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Rethinking Corporate Social Responsibility: Developing a General Principle of Due Diligence in National and International Economic Law

The UN Framework on Human Rights and Business comprises the State's duty to protect human rights, the corporate responsibility to respect human rights, and the duty to remedy abuses. The corporate responsibility to respect rests upon the notion of human rights due diligence. This concept has been highly influential in the latest revision of the OECD Guidelines for Multinational Enterprises which has, for the first time, adopted a general principle of corporate due diligence in the observance of the CSR standards it contains. This paper examines the impact of the emerging due diligence concept. It argues that its use in relation to CSR issues by corporate actors will lead to the creation of binding legal duties, at least at the level of national law. Principles of corporate and tort law can be adapted to this end. More problematic is the reform of international law given the absence of legal personality for corporations. Nonetheless the expectation to apply due diligence that is created by recent international developments has significant implications for the ethical duties and decision-making processes of corporate actors, as well as for the future development of legally binding CSR duties under International Economic Law.