DOI: https://doi.org/10.47344/k6h5t238
IRSTI: 10.87.89

The Role of Transnational Corporations in the Commission of International Crimes: Challenges of Accountability

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Abstract

The article examines the involvement of transnational corporations (TNCs) in international crimes and the gaps in international law governing their responsibility. In the context of globalization, corporations can rival or exceed weak States in political and economic power, which increases the risks of human rights abuses, environmental harm and even support for armed conflict. Using cases such as Shell, ExxonMobil and Vedanta, the article shows how TNCs avoid liability through corporate fragmentation, subsidiaries and the absence of clear international mechanisms, including the inability of the International Criminal Court to prosecute legal persons. National precedents, including Wiwa v. Shell and Vedanta v. Lungowe, demonstrate emerging but costly and inconsistent avenues for transnational litigation. A separate section analyses the legal risks of corporate activity in Kazakhstan, where resource wealth and strategic location attract TNCs amid persistent problems of corruption, weak courts and labour and environmental violations. The article argues for the development of stronger international and domestic accountability regimes, guided by UN and OECD standards and recent EU initiatives, and grounded in human rights, environmental sustainability and substantive justice.

Key words: Transnational Corporations (TNCs), Corporate Accountability, Human Rights Violations, Environmental Crimes, Corporate Complicity, Due Diligence Regulation.

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Introduction

Transnational corporations (TNCs) function as economic drivers while simultaneously serving as influential political and social forces in our interconnected world. The operations of these companies span across borders while they shape both domestic policies and communities throughout the world. Major corporations typically hold more power than national governments in regions that face economic weakness or political instability. The current situation forces us to address a crucial yet challenging question about how to maintain equilibrium between corporate interests and international legal responsibility when these forces seem to be in direct conflict. These questions have grown increasingly urgent in the face of globalization, where state boundaries often fail to contain the influence of economic actors.

Throughout history corporations have received praise for their role in technological advancement and job creation while promoting global expansion. The pursuit of profit by corporations has led to multiple instances of serious wrongdoing that violate fundamental human

rights and environmental protection standards. The lack of corporate oversight has allowed these companies to cause major environmental damage through oil spills and force workers into supply chain labor against their will thus violating global justice standards (Global Estimates of Modern Slavery: Forced Labour and Forced Marriage International Labour Organization (ILO), Walk Free, and International Organization for Migration (IOM), Geneva, 2022). These actions are not isolated incidents but part of a larger pattern that highlights the dangerous gap between economic ambition and legal responsibility.

The main focus of this research investigates whether corporations can maintain their legitimate business interests alongside international legal accountability requirements. The issue extends beyond theoretical boundaries because it directly impacts the fundamental structure of modern global governance. The expansion of corporations into new markets throughout the Global South often occurs in areas with insufficient legal enforcement and weak rights protections (United Nations, 2011). The risk of corporate involvement in international crimes becomes substantial when businesses operate in these particular areas. Understanding this dynamic is critical for shaping legal norms that both protect vulnerable populations and ensure fair market practices (OECD, 2023).

The article concludes that although global legal acts are still not binding on corporations, national courts and emerging due diligence regimes are gradually closing this accountability gap. The results obtained indicate a gradual transition from voluntary to mandatory liability models and demonstrate that the comparative convergence of legal doctrines may lead in the future to the creation of a corporate responsibility system that ensures compliance with international law.

Within the framework of the study, a doctrinal matrix of corporate criminal responsibility is being formed, which is a conceptual and comparative model that systematizes the key parameters of national legal approaches: methods of attribution of guilt, requirements for mens rea, the nature of sanctions and the limits of jurisdiction, in order to identify common patterns and directions of their doctrinal convergence.

Corporate autonomy has been in conflict with legal accountability for many years. The world faces its most severe challenges because of climate change and rising authoritarianism. The correct balance between these interests serves two essential functions by safeguarding justice and creating a worldwide economic system that preserves sustainability and fairness and builds public trust. As international crises deepen, the legal tools available to check corporate misconduct must evolve accordingly.

Methodology

This article uses a mixed approach to legal research based on doctrinal and comparative analysis. The doctrinal method is based on a systematic analysis of the sources of international criminal law (ICL), international human rights law (IHRL), and Business and Human rights (BHR). In addition, the article uses international treaties, soft law instruments and reputable judicial practice. Comparative analysis is used to evaluate corporate accountability mechanisms in various jurisdictions such as the United Kingdom, the United States, the European Union (France, Germany) and Kazakhstan. This is done in order to identify doctrinal trends and functional equivalence of legal approaches. Case-based reasoning supports this structure by selecting cases based on three criteria.:

(1) attitudes towards international crimes or serious human rights violations; (2) judicial reasoning affecting cross-border corporate accountability; and (3) the availability of verified legal documents.

The study does not use empirical data or data obtained from interviews. The article focuses exclusively on textual and legal materials. This methodological choice reflects the theoretical and normative nature of the research. The aim is to synthesize existing legal doctrines, rather than an empirical assessment of corporate behavior. The limitation of this approach lies in its dependence on published court decisions and international documents. They do not cover the full range of corporate behavior in conflict zones or weak governance. Nevertheless, the combination of rigor of doctrine and comparative synthesis provides depth of analysis and relevance for both scientists and policy makers.

When Business Crosses the Line: International Crimes and Transnational Corporations

The worldwide growth of transnational corporations into new and conflict-prone markets creates complex ethical and legal challenges. Many corporations present themselves as socially responsible human rights defenders but their actual practices in the field contradict their public declarations. Corporate actors in unstable governance settings with systemic corruption and political instability sometimes enable international criminal offenses through their direct actions or failures to act (Clapham, 2006, p. 195).

International crimes committed by corporate entities appear in multiple documented cases throughout history. The global economic system maintains deep structural incentives that result in this phenomenon. Multinational enterprises which operate through extensive networks of subsidiaries, joint ventures and contractors focus on maximizing profits and securing market access at the expense of strict international standard compliance (Cassel, 2016, pp. 180–181). The reality shows its strongest presence in extractive industries as well as large-scale agribusiness and infrastructure projects that interact with vulnerable communities and fragile ecosystems.

The environmental damage caused by corporate operations serves as a direct expression of this pattern. The Niger Delta experienced severe environmental damage because Royal Dutch Shell conducted oil extraction activities for many years which destroyed traditional ways of life and forced local people from their homes. The United Nations Environment Programme (2011) documented that environmental cleanup from oil spills in the area would need numerous decades (Amnesty International, 2011). Certain lawsuits have produced settlements yet the wider responsibility for environmental crimes continues to remain unresolved (Amnesty International, 2020; Okpabi v. Royal Dutch Shell, 2021).

The detrimental effects of corporate corruption surpass environmental destruction since they cause equal harm. Multiple major cases have revealed how public officials get bribed and regulatory frameworks get manipulated which leads to the erosion of democratic institutions. The Siemens corruption scandal demonstrated how deeply entrenched unethical practices could exist within apparently reputable companies across multiple continents through business contract bribes. Through their willingness to bribe, corporations create failed governance systems which enable human rights violations to occur without accountability.

The most concerning aspect is how TNCs participate in situations of armed conflict together with systematic violence. Corporations avoid direct combat operations but their financial backing and

logistical help to abusive state and non-state actors might lead to international criminal law liability. Plaintiffs brought forth allegations against ExxonMobil because the company employed Indonesian military forces who were responsible for human rights violations to protect its facilities (Doe v. Exxon Mobil Corp., 2011; Doe v. Exxon Mobil Corp., 2022). The ongoing legal battle spanning decades demonstrates the challenges of obtaining responsibility when corporate operations touch conflict zones.

The legal fragmentation of global commerce serves as a fundamental factor which enables corporate impunity to exist. The deliberate organizational design of TNCs includes risk compartmentalization which protects parent companies from liability exposure of their subsidiaries. When courts attempt to identify responsibility in such cases they face significant obstacles because the lack of direct control or complicity evidence makes it difficult to pierce through corporate veil protections (Vedanta v. Lungowe, 2019). Victims must face numerous jurisdictional obstacles, procedural challenges and evidentiary requirements that create almost insurmountable barriers to accessing justice (Kiobel v. Royal Dutch Petroleum Co., 2013).

The current legal framework makes it more difficult for these challenges to be addressed. The existing human rights law framework holds states responsible but individual perpetrators face prosecution through international criminal law while corporate entities maintain a legal status beyond binding international enforcement powers (Ambos, K. 2013, Vol. I, ch. II). The UN Guiding Principles on Business and Human Rights establish a "responsibility to respect" human rights yet they create no legal requirements and no binding systems for accountability. International corporate crimes remain difficult to address because there is no treaty or adjudicative body to handle such cases at the global level which forces responsibility to rest with national jurisdictions that choose to pursue these matters (Cassel, D. 2016, pp. 187–188).

This lack of legal framework leads to significant effects. Businesses that operate within conflict areas or unstable states or occupied regions can carry out serious international law violations without facing meaningful consequences. Communities who experience environmental disasters along with forced displacement and labor exploitation cannot access meaningful remedies (International Labour Organization, 2022). Through their political and economic power corporations achieve advantageous settlements or manage to avoid taking any responsibility.

The link between transnational corporations and international crimes cannot be reduced to isolated cases of abuse. Profit-making activities, if devoid of binding legal standards, create systemic incentives that encourage corporations to commit acts that violate the principles of international justice. To fundamentally change this situation, both enhanced enforcement mechanisms and a complete rethink of how international legal institutions regulate corporate power are needed.

Current legal trends show that corporate impunity is gradually being overcome due to the emergence of legally binding due diligence obligations. Unlike previous voluntary codes, new regulatory regimes such as the EU Corporate Sustainable Due Diligence Directive (CSDDD) (European Commission, 2022) and the German Supply Chain Act (LkSG, 2021) provide not only a duty to identify and prevent violations, but also enforcement measures. In particular, the LkSG and CSDDD include administrative fines and the possibility of exclusion from participation in public tenders, and CSDDD also introduces civil liability for damages. This is a qualitatively new step that makes compliance legally binding.

This raises controversial issues related to the doctrine of guilt.: what should be the degree of fault of the corporation (*mens rea*) if the contractor committed violations in another country? Should there be a simple "knowledge" is a potential violation considered sufficient to impute complicity (aiding and abetting), or is "intent" required, that is, the desire to achieve a criminal result? These

disputes reflect differences in legal approaches, from stricter criminal regimes requiring a high standard of *mens rea* to hybrid administrative-civil models used in the EU and models of organizational guilt, such as in France.

International Justice: Can the Rome Statute Control Corporations?

The International Criminal Court (ICC) achieved its establishment through the Rome Statute in 1998 marking a historic development for international legal frameworks. A permanent tribunal emerged in 1998 to prosecute natural persons who committed the most severe international crimes which include genocide and crimes against humanity and war crimes and aggression. The Court faced restrictions since its foundation because its founders specifically chose to exclude corporations and legal entities from its legal authority (Rome Statute, 1998).

The Rome Conference negotiations in 1998 produced this jurisdictional constraint through deliberate decision-making. The French delegation with backing from Germany and other European states introduced wording at the conference to include legal persons under the ICC jurisdiction. The advocates pointed to historical cases where corporate assets and personnel supported atrocities during World War II such as the Nazi industrialist involvement. (H.Rai, 2020)

Multiple countries including the United States and China together with numerous developing nations blocked the expansion of corporate jurisdiction during the conference. Multiple states including powerful actors and developing states blocked corporate inclusion because they feared complex criminal intent attribution to collectives and they worried about politicized industry prosecutions and different corporate criminal liability frameworks and the risk of destroying the fragile agreement needed to create the Court. The Rome Statute along with Article 25 established an absolute prohibition against the Court's jurisdiction over legal entities.

The practical implications of this exclusion remain significant. The prosecution of international crimes against individuals including corporate executives remains theoretically possible yet the proof requirements remain extremely high. The ICC needs to demonstrate beyond a reasonable doubt that the defendant performed a criminal act while showing both intentional behavior and conscious awareness of their actions. The nature of corporate decision-making produces distributed and complex bureaucratic systems. The distribution of strategic decisions across multiple boards of directors and risk committees and executive teams makes it difficult to identify a culpable individual (Ambos, 2013).

The actual situation exists as more than theory. The Exxon Mobil Corp. faced no criminal prosecution for its alleged complicity in severe human rights abuses because substantial evidence revealed corporate security arrangements supported violent abuses by Indonesian military units (Doe v. Exxon Mobil Corp., 2011; Doe v. Exxon Mobil Corp., 2022). The ICC has not started any proceedings against corporate entities throughout its investigations while it focuses on pursuing political and military leaders who have direct criminal responsibility that is easier to prove.

Multiple prominent legal experts have demonstrated their criticism about the present framework's structural deficiencies. According to Andrew Clapham, international criminal law loses moral legitimacy when corporations remain outside criminal responsibility because this situation leads to selective enforcement and unfinished criminal systems (Clapham, 2006, pp. 514–518). According to Larissa van den Herik, powerful economic actors in natural resource exploitation during conflict zones perform roles identical to political and military actors yet they maintain legal protection. (van den Herik & Letnar Černič, 2010)

The many proposed reforms encounter significant obstacles. Scholars such as Clapham and Cassel support expanding either Article 25 or creating a dedicated article for corporate criminal liability within the Rome Statute. Under this model corporation face responsibility for international crimes and their failure to stop these crimes when they had the means to do so (Cassel, D. 2016; Clapham, A. 2006).

The political opposition to changing the Rome Statute leads supporters to recommend an independent tribunal which focuses solely on corporate human rights abuses. A new tribunal could be created through treaty agreements among willing states according to Douglass Cassel. The court would operate independently to establish its own judicial framework for evaluating corporate participation in serious human rights violations.

The prospects for immediate reform face considerable obstacles despite existing proposals. The Rome Statute requires a two-thirds majority of States Parties to approve changes and subsequent ratification from seven-eighths of all member states but this goal seems out of reach because ICC states hold various competing interests (Art. 121(3)–(4)). The fear of economic consequences or loss of strategic benefits leads powerful states to block international criminal exposure of their corporations.

The absence of corporate-level international criminal responsibility forces regulatory authorities to use non-binding voluntary systems. Under the direction of Professor John Ruggie, the UN Guiding Principles on Business and Human Rights (UNGPs) established a non-enforceable standard that mandates businesses to respect human rights while protecting against violations in their operational areas (United Nations, 2011). The UNGPs maintain their status as non-binding documents because they lack any established enforcement tools. Companies maintain their right to follow or disregard UNGPs without encountering any official legal sanctions.

The OECD Guidelines for Multinational Enterprises together with the Global Compact focus on establishing voluntary corporate behavior standards. These frameworks achieve awareness and best practice promotion yet they do not establish enforceable legal obligations nor provide victims with legal remedies for corporate abuse cases (OECD, 2023).

The result is a significant accountability gap. Victims who fall victim to corporate international crimes lack international legal remedies and corporations that participate in atrocities face minimal legal repercussions. The selective application of international criminal law which targets warlords and political leaders but ignores economic power holders threatens to undermine the legitimacy of international justice initiatives (Clapham, 2006).

The international legal community needs to acknowledge that current frameworks fail to address modern twenty-first-century abuses because corporate power continues to grow in global governance and conflict economies and human rights landscapes. The international justice system needs to develop new mechanisms through Rome Statute amendments or specialized tribunals or strengthened national universal jurisdiction systems to hold all perpetrators accountable for international crimes regardless of their status as individuals or corporate entities (Rome Statute, 1998).

National Mechanisms: When Corporations Are Finally Held Accountable

The absence of international criminal responsibility for corporations compels nations to accept legal responsibility for corporate involvement in worldwide crimes. A practical requirement exists alongside an emerging legal mindset which supports the necessity of corporate accountability even though companies operate across borders. National systems function as fundamental spaces where

the principles of corporate responsibility evolve at a slow pace through a painful process.

The essential element in this development creates an absolute contradiction. Domestic courts encounter jurisdictional difficulties when they need to prosecute international corporate crimes since their authority extends only to national laws and traditional corporate separateness doctrines. These actions that harm communities and exploit labor force and support state violence exceed traditional private wrongs because they share characteristics with crimes against humanity and significant violations of international humanitarian law (Cassel, 2016).

National mechanisms demonstrate their capabilities and restrictions in solving corporate accountability issues through these two notable legal cases. The first is *Wiwa v. Royal Dutch Petroleum Co.* (Shell). The Ogoni region violence victims during the 1990s filed lawsuits against Shell because they claimed the company supported the Nigerian military to carry out torture and arbitrary detentions and extrajudicial executions. The Alien Tort Statute allowed plaintiffs to pursue their case as a civil matter since it contained the same elements as crimes against humanity (Doe v. Exxon Mobil Corp., 2011). The *Wiwa* case established its place in history because it challenged the legal principle which protected corporate entities from responsibility for enabling dangerous business activities through their dangerous partnerships. Corporate entities participate in violent mechanisms through their provision of material assistance combined with strategic direction and financial advantages to abusive governmental regimes. The settlement outcome stopped the court from making a final determination but it sparked international debates about corporate involvement while demonstrating that foreign corporate actions can face domestic judicial review (Clapham, 2006).

The available pathways demonstrated distinct boundaries for their operational capabilities. The lawsuit took more than ten years to reach its conclusion. The lengthy process became excessively challenging due to multiple procedural obstacles and jurisdictional disputes and political issues surrounding foreign litigation. Although Shell did not admit liability during the settlement process, the agreement functioned as a compromise instead of an official court victory for victims' rights. The *Wiwa* case established that national accountability mechanisms exist but revealed their weak spots and limitations simultaneously (Cassel, 2016).

In 2019 the UK Supreme Court delivered a decisive ruling through *Vedanta Resources Plc v. Lungowe*. The case of *Vedanta* dealt with environmental damage from toxic mining pollution while *Wiwa* focused on civil rights violations in Zambian communities. The case established both environmental damage and corporate management failures that allowed extensive human suffering without accountability measures (Vedanta v. Lungowe, 2019).

The legal value of *Vedanta* emerges from the Court's decision to accept that parent companies have a responsibility to care for individuals affected by their subsidiary operations outside their home country. A UK-based corporation faced legal liability for distant harms when its control over operations reached a sufficient level. The doctrinal evolution recognized how modern corporations operate their subsidiaries as instruments that implement centralized strategic direction rather than operating independently.

The cases of *Wiwa* and *Vedanta* demonstrate essential elements of how national courts redefine corporate accountability for international crimes: The evaluation of corporations has expanded beyond their direct actions to include assessment of their financial support and business partnerships and operational models which enable abusive activities. Courts now understand that parent companies cannot use their formal legal separation from subsidiaries as protection when corporate groups operate as single entities that control harmful activities (Vedanta v. Lungowe, 2019). The examples demonstrate that although national courts provide redress options they remain challenging to access

because victims need significant resources and legal knowledge together with sustained endurance throughout lengthy procedures.

The available remedies for these offenses consist mainly of civil financial compensation rather than criminal penalties. The current system of accountability forces corporations to pay settlements but denies them the criminal penalties which international crimes normally entail.

These individual cases reflect a wider pattern of diminishing corporate immunity against legal responsibility for severe abuses committed through worldwide operations. Tort law doctrines in domestic legal systems of common law jurisdictions undergo adaptation to handle corporate misconduct that transcends national borders through the establishment of duty of care and foreseeability standards.

The use of national mechanisms faces substantial restrictions when it comes to addressing these issues. Access to justice remains deeply unequal. People from the Global South encounter severe challenges when trying to file claims against defendants located in the Global North. Major corporate entities maintain power over meaningful legal remedies through their influence on procedural defenses such as *forum non conveniens* (an inconvenient forum) alongside their expensive litigation costs and political connections. National court decisions function independently from each other so they do not establish binding precedents across jurisdictions and jurisdictional progress can be rolled back.

One of the first examples of the development of corporate criminal responsibility is the Lafarge case (Cour de cassation, 2021). The company was prosecuted for complicity in crimes against humanity and financing terrorism in Syria (2011-2014). Lafarge has been paying funds to terrorist groups to keep its factory running and ensure the safe passage of cargo.

In the decision of the Court of Cassation of France (Cour de cassation, Chambre criminelle, September 7, 2021, n° 19-87.367), the court declared it permissible to consider a case against a legal entity under articles that have traditionally been applied only to individuals. The court ruled that in order to find a company guilty of complicity in crimes against humanity, membership in groups is not required, but it is enough for the accused to "have accurate knowledge" of the criminal nature of their activities. The court concluded that "the deliberate payment of an amount of several million dollars to an organization pursuing exclusively criminal purposes is sufficient grounds for qualifying complicity in the form of aiding and abetting." The decision of the Paris Court of Appeal, which followed this ruling, was the first time that the company, as a legal entity in France, was charged with complicity in crimes against humanity.

In recent years (since 2020), Europe has demonstrated a strengthening approach to corporate responsibility. For example, in France, the duty of vigilance model (LOI n° 2017-399 du 27 mars 2017 relative au devoir de vigilance des sociétés mères et des entreprises donneuses d'ordre) operates, in which courts bring civil liability for failure to comply with corporate vigilance plans, and in some cases, to criminal prosecution of companies for international crimes (Lafarge, 2021). The UK has implemented a new version of corporate guilt through the ECCTA (Economic Crime and Corporate Transparency Act, 2023), extending it to economic crimes. Meanwhile, Germany has implemented the LkSG (Lieferkettensorgfaltspflichtengesetz), which provides for administrative penalties for lack of due diligence and monitoring of suppliers.

Thus, corporate accountability is not formed uniformly, but through a set of national legal laws reflecting the specifics of each jurisdiction.

Table 1. *Comparative Overview of Corporate Liability Frameworks*

Model	**Legal Sources**	**Basis of Liability**	**Main Sanctions**	**Key Limitations**
Identification ("directing mind & will")	UK — common law doctrine; *Economic Crime and Corporate Transparency Act 2023 (UK)*	Arises when a senior manager or director ("directing mind") commits an offence within the scope of their authority and with *mens rea*.	Unlimited fines; prosecution of executives; disqualification; possible defence through *adequate prevention procedures.*	Hard to prove in large corporations;
Failure to Prevent	UK — *Bribery Act 2010* (s.7); *Criminal Finances Act* 2017 (ss.45–46); *ECCTA* 2023 (s.199)	Liability for failing to implement reasonable procedures to prevent bribery, fraud, or tax evasion by associated persons; no *mens rea* required	Unlimited fines; exclusion from public contracts; compliance obligations.	Applicable only to specific legislative offences; the new crime of preventing fraud; (ECCTA) applies only to large organizations.
Vicarious Liability	Germany — *OWiG* (Ordnungswidrig keiten) §§30, 130;	Arises for the offenses of employees / agents in case of violation of duties on supervision or control (Supervisory Fault); no corporate *mens rea*;	Administrative fines (up to €10 million); confiscation of profits; orders to eliminate violations.	Mostly administrative rather than criminal liability; required to prove the fact of improper supervision/contr ol.

Organizational Fault	France — *Code pénal* arts. 121-2, 131-38 ff.; *Loi 2014-201*	Liability comes for crimes committed by the company's authorities or representatives on its behalf; *mens rea* not required individually	Fines up to 5x those for individuals; asset confiscation; closure of establishments; public disclosure of conviction.	Requires proof that acts were committed "on behalf of" the company; organisational fault must be shown.

Note. The presented models demonstrate the evolution from individualized criminal responsibility to systemic, structural corporate accountability. Compiled by the author

Kazakhstan and Transnational Business: Opportunities and Legal Risks

The location of Kazakhstan between Europe and Asia alongside its extensive natural resources and economic modernization goals attracts more transnational corporations to the country. Since its independence in 1991, Kazakhstan has actively sought foreign investment focusing on oil and gas, mining, infrastructure, and agriculture. The "Kazakhstan 2050 Strategy" and "Nurly Zhol" economic policy are designed to position Kazakhstan as a prominent global trade and investment hub (Message of the President of the Republic of Kazakhstan - Leader of the Nation N.A. Nazarbayev to the people of Kazakhstan, 2012).

Business analysts state that corporations in Kazakhstan can access a wide range of economic opportunities. The Caspian Sea region contains the largest proven oil reserves of Kazakhstan together with substantial mineral resources and an expanding agricultural industry. The government demonstrates investment-friendly reforms through special economic zones as well as fiscal benefits and streamlined regulatory processes (S&P Global/KazEnergy 2023; U.S. EIA 2023).

TNCs encounter major ethical and legal issues when operating in weak-governance environments which present these business opportunities. The ongoing reforms have failed to address the challenges of corruption and judicial weakness and environmental degradation and human rights violations according to World Bank WGI data (percentile rank for "Control of Corruption" 45.9; "Rule of Law" 44.7 percentile, 2023). The existing structural obstacles make it difficult for corporations to meet international legal requirements.

The oil and gas sector exemplifies these risks. The Tengiz and Kashagan fields have received substantial investment from Chevron, ExxonMobil and Eni because these companies have contributed to economic development while causing environmental damage. The Tengiz field operations have resulted in health problems for local residents because of insufficient environmental assessment procedures and insufficient legal protection for affected communities (Eurasian Research Institute, 2020). Legal proceedings initiated by the Ministry of Ecology and Natural Resources of the Republic of Kazakhstan against the North Caspian Operating Company (NCOC) consortium for violations of environmental regulations related to the storage of hydrogen sulfide have been underway at the Kashagan field since 2023 (Karashash, Zh., 2025). This case reflects the growing role of environmental responsibility and the trend towards stricter law enforcement practices against

multinational corporations.

Strategic sectors controlled by state-owned enterprises and politically connected elites create additional risks. According to the World Bank WGI Kazakhstan shows consistent weaknesses in its control of corruption and rule of law which deteriorate its governance quality. Businesses that fail to recognize these vulnerabilities risk damaging their reputation while also facing legal responsibility under the emerging international standards of OECD Guidelines and UNGPs.

Corporate risk management faces new regulatory challenges because of recently introduced regulations. The Ecological Code empowers authorities to issue fines and enforcement orders for environmental violations, including mandatory compliance and impact documentation. According to Article 96 of the Administrative Offences Code businesses must pay fines ranging from 70 to 140 monthly calculation indices for not reporting workplace accidents. Under Labour Code Article 152 businesses face penalties such as community service along with fines when they delay wages and make unlawful dismissals. The instruments lack proper enforcement because environmental and labor rights criminal prosecutions remain scarce.

International standards now influence corporate accountability through their expansion beyond domestic legal frameworks. The OECD Guidelines for Multinational Enterprises (2011/2023) along with the UN Guiding Principles on Business and Human Rights (2011) demand corporate compliance with local laws and human rights protection from direct and indirect harm. European firms need to comply with the EU Corporate Sustainability Due Diligence Directive (European Commission, 2022) and France’s Duty of Vigilance Law (Law No. 2017-399 on the Duty of Vigilance of Parent Companies and Ordering Companies).

The new developments eliminate every opportunity to follow Kazakh legal requirements as the sole basis for compliance. International businesses now have to satisfy home-country requirements while facing possible legal actions in their domestic markets. Businesses that fail to fulfill these standards face foreign legal action and damage to their reputation together with investor distrust because ESG criteria have become essential in worldwide capital markets. (SGS Kazakhstan, 2022, October 26).

In the context of Kazakhstan's integration into the global economy, corporate activities are increasingly assessed through the prism of international due diligence standards. In this regard, Kazakhstan needs to create a regulatory framework similar to the “failure-to-prevent” model: to establish the obligation of corporate structures to take “reasonable measures to prevent” violations of human rights and environmental standards. At the same time, administrative and criminal sanctions should be developed, including fines, temporary restrictions on activities and exclusion from public tenders.

This reform would allow Kazakhstan to harmonize its legislation with the European one and increase the level of human rights protection in the business sector.

Conclusion: The Future of Corporate Accountability

The connection between transnational corporations and international criminal activities has moved beyond theoretical discussions in academic literature and activist literature to become a pressing issue. The globalized world faces significant moral and legal problems that define this tangible problem. The worldwide expansion of corporations has led to increased control over political decisions and social impacts as well as environmental outcomes. The legal systems that control corporate actions have not developed at a rate matching their expanding influence so victims cannot

find adequate solutions while responsibility disappears into unregulated spaces. This regulatory gap creates a vacuum where corporate decisions operate without oversight, leaving vulnerable populations exposed to exploitation and harm (Clapham, 2006).

The research demonstrates that serious human rights abuses often involve corporations as active participants. Corporate actions have repeatedly broken ethical and legal boundaries through their material support of oppressive regimes and their failure to stop environmental disasters in their operations. The cases of Shell in Nigeria and Vedanta in Zambia serve as examples (Amnesty International, 2011; Vedanta v. Lungowe, 2019). These are not isolated incidents. Such cases demonstrate how a worldwide economic system chooses economic efficiency above human respect and ecological preservation. When corporate gain is prioritized over human dignity, the foundational principles of international justice become irrelevant.

The international legal system which uses the Rome Statute and International Criminal Court demonstrates an outdated understanding of accountability since it focused primarily on states and their political or military leaders who conducted mass violence during a different time period. Corporations gained more power but remained invisible within this existing framework (Rome Statute, 1998). The political inability to face powerful economic interests prevented the Rome Statute from receiving the necessary changes for corporate liability.

The unexpected front lines of corporate accountability now operate from national courts. Through the application of tort law and duty of care and aiding and abetting liability national courts demonstrate their capability to overcome corporate separateness when handling cases like *Wiwa* and *Vedanta* (Cassel, 2016; Vedanta v. Lungowe, 2019). These cases demonstrate the tough-won achievements of victims who encounter substantial barriers that include jurisdictional obstacles along with procedural delays and resource differences and political interference.

We must acknowledge all the constraints that exist within this model system. National mechanisms function in isolated ways which create unpredictable outcomes and they mainly function as reactive systems. Every successful claim about corporate responsibility represents only a fraction of the dismissed or unfiled cases. National courts deliver justice based on which victims manage to find supportive allies who possess both necessary resources and suitable political conditions to pursue their cases. The system lacks both standardization and worldwide implementation. This patchwork model leaves large gaps in protection and contributes to legal uncertainty, discouraging consistent ethical practices among multinational enterprises (Cassel, D. 2016).

The case of Kazakhstan demonstrates how this worldwide issue manifests itself in a different way. Economic opportunities in this region come with substantial risks which include failed governance systems as well as environmental degradation and social mistreatment. The businesses operating in Kazakhstan need to approach legal compliance beyond basic checkbox requirements. A corporation's formal compliance with local laws does not shield them from international scrutiny when their operations result in rights violations or environmental disasters (Ministry of Ecology and Natural Resources, 2023; Labour Code of the Republic of Kazakhstan, 2015). Corporate operations face expanded scrutiny from ESG-driven investors and globalized human rights standards which exceed the boundaries of local legal frameworks.

Multiple elements are expected to determine the direction of corporate accountability development in the future. Corporate conduct undergoes changes due to the continuous normative development which is found in voluntary standards like the UN Guiding Principles on Business and Human Rights (United Nations, 2011). These voluntary frameworks have established expectations that drive shareholder activism while modifying consumer actions and financial market value assessments. While not legally binding, such principles are increasingly treated as quasi-legal norms

through public pressure and investor scrutiny.

Second, legislative momentum is building. The European Union Corporate Sustainability Due Diligence Directive approaches implementation as new laws about mandatory human rights and environmental due diligence become legal facts through the Duty of Vigilance Law (Loi n° 2017-399 du 27 mars 2017 relative au devoir de vigilance des sociétés mères et des entreprises donneuses d'ordre) in France and the Supply Chain Act in Germany (LkSG, 2021). Global businesses must modify their worldwide operations because new due diligence requirements are becoming legally enforceable worldwide. This trend marks a shift from voluntary compliance to enforceable obligations that redefine corporate risk exposure and reputational standing.

Strategic litigation programs and investigative reporting and civil society actions persist in revealing corporate complicity in human rights violations and environmental offenses. Companies face both financial costs and legal exposure because their reputation suffers in a global network that delivers information instantly.

The present trends show promise yet they do not represent an absolute certainty. Multinational corporations maintain a significant power advantage over the communities they impact because of a persistent asymmetry. The advancement of legal progress requires political leaders who will demonstrate courage. The continued development of corporate accountability depends on persistent pressure from states as well as international organizations together with grassroots movements to provide justice for victims. Only through multilevel cooperation can we move from sporadic enforcement to systemic justice (Geppert, M. 2013)

The main challenge lies in understanding corporations exist beyond their economic functions. Their choices include investments decisions and partnership selections and risk management decisions and rights prioritization. The decisions companies make in their operations contain moral implications. Such actions should lead to both legal penalties and moral consequences.

International criminal responsibility should extend to corporations because it serves more than just legal technicality needs. This concept establishes that human rights together with environmental integrity and human dignity must take precedence over quarterly earnings. The fundamental obligations to protect human rights and environment bind all actors who hold power through military strength and financial control.

A future accountability framework needs to address corporate actors' direct role in causing harm and supply chain complexity while avoiding the excuse of inaction. This system demands legal adjustments alongside a collective transformation of moral perception which will make corporations answer for their destructive actions.

The issue is not about the timing of corporate accountability for international crimes. The question is when we will develop the moral strength needed to establish corporate responsibility in the current world.

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ҒТАМР: 10.87.89

Халықаралық қылмыстарды жасауға трансұлттық корпорациялардың қатысуы: жауапкершілік мәселелері

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Аңдатпа

Мақалада трансұлттық корпорациялардың (ТҰК) халықаралық қылмыстарға қатысуы және олардың жауапкершілігін реттейтін халықаралық құқық нормаларындағы олқылықтар қарастырылады.Жаһандану жағдайында корпорациялар саяси және экономикалық ықпалы бойынша әлсіз мемлекеттермен теңесе алады немесе олардан да асып түседі, бұл адам құқықтарының бұзылуы, қоршаған ортаға зиян келтіру, тіпті қарулы қақтығыстарды қолдау тәуекелдерін арттырады.Shell, ExxonMobil және Vedanta сияқты істердің мысалында мақалада ТҰК-тердің корпоративтік құрылымды бөлшектеу, еншілес компанияларды пайдалану және халықаралық деңгейде нақты тетіктердің болмауы, соның ішінде Халықаралық қылмыстық соттың заңды тұлғаларды қылмыстық жауапкершілікке тарту мүмкіндігінің жоқтығы арқылы жауапкершіліктен қалай жалтаратыны көрсетіледі.Wiwa v. Shell және Vedanta v. Lungowe істерін қоса алғанда, ұлттық прецеденттер трансұлттық сот дауларына арналған жаңа, бірақ қымбат әрі бірізділігі жеткіліксіз тетіктердің қалыптасып келе жатқанын көрсетеді.Бөлек бөлімде Қазақстандағы корпоративтік қызметтің құқықтық тәуекелдері талданады: табиғи ресурстарға байлық пен стратегиялық орналасу трансұлттық

корпорацияларды тартқанымен, парақорлық, сот жүйесінің әлсіздігі, еңбек және экологиялық құқықтардың бұзылуы секілді мәселелер әлі де сақталып отыр.

Мақалада БҰҰ мен ЭЫДҰ стандарттарына, ЕО-ның соңғы бастамаларына сүйенетін және адам құқықтарын қорғау, экологиялық тұрақтылық пен мазмұнды әділеттілік қағидаттарына негізделген неғұрлым қатаң халықаралық және ұлттық жауапкершілік режимдерін дамыту қажеттігі дәлелденеді.

Кілт сөздер: трансұлттық корпорациялар (ТҰК), корпоративтік жауапкершілік, адам құқықтарының бұзылуы, экологиялық қылмыстар, корпорациялардың сыбайластығы, тиісті зерделеу жөніндегі реттеу.

МРНТИ: 10.87.89

Роль транснациональных корпораций в совершении международных преступлений: проблемы подотчетности

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Аннотация

В статье исследуется участие транснациональных корпораций (ТНК) в международных преступлениях и пробелы в нормах международного права, регулирующих их ответственность.В условиях глобализации корпорации по своему политическому и экономическому влиянию могут соперничать со слабыми государствами или даже превосходить их, что усиливает риски нарушений прав человека, нанесения ущерба окружающей среде и даже содействия вооружённым конфликтам. На примере дел против компаний Shell, ExxonMobil и Vedanta показывается, как ТНК уклоняются от ответственности за счёт корпоративной фрагментации, использования дочерних обществ и отсутствия чётких международных механизмов, включая неспособность Международного уголовного суда привлекать к ответственности юридических лиц. Национальные прецеденты, включая дела Wiwa против Shell и Vedanta против Lungowe, демонстрируют формирующиеся, но дорогостоящие и непоследовательные пути ведения транснациональных судебных разбирательств.Отдельный раздел посвящён анализу правовых рисков корпоративной деятельности в Казахстане, где богатые природные ресурсы и стратегическое положение привлекают ТНК на фоне сохраняющихся проблем коррупции, слабости судебной системы и нарушений трудовых и экологических прав.

В статье обосновывается необходимость разработки более эффективных международных и национальных режимов ответственности корпораций, основанных на стандартах ООН и ОЭСР, новых инициативах ЕС и опирающихся на защиту прав человека, экологическую устойчивость и принципы материальной справедливости.

Ключевые слова: транснациональные корпорации (ТНК), корпоративная подотчетность, нарушения прав человека, экологические преступления, соучастие корпораций, регулирование должной осмотрительности.