

**Corporate social responsibility (CSR)  
and  
Foreign direct investment:  
investors' obligations towards the host  
states, e.g. in the light of CRSs and relevant  
global trend**

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FTA watch

# **Topic to be covered:**

- 1. What is the current global trend related to this issue?**
- 2. Why we should go beyond Corporate Social Responsibility ?**
- 3. Why Corporate Accountability is crucial?**
- 4. How to get to Corporate Accountability: Recommendations to the state and the corporate**

# The current global trends

- TNCs have become major and powerful actor, and their activity, directly and indirectly, have huge negative impact on human rights, e.g. labor practices and environment
- International legally binding instrument to hold transnational corporation (TNCs) accountable has  
→ **Gained New momentum**
- Human Rights Council's adoption of the resolution proposed by Ecuador, that was co-sponsored by Bolivia, Cuba, South Africa and Venezuela.
- It called for the establishment intergovernmental working group within the Human Rights Council,
- To elaborate an international legally binding instrument to regulate, in international human rights law, the activity of transnational corporation and other business enterprises.

# The current global trends



- It is welcomed by more than 600 non- governmental organization (NGOs) around the globe → **Treaty Alliance**
- This instrument has potential to sustainably promote the protection and fulfillment of human rights in the long term on global scale.
- It also can contribute both to end the impunity and ensure access to justice of the victims.

# 1970

**March 21, 1972**

*Washington Post* reveals memos showing ITT Inc. and the CIA partnered in an attempt to instigate a military coup in Chile

**July 28, 1972**

U.N. Economic & Social Council unanimously passes Resolution 1721 (LIII) (initiated by the Govt. of Chile) appointing a 'Group of Eminent Persons' to 'study the role of multinational corporations and their impact on the process of development'.

**December, 1974**

Based on the recommendations of the Group of Eminent Persons, the U.N. Economic & Social Council establishes a Centre & Intergovernmental Commission on Transnational Corporations. Their first session takes place in March 1975

**July 1976**

The Centre on TNCs, publishes 'Issues involved in the formulation of a code of conduct', shares it with States in preparation for the first meeting of the 'Intergovernmental Working Group' to establish a Code of Conduct (January 1977).

**May 24, 1990**

Chairman of the reconvened special session of the Commission on TNCs forwards U.N. Economic and Social Council a final text of the draft Code of Conduct on TNCs

**July 23, 1992**

States find no consensus on the Code, largely because of disagreement over whether the Code would have the force of international law, requiring states to enforce it. In 1993 the Commission on TNCs closes. The Centre on TNCs is maintained in name by UNCTAD.

**August 20, 1998**

U.N. Sub-Commission on the Promotion & Protection of Human Rights passed a resolution to establish a 'sessional working group' to *inter alia* 'examine...the effects of transnational corporations on human rights'. In 1999 this working group set about developing a draft Code of Conduct for TNCs.

**August, 2001**

The Sub-Commission extends the mandate of the Working Group and requires it to analyse and draft norms for the establishment of a monitoring mechanism that would apply sanctions to transnational corporations when appropriate.

**August 13, 2003**

The Sub-Commission approves the '*Norms on the responsibilities of transnational corporations and other business enterprises with regard to human rights*'.

The International Organisation of Employers and the International Chamber of Commerce label the Norms as 'counterproductive'

**April 20, 2004**

The U.N. Commission concludes the Norms have 'no legal standing'.

**July 25, 2005**

U.N. Secretary-General Kofi Annan appoints Professor John Ruggie as Special Representative on the issue of human rights and transnational corporations and other business enterprises (SRSG).

**September 13, 2013**

The Africa Group of States, the Arab Group of States, Pakistan, Sri Lanka, Kyrgyzstan, Cuba, Nicaragua, Bolivia, Venezuela, Peru and Ecuador called on the Human Rights Council to recognize "the necessity of moving forward towards a legally binding framework to regulate the work of transnational corporations".

**April 7, 2008**

SRSG proposes a non-binding 'Respect, Protect, Remedy Framework' to the Human Rights Council, which is adopted in June 2008.

**21 March, 2011**

SRSG proposes the 'Guiding Principles on Business & Human Rights' to the Human Rights Council.

Despite strong criticism from civil society due to their voluntary nature and inconsistency with international law, the Human Rights Council adopts the Guiding Principles in June 2011.

**December 2, 2013**

A joint statement, signed by over 140 civil society organisations, is delivered in Geneva at the U.N. calling for the Human Rights Council to establish an intergovernmental working group to begin the process to developing a legally binding instrument.

# 2014

- While there are a lot of good corporate that respect fundamental rights of their employee, women, children and local communities.
- There are also large numbers of corporate that not only failed to respect but also systemic violated these fundamental rights.
- Based on testimonies from affected people and communities, neither state nor business acted to meaningfully redress the human rights violation.
- Corporate power expanded and entrenched → **an architecture of impunity.**

# The current global trends



- **Extraterritorial obligations (ETOs).**
- No State is an island in today's globalized reality.
- The action or omission of one state – can have immediate cross border impacts and shape the ability of other state to meet human rights and sustainable development commitment.
- ETOs – implies duty on state to respect, protect and support the fulfillment of all human rights including economic, social and cultural rights, outside of the country's territory.
- **Maastricht Principles on Extraterritorial Obligation of State in the Area of Economic, Social and Cultural Rights.**

# Why we should go beyond Corporate Social Responsibility (CSR)?

CSR is typically promoted as a corporate tool to demonstrate corporate conscience and contribute positively to social changes and protect environment and human rights.

CRS rests largely on the voluntary discretion of the business.

There is lack of standard defining what count as corporate responsibility.

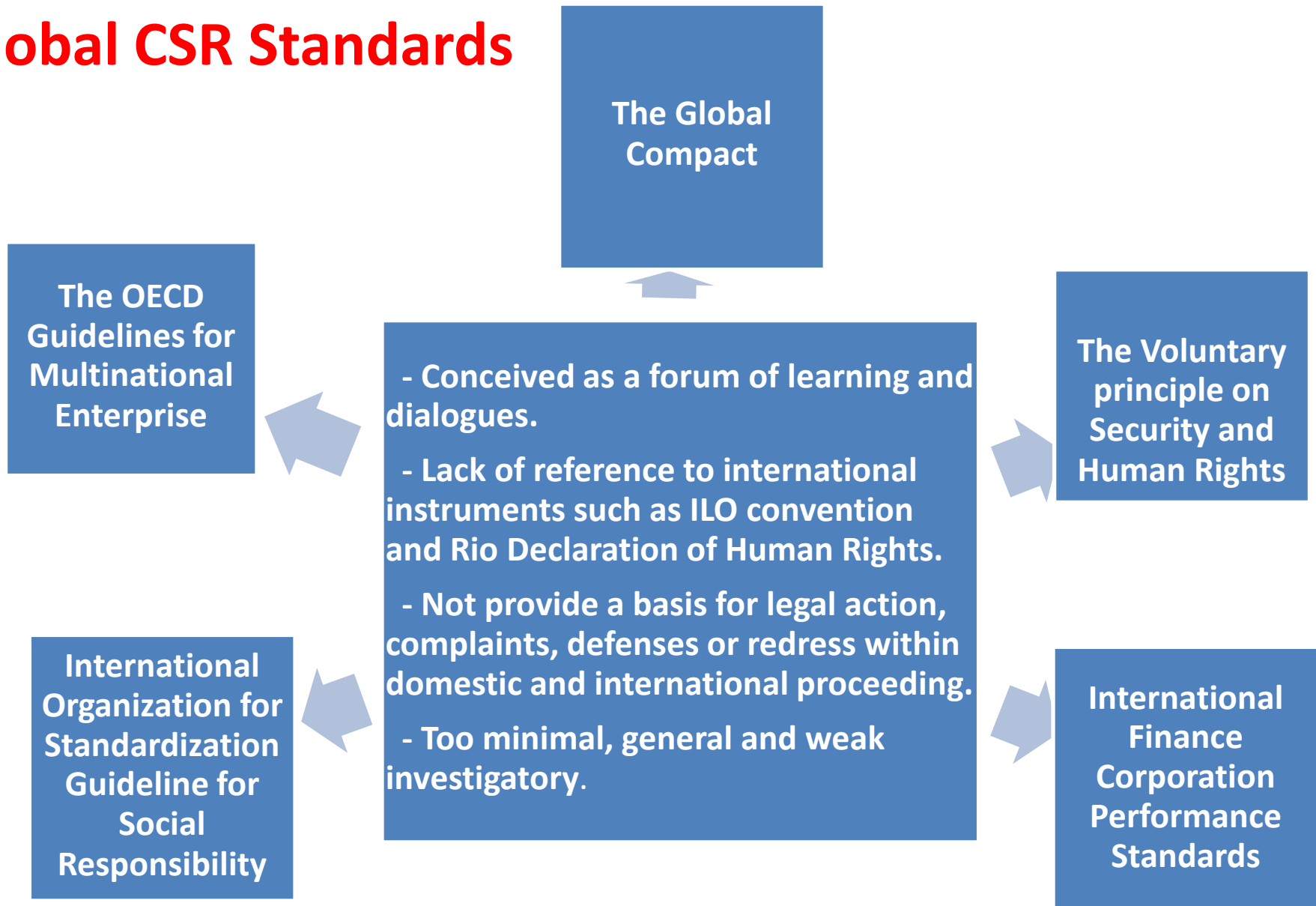
It gets defined by business who cherry-pick the area of social benefit the company will address.

Unrealistic expectation from voluntary unregulated activity under CSR and it is entirely inadequate.

Deflecting attention from the real issue of social and environmental justice in business's core operation.



# Global CSR Standards



# Corporate Accountability

State must acknowledge its existing duty to protect and promote human rights, this includes regulating business and TNCs in order to prevent human rights violation . Corporate must be held accountable for human rights violations.

Reform and establish mechanisms at national level to enables access to justice and remedy for victims and affected communities.

Protect human rights defenders!

Stop eroding its own sovereignty and favor the privilege and profits of investors and transnational corporation over people's rights and environment. **“People and Environment before Profit”**

Ensure that Bilateral Investment Treaty, FTA s and other form of investment incentives policies are drafted to reinforce - and do not undermine national laws and policies for the benefit of all citizens.

# Corporate Accountability

Corporate must commit and respect right of people and local communities that enshrined in the constitution and international human rights laws.

Corporate must commit to corporate accountability through a publicly available policy:

- Undertake human rights due diligence assessment in all planned business operation, including supply chains partner, clients and other business and state partners, and make these assessment publicly available.

Commit to the relevant industry sector standards.

# Corporate Accountability

**This is “bad for business” and will drive them away from investing!**

# Corporate Accountability

There are lot of businesses who have incentive to invest in countries that have good and improved human rights conditions, such as condition foster stability and long-term economic development.

**Corporate Accountability** → attracts socially and environmentally responsible investments that respect human rights and protect the environment.

Thank you

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