Global Power, Institute for Policy Studies
  - [7] Sukanya Pillay, 2004. And Justice For all, Globalization, multinational Corporations and need for legally enforceable Human Rights Protection, *U.Det. Mercy.l. Review* 81 489
  - [8] Larissa van Den, 2010. Regulating Corporations under international law: From Human Rights to International Criminal Law and back again, *Journal of international criminal justice* ,8(3) 725-743
  - [9] Charles Handy, 2011. The World in 1997: Will your company become a Democracy, *The Economist* [www.economist.com](http://www.economist.com)
  - [10] Raymond Vernon, 1992. Transnational Corporations: Where are they coming from, Where are they headed? , *TRANSNAT'L CORPS* 1(7) 10
  - [11] Matt Hartley, 2011. U.S balance now less than Apple Cash, *Financial Post* <http://business.financialpost.com/201107/28>
  - [12] Press Release, 2002. U.N Conference on Trade and Development, Are Transnational Bigger than Companies .U.N. Press. Release TAD/INF/PR/47( Aug 12, 2002)
  - [13] European Commission 'Communicating from the Commission concerning Corporate Social Responsibility : A Business contribution to Sustainable Development ,COM (2002 )347, Brussels, 2 July 2002,5
  - [14] C John M. Conley & Cynthia Williams, 2005. Engage, Embed and Embellish: Theory Versus Practice in the Corporate Social Responsibility Movement, *J. Corporation.L* , 31 1-38
  - [15] [www.cbi.org.UK](http://www.cbi.org.UK)
  - [16] C.Carey , 1997. Unocal Corporation can be liable for human right abuses in Burma, 7(1) *Human Rights Brief*, 9-11 Emeka Duruigbo, 2008. Corporate Accountability and Liability for International Human Rights Abuses, 2008 *J.Int.L. Hum.Rts.*, 6 (2) 222
  - [17] Lucein Dhooge, 2008. Human Rights for Transnational Corporations, *J. Transnational law & Policy*, 16 197-249
  - [18] C.Carey, 1997. Unocal Corporation can be liable for human right abuses in Burma, *Human Rights Brief* 7 (1) 9-11
  - [19] Adefolake Adeyeye, 2007. Corporate Responsibility in International Law: Which way to go. *SGYrB Kntlaw* 10 (11) , 141-161
  - [20] David Kinley and Rachel Chambers, 2006 . The UN Human Rights Norms for Corporations: The private Implication of Public International Law, *Human Rights Law Review* 1 (2),1-51
  - [21] Olivier de Schutter, 2006. The Challenge for imposing Human Rights Norms on Corporate Actions in Olivier de Schutter (ed) *Transnational Corporations and Human Rights*(Hart Publishing, Oxford) 4
  - [22] OECD Guidelines for Multinational Enterprises, 27 June 2008. [www.oecd-ilibrary.com](http://www.oecd-ilibrary.com)
  - [23] Buhmann, Karin, 2009. Regulating Corporate Social and Human Rights Responsibilities at the UN Plane: Institutionalising New Forms of Law and Law-Making Approaches, *Nordic Journal of International Law* , 78(1) 1-52
  - [24] The UN Global Compact, United Nations Documentations, July 2000, revised June 2004. [www.unglobalcompact.org](http://www.unglobalcompact.org)
  - [25] Clapham, Andrew, 2010. The Rights and Responsibilities of Armed Non-State Actors: The Legal Landscape & Issues Surrounding Engagement, Geneva Academy of International Humanitarian Law and Human Rights
  - [26] Statement of Support for Human Rights Norms for Business, 2004



- [27] UN Sub Commission on the Promotion and Protection of Human Rights, The effects of the working Methods and activities of Transnational corporations on the enjoyment of Human Rights. UN Doc E/CN.4/Sub.2/Res/2001/3 (2001)
- [28] David Weissbrodt and Muria Kruger, 2003. Norms on the Responsibilities of Transnational Corporations and other Business Enterprise with Regards to Human Rights, *AJIL* 97(4) , 901-922
- [29] Surya Deva, 2004. UN Human Rights Norms for Transnational Corporations and other Business Enterprise: An imperfect step in the right direction, *ILSA Journal of Comparative and International Law* 10 493-523
- [30] Denis G Arnold, 2010. Transnational Corporations and Duty to Respect basic Human Rights, *Business Ethics Quarterly*, 20(3) ,377-391
- [31] United Nation's official document, UN Doc E/CN .4/ 2005/L.87, 2005.
- [32] United Nations Special Representative of the Secretary General on the issue of Human Rights and Transnational Corporations and other Business Enterprise, Protect Respect and Remedy :A Framework for Business and Human Rights .UN Doc E/CN.4/2006/97, Feb 2006
- [33] Ruggie J 2008. Protect Respect and Remedy Framework for Business and Human Right. UN.Doc.A/HRC/8/5 2008
- [34] United Nations Resolution, U.N.Res.8/7, June 2008.
- [35] [The\\_UN\\_SRSG\\_and\\_the\\_UN\\_Global\\_Compact.html](#),
- [36] Human Rights Council Res.17/4, Human Rights and Transnational Corporations and other Business Enterprises, 17 Sess., June 16, 2011. U.N.Doc. A /HRC/17/L.Rev.1 2011
- [37] Guiding Principles on Business and Human Rights, Implementing the United Nations 'Protect, Respect and Remedy Framework', A/HRC.17/31 (21 March 2011)
- [38] Surya Deva, 2012 Guiding Principles on Business and Human Rights: Implications for Companies, *European Company Lawyer*, 9(2) ,101-109
- [39] Agenda 21, Chapter30: Strengthening the role of Business and Industry', 2010, [www.un-documents.net/a31-30htm](#)
- [40] UN Convention Concerning Indigenous and Tribal People in Independent Countries 1989, UN Convention on the Rights of the Child (1990), UN Convention on the Elimination of all forms of discrimination against Women (1981)[www.unesco.com](#)
- [41] James Harrison, 2012. An Evaluation of the Institutionalisation of Corporate Human Rights Due Diligence, Warwick School of Law Legal Studies Research Paper.
- [42] T. Lambooy, 2010. Corporate Social Responsibility: Legal and Semi Legal Framework Supporting CSR, (Kluwer : The Netherland) 326

**Sadia Khattak** has done her LL.M from University of Glasgow, UK and serves as Assistant Professor of Law at Abdul Wali Khan University, Mardan, Pakistan.

**M. Zubair** has done his LL.M from University of Glasgow, UK and serves as Assistant Professor of Law at Abdul Wali Khan University, Mardan, Pakistan.

**Hidayat-ur-Rehman** has done his LL.M from Brunel University UK and serves as a Lecturer of Law at Abdul Wali Khan University Mardan Pakistan.

**Muhammad Aqeel Khan** has done his LL.M from Kings College London, UK and serves as Assistant Professor of Law at Abdul Wali Khan University, Mardan, Pakistan.