

Affording accountability to non-state actors: A comparative study with special reference to Sri Lanka

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Along with the emergence of universal human rights protection for every human being after the conclusion of World War II, the obligation to protect human rights was seen solely as a duty of the State, without consideration of the obligations that may be afforded to non-State actors (NSAs). With the emergence of influential corporate bodies like Multinational Corporations (MNCs) and Transnational Corporations (TNCs) and the presence of armed NSAs, the State-centric approaches towards protecting human rights seem insufficient. Even though there are international, regional, and domestic mechanisms available for affording human rights obligations to NSAs, their obligations are strictly limited to the extent of their capacity, context, and commitments. Although these initiatives can have a spillover effect on the world as a whole, the enforcement mechanisms, binding obligations, supervisory functions, and robust grievance systems are virtually absent. Besides, the mere presence of certain mechanisms does not guarantee protection unless they are enforced with meaningful consequences for the stakeholders. Against this backdrop, the author will limit the scope of this paper to the study of the special protections afforded against violations of human rights by corporate bodies in Sri Lanka, with a view to formulating a grounded corporate accountability framework. Even though some of these violations are resolved through judicial interventions, in reality, most of these violations are backed or instigated by the State itself or often go unnoticed. Therefore, this study recommends emancipating human rights protection from State-centric arrangements and developing a decentralized system for the protection of human rights, as the former is bound to fail in regulating complex affairs of the corporate world. Further, creating an international framework and judicial bodies to adjudicate these corporate NSAs to hold corporate entities directly liable on a global scale will create an opportunity to afford liabilities directly against them. Such liabilities will act as a check on the diverse conducts of corporations and bring the victims proper reparation for damages, which will be inclusive of restitution, compensation, rehabilitation, satisfaction, and guarantees of non-recurrence.

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