

PhD Dissertation

**Understanding Human Rights Corporate Supply Chain Responsibility  
in Business and Human Rights**

**Presented by**

PhD Candidate:  
**Rehulina Rehulina**

**Supervisor:**  
**Dr. habil. Szűcs Lászlóné Dr. Siska Katalin**  
**Associate Professor**



**University of Debrecen**  
**Marton Géza Doctoral School of Legal Studies**

**Debrecen, 2025**

## Abstract

Human rights are the cornerstone in defining the relationship between the state and its citizens, with the state as a duty bearer and citizens as duty holders. This relationship necessitates that the state protects the human rights of its citizens not only from its apparatus but also from third parties, notably companies and their expansive supply chains. The term "supply chain" encompasses the entire production process involving all companies directly or indirectly bringing a product to market. In human rights and business, the principal company must assume responsibility for upholding human rights standards throughout the supply chain. UN Resolutions reinforce this obligation, notably the UN Protect Respect and Remedy framework and its guiding principles, which mandate companies to assess and address human rights risks and impacts associated with their operations, including those of subsidiaries and suppliers. This dissertation aims to define each type of supply chain and offer illustrative examples to elucidate their characteristics. This study employs a normative legal research approach, drawing on secondary data from primary, secondary, and tertiary legal materials. The research methodology involves library research followed by qualitative analysis. Building upon Article 13 of the UN Guiding Principles on Business and Human Rights, the study delineates three distinct forms of supply chains: those directly causing harm to human rights, those contributing to harm through another entity, and those neither causing nor contributing to harm.

Keywords: Business and Human Rights, Supply Chain in Business and human Rights, Corporation responsibility in human rights, Human Rights.

## PLAGIARISM DECLARATION

I, the undersigned **Rehulina Rehulina** by signing the present statement declare that the dissertation, entitle **Understanding Human Rights corporate supply chain responsibility in Business and Human rights** is my individual work.

In the process of writing the dissertation I have complied with the provisions of Act LXXVI of 1999 on Copyright and the regulations of the University of Debrecen regarding the principles of dissertation writing, especially regarding references and citations.

I declare that I have not submitted a dissertation with the same content as the submitted dissertation for a doctoral degree at another university. Furthermore, I declare that I did not mislead my supervisors during the preparation of the thesis regarding the condition of the individuality of my work.

I also declare that the dissertation submitted in paper form and its electronic version are identical in all respects (see Rules and Regulations, Article 24, paragraph 8). By signing this declaration, I acknowledge that the University of Debrecen has the right to refuse acceptance of the dissertation and to take disciplinary measures against me if it can be proven that the dissertation is not my intellectual creation and if there is a suspicion of copyright infringement. In this case, the refusal to accept the dissertations and the disciplinary proceedings do not affect any other legal consequences caused by the copyright infringement.

Debrecen, May 25, 2025

Candidate



**Rehulina Rehulina**

## Thesis Supervisor Recommendation

Dear Doctoral School!

With regard to the eligibility of my student Rehulina Rehulina's dissertation (Understanding Human Rights Corporation Supply Chain Responsibility in Business and Human Rights) for further procedural actions, I declare the following.

I would like to inform the Doctoral School that I have observed that Rehulina is motivated both in her PhD studies and research and in her chosen topic. In the course of her work, she has given conference presentations and published several papers. She publishes in *Lex Et Scientia* journal with the title "Business and Human Rights Regulation Under International Organization and Non-International Organization, in *Fiat Justitia* journal with the title "Prisma Application as A measuring Instrument of Corporations Obligations to Respect Human Rights" and in *Public Goods and Governance* with the title "The Protections of Individual from Business Activities as a Constitutional Guarantee of human Rights." Also, in *De ÁJK* book chapter with title "Business and Human Rights for International Regional organization; Study European Union" and one national proceeding from Preator Zsakkollegium conference with title "the Responsibility of State-owned Enterprises in Human Rights" and international proceeding from Conference in Šafárik University in Košice, Slovakia call "Business and Human Rights Regimes in EU and ASEAN"

The dissertation entitled Understanding Human Rights Corporate Supply Chain Responsibility in Business and Human Rights. She would like to examine how human rights obligations can applied to corporations. She found that the UN Framework Respect, protect, and Remedy framework and its Guiding Principle entailed corporate obligation to the corporation. Although there is a different responsibility between the state and the corporation, where the state has a responsibility to protect, it means the state must provide rules and regulations so the company can respect human rights. Corporations have a responsibility to respect, which means that corporations must respect all rules and regulations to protect the citizen from harming human rights in their business activities, not only what is written in state law but also the minimum requirement of human rights protection from human rights conventions. When human right is accrued, both states and corporations must provide remedies (judication and non-judication)

Moreover, she also explains that although the UN resolution is soft law, in her opinion, it can be a hard law based on customary international law because it has been used for so many years. It has been applied in national law, and international organizations like OECD and ILO have applied this resolution in their guidance.

Furthermore, corporation responsibility is huge. Hence, she focuses her research on principle 13 of United Nations Guiding Principles (UNGPs), which says corporations are responsible for their company and supply chain. Thus, she

examines what and who the supply chain is. She found that there are 3 types of supply chain: direct Causation, Contribution, and neither causing nor contributing to human rights harm. First, causing human rights directly can occur when a company's activities lead to adverse human rights outcomes through its subsidiary and supplier. Direct causation occurs when there is a clear and immediate link between a company's operations, products, or services and the negative impact on human rights. Their supplier and sub-contractor can create a form of human rights violation by the company, such as unsafe working conditions, forced labor, lower wages, environmental damage, et cetera. Second, it contributes to human rights harm; a company indirectly contributes to rights violations through its business relationships or partnerships, not by direct actions but by facilitating or exacerbating harm. For instance, sourcing from a supplier that exploits workers or providing financial services to entities engaged in human rights abuses without due diligence falls under this category. Examples are financial institutions and logistics and transportation providers. Lastly, neither causing nor contributing to human rights harm to Human Rights Harm describes a scenario where a company is neither directly causing nor contributing to rights abuses but is connected to them through its operations or business relationships. In such cases, the company should use its influence to prevent or mitigate human rights impacts. Examples are advertising companies and auditing companies.

The student has fully met all the requirements of the doctoral school, and her dissertation also meets all the written and unwritten rules that apply to her. Based on the above, **Rehulina Rehulina**'s dissertation is suitable for workshop discussion and defense, and I strongly recommend that procedural steps be taken.

Debrecen, May 30, 2025



**Dr. habil. Szűcs Lászlóné Dr. Siska Katalin**  
Associate Professor  
Supervisor

## Acknowledgments

I want to express my gratitude to the following, First and foremost, my supervisor, Associate Professor Dr. habil Katalin Siska, whose guidance and support over the past four years have been invaluable. Thank you for caring for me through every stage of this PhD journey. Dr. Adrienn Becánics, thank you for your hard work and support during my defense preparation. You made everything manageable. Thank you.

The external examiner of the dissertation, Dr. Knapp László PhD, habil., Maczonkai Mihály, PhD and Professor Dr. Gábor Sulyok, internal examiner; Professor Dr. Ildikó Bartha, PhD and Dr. Adrienn Becánics, PhD for their invaluable feedback and suggestions. Addressing your comments has helped me considerably improve the quality of this dissertation. The Chair of the Evaluation Committee, Professor Dr. László Pribula, and Secretary Dr. Csaba Török.

The head of the doctoral school faculty of law at Debrecen University, Professor Dr. József Szabadfalvi, DSc, and the secretary, Dr. habil. Zaccaria Martin, for their assistance and care during my 4 (four) year study; the administration went smoothly because of your clear and prompt explanations and answers on the study process. Also, all the lecturers and administration staff make my PhD journey feel wonderful and manageable. A thank you may not be enough, but thank you.

Tempus Foundations, University of Debrecen, Faculty of Law, for the financial support that has allowed me to undertake this Ph.D through a Scholarship. My classmates, fellow Indonesians, fellow church members from both IBCD and the Haz church, fellow seniors and juniors in the Faculty of Law, fellow Höök Mentor network members, fellow student ambassadors, fellow international students, and fellow Praetor Szakkollégium members. I cannot name you individually, but you make my life in Debrecen bright, manageable, and colorful. I am grateful to know you. May God always protect you wherever you are.

Lampung University, Faculty of Law, Lampung University, Department of International Law, Lampung University, Dean, and all vice deans, my fellow

Indonesian friends, both from the university and outside the university. Your support during my study is extremely valuable.

Last but not least, my precious family: my parents, Jidim Tarigan and Nilon Sembiring; my brothers, Jenus Tarigan, Fernando Tarigan, and Julias Tarigan; my sister, Juita Tarigan; my sister-in-law, Apryanti Masniary ButarButar br. Sembiring, and my lovely niece, Arunika Zsofika Tarigan. Thank you for your blessing and support. I would never have made this without you.

Of course, my Jesus Christ, my Savior, without You, I may not have finished this PhD. Thank you for allowing me to study abroad here in Hungary and helping me to finish this chapter of my life. Thank you, thank you, and thank you.

## ABBREVIATION

ASEAN	Southeast Asian Nations
ASEAN RBC	ASEAN Guidelines for Responsible Business Conduct
BHR	Business and Human Rights
CFR	Charter of Fundamental rights of the European Union
CJEU	Court of Justice of the European Union
EIME	Committee on International Investment and Multinational Enterprise
ETI	Ethic Trading Initiative
CSDDD	Corporate Sustainability Due Diligence Directive
CARICOM	Caribbean Community
ECHR	European Court of Human Rights
EMS	Electronic Manufacturing Services
EIME	Committee on International Investment and Multinational Enterprises
EU	European union
FLA	Fair Labor Association
GRI	Global Reporting Initiative
HR	Human Rights
NAP	National Actions Plan
NHRIs	National Human Rights Institution
MSIs	Multi stakeholder Initiative
NFRD	The EU Non-Financial Reporting Directive
SRSG	UN Special Representative of the Secretary-General
RBC	Responsible Business Conduct
RSPO	Roundtable on Sustainable Palm Oil
OAS	the Organization of American States
OECD	Organization Economic Co-operation and Development
OECD Guidelines	OECD Guidelines for Multinational Enterprises on Responsible Business Conduct
ICC	International Chamber and Commerce
ICJ	International Court of Justice
IFC	International Finance Corporation
ILO	International Labor Organizations
TFU	Treaty of European Union
TNC	Transitional Corporation
UN Framework	UN Resolution Protect Respect and Remedy Framework on Business and Human Rights
UNGPs	United Guiding Principles on Business and Human Rights

## List of Tables and Figures

### List of tables

Table 1	10 <sup>th</sup> global compact principle	66
Table 2	Nine international human rights conventions and which conventions EU members state as a party	94
Table 3	Nine international human rights conventions and which Conventions that ASEAN members state as a party	111
Table 4	UNGPS in EU and ASEAN	119
Table 5	Foreign direct investment for ASEAN countries	165
Table 6	characteristic comparison the type of supply chain	188

### List of figures

Figure 1	KFC Supply Chain illustration	5
Figure 2	Illustration of Grand theory of Dissertations	14
Figure 3	Main actor in Business and Human Rights Regime	25
Figure 4	Three pillars on Business and Human Rights	26
Figure 5	Due Diligence proves and Supporting measures	53
Figure 6	Three ILO stakeholder: Government, employee and worker	56
Figure 7	The Structure of Tripartite Declaration concerning Multinational Enterprises and Social Policy	61
Figure 8	Relation between OECD Guidelines for Multinational Enterprises, ILO MNC Declaration, UN Business and Human Rights Framework and Principles, National Global Compact, and ISO 26000 Social Responsibility	76
Figure 9	UN Framework on business and human rights	88
Figure 10	Comparison of ASIAN and European Company	121
Figure 11	Represent of the UN Protect Respect and Remedy framework for corporations	128
Figure 12	UN Framework for state and corporation in due diligent	130
Figure 13	State human rights duty is to respect, protect, and fulfill human rights	139
Figure 14	Relation between due diligent and supply chain in business and human rights regime.	147
Figure 15	Cause, contribute and direct link in business and human rights	152
Figure 16	a cyclical process of managing and mitigating adverse impacts in a business or organizational context, specifically focusing on identifying, avoiding, and addressing adverse impacts.	159
Figure 17	The percentage of European companies with an Asian country on their shore	161

## Table of Contents

<b>ABSTRACT .....</b>	<b>I</b>
<b>ACKNOWLEDGMENTS .....</b>	<b>V</b>
<b>ABBREVIATION .....</b>	<b>VII</b>
<b>LIST OF TABLES AND FIGURES .....</b>	<b>VIII</b>
<b>CHAPTER I.....</b>	<b>1</b>
<b>INTRODUCTION.....</b>	<b>1</b>
1.1    INTRODUCTIONS.....	1
1.2    RESEARCH QUESTION .....	7
1.3    HYPOTHESIS.....	7
1.4    RESEARCH METHODOLOGY .....	8
1.4.1 <i>Applied Methodology</i> .....	8
1.4.2 <i>Research Approach</i> .....	9
1.4.3 <i>Legal Material</i> .....	9
<b>CHAPTER II.....</b>	<b>14</b>
<b>THE FUNDAMENTAL THEORY OF HUMAN RIGHTS EMPHASIZES THE STATE AND CORPORATION'S PROTECTION OF HUMAN RIGHTS. ....</b>	<b>14</b>
2.1    BASIC THEORY ON HUMAN RIGHTS .....	14
2.2    MULTINATIONAL CORPORATIONS IN INTERNATIONAL LAW.....	28
2.3    RESOLUTION AS "INSTANT" CUSTOMARY INTERNATIONAL LAW? .....	35
<b>CHAPTER III.....</b>	<b>43</b>
<b>BUSINESS AND HUMAN RIGHTS REGULATION UNDER INTERNATIONAL ORGANIZATION AND NON-GOVERNMENTAL ORGANIZATION.....</b>	<b>43</b>
3.1    ORGANIZATION ECONOMIC CO-CORPORATION DEVELOPMENT (OECD)43	
3.1.1 <i>OECD Guidelines for Multinational Enterprises (OECD Guidelines for Multinational Enterprises on Responsible Business Conduct/.....</i>	<i>44</i>
3.1.2 <i>OECD Due Diligence for Responsible Business Conduct</i> .....	<i>52</i>
3.2    TRIPARTITE DECLARATION OF PRINCIPLES CONCERNING MULTINATIONAL ENTERPRISES AND SOCIAL POLICY INTERNATIONAL LABOR ORGANIZATION (ILO).....	55
3.3    GLOBAL COMPACT ON THE TENTH PRINCIPLE OF GLOBAL COMPACT....	66
3.4    INTERNATIONAL ORGANIZATION FOR STANDARDIZATION (ISO) 26000: SOCIAL RESPONSIBILITY .....	72
3.5    NATIONAL HUMAN RIGHTS INSTITUTIONS (NHRI).....	78
<b>CHAPTER IV.....</b>	<b>86</b>

<b>BUSINESS AND HUMAN RIGHTS IN THE EUROPEAN UNION AND ASSOCIATIONS SOUTHEAST ASIAN NATIONS .....</b>	<b>86</b>
4.1 INTERNATIONAL ORGANIZATION AS SUBJECT OF INTERNATIONAL LAW	88
4.2 EU IN HUMAN RIGHTS AND BUSINESS AND HUMAN RIGHTS REGIMES .....	90
4.2.1 <i>European Union as Overview</i> .....	90
4.2.2 <i>Human Rights in European</i> .....	91
4.2.3 <i>European Union in Human Rights and Business</i> .....	94
4.2.4 <i>EU Multi-stakeholder Forum</i> .....	99
4.2.5 <i>The EU Directive on Corporate Sustainability Due Diligence (CSDDD)</i> .....	102
4.3 ASEAN IN HUMAN RIGHTS AND BUSINESS AND HUMAN RIGHTS REGIMES .....	108
4.3.1 <i>ASEAN an Overview</i> .....	109
4.3.2 <i>Human Rights in ASEAN</i> .....	110
4.3.3 <i>ASEAN Inter-governmental Commission on Human Rights (AICHR)</i>	112
4.3.4 <i>ASEAN in Human Rights and Business</i> .....	112
4.4 THE ASEAN GUIDELINES FOR RESPONSIBLE BUSINESS CONDUCT.....	117
4.5 COMPARISON OF BUSINESS AND HUMAN RIGHTS IN EU AND ASEAN..	119
<b>CHAPTER V DISCUSSION .....</b>	<b>124</b>
<b>UNDERSTANDING HUMAN RIGHTS CORPORATE SUPPLY CHAIN RESPONSIBILITY IN BUSINESS AND HUMAN RIGHTS .....</b>	<b>124</b>
5.1 STATE AND CORPORATE RESPONSIBILITY IN HUMAN RIGHT .....	124
5.1.1 STATE DUTY TO PROJECT HUMAN RIGHTS .....	128
5.1.2 CORPORATE RESPONSIBILITY TO RESPECT (BUSINESS AND HUMAN RIGHTS IN UN PROTECT RESPECT AND REMEDY AND UNGPs (DUE DILIGENCE)) .....	130
5.1.3 STATE AND CORPORATE RESPONSIBILITY REGARDING ACCESS TO REMEDY.	141
5.2 THE FORMS OF CORPORATE HUMAN RIGHTS RESPONSIBILITY THROUGHOUT ITS SUPPLY CHAIN .....	147
5.2.1 <i>The regime aims to ensure responsibility throughout the production process to prevent human rights violations.</i> .....	155
5.2.2 <i>The form of supply chain in business and human rights Regimes ..</i>	162
<b>CHAPTER VI.....</b>	<b>189</b>
<b>CONCLUSION.....</b>	<b>189</b>
6.1 CONCLUSION.....	189
<b>REFERENCE .....</b>	<b>191</b>

# CHAPTER I

## INTRODUCTION

### 1.1 Introductions

Until recently, no regulation stipulated that another actor, beyond the state, has a duty holder in human rights. Traditionally, human rights obligations are state obligations.<sup>1</sup> However, the UN Resolution Protect Respect and Remedy Framework on Business and Human Rights (UN Framework) and its guiding principle (United Guiding and Principle on Business and Human Rights/UNGPS)<sup>2</sup> Has provided a platform for the proliferation of standards addressing human rights for both the state and companies. This obligation is written in the second pillar of the UN Protect Respect and Remedy Framework on Business and Human Rights,

"The role of business enterprises as a specialized organ of society performing specialized functions must comply with all applicable law and respect human rights."

This statement states that the corporation's obligation to respect human rights is to comply with all applicable laws and regulations regarding human rights. Afterward, one of the exciting aspects of the UN Resolution on the UN Guiding Principles on Business and Human Rights is a provision on the scope of corporate responsibility to respect human rights. The imposition of human rights responsibility on corporations has become a topic that is still debated but is beginning to be accepted. One of the things stipulated in the UN Protect, Respect, and Remedy Framework and its Guiding Principle<sup>3</sup>, and it is the regulation that fulfills the obligations of corporations to their supply chains. This obligation is outlined in Principle 13 of the UNGPs, which states that corporations are responsible for their operations and the

---

<sup>1</sup> Douglass Cassel, "Human Rights and Business Responsibilities in the Global Marketplace," *Business Ethics Quarterly* 11, no. 2 (2001): 261–74, <https://doi.org/10.5840/10.2307/3857749>.

<sup>2</sup> United Nations Resolution A/HRC/17/31, March 21, 2011. This resolution is based on the UN resolution on the Protect, Respect, and Remedy Framework, known as the Guiding Principles on Business and Human Rights: Implementing the United Nations "Protect, Respect and Remedy" Framework. The purpose is to clarify the three pillars in the previous resolution. This guide consists of 31 Principle

S.

<sup>3</sup> This rule is the legal umbrella of the human rights and business regime (BHR)

operations of their supply chains.<sup>4</sup> This obligation includes arrangements on corporation obligations to perform due diligence, as stated in Principle 17 UNGPs.<sup>5</sup> Which say.

"In order to identify, prevent, mitigate, and account for how they address their adverse human rights impacts, business enterprises should carry out human rights due diligence. The process should include assessing actual and potential human rights impacts, integrating and acting upon the findings, tracking responses, and communicating how impacts are addressed. Human rights due diligence:

- a) It should cover adverse human rights impacts that the business enterprise may cause or contribute to through its activities or that may be directly linked to its operations, products, or services by its business relationship.
- b) will vary in complexity with the size of the business enterprise, the risk of severe human rights impacts, and the nature and context of its operations.
- c) should be ongoing, recognizing that the human rights risks may change over time as the business enterprise's operations and operating context evolve."

Moreover, The Office of the High Commissioner for Human Rights (OHCHR) also sought to define the term Human Rights Due Diligence:<sup>6</sup>

"This measure of prudence, activity, or assiduity is expected adequately from, and is ordinarily exercised by, a reasonable and prudent [person or enterprise] under the particular circumstances; not measured by any absolute standard but depending on the relative facts of the specific case."

Additionally, human rights due diligence is traditionally defined as a process through which enterprises can identify, prevent, mitigate, and account for their

---

<sup>4</sup>Article 13 UNGPs. The responsibility to respect human rights requires that business enterprises: (a) Avoid causing or contributing to adverse human rights impacts through their activities and address such impacts when they occur; (b) Seek to prevent or mitigate adverse human rights impacts that are directly linked to their operations, products, or services by their business relationships, even if they have not contributed to those impacts.

<sup>5</sup> Article 17 UNGPS In order to identify, prevent, mitigate, and account for how they address their adverse human rights impacts, corporations should carry out human rights due diligence. The process should include assessing actual and potential human rights impacts, integrating and acting upon the findings, tracking responses, and communicating how impacts are addressed. Human rights due diligence: (a) should cover adverse human rights impacts that business enterprise may cause or contribute to through its activities or which may be directly linked to its operations, products, or services by its business relationship; (b) will vary in complexity with the size of the business enterprise, the risk of severe human rights impacts, and nature and context of its operations; (c) should be ongoing, recognizing that the human rights risks may change over time as the business enterprise's operations and operating context evolve.

<sup>6</sup> United Nations Human Rights and Office of the High Commissioner. 2012. The Corporate Responsibility to Respect Human Rights: An Interpretive Guide. New York: United Nations

actual and potential adverse human rights impacts.<sup>7</sup> Due diligence obligations require a corporation to take appropriate steps to prevent, investigate, punish, and redress such abuse through effective policies, legislation, regulations, and adjudication under corporation activities. Through its operations, the company can direct and cause human rights abuses, thereby perpetuating human rights violations. Alternatively, even in adverse situations, a corporation can harm people's human rights. For example, what was happening in the Rana Plaza building in the Savar District of Dhaka, Bangladesh, on April 23 when the building collapsed and killed and injured over 1.100 workers.<sup>8</sup> The Rana Plaza factory is part of the ready-made garment sector, which produces clothing for major companies. This accident occurs due to poor infrastructure, which can be prevented if the leading company requires the supplier company to have adequate infrastructure.<sup>9</sup> Another sample is Foxconn Group, Apple's leading supplier company in designing and distributing electronic components and assemblies. It is known as Hon Hai in Taiwan, an electronic manufacturing service (EMS). Foxconn employees experience lack of adequate facilities for workers, like the lack of availability of clean water, unsanitary and unsafe environmental conditions, less medical care, inadequate wages, and many more, which make Foxconn experience the problem of suicide cases that occurred in its workforce.<sup>10</sup> Result in some employees being seduced. Another example is the fire at a garment factory (Tazeen Fashion) in the Ashulia district on the outskirts of Dhaka, Bangladesh; if garment companies such as H&M, Zara, and others had

---

<sup>7</sup> Nicolas Bueno and Claire Bright, "Implementing Human Rights Due Diligence through Corporate Civil Liability," *International and Comparative Law Quarterly* 69, no. 4 (2020): 789–818, <https://doi.org/10.1017/S0020589320000305>.

<sup>8</sup> ILO Info story, The Rana Plaza Disaster Ten Years on: What has changed, <https://webapps.ilo.org/infostories/en-GB/Stories/Country-Focus/rana-plaza>, accessed on August 26, 2024

<sup>9</sup> Jimmy Donaghey and Juliane Reinecke, "When Industrial Democracy Meets Corporate Social Responsibility — A Comparison of the Bangladesh Accord and Alliance as Responses to the Rana Plaza Disaster," *British Journal of Industrial Relations* 56, no. 1 (2017): 1–29, <https://doi.org/10.1111/bjir.12242>.

<sup>10</sup> Barbara Demckk and David Sarno, China Labor Bulletin, <https://clb.org.hk/en/content/latest-news-reports-foxconn-suicides>, access July 27, 2004

done due diligence on this company, the fire could have been stopped, and 117 people would not have lost their lives.<sup>11</sup>

To prevent such occurrences, the corporation is responsible for upholding human rights. It is important to ensure that people's human rights are protected and fulfilled. Therefore, before entering into any supply chain agreements, the company should first conduct due diligence to determine whether its activities have the potential to infringe upon people's human rights.

The company has an original word from the old French language, *Compagnie*, meaning “a society, friendship, intimacy, body of solider.”<sup>12</sup> A company can be defined as a legal entity representing an association of people, natural, legal, or both, with a specific objective. The company members share a common purpose and unite to achieve particular goals. A company is also defined as 'an artificial person,' invisible, intangible, created by or under law, and the purpose of a company is to produce goods or services. At the same time, while producing goods or services, companies can infringe upon a broad range of human rights. For example, the company can get involved in making regulations through bribery, company policies that are not in line with human rights like payless, unreasonable working hours, factory facilitation, minimum health protection, and many more; therefore, companies must also be charged with human rights as stated in the UN Resolution on Business and Human Rights, not only to their company management but also to their supply chain.

A corporate supply chain is a process by which a corporation obtains goods or services from another company to produce its goods or services. For example, KFC is responsible for the chicken cattle company, where KFC takes the chicken that it will sell in its company. A simple example and explanation of how corporate responsibility throughout its supply chain is in the illustration below:

---

<sup>11</sup> CNN World, at least 117 Killed in fire at Bangladeshi Clothing Factory, [https://edition.cnn.com/2012/11/25/world/asia/bangladesh-factory-fire/?hpt=hp\\_t](https://edition.cnn.com/2012/11/25/world/asia/bangladesh-factory-fire/?hpt=hp_t), Access April 25, 2025

<sup>12</sup> <https://www.etymonline.com/word/company>, accessed on May 16, 2022

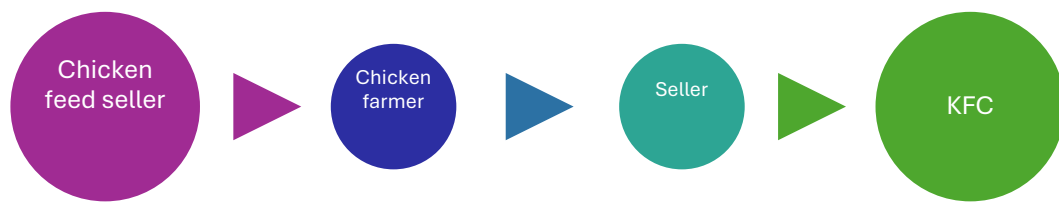


Figure 1: Supply chain illustration<sup>13</sup>

As a corporation, KFC has a duty until its last supply chain. In this picture is a chicken feed seller. If the chicken feed seller harms people's human rights (whether in their labor, environment, or other aspects), KFC has a responsibility to address it. This obligation was written in principle 13 of UNGPs.

The responsibility to respect human rights requires that business enterprises (a) avoid causing or contributing to adverse human rights impacts through their activities and address such impacts when they occur. (b) seek to prevent or mitigate adverse human rights impacts that are directly linked to their operation, products, or services by their business relationship, even if they have not contributed to those impacts.

Hence, human rights corporation obligations are not only on the corporation itself but also on other companies that have a direct or indirect relationship with it and are part of the production process of goods; in such cases, the company is responsible for all those companies. For example, what Sony Company is doing in Malaysia. Sony plastic component factory supply chain in Malaysia,<sup>14</sup> Kawaguchi manufacturing.<sup>15</sup> Kawaguchi company has been accused of various forced labor practices, initially brought to light by workers who went on strike to demand months of unpaid salary. Sony Group Corporation has conducted an on-site audit of the Malaysian factory that supplies plastic components for its electronic products.<sup>16</sup> The audit revealed that the contractor had violated its supply chain code of conduct

<sup>13</sup> Rehulina Rehulina, for various sources.

<sup>14</sup> MalayMail, Sony Admit own audit found probable labor code violation by Malaysian contractor, [https://www.malaymail.com/news/malaysia/2024/10/18/sony-admits-own-audit-found-probable-labour-code-violation-by-malaysian-contractor/154022#google\\_vignette](https://www.malaymail.com/news/malaysia/2024/10/18/sony-admits-own-audit-found-probable-labour-code-violation-by-malaysian-contractor/154022#google_vignette), accessed on October 18, 2024.

<sup>15</sup> The electronics giant is one of three prominent Japanese firms that source plastic components from Kawaguchi Manufacturing Sdn Bhd, a company based in Klang.

<sup>16</sup> Business and Human Rights Resources Center, Sony Admits own audit Found Probable labor code violation by Malaysia Contractor, <https://www.business-humanrights.org/en/latest-news/sony-admits-own-audit-found-probable-labour-code-violation-by-malaysian-contractor/> accessed on October 18, 2024

following previous allegations of forced labor practices raised by activists and workers.<sup>17</sup> Sony stated that the company has implemented strict supply chain rules, which require suppliers to respect the human rights of their workers. Regarding this case, Sony has "requested" Kawaguchi to immediately implement "corrective measures" and keep monitoring the company.

This dissertation aims to examine the protection of human rights in business activities, focusing on the obligation of business actors to ensure that their business activities do not infringe upon the rights of their workers, the surrounding community, or the environment in which the company operates. The primary legal foundation for this study is the minimum standard of human rights protection as outlined in various human rights conventions. Moreover, this dissertation wants to discuss where is corporation responsibility in human rights on what is the difference between state responsibility in human rights and corporation responsibility in human rights, and what is meant by corporate obligations to the supply chain and then provide examples of the forms of supply chains that are found, such as companies, and how they are included in the categories of supply chains found.

The dissertation will be divided into six chapters. The first chapter introduces the topic. The introduction chapter has four sub-chapters: introduction, research question, hypothesis, and research methodology. The second chapter will discuss the Primary theory of this dissertation, titled "Fundamental Theory of Human Rights," which emphasizes the state and corporations' protection of human rights. This chapter has three sub-chapters: the basic theory of human rights, multinational corporations in international law, and UN Resolution, which is "Instant" customary international law. Chapter three will discuss business and human rights regulations under international and non-international organizations, comprising three sub-chapters: business and human rights under the Organization for Economic Cooperation and Development (OECD), business and human rights under the International Labor Organization (ILO), and business and human rights

---

<sup>17</sup> Business and Human Rights Resources Center, Update: Sony disclosure re-allegation of Labor Rights abuse of Bangladeshi worker at Malaysian Supplier, <https://www.business-humanrights.org/en/latest-news/update-sony-disclosure-re-allegations-of-labour-rights-abuse-of-bangladeshi-workers-at-malaysian-supplier/> Accessed October 18, 2024

under the Global Compact. Chapter Four examines how the European Union (EU) and the Southeast Asian Nations (ASEAN) regulate the protection of human rights. Chapter five is a chapter discussion of the place challenges the research question; this chapter is titled Understands Human Rights Business Corporation responsibility in business and human rights, with two chapters answering the research questions, which are state and corporations' responsibilities in business and human rights regime and the forms of corporate human rights responsibility through its supply chain. Then, Chapter Six, the final chapter, will answer the research question formulated in the Introduction chapter.

## 1.2 Research question

In shaping the research analysis, this dissertation will answer the two questions below:

- 2.2.1 To what extent state and corporate responsibility in business and human rights regimes?
- 2.2.2 In what forms is corporate human rights responsibility throughout its supply chain?

## 1.3 Hypothesis

Human rights are recognized as the state-to-citizen relationship, where the state is a duty bearer, and the citizen is the duty holder. Moreover, the state is responsible for protecting citizens' human rights from its apparatus and third parties, such as corporations or business actors. The Guiding Principles on Business and Human Rights were developed to clarify the different roles and responsibilities that States and companies have in addressing the business impact on human rights. In this dissertation, the author aims to examine the responsibilities of states and corporations in protecting citizens' human rights from the adverse impacts of business activities.

Furthermore, Article 13 of the UNGP states.

"The responsibility to respect human rights requires that business enterprises Avoid causing or contributing to adverse human rights impacts through their activities and address such impacts when they occur; seek to prevent or mitigate adverse human rights impacts that are directly linked to their operations,

product or services by their business relationship, even if they do not contribute to these impacts." From this principle, the writer found there are at least three from of the supply chain, according to article 13 UNGPS, which are causing human rights harms directly, contributing to human rights harm through another entity, neither causing nor contributing to human rights harm; hence, the writer wants to define each type and give an example regarding these three types of the supply chain.

## 1.4 Research Methodology

### 1.4.1 Applied Methodology

The research methodology employed in this article encompasses both social-legal and doctrinal legal research, supplemented by a mixed-method approach to ensure a comprehensive investigation into state and corporate human rights responsibility. The doctrinal research methodology employed in this study is sometimes referred to as the black-letter approach.<sup>18</sup> The black-letter approach is a research methodology that seeks to provide detailed raw material.<sup>19</sup> This Methodology primarily comprises primary written sources; thus, this dissertation will focus on analyzing the UN's Guiding Principles on business and human rights and how they are applied in human rights regimes among states and corporations as duty holders in the context of human rights and business. Not only that, but also international human rights conventions such as the International Convention on Economic, social, and Cultural Rights. And resolutions or decisions from international and regional organizations, such as the European Union (EU) and the Association of Southeast Asian Nations (ASEAN). Moreover, to make this study more straightforward, the author also examines regulations on human rights and business under international and non-governmental organizations, such as the OECD Guidance for Multinational Enterprises, the OECD Due Diligence for Responsible Business Conduct, the Tripartite Declarations of Principles

---

<sup>18</sup> Tom R. Tyler, "Methodology in Legal Research," *Utrecht Law Review* 13, no. 3 (2017): 38–42, <https://doi.org/10.1177/0963721410397271>.

<sup>19</sup> Lord Goff, "Judge, Jurist and Legislature," *The Denning Law Journal* 2, no. 1 (2012): 79–95, <https://doi.org/10.5750/dlj.v2i1.160>. In Michael Salter and Julie Mason, *Writing Law Dissertations, an Introduction, and guide to conduct of legal research*, Pearson Education Limited, Edinburgh, 2007 p. 69

Concerning Multinational Enterprises and Social Policy, and the Ten Principles of the Global Compact.

The social-legal research aspect involves an in-depth analysis of the social, political, and economic contexts surrounding corporate behavior and its implications for human rights. Social-legal research entails examining relevant literature, reports, case studies, and other empirical data to understand the broader societal impact of corporate actions on human rights.

Combining social-legal research, doctrinal legal research, and a mixed-method approach ensures a holistic examination of corporate human rights violations and remedies, contributing to a deeper understanding of the complex interplay between law, society, and corporate behavior.

#### 1.4.2 Research Approach

This dissertation uses normative and descriptive approaches. The Descriptive approaches are applied to analyze the theory of natural law and its application in rules and regulations, examining how states and corporations, as duty holders of human rights, fulfill their obligations to the human rights of their people. Moreover, the normative approach applied in the study when interpreting the rule and concept of legal theory. Furthermore, to get a comprehensive conclusion about the legal theory, this study will use the case-based approach, meaning the cases related to the application of the (theory) are to be compiled and analyzed to achieve substantial parameters and limitations of the theory.

#### 1.4.3 Legal Material

The source of this study consists of primary and secondary legal sources. This study will utilize library research to collect all relevant materials for observation and analysis in response to each problem formulation. The secondary legal research consists of secondary primary legal research, secondary secondary legal research, and secondary tertiary legal research. Secondary Legal Research refers to analyzing, commenting, or interpreting primary legal sources such as statutes, regulations, and case law. In business and human rights, secondary legal research involves utilizing scholarly articles, books, legal commentaries, reports,

and guidelines to understand and interpret the primary legal sources that govern corporate responsibilities and human rights standards.

**Primary Legal Sources in Business and Human Rights:** Primary legal sources are the foundational legal materials that establish binding obligations or standards. In the area of business and human rights, these sources include International Treaties and Conventions. Key international legal instruments include the Universal Declaration of Human Rights (UDHR), the International Covenant on Civil and Political Rights (ICCPR), the International Covenant on Economic, Social and Cultural Rights (ICESCR), and various conventions of the International Labour Organization (ILO). These documents set the fundamental human rights standards businesses must respect. **National Laws and Regulations:** Domestic laws enforce business and human rights standards. These include labor laws, environmental regulations, anti-corruption statutes, and human rights legislation that directly regulate corporate behavior. **Soft Law Instruments:** While not legally binding, soft law instruments such as the UN Guiding Principles on Business and Human Rights (UNGPs) and the OECD Guidelines for Multinational Enterprises provide necessary standards and frameworks that guide businesses in respecting human rights. **Judicial Decisions:** Case law interprets and applies business and human rights laws, including decisions from national courts and international tribunals. For instance, court rulings on corporate liability for human rights abuses offer critical legal interpretations of how businesses should conduct themselves.

The secondary primary legal research source has come from rules and regulations used in this research, such as

- 1.1.1.1 United Nations Declaration on Human Rights (UNHR)
- 1.1.1.2 International Convention on Economic, Social, and Cultural Rights
- 1.1.1.3 UN Framework on Business and Human Rights
- 1.1.1.4 UN Guiding Principle on Business and Human Rights.
- 1.1.1.5 OECD Guidelines for Multinational Enterprises on Responsible Business Conduct
- 1.1.1.6 OECD Due Diligence Guidance for Responsible Business Conduct

- 1.1.1.7 Tripartite Declaration of Principles Concerning Multinational Enterprises and Social Policy
- 1.1.1.8 Paris principle
- 1.1.1.9 The EU regulations on human rights and human rights and business
- 1.1.1.10 States National Action Plan

Secondary Legal Sources in Business and Human Rights: Secondary legal sources analyze, explain, and critique primary legal sources. In the context of business and human rights, these sources include scholarly articles and journals. Legal scholars and experts publish articles in academic journals that analyze business and human rights issues. These works interpret international standards, critique existing legal frameworks, and propose new approaches for regulating corporate behavior. Books and Treatises: Comprehensive books and legal treatises offer in-depth analyses of business and human rights issues, often exploring the intersection of law, ethics, and corporate social responsibility. Commentaries and Reports: Organizations such as the UN Office of the High Commissioner for Human Rights (OHCHR), Human Rights Watch, and Amnesty International publish reports and commentaries that interpret and critique business practices in relation to human rights standards. Guidance Documents and Handbooks: Many organizations provide practical guidance documents, such as the OECD Due Diligence Guidance for Responsible Business Conduct and the ILO's guides on labor standards. These documents help businesses understand how to comply with primary legal sources and implement best practices. Legal Reviews and Law Firm Publications: Law reviews and publications by law firms provide updates, analyses, and interpretations of recent developments in business and human rights law, including new regulations, landmark cases, and emerging legal trends.

The Role of Secondary Legal Sources in Research. Secondary legal sources are essential in business and human rights research for several reasons. They help researchers, practitioners, and policymakers interpret complex legal texts, treaties, and regulations. They provide insights into how laws have been applied in various contexts and offer critiques of their effectiveness. Contextual Understanding: Secondary sources place primary legal instruments within a broader context,

examining the historical, social, and economic factors that shape business and human rights issues. This contextual understanding is crucial for comprehending the real-world impact of legal standards on corporate behavior. Development of Legal Arguments: In legal research and advocacy, secondary sources provide the foundational arguments and theories that support or challenge existing legal norms. They are often used to develop legal arguments for cases involving corporate accountability for human rights violations. Policy Development: Secondary sources inform policymakers and regulators by analyzing the effectiveness of current regulations and suggesting new policy approaches. They contribute to the development of laws and regulations that better protect human rights in the business sector.

Examples of Secondary Legal Sources in Business and Human Rights Research, Commentary on the UN Guiding Principles: Scholarly articles often analyze the implementation of the UN Guiding Principles on Business and Human Rights, providing critiques of corporate adherence to these principles and exploring gaps in regulation, ILO Research and Guides: The ILO publishes guides and manuals that interpret international labor standards, offering businesses practical advice on how to comply with these standards in their operations and supply chains. OECD Reports: The OECD regularly publishes reports analyzing trends in responsible business conduct, including the implementation of the OECD Guidelines for Multinational Enterprises on Responsible Business Conduct by companies. Legal Analysis of National Legislation: Law reviews and legal journals publish articles examining how different countries incorporate international human rights standards into national laws regulating corporate behavior.

The Importance of Secondary Legal Sources in Business and Human Rights: Filling Gaps in Primary Law. In many areas, especially where primary legal norms are not fully developed or are non-binding (soft law), secondary sources provide crucial analysis and recommendations that guide corporate behavior and inform policy development. Secondary legal sources evaluate the effectiveness of businesses and states in upholding human rights standards, identifying areas where laws and practices require improvement. Guidance and Best Practices: Secondary

sources, such as handbooks and guidelines, offer businesses actionable steps to implement human rights due diligence, mitigate adverse impacts, and promote ethical conduct.

In business and human rights research, secondary legal sources are indispensable for interpreting and analyzing the rules, regulations, and primary legal instruments that govern corporate conduct. While primary legal sources establish the legal framework for human rights standards, secondary sources provide the analysis, critique, and practical guidance necessary for understanding and applying these standards in the complex landscape of global business. Together, they form a comprehensive foundation for research, policy development, and the advancement of human rights in the business sector.

As knowledge of the impact of the UN Framework and UNGP legislation is multifaceted and scattered across different research domains, it is necessary to compile academic publications on the subject systematically.<sup>20</sup> Consequently, we opted for a systematic literature review as it provides a comprehensive overview of our knowledge. Secondary legal resources aimed to track all articles, books, and chapters that might respond to the research questions. Thus, ensuring maximum coverage of relevant academic works proved essential while excluding the large number of UN Framework and UNGPs-related research that was irrelevant to the questions. Thus, secondary legal research is derived from books, articles, papers, and reports on human rights and business-related topics. The last source is secondary, tertiary legal research; this source comes from a dictionary, cyclopedia, etcetera.

---

<sup>20</sup> Vincent Dupont, Diana Pietrzak & Boris Verbrugge, “A step in the right direction, or more of the same? A systematic review of the impact of human rights due diligence legislation,” *Human Rights Review* 25, no. 2 (2024): 131-54, <https://doi.org/10.1007/s12142-024-00724-9>.

## CHAPTER II

### The fundamental Theory of Human Rights Emphasizes the State and Corporation's Protection of Human Rights.

#### 2.1 Basic Theory on Human Rights

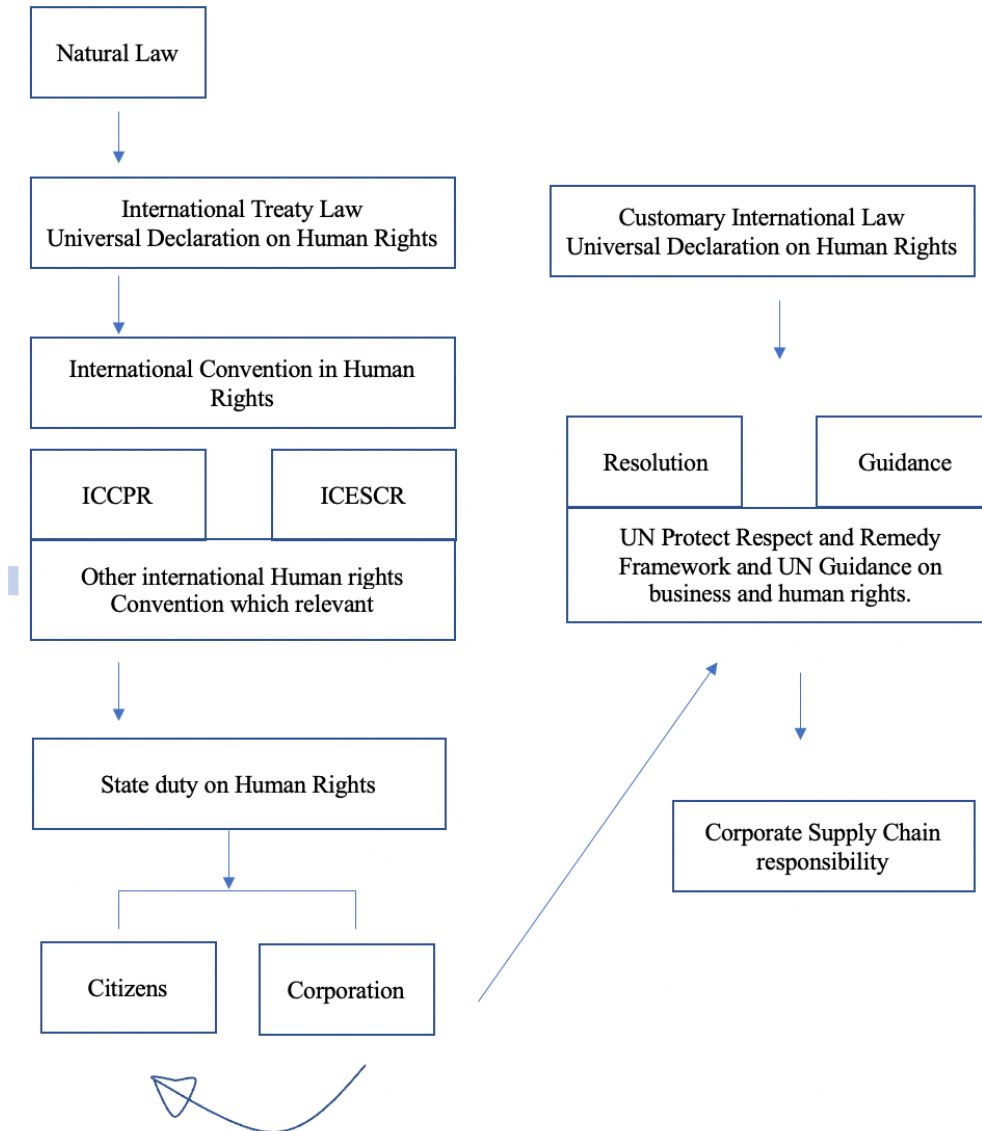


Figure 2: Grand theory and applied theory of dissertations<sup>21</sup>

<sup>21</sup> Rehulina Rehulina, inspired by UDHR, ICCPR, ICCSER UN Framework, UNGPs, the International Law Commission (ILC), Draft Conclusions on Identification of Customary International Law, with Commentaries (2018) UN Doc A/73/10, ch V.

The diagram illustrates the relationship between natural law, international human rights law, and corporate responsibilities regarding human rights, highlighting two distinct yet interconnected pathways. On the left side, the diagram begins with "Natural Law," suggesting that the foundation of human rights is rooted in universal moral principles that exist independently of written laws. Natural law serves as a philosophical foundation for the development of formal human rights norms. International Conventions on Human Rights, from the UDHR.<sup>22</sup> Legally binding treaties have emerged, such as the International Covenant on Civil and Political Rights (ICCPR), which focuses on civil and political rights. The ICESCR (International Covenant on Economic, Social, and Cultural Rights) addresses rights such as the right to education, health, and labor. Other relevant human rights conventions refer to additional agreements, such as the Convention on the Rights of the Child and the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), among others. State Duty on Human Rights: States are bound by these conventions to protect and promote human rights. This obligation extends to ensuring that human rights are upheld by citizens, who are individuals entitled to their human rights and should not violate the rights of others. Corporations, as legal entities, corporations are responsible for respecting human rights, and states have a duty to regulate them accordingly.

On the right side, Customary International Law and the UDHR reflect norms and practices that, although not always codified in treaties, are widely accepted by states and become legally binding over time through consistent practice. The diagram references UN frameworks that guide corporate behavior in the business sector. Thus, they have human rights responsibility as written in the UN Protect, Respect, and Remedy Framework, which is a foundational set of principles that outline the state's duty to protect human rights, the corporate responsibility to respect human rights, and the need for greater access to remedies for victims of business-related abuses. UN Guidance on Business and Human

---

<sup>22</sup> This foundational document, adopted in 1948, laid the groundwork for modern human rights law. Although it is not legally binding, it has significantly influenced numerous international treaties and conventions.

Rights provides specific recommendations for corporations to prevent human rights abuses in their operations and supply chains. Corporate supply chain responsibility emphasizes that corporations are expected to ensure that human rights are respected within their operations and throughout their supply chains. The focus is on ethical practices and avoiding complicity in human rights violations, even if they occur indirectly through suppliers or subcontractors.

Thus, this diagram illustrates that the left focuses on state responsibility under international treaties, and the right focuses on the evolving corporate responsibility framework under customary law and UN guidance. Both paths converge at the corporate level, highlighting that corporations are accountable for upholding human rights, whether through direct state regulations or international guidelines.

This diagram illustrates the shift in international law, where states and businesses are increasingly held accountable for protecting human rights, particularly within their supply chains. The basic theory of this dissertation can be followed with the chart above. First, the writer sees human rights theory starts from natural law, then article 38, verse one of the UN Statute of the International Court of Justice (ICJ), which states that the international source of law is the international law of treaty, customary international law, international legal principle, and jurisprudence/doctrine. Moreover, international human rights law is formed from treaties and customary international law. The leading international treaties on human rights are the International Covenant on Civil and Political Rights (ICCPR) and the International Covenant on Economic, Social, and Cultural Rights (ICESCR). The customary international law of human rights is also embodied in the Universal Declaration of Human Rights (UDHR).

Furthermore, the human rights conventions emphasize that the state must protect its citizens and corporations operating within its country as subjects of law.<sup>23</sup> The state obligations regarding human rights can be found in the commentary of

---

<sup>23</sup> Chris Jochnick, "Confronting the Impunity of Non-State Actors: New Fields for the Promotion of Human Rights," *Human Rights Quarterly* 21, no. 1 (1999): 56–79, <https://doi.org/10.1353/hrq.1999.0008>.

the ICCESR, which states that states have an obligation to protect, respect, and fulfill these rights.<sup>24</sup> Although the state must protect corporations as legal entities and subjects of law, it must also prove that their activities harm people's human rights. Thus, corporations must also be bound as subjects of human rights law.<sup>25</sup> This dissertation explains that this obligation is outlined in the UN Resolution, specifically the UN Resolution on Business and Human Rights (2008).

As we know, resolution is not a source of international law. However, in international law, we are familiar with the concepts of hard and soft law. Complex law is the source of international law.<sup>26</sup> Soft law is a resolution, guidance, code of conduct, and so on.<sup>27</sup> Furthermore, this soft law can become a hard law if it is recognized as international customary law. Experts write that the repetition of using the law can form international customary law,<sup>28</sup> The recognition has been proven by the time the subject of international law was used. Thus, the UN Resolution on the UN Framework protects, respects, and remedies business and human rights, and its guiding principle is part of hard law under the classification Source of customary international law. Since this UN Framework is a source of international law hence, all the rules and regulations written in this resolution are binding. One of the laws is that corporations have a human rights obligation in their supply chains. A detailed explanation of the theory in this dissertation will be written below.

### 2.1.1 Natural Law

According to the natural law theory, human rights are considered inherent in human nature and part of the divine order. When a person is born, they naturally have several rights that cannot be eliminated or eliminated, regardless of their

---

<sup>24</sup> Jackie Dugard, "The International Covenant on Economic, Social and Cultural Rights: Commentaries, Cases, and Materials," *Nordic Journal of Human Rights* 33, no. 3 (2015): 269–70, <https://doi.org/10.1080/18918131.2015.1060031>.

<sup>25</sup> David Bilchitz, "Corporate Law and the Constitution: Towards Binding Human Rights Responsibilities for Corporations," *South African Law Journal* 125, no. 4 (2008): 754–789.

<sup>26</sup> Felicia Maxim, "Hard Law Versus Soft Law in International Security," *Conferința Internațională de Drept, Studii Europene Și Relații Internaționale*, no. VIII (2020): 113–126, <https://www.cceol.com/search/article-detail?id=880766>.

<sup>27</sup> Jessika van der Sluijs, "The Infrastructure of Normative Legitimacy in Domestic Soft Law – Sketching the Field," *Scandinavian Studies in Law* 62 (2017): 245–60.

<sup>28</sup> John King Gamble Jr., "The Treaty/Custom Dichotomy: An Overview," *Texas International Law Journal* 16, no. 3 (Summer 1981): 305–320.

religion, ethnicity, social class, or sexual orientation. Thus, every person has human rights, and the state, as the duty holder of human rights, must ensure respect for, protect and fulfill people's human rights.<sup>29</sup> As stated in Article 2 of the UDHR. Moreover, As Ernest Freud said, human rights are defined as the rights of people merely because we are human.<sup>30</sup> Human rights are a particular type of right held by human beings, the rights they possess simply by their nature as human persons. Likewise, human rights may misleadingly suggest that one is being humane, charitable, or beneficent in establishing or recognizing such rights when, in fact, one is giving rights holders to which they are entitled.<sup>31</sup>

The concept of human rights is deeply rooted in philosophical traditions, particularly those surrounding natural rights and the social contract. Key thinkers such as Thomas Aquinas and John Locke laid the foundation for understanding human rights as intrinsic and inalienable attributes that stem from human nature and reason. The concept of human rights originates from the theories of natural rights, as outlined by Thomas Aquinas, and the social contract theory proposed by John Locke. The theory of natural law holds that everyone naturally owns rights, and natural law is the part of God's law that can be discovered through human reasoning.<sup>32</sup> In his classic work, "The Second Treatise of Civil Government and a Letter Concerning Toleration," John Locke proposed that everyone has inherent natural rights to life, liberty, and property that the state cannot revoke or eliminate. Locke stated that through the social contract, individuals surrendered the protection of these inalienable rights to the state. However, suppose the government violates

---

<sup>29</sup> Stéphanie Lagoutte, Thomas Gammeltoft-Hansen, and John Cerone, *Tracing the Role of Soft Law in Human Rights*, (London: Oxford University Press, 2016), DOI:10.1093/ACPROF:OSO/978011987791409.001.0001, <https://oxford.universitypressscholarship.com/view/10.1093/acprof:oso/9780198791409.001.0001/acprof-9780198791409-chapter-5> accessed at May 16, 2022

<sup>30</sup> Martha C. Nussbaum, "Capabilities and Human Rights," *Fordham Law Review* 66, no. 2 (1997): 273–300, <https://doi.org/10.7551/mitpress/3302.003.0007>.

<sup>31</sup> Thomas Paine, edited by Philip S. Foner, New York: The Citadel Press, 1945, vol. 1, p. 273 in Jack Donnelly, "Human Rights as Natural Rights," *Human Rights Quarterly* 4, no. 3 (1982): 391–405, [https://hal.archives-ouvertes.fr/hal-02516241/file/BESSON\\_S.\\_-Human\\_Rights\\_Theory\\_and\\_Human\\_Rights\\_History.pdf](https://hal.archives-ouvertes.fr/hal-02516241/file/BESSON_S._-Human_Rights_Theory_and_Human_Rights_History.pdf).

<sup>32</sup> Dian Agung Wicaksono, "Penormaan Hukum Islam Dalam Sistem Hukum Indonesia Ditinjau Dari Ajaran Teologi Hukum Thomas Aquinas," *Jurnal Filsafat* 31, no. 1 (2021): 49–73, <https://doi.org/10.22146/jf.51754>.

the individual's natural rights and ignores the social contract. In that case, the people can overthrow the government and replace it with one that respects those rights.<sup>33</sup>

Locke further argues that individuals are endowed by nature with a literal right to life, freedom, and thought, which is their own and cannot be revoked by the state. If the state ignores that right by violating the individual's rights, then the country's people are free to dethrone the ruler and replace him with a government willing to respect those rights.<sup>34</sup> Furthermore, Article One of UDHR states that all human beings have equal rights.<sup>35</sup> Additionally, Article two of the Universal Declaration of Human Rights says.

"Everyone is entitled to all the rights and freedoms outlined in this Declaration, without distinction of any kind, such as race, color, sex, language, religion, political or another opinion, national or social origin, property, birth, or another status. Furthermore, no distinctions shall be made based on the political, jurisdictional, or international status of the country or territory to which a person belongs, whether independent, trust, non-self-governing, or under any other limitations of sovereignty."

To date, the natural law theory encompasses a set of moral norms that guide practical deliberations and choices in pursuit of the basic good.<sup>36</sup> Moreover, *John Finnis* advocated a sophisticated theory of natural law, stating that a theory of natural law claims to identify the conditions and principles of right-mindedness, of good and proper order among men in individual conduct. Finnis viewed justice and moral authority of law as the import of natural law. According to him, natural law consists of two sets of principles. (1) Basic Values that are good for Human Beings: given an example, knowledge, aesthetic experience, sociability, practical reasonableness and religion, et cetera. (2) Basic requirements of practical reasonableness are authority, justice, moral authority, and Rule of Law. In Finni's view, 'Natural Law and Natural Rights', the law emanates from the eternal law and

---

<sup>33</sup> Rhona K. M. Smith, et al., *Human Rights Law* (Yogyakarta: Center for Human Rights Studies Universitas Islam Indonesia, 2008), p. 12.

<sup>34</sup> Op.Cit., Knut D. Asplund, ed, *Human Rights Law*, p. 12

<sup>35</sup> Michael Freeman, *Human Rights: An Interdisciplinary Approach*, Sec. ed., (Cambridge: Polity Press, 2011).

<sup>36</sup> *Christopher O. Tollefsen, the new natural law theory, New Natural Law Theory (NLNRAC)*, <https://www.nlprac.org/contemporary/new-natural-law-theory.html>, Accessed April 23, 2025

is self-evident based on experience and reflection.<sup>37</sup> To add, Brian H. Bix also said Natural Law is the mode of thinking systematically about the connections between the cosmic order, morality, and law, which, in one form or another, has been around us for thousands of years. Moreover, Francesco Viola from the University of Palermo argues that natural law is characterized by a metaphysical foundation and an account of natural law as a theory of morality.<sup>38</sup> Moreover, it can also be known as positive law or natural law jurisprudence.

### 2.1.2 International Convention on Human Rights Law

Locke's ideas laid the groundwork for the evolution of human rights, ultimately leading to the establishment of universal human rights principles. Following the atrocities of World War II, the global community sought to create a unified framework for human rights, resulting in the adoption of the Universal Declaration of Human Rights (UDHR) by the United Nations in 1948. The UDHR represents a culmination of historical philosophies, aiming to outline and protect fundamental rights for every individual worldwide. Article One of the UDHR affirms the equality of all human beings, reflecting Locke's notion that rights are inherent and universal. Article Two builds on this by declaring that every individual is entitled to all rights and freedoms outlined in the Declaration,<sup>39</sup> Regardless of race, gender, religion, nationality, or other distinguishing factors. This non-discrimination clause emphasizes the universality of human rights and the collective responsibility of states to uphold these principles without prejudice. By grounding human rights in this inclusive framework, the UDHR reinforces the idea that rights are universal and not contingent on factors such as nationality or social status.

The International Convention on Human Rights is primarily developed through two covenants. The covenants are the International Covenant on Civil and

---

<sup>37</sup> Huchhanavar, Shivaraj and Huchhanavar, Shivaraj, Introduction to Traditional and Modern Natural Law Theories (September 07, 2018). Available at SSRN: <https://ssrn.com/abstract=2775536> or <http://dx.doi.org/10.2139/ssrn.2775536>

<sup>38</sup> M. Sellers, S. Kirste (eds.), Encyclopedia of the Philosophy of Law and Social Philosophy, [https://doi.org/10.1007/978-94-007-6730-0\\_367-1](https://doi.org/10.1007/978-94-007-6730-0_367-1)

<sup>39</sup> Asbjørn Eide, "The Historical Significance of the Universal Declaration," *International Social Science Journal* 50, no. 158 (1998): 475–97, <https://doi.org/10.1111/1468-2451.00162>.

Political Rights (ICCPR) and the Covenant on Economic, Social, and Cultural Rights (ICESCR), which are two derivative documents of the Universal Declaration of Human Rights (UDHR). As mentioned earlier, states have three obligations under human rights, as outlined in the commentary of the ICESCR.<sup>40</sup> which are to protect, respect, and fulfill. Additionally, the obligation is divided into two parts. The first obligation is that the state is responsible for respecting, protecting, and fulfilling human rights. The commitment of respect is intended to require states to enforce the ICCPR and ICESCR, either directly or indirectly, against the rights outlined in the Convention.

### 2.1.3 State duty on human rights

Theories of natural law and social contract emphasize that while individuals possess inherent rights, the state bears the responsibility of protecting and fulfilling these rights.<sup>41</sup> According to modern interpretations of international human rights law, the state acts as a "duty bearer," accountable for safeguarding the rights of its citizens and preventing violations. Failure to protect these rights constitutes a breach of human rights obligations, often subjecting states to international scrutiny and criticism.

Human rights place the state under an obligation to respect human rights, and the state is said to have violated human rights law if it fails to comply with the provisions of the human rights law agreement to which it is a party.<sup>42</sup> As the "owner" of the individual (people), the state must protect human rights through its apparatus and third parties. Fulfilling human rights is the state's responsibility, especially that of the government. "The State has an obligation to fulfill the human rights of its citizens. State obligations entail the state's duty to respect, protect, and fulfill the human rights of its citizens, as outlined in international agreements, particularly international conventions on human rights. The obligation to protect is interpreted as the state's responsibility to safeguard the human rights of its citizens

---

<sup>40</sup> Brigitte I. Hamm, "A Human Rights Approach to Development," *Human Rights Quarterly* 23, no. 4 (2001): 1005–31, <https://doi.org/10.1353/hrq.2001.0055>.

<sup>41</sup> Philip A. Hamburger, "Natural Rights, Natural Law, and American Constitutions," *The Yale Law Journal* 102, no. 4 (1993): 907–60, <https://doi.org/10.2307/796836>.

<sup>42</sup> Op.cit., Knut D. Asplund

by preventing violations by various parties, both intentional and unintentional, perpetrated by the state apparatus and third parties. At the same time, the obligation to implement requires states to take multiple legislative, administrative, budgetary, legal, and other measures to implement human rights stipulated in the Convention.<sup>43</sup> Second is the obligation.<sup>44</sup> To act (obligation of conduct) and achieve results (obligation of result). The obligation to conduct is the obligation to carry out the fulfillment of an individual right. For example, to ensure that all children receive primary education without discrimination, the government must implement specific policies or actions, such as literacy programs, to reduce illiteracy.<sup>45</sup> These two minimum essential obligations are primarily aimed at regulating the implementation of ICCPR and ICESCR, which requires states to at least provide minimal fulfillment of economic, social, and cultural rights in their country to their people—furthermore, continuing to take steps until the realization of economic, social, and cultural rights can be fulfilled.

State obligations to human rights based on the above three criteria may be violated not because of the state but because of the activities of business actors. Therefore, business actors have a duty to implement the obligations of business actors to human rights as entrusted by UNGPs.<sup>46</sup> Nowadays, business actors must maintain a good relationship with the community to achieve success as businesspeople. Hence, various initiatives demonstrate that business actors coexist with the community in its continued development. Hence, corporations have various initiatives in place to prevent such issues, which exist today, namely Corporate Social Responsibility (CSR), the OECD Guidelines for Multinational Enterprises, the ILO Tripartite Declarations, the UN Global Compact, and ISO

---

<sup>43</sup> Naning Mardiniah, et al, *Meneropong hak atas education and health services: Situation Analysis in Three Districts: Indramayu, Sikka and Jayapura*, CEDSA-LP3ES, Jakarta, 2005

<sup>44</sup> Ben Saul, "In the shadow of human rights: Human duties, obligations, and responsibilities," *Columbia Human Rights Law Review*, 32, no. 3 (2000): 565-624.

<sup>45</sup> Harry Wibowo and Anharudin, *Meneropong Hakmudi Hakmu Education and Health Services: Situation Analysis in Three Districts: Indramayu, Sikka and Jayapura*, (Jakarta: CEDSA-LP3ES, 2005), p. 21.

<sup>46</sup> Claes Cronstedt, Robert C Thompson, and Geoffrey Robertson, "A Proposal for an International Arbitration Tribunal on Business and Human Rights," *Harvard International Law Journal Online Symposium* 57, no. October 2008 (2016): 66–69, <http://ssrn.com/abstract=2657885>.

26000 on Global Standards and Social Responsibility Initiatives. Nevertheless, this initiative is voluntary. Thus, the UN Framework and UNGPs advocate for more mandatory arrangements than relying on volunteerism.<sup>47</sup>

#### 2.1.4 UN Resolution on Business and Human Rights

Multinational corporations (MNCs), business actors often referred to as corporations, are not the subject of international law because they do not align with the theoretical entities that can be the subject of international law. An entity can be defined as subject to international law if it meets these criteria. Namely, the Developer of rights and obligations in international law can litigate in international courts, participate in international treaties that are based on natural law, and be recognized by other subjects of international law.<sup>48</sup> The company's statement regarding its status in international law aligns with John O'Brien's assertion that a public company does not possess an international legal personality in its own right.<sup>49</sup> Therefore, corporations (MNCs) do not assume rights and obligations under international law. International human rights said that only the state is a subject of international law (along with international organizations, such as the Red Cross and the Vatican, as well as belligerent and individual). Nevertheless, a corporation's activity is knowing can harm individual human rights. Thus, the international community seeks to extend the obligation of human rights to corporations as duty holders. Companies remain among the most visible and essential actors, apart from the state, in the governance of global problems and solutions. Their economic power and pursuit of private interests primarily maintained through lobbying, have been bolstered by their ability to form, interpret, and implement political and legal norms, rules, standards, and regulations.<sup>50</sup>

---

<sup>47</sup> Ibid.

<sup>48</sup> Adzkar Ahsinin et al., *Relasi Bisnis Dan Hak Asasi Manusia: Konteks Dan Perspektif Hukum Di Indonesia* (Yogyakarta: Lembaga Studi dan Advokasi Masyarakat (ELSAM), 2016). p. 197.

<sup>49</sup> John O'Brien, *International Law* (London: Cavendish Publishing Limited, 2001). p. 155.

<sup>50</sup> Anne Peters et al., *Non-State Actors as Standard Setters* (Cambridge University Press, 2009); Anneloes Hoff and Janne Mende, "The Governance Authority of Non-State Actors in the Business and Human Rights Regime," *Journal of Human Rights* 21, no. 5 (2022): 593–603, <https://doi.org/10.1080/14754835.2022.2104119>.

United Nations, at least, has started to regulate this since the 1970s with the UN Draft Code of Conduct on Transnational Corporations, which was initiated by the Commission on Transnational Corporations called the UN Draft; this draft contains multinational corporations' obligations to respect the development objectives of the receiving country, comply with domestic law, respect general principles of human rights and respect environmental health. However, the UN Draft has received little attention, and only a few countries have shown interest in this provision.<sup>51</sup> By the 1990s, the UN had established a working group called the UN Sub-Commission on the Promotion and Protection of Human Rights, whose task was to examine the role of corporations in complying with human rights. In 2003, they reported the recommendation, which was called the Draft Norms on Human Rights Responsibilities of Transnational Corporations and Other Business Enterprises.<sup>52</sup> which puts corporations in the same place as the state. Thus, this norm is not implanted. However, work on this continues. In 2005, the UN Pointed a special representative of the Secretary-General (SRSG), and finally, in 2008 and 2011, the UN ratified a resolution by the name of UN Framework on Protect, respect, and Remedy and UNGP,<sup>53</sup> The second pillar is protecting corporate obligations and respecting internationally recognized human rights, even if human rights are not known in the country's legal system. For this reason, the corporation must conduct due diligence on human rights to comply with the responsibility to integrate human rights into its activities. A Framework for Business and Human Rights confirmed through UN Doc. A/HRC/8/5, April 7, 2008, and UNHRC, Human Rights and Transnational Corporations and Other Business Enterprises, UN Doc. A/HRC/Res. 17/4, June 16, 2011, para. One endorsing HRC, Guiding Principles on Business and Human Rights: Implementing the United Nations

---

<sup>51</sup> Radu Mares, *The UN Guiding Principles on Business and Human Rights* (Leiden: Martinus Nijhoff Publishers, 2011). p. 86.

<sup>52</sup> *Ibid.*, p. 87.

<sup>53</sup> The Office of the High Commissioner for Human Rights (OHCHR) leads the business and human rights agenda. The UN system supports the UN Human Rights Council and the UN Working Group on Business and Human Rights in promoting the dissemination and implementation of the UN Guiding Principles on Business and Human Rights.

'Protect, Respect and Remedy Framework, UN Doc. A/HRC/17/31, March 21, 2011, Annex, para. 2 (hereafter "UNGPs"). Although their roles differ, these two primary UN documents outline human rights obligations for both state and non-state entities, including corporations.

This resolution describes the human rights regime and business that will later be referred to as the BHR Regime. There are three leading actors in the BHR regime,

Moreover, these three actors have their respective obligations covered by the two BHR Regime institutions. These actors are the state, corporations, and society. As illustrated in the image below

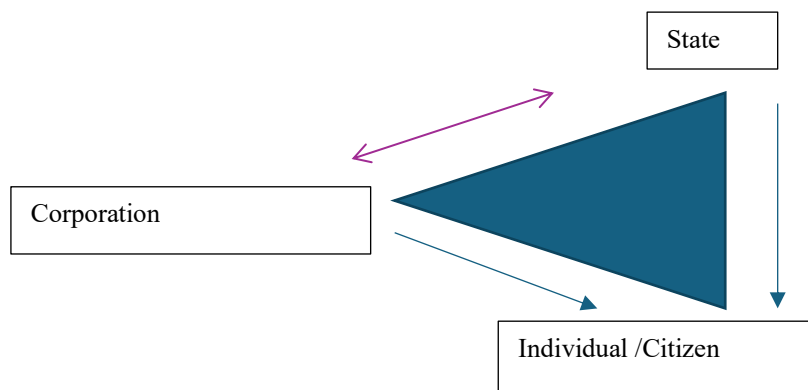


Figure 3: Main Actor in Business and Human Rights Regime<sup>54</sup>

The picture above shows that the BHR regime's state has obligations to individuals and corporations. Obligations to individuals are an abomination to fulfill, protect, and respect human rights. In contrast, obligations to corporations are obligations to provide legal instruments that ensure corporations are conducting their business in a manner that does not violate human rights, as regulated by the state. The picture also shows that there are corporations that have obligations to both individuals and the state. The state corporation in the BHR Regime should comply with all human rights laws to ensure that its business activities do not violate the human rights of individuals. At the same time, the corporation should ensure that BHR does not compromise the human rights of citizens when conducting business activities.

<sup>54</sup> Rehulina Rehulina, Inspired by UN Framwork and UNGPs

As duty holders, individuals have the right to be protected by their human rights, especially by the state and corporations. The obligations of the state and corporations in this BHR Regime are listed in the three Pillars of Business and Human Rights, as illustrated below.<sup>55</sup>

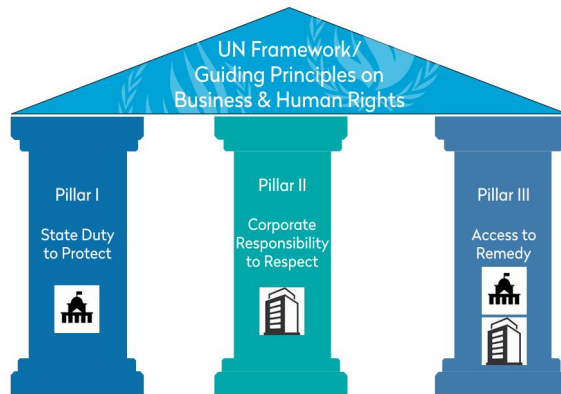


Figure 4: Three Pillar on Business and Human Rights<sup>56</sup>

- 2.1.1 Duty to protect: the state's responsibility to protect against human rights abuses by third parties, including businesses.
- 2.1.2 Responsibility to respect: the corporate responsibility to respect human rights.
- 2.1.3 Access to remedy: Access to remedy for victims of human rights abuses by corporations.

In the first pillar, there is an obligation on the state to protect, and the second pillar is the responsibility of the corporation to respect. The third obligation of the state and corporation in the event of human rights violations is access to remedy, both through court channels and non-court channels. These three components were divided into 31 principles in The United Nations Guiding Principles on Business and Human Rights, implementing the "Protect, Respect and Remedy."<sup>57</sup> The

<sup>55</sup> Report dated 9. December 2016 on Switzerland's strategy for implementing the UN Guiding Principles on Business and Human Rights in response to the parliamentary postulate 12.3503, Alec von Graffenried, 14. December 2012 Analysis and comments by the Swiss Coalition for Corporate Justice [https://www.publiceye.ch/fileadmin/doc/Konzernverantwortung/2016\\_NAP\\_Report\\_E.pdf](https://www.publiceye.ch/fileadmin/doc/Konzernverantwortung/2016_NAP_Report_E.pdf) Accessed on March 1, 2022

<sup>56</sup> Swiss Coalitions for Corporate Justices, [https://www.publiceye.ch/fileadmin/doc/Konzernverantwortung/2016\\_NAP\\_Report\\_E.pdf](https://www.publiceye.ch/fileadmin/doc/Konzernverantwortung/2016_NAP_Report_E.pdf), access on April 29, 2025

<sup>57</sup> Surya Deva and David Birchall, *Research Handbook on Human Rights and Business* (Cheltenham, UK; Northampton, USA: Edward Elgar Publishing Limited, 2020), <https://doi.org/10.4337/9781786436405>.

principles are established by states and companies that clarify their duties and responsibilities to protect and respect human rights in their business activities. In addition, it ensures access to an effective remedy for individuals and groups affected by suctioning.

The first pillar sets out the state's responsibility to protect human rights. This responsibility entails the state providing all regulations regarding the implementation of human rights protection for its citizens. The first pillar emphasizes the role of states in safeguarding human rights against business-related harm, creating a regulatory and policy environment that fosters respect for human rights within the business sector.<sup>58</sup>

The second pillar of the United Nations Guiding Principles sets out the corporate responsibility to respect human rights. This responsibility means corporations are avoiding infringing on the rights of others and addressing adverse human rights impacts that do occur.<sup>59</sup> The operation of a company must work in a way that does not interfere with or harm the human rights of others, such as employees, community members, consumers, or others. The responsibility means companies must assess the effect of their activities, avoid human rights infringements, and address any potential or actual impact. Companies must participate in effective remedy processes if they find they have caused or contributed to the harm. State obligations under international law to protect against human rights violations by individuals (including legal persons) against other individuals, and international law as a normative source for company due diligence and the corporate responsibility to respect human rights.<sup>60</sup>

The third pillar is access to remedy. This pillar indicates the responsibility of both states and corporations to provide access to remedy if corporate activities

---

<sup>58</sup> Stéphanie Lagoutte, "New Challenges Facing States within the Field of Human Rights and Business," *Nordic Journal of Human Rights* 33, no. 2 (2015): 158–80, <https://doi.org/10.1080/18918131.2015.1048601>.

<sup>59</sup> Claire Methven O'Brien and Sumithra Dhanarajan, "The Corporate Responsibility to Respect Human Rights: A Status Review," *NUS Law Working Paper* (Singapore, 2015), <https://doi.org/10.1108/AAAJ-09-2015-2230>.

<sup>60</sup> John Gerard Ruggie, "Protect, Respect, and Remedy: The UN Framework for Business and Human Rights," in *International Human Rights Law*, 2008, 519–38. John Ruggie. UN Doc. A/HRC/8/5 <https://documents.un.org/doc/undoc/gen/g08/128/61/pdf/g0812861.pdf>

are proven to harm people's human rights. Furthermore, the process is both judicial (court-based) and non-judicial (including negotiation, mediation, and other forms of alternative dispute resolution). The third pillar of access to remedy in the UN Guiding Principles on Business and Human Rights underscores a crucial aspect of corporate accountability. By mandating that both states and corporations provide avenues for redress when business activities infringe upon human rights,<sup>61</sup> This principle promotes justice, accountability, and transparency.<sup>62</sup> Through judicial and non-judicial mechanisms, individuals can seek reparations and prevent further harm, fostering a business environment that respects and protects human rights. Ensuring accessible, fair, and effective remedies remains essential for bridging the gap between human rights principles and the realities of corporate conduct, paving the way for a more accountable and responsible global business environment.<sup>63</sup>

## 2.2 Multinational corporations in international law

A multinational corporation,<sup>64</sup> Often referred to as a transnational corporation or simply a multinational corporation, it is an organization with business operations in more than one country.<sup>65</sup> A transnational corporation is defined as an enterprise that meets specific criteria, must have a certain size, must own or control production or service facilities outside its home state, and must integrate these units into a cohesive corporate entity.<sup>66</sup> According to an alternative

---

<sup>61</sup> Pierre Thielbörger and Tobias Ackermann, "A Treaty on Enforcing Human Rights Against Business: Closing the Loophole or Getting Stuck in a Loop?," *Indiana Journal of Global Legal Studies* 24, no. 1 (2017): 43–79, <https://doi.org/10.2979/indjglolegstu.24.1.0043>.

<sup>62</sup> Marco Fasciglione, "The Enforcement of Corporate Human Rights Due Diligence: From the UN Guiding Principles on Business and Human Rights to the Legal Systems of EU Countries," *Human Rights & International Legal Discourse* 1 (2016): 94–117.

<sup>63</sup> Tarek F. Maassarani, Margo Tatgenhorst Drakos, and Joanna Pajkowska, "Extracting Corporate Responsibility: Towards a Human Rights Impact Assessment," *Cornell International Law Journal* 40, no. 1 (2007): 135–69, <http://scholarship.law.cornell.edu/cilj/vol40/iss1/3%0AThis>.

<sup>64</sup> The terms Transnational Corporation (TNC) and Multinational Corporation describe a company that operates in more than one country. In the past, the UN used the term TNC, but in the UN, the term MNC was used. Both terms have been used thus far, both in academic fields and in the practical field, by Nations, international organizations, companies, and NGOs.

<sup>65</sup> David Weissbrodt and Muria Kruger, "Norms on the Responsibilities of Transnational Corporations and Other Business Enterprises concerning Human Rights," *The American Journal of International Law* 97, no. 4 (2003): 901–22, <https://doi.org/10.1017/S2071832200016643>.

<sup>66</sup> Luzius Wildhaber, "Some Aspects of the Transnational Corporation in International Law," *Netherlands International Law Review* 27, no. 1 (1980): 79–88, <https://doi.org/10.1017/S0165070X00013814>. Ibid.

interpretation, a transnational corporation is "a cluster of corporations of diverse nationality joined together by ties of common ownership and responsive to a common management strategy."<sup>67</sup> Moreover, the ILO's Tripartite Declarations of Principle Concerning Multinational Enterprise and Social Policy define a multinational enterprise as an "enterprise whether they are the public, mixed or private ownership, which owns control productions, distribution, service or another facility outside the country which they are based. Whereas the Draft UN Code of Conduct on Transnational Corporations defines a transnational corporation as<sup>68</sup>

“an enterprise, whether of public or mixed ownership, comprising entities in two or more countries, regardless of the legal form and the field of activities of these entities, which operate under a system of decision-making, permitting coherent policies and a common strategy through one or more decision-making centers, in which the entities are so linked by ownership or otherwise, that one or more of the exercise a significant influence over the activities or other and in particular, to share knowledge, resources, and responsibility with other.

Under international law, multinational corporations are neither duty holders nor entitled to participate in lawmaking. However, in 1964, Wolfgang Friedman argued for multinational inclusion in international law. Moreover, in 1983, Jonathan Charney contended that because multinational corporations represent significant independence and power, failure to include them in negotiations under the UN or other intergovernmental auspices to produce norms for the behavior of multinational corporations would result in norms that do not accurately reflect the realities of multinational corporations' interests and power.<sup>69</sup> Multinational corporations (MNCs) have become critical players in the global economy, operating across borders and influencing international markets, politics, and societal norms. MNCs are uniquely positioned in international law because traditional international

---

<sup>67</sup> Detlev F. Vagts, "The Multinational Enterprise: A New Challenge for Transnational Law," *Harvard Law Review* 83, no. 4 (1970): 739–92, <https://doi.org/10.2307/1339838>. (quoting Raymond Vernon, *Economic Sovereignty at Bay*, FOREIGN AFF., Oct. 1968, at 110, 114). *Ibid*

<sup>68</sup> Ans Kolk, Rob van Tulder, and Carlijn Welters, "International Codes of Conduct and Corporate Social Responsibility: Can Transnational Corporations Regulate Themselves?," *Transnational Corporations* 8, no. 1 (1999): 143–80.

<sup>69</sup> Karin Buhmann, navigating from 'Train Wreck' to Being 'Welcomed': Negotiation Strategies and Argumentative Patterns in the Development of the UN Framework, *Human Rights Obligations of Business Beyond the Corporate Responsibility to Respect*, Edited by Surya Deva and David Bilchitz, Cambridge Press, 2013, pg. 29

law primarily governs relations between sovereign states, not private entities. However, with the rise of globalization, MNCs have increasingly come under scrutiny, particularly regarding their responsibilities related to human rights, environmental sustainability, and corporate governance. Historically, international law did not directly regulate corporations; instead, it focused on the sovereignty of states and the obligations of states under various treaties and conventions. MNCs were primarily subject to the domestic laws of the countries in which they operated.<sup>70</sup> This fragmented legal environment allowed corporations sometimes to exploit legal loopholes, including weak labor protections, environmental regulations, and human rights standards, across different jurisdictions. However, with the increasing influence of MNCs and the cross-border nature of their activities, there has been growing pressure to establish a framework for regulating their behavior in international law. While MNCs are not formal subjects of international law like states, several international efforts have been made to address the accountability of businesses, including MNCs, particularly about human rights. Multinational corporations (MNCs) have grown into some of the most powerful entities in the global economy.<sup>71</sup> These businesses operate across multiple countries, control vast resources, and have a significant impact on economies, politics, and societies. The increasing reach and influence of multinational corporations (MNCs) have raised important legal questions regarding their responsibilities under international law. Traditionally, international law focused solely on state actors.<sup>72</sup> However, the rapid rise of MNCs has necessitated new legal approaches to regulate their operations and ensure accountability, particularly in areas such as human rights, environmental protection, and labor standards.<sup>73</sup>

---

<sup>70</sup> Jan Wouters and Anna-Luise Chané, "Multinational Corporations in International Law" (Leuven, Belgium, 2015). p.129

<sup>71</sup> John H. Dunning and Sarianna M. Lundan, *Multinational Enterprises and the Global Economy*, 2nd ed. (Cheltenham, UK: Edward Elgar Publishing, Inc., 2008).

<sup>72</sup> Sandesh Sivakumaran, "Beyond States and Non-State Actors: The Role of State-Empowered Entities in the Making and Shaping of International Law," *Columbia Journal of Transnational Law* 55, no. 2 (2017): 343–94.

<sup>73</sup> David Kinley and Junko Tadaki, "From Talk to Walk: The Emergence of Human Rights Responsibilities for Corporations at International Law," *Virginia Journal of International Law* 44, no. 4 (2004): 931–1024, <https://heinonline.org/HOL/LandingPage?handle=hein.journals/vajint44&div=34&id=&page=>

The concept of corporations operating across borders dates back centuries. Early examples include European colonial trading companies such as the Dutch East India Company (VOC) and the British East India Company in the 17th century,<sup>74</sup> Which held monopolies and exercised state-like powers, including controlling territories and military forces.<sup>75</sup> These corporations, while influential, were primarily regulated by their home countries and operated with the direct backing of sovereign states. Following the Industrial Revolution in the 19th century, the rise of modern corporations coincided with the expansion of global markets. As industries grew, companies sought to operate in multiple countries to access new resources, markets, and labor forces.<sup>76</sup> By the mid-20th century, multinational corporations (MNCs) had become significant global actors, particularly in the oil, mining, banking, and manufacturing sectors. The post-World War II period witnessed a significant increase in the economic and political power of these entities, profoundly influencing the international stage.<sup>77</sup> However, early international law largely ignored corporations, focusing instead on states and intergovernmental organizations. This began to change in the late 20th century, as multinational corporations (MNCs) became more influential and more involved in issues such as labor rights, environmental degradation, and human rights violations, often tied to their operations in developing countries.<sup>78</sup>

### 2.2.1 Legal Frameworks Governing MNCs

While MNCs are not traditional subjects of international law, several legal frameworks have evolved to regulate their behavior and hold them accountable for

---

<sup>74</sup> Kevin Blachford, "Revisiting the Expansion Thesis: International Society and the Role of the Dutch East India Company as a Merchant Empire," *European Journal of International Relations* 26, no. 4 (2020): 1–19, <https://doi.org/10.1177/1354066120932300>.

<sup>75</sup> Richard John Guy, "First Spaces of Colonialism: The Architecture of Dutch East India Company Ships," *Dissertation* (Cornell University, 2012).

<sup>76</sup> David B. Sicilia, "Industrialization and the Rise of Corporations, 1860–1900," *A Companion to 19th-Century America*, (Blackwell Publisher, 2001): 139-151.

<sup>77</sup> Abel B.S. Gaiya, "Regime of International Development: A History of Development Assistance Since 1500," 2010.

<sup>78</sup> Lisa Calvano, "Multinational Corporations and Local Communities: A Critical Analysis of Conflict," *Journal of Business Ethics* 82, no. 4 (2008): 793–805, <https://doi.org/10.1007/s10551-007-9593-z>.

violations of international norms. These frameworks include soft law, customary international law, and binding treaties.

#### 2.2.1.1 State-Centric Nature of International Law

Traditionally, international law governs the relations between sovereign states and does not directly apply to private actors, such as multinational corporations (MNCs). Historically, states have been responsible for regulating the activities of corporations within their jurisdictions through domestic law. However, as MNCs began to transcend national borders, this system revealed several weaknesses, such as jurisdictional limitations and the exploitation of legal gaps.

#### 2.2.1.2 International Treaties and Conventions

While MNCs are not typically parties to international treaties, certain treaties indirectly regulate their behavior by imposing obligations on states that are expected to regulate corporate activities. These include the ILO Conventions, which protect labor rights, including the right to form unions, eliminate forced labor, and prevent child labor. States that ratify these conventions must ensure that corporations operating within their borders adhere to these standards. Additionally, treaties such as the Paris Agreement on climate change place indirect pressure on multinational corporations (MNCs) to reduce their environmental footprint. Although the obligations are on states, many MNCs must comply with national laws shaped by these international agreements.

#### 2.2.1.3 Corporate Social Responsibility and Soft Law

In response to global demands for more responsible corporate behavior, some soft law instruments have emerged to guide multinational corporations (MNCs), even though these are not legally binding.<sup>79</sup> Some key frameworks include the UNGPs, which were endorsed by the UN Human Rights Council in 2011. The UNGPs outline the corporate responsibility to respect human rights and recommend that MNCs implement human rights due diligence processes to identify and mitigate risks related to their activities. Moreover, the OECD Guidelines for Multinational Enterprises on Business Conduct (OECD Guidelines) promote responsible business

---

<sup>79</sup> In chapter two (2.3), the writer explained that although it is soft law, it can be considered hard law through its transformation into customary law.

conduct in the areas of human rights, labor relations, and environmental sustainability. While non-binding, these guidelines provide standards that MNCs are encouraged to follow, and states that adhere to these principles often enforce them through domestic laws and mechanisms. The Global Reporting Initiative (GRI) instrument encourages businesses to report on their environmental and social impacts, allowing multinational corporations (MNCs) to demonstrate transparency and accountability in their operations.

#### 2.2.2.4 The Business and Human Rights Regime

A significant milestone in holding multinational corporations (MNCs) accountable for human rights violations was the adoption of the UN Guiding Principles on Business and Human Rights (UNGPs).<sup>80</sup> Despite these advancements, regulating multinational corporations (MNCs) in international law remains a challenge. Some central issues include jurisdictional gaps, where MNCs often operate in countries with weak legal systems, which may hinder governments' ability to effectively enforce international labor, human rights, and environmental standards. This creates legal "gray zones" where violations can occur without consequences. Most frameworks that apply to MNCs, such as the UNGPs and the OECD Guidelines, are non-binding, relying on voluntary compliance. With binding international treaties specifically targeting MNCs, enforcement of standards is allowed.

MNCs often structure their operations through complex webs of subsidiaries, making it challenging to hold parent companies accountable for the actions of their subsidiaries in other countries. This corporate structuring complicates efforts to impose liability. Some countries have adopted mandatory human rights due diligence laws, which require multinational corporations (MNCs) to take proactive steps to ensure that human rights are respected throughout their supply chains. Notable examples include France's Duty of Vigilance Law (2017), which requires large companies to implement measures to prevent human rights violations and environmental damage in their global supply chains. Germany's

---

<sup>80</sup> Barbara A. Frey, "The Legal and Ethical Responsibilities of Transnational Corporations in the Protection of International Human Rights," *Minnesota Journal of Global Trade* 6 (1997): 153–88.

Supply Chain Due Diligence Act (2021) requires companies to conduct due diligence on human rights and environmental standards throughout their supply chains, addressing both direct and indirect suppliers.

#### 2.2.1.4 Examples of MNCs and International Law

Several high-profile cases illustrate the legal and ethical challenges posed by MNCs:

##### 2.2.1.4.1 Shell and Human Rights Violations in Nigeria

Shell has faced multiple lawsuits over its operations in the Niger Delta, where its oil extraction activities have been linked to environmental degradation and human rights abuses. In a landmark case, the Ogoni people sued Shell in foreign courts under the Alien Tort Claims Act in the US, seeking accountability for the company's alleged complicity in the Nigerian government's suppression of protests. Although Shell has settled some claims, these cases underscore the complexity of holding multinational corporations (MNCs) accountable for actions outside their home jurisdictions.

##### 2.2.1.4.2 Rana Plaza Collapse and Global Supply Chain Accountability

The 2013 collapse of the Rana Plaza factory in Bangladesh, which killed over 1,100 workers, exposed the harsh working conditions and safety violations in the garment industry's global supply chain. MNCs like Primark and Walmart, whose products were manufactured in the factory, faced global backlash and legal action. This tragedy led to greater emphasis on human rights and due diligence in global supply chains, with companies now required to ensure that their suppliers comply with international labor and safety standards.

Multinational corporations have evolved into influential actors in international law despite not being traditional subjects of international law, such as states. Through treaties, soft law instruments, and national legislation, efforts have been made to regulate the conduct of multinational corporations (MNCs), particularly in areas related to human rights, labor rights, and environmental protection. While challenges remain, including jurisdictional issues and the lack of binding global regulations, the growing business and human rights regime have

provided a framework for holding multinational corporations (MNCs) accountable for their global operations. As globalization continues, the regulation of multinational corporations (MNCs) in international law will likely become more complex and necessary to ensure that economic activities respect human rights and environmental standards globally.

Multinational corporations are not formal subjects of international law; the evolving business and human rights regime is creating new expectations and responsibilities for these entities. The UN Guiding Principles on Business and Human Rights, national legislation on due diligence, and international frameworks, such as the OECD Guidelines, are shaping a new landscape in which multinational corporations (MNCs) are increasingly expected to respect human rights and environmental standards throughout their global operations. However, gaps still need to be established in enforcing these responsibilities, and there is growing pressure for more binding international mechanisms to ensure accountability.

### 2.3 Resolution as "Instant" Customary International Law?

Customary international law typically develops through consistent state practice and opinion juris (the belief that such practice is legally obligatory). Traditionally, this process is gradual, often requiring years or decades for a norm to emerge and solidify. However, the concept of "instant" customary international law challenges this notion by suggesting that, under certain circumstances, a norm can become customary almost immediately, bypassing the lengthy time requirement. The idea of "instant" customary international law gained attention in the context of rapid globalization, technological advancements, and the increasing interconnectedness of states.<sup>81</sup> With the acceleration of international interactions, some scholars argue that states may recognize a norm as obligatory more quickly than in the past. This is particularly relevant in human rights, environmental law, and international humanitarian law, where pressing global issues often require immediate and collective responses.

---

<sup>81</sup> Christiana Ochoa, "The Individual and Customary International Law Formation," *Virginia Journal of International Law* 48, no. 1 (2007): 119–86.

Bin Cheng said the UN resolution could be considered a potential 'Grotian moment' for the accelerated formation of customary international law.<sup>82</sup> This statement is made when he discusses the UN General Assembly resolution on the Declaration of Legal Principles governing the activities of states in the exploration and use of Outer Space. In addition, he argued that evidence of sufficient state practices might not be necessary to form instant customary law if the other requirement of opinion juris is fulfilled, particularly by voting on the General Assembly Resolutions.<sup>83</sup>

Customary international law is recognized as a primary source of international law, as outlined in Article 38(1) of the Statute of the International Court of Justice (ICJ). Alongside treaties and general principles of law as authoritative sources, the ICJ may apply them in its decisions. Customary law arises from consistent and general practices accepted as legally binding by states. Over time, this body of unwritten law has gained recognition, serving as a framework for guiding international relations and ensuring accountability. Customary international law is recognized as a source of international law as written in article 38 (1) ICJ as a state.

"The court, whose function is to decide under international law as such dispute as are submitted to it<sup>84</sup>, shall apply:

- a. Whether general or international conventions establish rules expressly recognized by contesting states.
- b. The general custom, as evidence of a general practice accepted as law.
- c. Civilized nations recognize the general principle of law.

---

<sup>82</sup> Michael P. Scharf, "Seizing the 'Grotian Moment': Accelerated Formation of Customary International Law in Times of Fundamental Change," *Cornell International Law Journal* 43, no. 3 (2010): 439–69.

<sup>83</sup> S. R. Subramanian, "UN Security Council and Human Rights: An Inquiry into the Legal Foundations of the Responsibility to Protect in International Law," *Utrecht Journal of International and European Law* 37, no. 1 (2022): 20–40, <https://doi.org/10.5334/ujiel.471>.

<sup>84</sup> Akinwumi Ogunranti, "The Relationality of Community Development Agreements towards a Human Rights Due Diligence Good Faith Requirement," *Canadian Yearbook of International Law*, 2024, 1–22, <https://doi.org/10.1017/cyl.2024.11>.

- d. Subject to the provisions of article 59, judicial decisions and the teaching of the most highly qualified publicist of the various nations, as subsidiary means for the determinations of the rule of law."

Judge Read's description of customary international law as "the generalization of the practice of law" highlights its foundational basis in the consistent behaviors of states over time, which eventually become recognized as binding legal norms. This definition emphasizes the concept that customary international law evolves organically from repeated actions or practices that reflect a shared understanding of lawful conduct.<sup>85</sup> Meanwhile, Brownlie further defines three elements of customary international law: duration of consistency of practices, generality of practices, and "accepted as law": *opinio iuris sive necessitates*.

The duration of consistency of practices element requires that state practices be consistent and sustained over time. Temporary or isolated actions do not establish a custom; instead, a long-term pattern is necessary to demonstrate a shared commitment to a particular behavior. Moreover, the duration of consistency refers to the state's application of international customary law for an extended period, although this is no longer the case; for example, the rules relating to airspace and the continental shelf have emerged following a relatively short period of maturation.<sup>86</sup> Meanwhile, duration means that the practice used is consistent across the states, for example, in the *Sipadan Ligitan* case (a case between Indonesia and Malaysia) regarding the ownership of the Sipadan and Ligitan islands. The ICJ decision stated that Malaysians are entitled to land based on the principle of effective occupation. This principle has been applied in previous cases regarding the ownership of islands by states. Moreover, the accepted law used by the court (ICJ) will often be the existence of *opinio iuris* from general practice, scholarly consensus, or its own or other tribunals' previous determinations. An example is flag states with exclusive criminal jurisdictions on the high seas.

---

<sup>85</sup> James Crawford, *Fisheries (UK v Norway)*, *ICJ Reports 1951 p.116*, *Brownlie's Principles of Public International Law*, 8th ed. (London: Oxford University Press, 2008), <https://doi.org/10.1093/he/9780199699698.001.0001>. p. 25

<sup>86</sup> *Ibid.*, p. 24

As mentioned above, Brownlie provides three criteria for accepting a rule as customary international law, and the writer seeks to determine whether the UN Resolution can be considered customary international law.<sup>87</sup> Although UN Resolutions are considered the authoritative international 'soft' standard on BHR law today, not all UN resolutions are attached to customary international law when it applies to a case. The First UN resolution is described as a formal expression of the opinion or will of UN bodies, such as the General Assembly, the Security Council, and the Economic and Social Council. Georges Abi-saab noted that the normative effect of the UN General Assembly Resolution depends on three factors.<sup>88</sup>

- a. The degree of consensus behind the resolution
- b. The degree of concreteness of the normative language in the resolution
- c. The extent to which mechanisms of implementation have been provided for

#### 2.3.1 Duration of consistency of practices,

UN Framework and UNGPs have been in place for more than 15 years; during this year, UNGPs have been consistently implemented by the state. For example, states have adopted this rule into their regulations.

#### 2.3.2 Generality of practices

For an element of general practice to be considered customary international law, it must be widely adopted by a significant number of states. Generality implies that this practice is not confined to a few states but is instead acknowledged and observed widely, fostering a consensus within the international community. It has witnessed a wave of legal developments, such as states applying this resolution to their counties by incorporating it into their domestic law. For example, A classic example of the generality of practices element in customary international law is seen in the formation of the rule against torture. This prohibition is considered customary international law because a broad and diverse group of

---

<sup>87</sup> Stefan N. Schwebel, "The Effect of Resolutions of the U.N. General Assembly on Customary International Law," *American Society of International Law* 73 (2013): 301–9.

<sup>88</sup> Bartram S. Brown, "The Protection of Human Rights in Disintegrating States: A New Challenge," *Chicago-Kent Law Review* 68, no. 1 (1992): 203–28.

states consistently refrain from torture and have openly condemned it as a violation of human rights, believing it to be legally obligatory. Here, the generality of practice is evident, as countries across various legal systems, cultures, and regions uphold the prohibition on torture, demonstrating a nearly universal standard recognized beyond specific treaties, such as the United Nations Convention Against Torture (CAT).

Another example can be found in the freedom of the high seas, a principle firmly embedded in customary international law. For centuries, states have practiced and respected the idea that the high seas are open to all countries and that no state can claim sovereignty over them. This practice, followed consistently by most seafaring nations, demonstrates the generality of the principle and its acceptance as a norm. Despite differences in geography and political interests, this standard has achieved widespread adherence among maritime states, demonstrating that the generality of practice is crucial in establishing a rule that transcends individual agreements, as also codified in the United Nations Convention on the Law of the Sea (UNCLOS).

Additionally, the UNGPs require states to have a National Action Plan (NAP) for Human Rights and Business, which the state has implemented. To date, at least 25 countries have active National Action Plans (NAPs), and 14 have developed NAPs.<sup>89</sup>

Additionally, in a recent development, the UN Draft Conclusion on Identification of Customary International Law, with commentary<sup>90</sup> in conclusion, 12 (3) said that

"A provision in a resolution adopted by an international organization or at an intergovernmental conference may reflect a rule customary law it is established that the provision correspondent to a general practice that is accepted as law (opinion juris)

The OECD and ILO, at least these two international organizations, have adopted the UNGPs into their guidelines. The OECD has OECD Guidelines for

---

<sup>89</sup> National Actions Plan on Business and Human Rights, Country, <https://globalnaps.org/country/>, Accessed October 29, 24

<sup>90</sup> UN, [https://legal.un.org/ilc/texts/instruments/english/commentaries/1\\_13\\_2018.pdf](https://legal.un.org/ilc/texts/instruments/english/commentaries/1_13_2018.pdf), Access on April 24, 2025

Multinational Enterprises on Responsible Business Conduct; meanwhile, the ILO has a Tripartite Declaration of Principles concerning Multinational Enterprises and Social Policy, which will be discussed in Chapter 3 (three).

### 2.3.3 “Accepted as law”: *opinio iuris sive necessitates*.

The final element, *opinio iuris*, refers to the belief by states that a certain practice is legally obligatory, not merely optional or habitual. This means that states follow a practice not only out of convenience or routine but because they consider it a legal obligation. *Opinio Juris* transforms state practice into binding law by establishing that the action is undertaken with a sense of legal duty.

An example of *opinio iuris sive necessitates*, or the belief that a practice is legally obligatory, is seen in the prohibition against genocide. Even before the Genocide Convention was adopted in 1948, many states adhered to the principle that acts of genocide were fundamentally wrong and unacceptable under international law. Countries did not refrain from genocide merely because it was customary or convenient; instead, they believed that avoiding and condemning genocide was a legal and moral duty. This shared belief established a sense of obligation among states, forming the customary international law norm against genocide. Another example is diplomatic immunity, where states have long observed the practice of granting immunity to foreign diplomats as a legally binding norm. States recognize that protecting diplomats from legal prosecution is necessary for maintaining peaceful and functional international relations. The doctrine of diplomatic immunity was accepted as law (*opinio iuris*) well before it was codified in the Vienna Convention on Diplomatic Relations in 1961. States observe this practice not because it is habitual but because they believe it is an obligation under international law to ensure reciprocal respect and safety for diplomats.

The expression "accepted as law" pertains to the legal concept known as *opinio iuris sive necessitates*, which signifies a belief that a norm is legally obligatory. This principle is not confined to traditional state law but can also be manifested through various international organizations. For instance, the ILO employs this concept through its Tripartite Declaration of Principles Concerning

Multinational Enterprises and Social Policy. This Declaration outlines guidelines aimed at promoting fair labor practices and social responsibility among multinational corporations, emphasizing the necessity for enterprises to uphold fundamental rights and improve working conditions. Similarly, the Organization for Economic Co-operation and Development (OECD) embodies these principles through the OECD Guidelines for Multinational Enterprises RBC. These guidelines promote responsible business conduct in a global context, addressing key issues such as human rights, environmental sustainability, and anti-corruption measures. Additionally, the OECD provides the Due Diligence Guidance for Responsible Business Conduct, which offers practical recommendations for companies to identify, prevent, and mitigate adverse impacts on society and the environment.

Together, these frameworks illustrate how the concept of *opinio iuris sive necessitatis* is applied by international entities to foster accountability and ethical behavior in the realm of international business and labor relations.

The possibility of "instant" customary international law remains a contentious issue. Proponents argue that Widespread, uniform state practice if adopted by a sufficient number of states and recognized as legally binding by preeminent powers, can rapidly crystallize into customary law. Urgent global needs: In times of crisis (such as climate change, pandemics, or armed conflict), states may agree that immediate legal norms are required to address urgent issues, accelerating the formation of customary law. Some argue that in specific cases, strong evidence of *opinio juris* can compensate for the lack of prolonged state practice, particularly when the norm is universally accepted in a short time. Critics, however, caution that the notion of "instant" customary law undermines the traditional understanding of the law and may lack the durability of norms formed through gradual state practice.

While there are no clear examples universally accepted as "instant" customary law, several cases suggest the rapid development of norms that approach this idea: nuclear weapons: Following the use of nuclear weapons in 1945,<sup>91</sup> The global community swiftly moved towards agreements and norms regulating their

---

<sup>91</sup> Paul W. Kahn, "Nuclear Weapons and the Rule of Law," *International Law and Politics* 31 (1999): 349–417, <http://hdl.handle.net/20.500.13051/2701>.

use despite a relatively short history of state practice with such weapons. Humanitarian law: In cases such as the Geneva Conventions and their Additional Protocols, norms regarding the protection of civilians during armed conflict have developed rapidly, gaining acceptance even among states that did not formally ratify the treaties.<sup>92</sup> Environmental law and the global urgency surrounding climate change have led to the rapid development of environmental norms, including those regulating state conduct concerning greenhouse gas emissions, even in the absence of long-term state practice.<sup>93</sup> While the full acceptance of "instant" customary international law remains debated, its development continues to reflect the evolving nature of international law in response to urgent global challenges.

---

<sup>92</sup> Antonio Cassese, "The Geneva Protocols of 1977 on the Humanitarian Law of Armed Conflict and Customary International Law," *UCLA Pacific Basin Law Journal* 3, no. 1–2 (1984): 55–118, <https://doi.org/10.5070/p831-2021915>.

<sup>93</sup> Richard J. Lazarus, "Super Wicked Problems and Climate Change: Restraining the Present to Liberate the Future," *Cornell Law Review* 94, no. 5 (2009): 1153–1233.

## CHAPTER III

### Business and Human Rights Regulation under International Organization and Non-governmental Organization

The obligation to respect human rights is not only emphasized by the United Nations as an international organization but also by other international organizations engaged in trade, such as the OECD, which protects workers under the auspices of the International Labour Organization (ILO). Interestingly, the non-governmental sector also contributes to developing respect for human rights among businesspeople, as seen in initiatives such as those carried out by the Global Compact and ISO 26000. The UNGPs outline that companies must assess and address human rights risks and impacts associated with their business activities, including those of subsidiaries and suppliers.<sup>94</sup> This regulation is included in a guideline or code of conduct for international organizations or non-governmental organizations, such as the Organization for Economic Cooperation and Development (OECD), the International Labor Organization (ILO), and the Global Compact (GC).

#### 3.1 Organization Economic Co-corporation Development (OECD)

The Organization for Economic Cooperation and Development (OECD) is an international organization that works to build better policies and well-being for lives. The organization aims to shape policies that foster prosperity, equality, opportunity, and well-being for all. OECD was established in 1960 and entered into force in 1961.<sup>95</sup> In the beginning, OECD was encouraged by the Organization for European Economic Cooperation (OEEC),<sup>96</sup> Established in 1948 to administer the US-Financed Marshall Plan for the reconstruction of a continent ravaged by war

---

<sup>94</sup> Maria Therese Gustafsson, Almut Schilling-Vacaflor, and Andrea Lenschow, “Foreign Corporate Accountability: The Contested Institutionalization of Mandatory Due Diligence in France and Germany,” *Regulation and Governance* 17, no. 4 (2023): 891–908, <https://doi.org/10.1111/rego.12498>.

<sup>95</sup> Key millstone, <https://www.oecd.org/60-years/timeline/> assessed on December 24, 2022

<sup>96</sup> Nicola Bonucci, “The OECD at Fifty: Some Observations on the Evolving Nature of an International Organization,” *George Washington International Law Review* 43, no. 2 (2011): 239-254

and the focus area to the recovery of Europe after World War II.<sup>97</sup> Afterward, Canada and the US joined the OECD. They signed the OECD convention, expanding their job to the world. The OECD now comprises 38 member countries, four accession country candidates, and five key partner countries. OECD works in six regional initiatives (Africa, Eurasia, Latin America, the Middle East, North Africa, Southeast Asia, and Southeast Europe). The OECD has two guidelines for corporations and states regarding human rights protection in business. Which are OECD Guidelines for Multinational Enterprises on Responsible Business Conduct (OECD Guidelines Multinational on RBC) and OECD Due Diligence for Responsible Business Conduct

### 3.1.1 OECD Guidelines for Multinational Enterprises (OECD Guidelines for Multinational Enterprises on Responsible Business Conduct/

On January 21, 1975, the OECD Council established the Committee on International Investment and Multinational Enterprises (EIME). In 1976, EIME issued the OECD Declarations and Decisions on International Investment and Multinational Enterprises. The OECD Guidelines for Multinational Enterprises (OECD Guidelines) are part of these declarations and are included as an annex. The fundamental concept underlying the principles and content of the OECD Guidelines is Responsible Business Conduct (RBC). The OECD Guidelines underwent revisions in 1979, 1984, 1991, 2000, and 2011 to address various problems and challenges that emerged after their initial enactment in 1976. In June 2023, the OECD published a revised version of the OECD Guidelines to reflect the experiences of the past decade since the last revision in 2011, as well as to respond to pressing social, environmental, and technological priorities facing societies and businesses today."<sup>98</sup>

---

<sup>97</sup> The OECD at 60, [https://read.oecd-ilibrary.org/view/?ref=1059\\_1059103-whi5k2wv7w&title=OECD-at-60](https://read.oecd-ilibrary.org/view/?ref=1059_1059103-whi5k2wv7w&title=OECD-at-60), access, December 26, 2022

<sup>98</sup> OECD, OECD Guidelines for Multinational Enterprises on Responsible Business Conduct, [https://www.oecd.org/en/publications/oecd-guidelines-for-multinational-enterprises-on-responsible-business-conduct\\_81f92357-en.html](https://www.oecd.org/en/publications/oecd-guidelines-for-multinational-enterprises-on-responsible-business-conduct_81f92357-en.html), accessed October 30, 2024

The 1979, 1984, and 1991 revisions of the OECD Guidelines saw minimal changes, with significant updates introduced in 2000 and 2011. The 2000 revision significantly expanded the Guidelines, introducing provisions on human rights, sustainable development, corporate governance, whistleblower protections, child labor, consumer protection, and bribery. This update required multinational enterprises to follow the OECD Guidelines globally, including in developing countries, which often share common adverse impacts. It also extended corporate responsibility to supply chains, holding parent companies accountable for the actions of their subsidiaries. The revision enhanced the National Contact Points (NCPs) grievance mechanism by adding criteria for visibility, accessibility, and accountability, allowing NGOs to participate formally. NCPs were further empowered to issue statements and recommendations if disputes were unresolved, formalizing their role in individual cases.

The most significant change in the 2011 OECD revision was the addition of a new chapter focused on human rights, which reinforced human rights-related provisions throughout the Guidelines. This chapter aligns with the 2008 UN Framework for Business and Human Rights and the UN Guiding Principles (UNGPs) in both terminology and structure. Because the UN lacks enforcement mechanisms, the OECD Guidelines have effectively served as a practical tool for implementing the UN's human rights framework and the UNGPs. A key element of the 2011 update was the introduction of risk-based due diligence aimed at identifying, preventing, and mitigating the adverse impacts associated with multinational enterprises. This requires companies to incorporate due diligence into their risk management systems and to communicate how they are addressing these issues (Chapter II, Art. A.10). The Guidelines also recommend that human rights due diligence should be appropriate to the company's size, nature, operational context, and the severity of risks involved (Chapter IV, Art. 5). This approach extends the scope of responsibility for due diligence beyond a company's direct activities to include its entire supply chain and all related business relationships. Furthermore, the 2011 revision redefined the scope of responsibility from an "investment nexus" to an "operational link," clarifying that responsibility

encompasses all business activities, including financial transactions (Chapter II, Arts. A.12 and A.13). Regarding the National Contact Points (NCP) grievance mechanism, the revision specifies that cases should not be dismissed due to parallel proceedings, such as lawsuits. Additionally, it includes a suggested timetable for each stage to improve transparency and efficiency (Procedural Guidance, para. 26).

The OECD released its sixth revision of the Guidelines on June 8, 2023, reflecting insights gained since 2011 and addressing urgent social, environmental, and technological issues. The Guidelines, now titled "OECD Guidelines for Multinational Enterprises on RBC," include updated provisions on risk-based due diligence to mitigate adverse impacts across global supply chains, such as those related to climate change, biodiversity, and pollution. For climate issues, companies must align greenhouse gas targets with global standards and report updates, with additional guidance emphasizing biodiversity preservation as a priority. The 2023 revision also expands due diligence to cover more areas, including corruption, animal welfare, and deforestation. New technology and data governance recommendations emphasize responsible practices and digital rights protection, including privacy and freedom of expression, while promoting a secure and resilient internet.

Additionally, the OECD Guidelines advocate for a "just transition" approach, urging companies to focus on emission reductions rather than offsets (Chapter VI, Commentary, para. 77). The Guidelines now require companies to set and report on short-, medium-, and long-term greenhouse gas (GHG) targets across all emission scopes. The 2023 revision also emphasizes biodiversity conservation, urging companies to prioritize avoiding biodiversity damage and, if unavoidable, to use restoration as a last resort while contributing to sustainable land and forest management (Chapter VI, Commentary, para. 80).

The scope of due diligence requirements has significantly expanded. Initially, due diligence focused primarily on environmental, corruption, and human and labor rights issues. However, it now encompasses a broader range of risks, including climate change, biodiversity loss, deforestation, pollution, and animal welfare (Chapter II, Commentary, para. 20). This broader focus underscores the

interconnectedness of various sustainability issues. Additionally, the chapter on Science, Technology, and Innovation now includes mandates for responsible governance regarding the use of data and technology. It offers new recommendations on data transparency, consumer protection, and privacy (Chapter VIII, Art. 6). Businesses are encouraged to respect online rights, such as freedom of expression, and to contribute to a secure and resilient Internet through collaborative initiatives (Art. 7).

The OECD's 2023 revision explicitly requires companies to conduct due diligence on adverse impacts throughout their entire supply chain, including both upstream and downstream effects, as well as impacts caused by consumers and end-users. This update mandates that companies assess due diligence across all business relationships, such as partners, subcontractors, franchisees, investee companies, clients, and relevant state agencies and NGOs directly linked to the company's operations, products, or services (Chapter II, Commentary, para. 17). Although individual consumers are typically not considered business relationships, companies are now encouraged to address adverse impacts linked to their products, acknowledging the potential influence of consumer actions. The revision clarifies that business relationships extend beyond first-tier partners to include the entire supply chain. However, a key challenge remains the absence of an internationally agreed standard for mapping the full extent of business relationships in due diligence. This issue will require collaborative solutions from international organizations, industry groups, and global initiatives.

To protect vulnerable groups, the 2023 revision advises companies to give special attention to at-risk groups, such as human rights defenders and Indigenous people, who may be more vulnerable to corporate-related harms (Chapter IV, Commentary, para. 45). Companies are urged to actively engage with stakeholders to safeguard vulnerable populations, including whistleblowers and individuals raising concerns.<sup>99</sup> Additionally, the revision strengthens recommendations for

---

<sup>99</sup> Sandberg, U. (2023), 2023 Update of the OECD Guidelines for Multinational Enterprises on Responsible Business Conduct, Worldfavor, available at: <https://blog.worldfavor.com/2023-update-of-the-oecd-guidelines-for-multinational-enterprises-on-responsible-business-conduct>

companies to conduct due diligence in conflict-affected areas, recognizing the risks of human rights abuses in conflict zones, such as the ongoing Ukraine-Russia war, which underscores the OECD Guidelines' relevance in crisis contexts. In the disclosure chapter, the 2023 revision enhances transparency by aligning with the G20/OECD Principles of Corporate Governance and adding requirements for sustainability-related disclosures. Companies must now provide information on matters such as capital structure, ownership, board composition, compliance with governance codes, and debt risks (Chapter III, Arts. 2(b)–2(j)). The revision also emphasizes the importance of due diligence in responsible business conduct (RBC) and recommends third-party reviews to enhance credibility, particularly for climate-related disclosures (Chapter III, Art. 4).

The scope of Chapter 7, previously titled "Combating Bribery, Bribe Solicitation, and Extortion," has been broadened to "Combating Bribery and Other Forms of Corruption," now covering additional forms of corruption such as influence trading and embezzlement (Chapter VII, Commentary, para. 86). The revised guidelines urge companies to disclose instances of bribery and corruption as well as the measures taken to prevent and respond to such cases, with active cooperation with law enforcement if necessary (Chapter VII, Art. 5). Political contributions now require senior management approval. Employees cannot be compelled to support political candidates (Chapter VII, Article 7). In the area of lobbying, the 2023 revision strengthens guidance by advising companies to avoid lobbying practices that contradict their commitments to human rights, the environment, and other areas covered by the OECD Guidelines. This approach moves beyond the previous language of "refrain from" to "ensure" transparency and integrity in lobbying efforts (Chapter II, Art. 5). Governments are encouraged to establish frameworks to mitigate risks associated with lobbying. At the same time, companies are advised to avoid lobbying for exemptions that compromise regulatory goals related to human rights and environmental standards, thereby promoting more responsible global investments.

National Contact Points (NCPs) The OECD established National Contact Points (NCPs) as part of the implementation mechanism for the Guidelines. NCPs are agencies set up by governments to promote the Guidelines and address complaints regarding alleged violations.<sup>100</sup> NCPs provide a non-judicial grievance mechanism that allows individuals, communities, and organizations to raise concerns about the conduct of MNEs in relation to the Guidelines, including human rights violations. NCPs can offer mediation and facilitate dialogue to help resolve issues.<sup>101</sup> NCPs handle specific instances (cases) where there is an allegation that a company has not observed the Guidelines. These instances are essential for raising awareness, promoting dialogue, and encouraging companies to align with the Guidelines.<sup>102</sup>

The 2023 update renamed “National Contact Points” (NCPs) to “National Contact Points for Responsible Business Conduct” to more accurately represent their role (Decision of the Council on the Guidelines for Multinational Enterprises on Responsible Business Conduct, I). Under the OECD Guidelines, adhering countries are required to establish NCPs, which have two primary responsibilities, first to promote awareness and understanding of the OECD Guidelines and second to provide a non-judicial grievance mechanism to help resolve issues related to the application of the Guidelines in specific cases (Decision of the Council on the Guidelines for Multinational Enterprises on Responsible Business Conduct, I.1). The 2023 revision made substantial changes to enhance NCP functional equivalence by adding new core criteria to the existing “VATA” standard from 2011, incorporating principles such as impartiality, equity, predictability, and alignment with the OECD Guidelines (Procedures, I). Furthermore, the peer review

---

<sup>100</sup> Juan Carlos Ochoa Sanchez, “The Roles and Powers of the OECD National Contact Points Regarding Complaints on an Alleged Breach of the OECD Guidelines for Multinational Enterprises by a Transnational Corporation,” *Nordic Journal of International Law* 84, no. 1 (2015): 89–126, <https://doi.org/http://dx.doi.org/10.1163/15718107-08401006>.

<sup>101</sup> Karin Buhmann, “Analysing OECD National Contact Point Statements for Guidance on Human Rights Due Diligence: Method, Findings and Outlook,” *Nordic Journal of Human Rights* 36, no. 4 (2018): 390–410, <https://doi.org/10.1080/18918131.2018.1547526>.

<sup>102</sup> Aziza Mayar, “The NCP Procedure of the OECD Guidelines: Monitoring and RBC Improvement during the Follow-Up Step,” *Erasmus Law Review* 2022, no. 1 (2022), <https://doi.org/10.5553/ELR.000216>.

process for NCPs, previously voluntary, is now mandatory to facilitate the sharing of best practices and to strengthen consistency across NCPs (The Decision of the Council, I.5).

The key function of NCPs is to address specific instances of OECD Guideline breaches. Individuals or groups, such as multinational corporations, workers, or non-governmental organizations (NGOs), can file complaints with NCPs regarding non-compliance by a multinational enterprise. If deemed valid, the NCP will investigate, facilitate mediation between the complainant and the enterprise, and issue recommendations based on its findings. The 2023 revision aims to streamline these non-judicial grievance processes, focusing on improvements in initial assessments, recommendations, and follow-up procedures. The 2023 revision introduces a step for NCPs to assess if the specific instance involves other jurisdictions and to coordinate on lead and support roles if needed (Procedures, I.C.1). It also clarifies that an alleged breach must be both “material,” meaning relevant to the OECD Guidelines, and “substantiated” with sufficient and reliable information (Procedures, Commentary, para. 33), refining the initial assessment requirements from the 2011 revision.

At the end of specific instance proceedings, the process may conclude if the issue does not require further investigation, both parties reach an agreement, or a party is unwilling to participate, or no agreement is reached (Procedures, I.C.4). Unlike the 2011 version, the 2023 revision allows NCPs to publish recommendations even when the parties agree. It mandates recommendations where a party is uncooperative or no agreement is reached (Procedures, I.C.4.b, c). Additionally, NCPs may now express their views on whether the enterprise has observed the Guidelines. These changes formalize existing practices, providing a clearer basis for future recommendations and possible empirical research. After specific instance procedures, the NCP should, where appropriate, make recommendations for implementing the OECD Guidelines, follow up on their adoption, and issue a follow-up statement on its findings (Procedures, I.C.5). Unlike the 2011 version, which only referenced follow-up in commentary, the 2023 revision formally requires that parties engage in follow-up on recommendations or

agreements, with the NCP issuing a follow-up statement. It also mandates that timelines for these actions be included in the final statement (Procedures, I.C.5).

The OECD's Role in the Business and Human Rights Regime The OECD's work in business and human rights aligns closely with the UN Guiding Principles on Business and Human Rights (UNGPs) and complements other international efforts. The OECD Guidelines and due diligence guidance promote the implementation of international standards on human rights, labor rights, and environmental protection in business activities. The OECD encourages businesses to integrate responsible practices into their operations, emphasizing respect for human rights as a core aspect of responsible business conduct. The OECD provides a platform for dialogue and conflict resolution between businesses and stakeholders through its National Contact Points (NCP) mechanism. NCP contributes to a better understanding and remediation of human rights impacts. Examples of the OECD's impact on business and human rights, addressing supply chain issues, include the OECD's sector-specific guidance, such as for the garment and extractive sectors, which has helped companies identify and address human rights risks in complex global supply chains. For example, garment companies have utilized the OECD Garment and Footwear Guidance to enhance labor conditions and mitigate risks, such as forced labor, within their supply chains.<sup>103</sup>

The NCPs have facilitated various cases where stakeholders have raised concerns about human rights abuses.<sup>104</sup> For example, an NCP may mediate a case in which a community alleges that a mining company's operations have resulted in forced evictions without adequate compensation.<sup>105</sup> One challenge is that the OECD Guidelines are non-binding, meaning that while they establish standards for

---

<sup>103</sup> Darya Nazarenko, "Business and Human Rights in Global Supply Chains: Towards Greater Transparency in the Garment Industry" (Johannes Kepler University Linz, 2022).

<sup>104</sup> Karin Buhmann, "Confronting Challenges to Substantive Remedy for Victims: Opportunities for OECD National Contact Points under a Due Diligence Regime Involving Civil Liability," *Business and Human Rights Journal* 8, no. 3 (2023): 403–26, <https://doi.org/10.1017/bhj.2023.9>.

<sup>105</sup> Samantha Balaton-Chrimes, "POSCO's Odisha Project: OECD National Contact Point Complaints and a Decade of Resistance" (Australia, 2015).

responsible business conduct, they do not impose legal obligations on companies.<sup>106</sup> Compliance depends on companies' willingness to adopt and implement the principles. Implementing due diligence in complex, multi-tiered global supply chains remain challenging; however, the OECD continues to develop practical tools and guidance to help businesses navigate these complexities.<sup>107</sup> Efforts are ongoing to enhance the effectiveness of NCPs, ensuring they provide accessible, impartial, and effective mechanisms for addressing human rights grievances.

### 3.1.2 OECD Due Diligence for Responsible Business Conduct

In May 2018, the OECD launched the OECD Due Diligence Guidelines for Responsible Business Conduct.<sup>108</sup> This code of conduct aims to provide practical support to the implementation of OECD Guidelines for Multinational Enterprises, which relate to Chapeau 5 (five) Chapter IV: Human Rights, Chapter V: Employment and Industrial Relations, Chapter VII: Environment, Chapter VII: Combating bribery bribe solicitation and Extortion, Chapter VII: Consumer Interests and Chapter III: Disclosure. Due diligence process and supporting measures futures in the figure below:

---

<sup>106</sup> Gefion Schuler, "Effective Governance through Decentralized Soft Implementation: The OECD Guidelines for Multinational Enterprises," *German Law Journal* 9, no. 11 (2008): 1753–78, <https://doi.org/10.1017/S207183220000064X>.

<sup>107</sup> Jürgen Friedrich, "Legal Challenges of Nonbinding Instruments: The Case of the FAO Code of Conduct for Responsible Fisheries," *German Law Journal* 9, no. 11 (2008): 1539–64, <https://doi.org/10.1017/S2071832200000572>.

<sup>108</sup> Keon-Hyung Ahn, "Main Contents and Implications of the 2023 Revision of the OECD Guidelines for Multinational Enterprises," *Journal of International Logistics and Trade* 22, no. 2 (2024): 80–92, <https://doi.org/10.1108/JILT-12-2023-0081>.

Figure. Due Diligence Process and Supporting Measures<sup>44</sup>

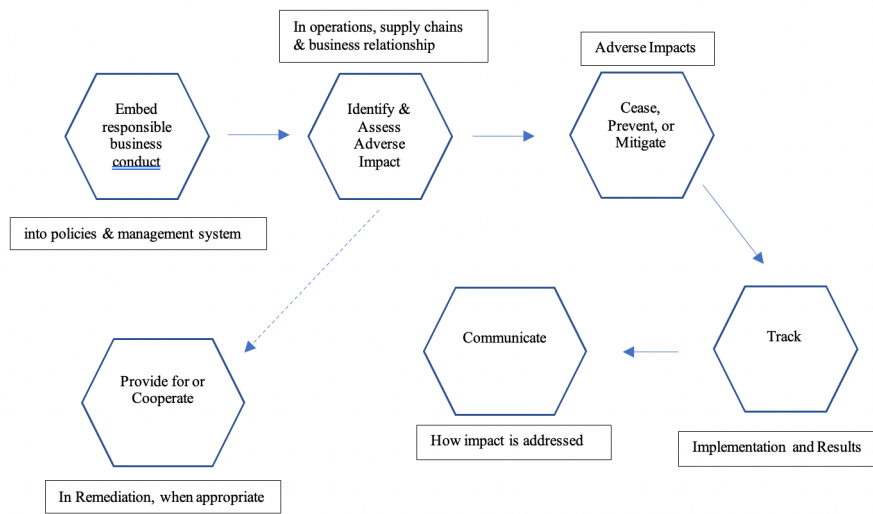


Figure 5: Due diligence Proves and Supporting measures<sup>109</sup>

The figure represents a "Due Diligence Process and Supporting Measures" outlining steps for responsible business conduct to identify, address, and track adverse impacts within operations, supply chains, and business relationships. Here is a holistic breakdown of the flow: Embedding Responsible Business Conduct. The process begins by integrating responsible business practices into the organization's policies and management systems. The process establishes a foundation for ethical behavior and compliance. Once responsible practices are embedded, businesses must continuously identify and assess potential adverse impacts on their operations, supply chains, and relationships. This step involves thorough due diligence to recognize any risks.

After identifying adverse impacts, the next step is to prevent, mitigate, or stop those impacts. This step helps in ensuring that any harm is addressed proactively. Tracking is essential for understanding the effectiveness of the measures taken. Tracing involves monitoring the implementation and results to ensure that the adverse impacts are indeed being mitigated or avoided.

<sup>109</sup> OECD (2018), OECD Due Diligence Guidance for Responsible Business Conduct, <https://www.oecd.org/investment/duo-diligence-guidance-for-responsible-business-conduct.htm> access on December 29, 2022

Communicating how impacts have been addressed is critical to transparency. Communicating ensures that stakeholders, including the public, employees, and regulatory bodies, are informed about the steps taken to resolve issues. Provide for or Cooperate in Remediation: When adverse impacts occur despite preventive measures, businesses should cooperate in remediation efforts, which can involve compensating affected parties or taking corrective actions.

Each step is interconnected, forming a comprehensive approach to due diligence that aims to embed responsible practices into business operations, actively assess risks, take corrective actions, track outcomes, communicate transparently, and cooperate in remediation when necessary. The diagram emphasizes the importance of continuous monitoring and adaptation to ensure responsible business conduct.

The OECD plays a vital role in the business and human rights regime by providing guidelines, guidance, and mechanisms that promote responsible business conduct, including respecting human rights.<sup>110</sup> The OECD Guidelines for Multinational Enterprises and the Due Diligence Guidance offer comprehensive frameworks for businesses to integrate human rights considerations into their operations and supply chains.<sup>111</sup> Through National Contact Points, the OECD also provides a platform for addressing grievances and fostering dialogue between businesses and stakeholders.<sup>112</sup> While challenges remain, such as the voluntary nature of the guidelines and the complexity of global supply chains, the OECD's contributions are crucial in advancing the global agenda for business and human rights. The OECD's approach to business and human rights encompasses several vital components that align with international standards and practices. The OECD Due Diligence Guidance for Responsible Business Conduct provides practical

---

<sup>110</sup> Kathryn Gordon, "The OECD Guidelines and Other Corporate Responsibility Instruments: A Comparison," *OECD Working Papers on International Investment*, 2001, <https://doi.org/http://dx.doi.org/10.1787/302255465771>.

<sup>111</sup> Olga Martin-Ortega, "Human Rights Due Diligence for Corporations: From Voluntary Standards to Hard Law at Last?," *Netherlands Quarterly of Human Rights* 32, no. 1 (2014): 44–74, <https://doi.org/10.1177/016934411403200104>.

<sup>112</sup> Gabriele Buchholtz, "Social and Labour Standards in the OECD Guidelines: Enforcement Mechanisms," *International Organizations Law Review* 17, no. 1 (2020): 133-152.

support to companies in implementing the Guidelines. It offers detailed instructions on how to carry out due diligence across different sectors and contexts, including how to Identify and assess actual and potential adverse impacts on human rights, integrate findings into decision-making and take action to prevent and mitigate adverse impacts, Track the effectiveness of responses, communicate how impacts are addressed and provide for or cooperate in remediation where appropriate.

**Sector-Specific Guidance** the OECD has developed sector-specific guidance to address the unique human rights challenges in various industries, such as the extractive sector, where the OECD Due Diligence Guidance for meaningful stakeholder engagement in the extractive sector focuses on engaging with Indigenous peoples and local communities to address human rights concerns related to mining, oil, and gas operations. The OECD Due Diligence Guidance for Responsible Supply Chains in the Garment and Footwear Sector helps companies navigate complex supply chains and address issues such as forced labor, child labor, and unsafe working conditions. Meanwhile, in the agricultural sector, the OECD-FAO Guidance for Responsible Agricultural Supply Chains addresses human rights issues, including land rights, labor rights, and the rights of local communities in agricultural production.

### 3.2 Tripartite Declaration of Principles Concerning Multinational Enterprises and Social Policy International Labor Organization (ILO)

The International Labor Organization (ILO) was established in 1919 after World War I and, in 1946, became the UN Special Agency. Today, the ILO has 187 member states.<sup>113</sup> The ILO is an organization that encompasses a wide range of stakeholders, including governments, employees, and workers. That is why many times it is called a tripartite constituent because ILO has unique tripartite structures, which are:

---

<sup>113</sup> <https://www.ilo.org/regions-and-countries> access on May 21, 2024

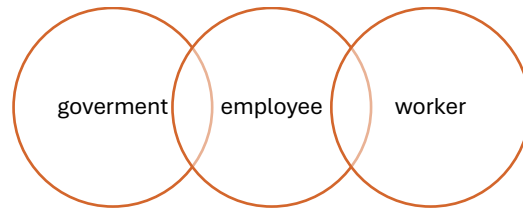


Figure 6: Three ILO stakeholder<sup>114</sup>

In human rights and business, the ILO has a principle called the Tripartite Declaration of Principles concerning Multinational Enterprises and Social Policy (MNE Declaration). This policy was established in 1997 but underwent several revisions, and the current Tripartite Declarations are from the 5<sup>th</sup> amended version of 2017. The amendment adopted the UN Guiding Principles on Business and Human Rights and the 2030 Sustainable Development Goals (SDGs). The purpose of the Tripartite Declaration was to<sup>115</sup>

"...encourage the positive contributions which multinational enterprises can make to economic and social progress and to minimize and resolve the difficulties their various operations may give rise..."

Moreover, the tripartite Declaration offers<sup>116</sup>

- 3.2.1 A global instrument developed, adopted, and supported by governments, employees, and workers' organizations.
- 3.2.2 A substantially on principles contained in triparted-agreed international labor standards (Conventions and Recommendations)
- 3.2.3 Connect regulation with the UN Guiding Principles on Business and Human Rights and the goals and targets of the 2030 Agenda for Sustainable Development.

Furthermore, the tripartite Declaration is not mandatory, nor is it a code of conduct, but rather "a checklist or reference point for around human rights or corporate social responsibility).

---

<sup>114</sup> Rehulina Rehulina, *Inspired by Tripartite Declaration of Principles Concerning Multinational Enterprises and Social Policy International Labor Organization (ILO)*

<sup>115</sup> OECD, *the structure of Tripartite Declaration concerning Multinational Enterprises and Social Policy: An Employers' Guide,*

<sup>116</sup> OECD, *the ILO MNE Declaration: What is in for Workers?* [https://ilo.primo.exlibrisgroup.com/discovery/fulldisplay/alma995003690902676/41ILO\\_INST:41ILO\\_V2](https://ilo.primo.exlibrisgroup.com/discovery/fulldisplay/alma995003690902676/41ILO_INST:41ILO_V2), accessed January 4, 2023

The *Tripartite Declaration of Principles concerning Multinational Enterprises and Social Policy* (MNE Declaration) is a set of guidelines issued by the International Labour Organization (ILO). It provides recommendations to multinational enterprises (MNEs), governments, employers, and workers on responsible business conduct in relation to employment, training, working conditions, and industrial relations. The key aspects of the MNE Declaration are;

### 3.2.1 Tripartite Nature

The Declaration is unique in that it was developed through the collaboration of three key parties: governments, employers, and workers. The MNE Declaration is unique because it is developed and maintained through a tripartite approach, meaning it involves three main stakeholders, governments who responsible for setting labor laws and policies. Employers, who represent business interests and corporate policies. And workers who represented through trade unions and labor organizations.

This approach ensures balance and fairness, promoting an inclusive framework where all stakeholders contribute to shaping policies that affect multinational enterprises (MNEs) and workers. Unlike some other international frameworks that focus solely on corporate interests or government regulations, the tripartite structure facilitates social dialogue among different parties to prevent labor disputes, encourage compliance, and promote sustainable development.

### 3.2.2 Guidance on Labor Standards

Guidance on Labor Standards aligns with international labor standards, including the fundamental principles of the International Labor Organization (ILO), such as freedom of association, the elimination of forced labor, non-discrimination, and the abolition of child labor. The Declaration is aligned with key international labor standards, particularly the ILO's Fundamental Principles and Rights at Work, which include the Freedom of Association and the Right to Collective Bargaining, meaning workers should have the right to form and join trade unions without interference. Employers must engage in meaningful negotiations with workers' representatives. Elimination of Forced and Compulsory Labor where corporations must ensure that workers are not subjected to coercion, bonded labor, or any form

of modern slavery. Abolition of Child Labor. Therefore, companies must prohibit the employment of children in hazardous work and ensure compliance with international standards on child labor. Elimination of Discrimination in Employment and Occupation: In this manner, the company should not discriminate based on race, gender, religion, political opinion, nationality, or any other protected category. These principles help ensure that multinational enterprises respect human rights and contribute to fair and ethical working conditions globally.

### 3.2.3 Scope of Application

The scope of applications applies to multinational enterprises and national companies across various sectors, promoting fair labor practices globally. This scope applies to all multinational enterprises, regardless of the country in which the corporation operates, whether based in developed or developing economies. This Declaration also applies to national companies. Thus, domestic businesses are encouraged to adopt similar ethical labor practices. Lastly, governments and policymakers should establish a framework for nations to align their labor policies with international standards.

### 3.2.4 Employment and Training

Encourages MNEs to provide stable employment, invest in skills development, and offer equal opportunities to all. The Declaration highlights the responsibility of MNEs to contribute to employment creation and workforce development by providing stable employment opportunities. This means corporations should not engage in exploitative short-term contracts or precarious employment practices.; Investing in skills development and vocational training, where corporations should provide workers with adequate training and upskilling opportunities to improve their career prospects. Ensuring equal opportunities for all workers, where the 'no discrimination' Principle should be applied in hiring, promotions, and training opportunities. Corporations should Support local economies when expanding operations. MNEs should prioritize hiring local workers and transferring skills to the local workforce rather than relying on expatriates.

### 3.2.5 Conditions of Work and Life

Promotes fair wages, occupational safety, and compliance with international labor rights. The MNE Declaration sets expectations for fair and humane working conditions, including Fair wages and equal pay. All workers should be paid a living wage that meets local standards of living. Equal pay for equal work, regardless of gender or nationality; Occupational Safety and Health (OSH)

this means corporations must comply with national and international safety regulations to protect workers from hazardous conditions. Working hours and benefits: Enterprises must respect national labor laws regarding working hours, overtime, and leave entitlements. Job security and social protection: Corporations should provide workers with employment stability and access to benefits such as health insurance, pensions, and maternity leave.

### 3.2.6 Industrial Relations

Industrial relations require corporations to support social dialogue between employers and workers, facilitate collective bargaining, and resolve labor disputes. Strong industrial relations help prevent labor conflicts and promote constructive engagement between employers and employees. The MNE Declaration emphasizes Collective bargaining rights; this means workers must have the right to negotiate wages and working conditions through trade unions. Resolving labor disputes through dialogue: When disputes arise between corporations and trade unions, corporations should use conciliation, mediation, and arbitration to resolve conflicts instead of resorting to anti-union measures or unfair dismissals, Thereby Avoiding unfair labor practices. This means corporations should refrain from engaging in union-busting tactics, intimidation, or retaliation against employees who seek to form a union.

### 3.2.7 Corporate Social Responsibility (CSR) and Sustainable Development

Advocates for ethical business practices that contribute to economic and social progress while respecting labor rights. The MNE Declaration encourages multinational enterprises to adopt policies that support sustainable and ethical

business practices, including Environmental Responsibility, where corporations should adopt eco-friendly practices, minimize pollution, and invest in sustainable supply chains. Concerning human rights, companies must ensure that their operations do not contribute to human rights violations.; Community Development, where businesses should engage in corporate social responsibility (CSR) initiatives that benefit local communities, such as education, infrastructure, and health programs; Transparency and Ethical Governance, which means corporations should uphold anti-corruption measures, comply with local laws, and operate with integrity.

The MNE Declaration serves as a voluntary framework for multinational enterprises to operate responsibly, respecting human rights and labor laws. It helps shape national policies, corporate strategies, and international agreements on labor and employment. Although the MNE Declaration is a voluntary framework, this is important because it protects worker rights, promotes ethical business conduct, encourages governments to enforce labor laws, fosters corporation social responsibility, and strengthens industrial relations.

The Tripartite contains 68 paragraphs, divided into 5 (fifth) scopes, as shown in the table below.

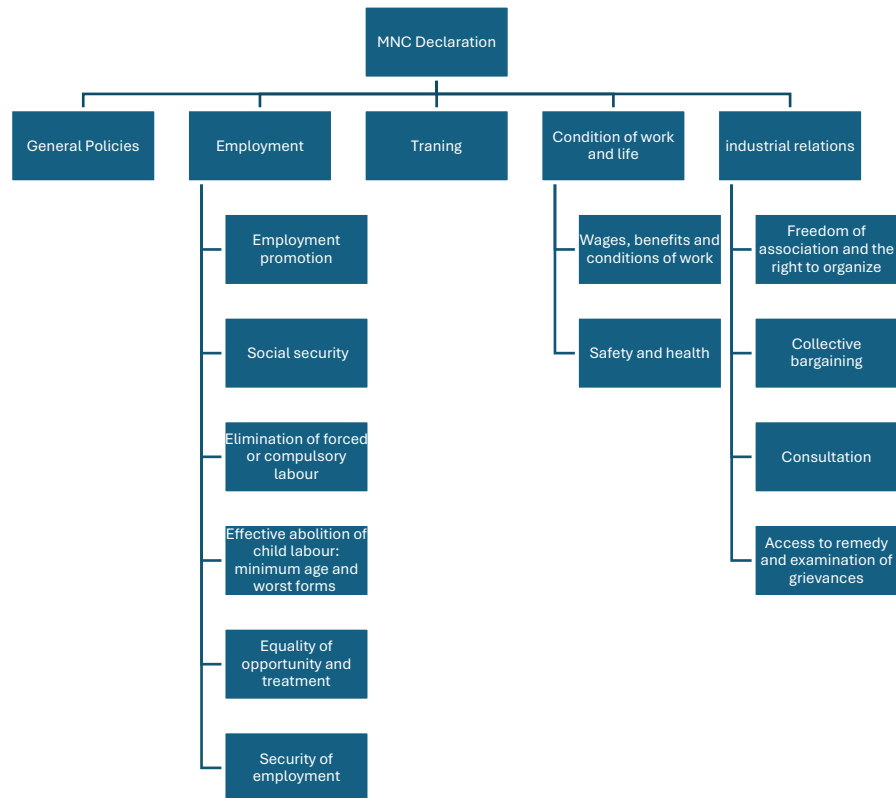


Figure 7: The Structure of Tripartite Declaration concerning Multinational Enterprises and Social Policy<sup>117</sup>

The diagram represents a structure for the MNC Declaration, which focuses on multinational corporations (MNCs) and their guidelines or commitments across various areas. Here is a breakdown of the key sections in the diagram: **General Policies:** This section refers to the principles or guidelines governing the multinational corporation's behavior, policies, and operations.

This category involves multiple layers, further broken down into **Employment Promotion:** Measures and policies aimed at increasing employment opportunities. **Social Security:** Ensuring employees have access to benefits that protect them from economic insecurity. **Elimination of Forced or Compulsory Labor:** Prohibiting forced labor within the corporation's operations. **Effective Abolition of Child Labor:** Ensuring the corporation does not employ children below the minimum working age or under exploitative conditions. **Equality of Opportunity**

<sup>117</sup> [https://www.ilo.org/empent/areas/mnc-declaration/WCMS\\_570332/lang--en/index.htm](https://www.ilo.org/empent/areas/mnc-declaration/WCMS_570332/lang--en/index.htm), Accessed April 19, 2023

and Treatment: Promoting fairness and non-discrimination in employment practices. Security of Employment: Measures aimed at providing job security for employees. Training: This segment outlines the corporation's training policies, ensuring that employees receive sufficient skill development and learning opportunities to enhance their professional capabilities. Working Conditions and Life: This category focuses on the working conditions provided by the corporation, specifically Wages, Benefits, and working conditions, Ensuring fair wages and appropriate benefits for workers. Safety and Health: Policies and measures to protect employees' physical and mental well-being.

Industrial Relations: This segment concerns the interaction between employees and the corporation regarding labor rights and working conditions. Freedom of Association and the Right to Organize: Ensuring that employees can freely form and join trade unions or other organizations. Collective Bargaining: Facilitating the process through which employees can negotiate collectively with management on terms of employment. Consultation: Engaging in dialogues and consultations with workers on matters that affect them. Access to Remedy and Examination of Grievances: Providing channels for employees to address grievances and ensuring they have access to remedies when rights are violated.

The diagram illustrates the commitments multinational corporations should follow concerning policies, employment practices, working conditions, training, and industrial relations. The structure ensures comprehensive protection and promotion of workers' rights within the corporate framework. Overall, the Tripartite Declaration of Principles Concerning Multinational Enterprises and Social Policy establishes a framework for multinational corporations to promote responsible business conduct and contribute to sustainable development while promoting decent work, social justice, respect for human rights, and environmental protection.

The ILO Tripartite Declaration of Principles Concerning Multinational Enterprises and Social Policy (MNE Declaration) provides guidelines for multinational enterprises (MNEs), governments, employers, and workers' organizations on socially responsible labor practices. This Declaration, adopted by the International Labour Organization (ILO), is closely aligned with the business

and human rights regime, particularly in the areas of labor rights, workplace equality, and fair employment practices. The ILO MNE Declaration, first adopted in 1977 and updated periodically (most recently in 2017), offers guidance to multinational enterprises on labor and social policies, aiming to promote fair, inclusive, and sustainable workplaces. The Declaration addresses various issues, including Employment creation and training, Conditions of work and life, Industrial relations, and Occupational safety and health.

**Core Principles of the MNE Declaration and Their Relation to Human Rights** the MNE Declaration outlines several fundamental principles that directly relate to human rights, particularly the labor rights recognized in international human rights frameworks like the Universal Declaration of Human Rights (UDHR) and the International Covenant on Economic, Social and Cultural Rights (ICESCR). These principles include **Promoting Employment:** The MNE Declaration encourages MNEs to create employment opportunities, contribute to economic growth, and support sustainable development in the countries they operate. The MNE Declaration aligns with the right to work, ensuring individuals access to decent and productive employment. **Non-Discrimination:** The Declaration emphasizes equal opportunities and treatment in employment, explicitly stating that MNEs should avoid discrimination based on race, color, sex, religion, political opinion, national extraction, or social origin. The Declarations directly support the human right to equality and non-discrimination in the workplace.

**Conditions of Work and Life** **Fair Wages and Benefits:** MNEs are urged to provide fair wages, benefits, and working conditions that meet or exceed the national standards of the host country. As outlined in international human rights instruments, multinational enterprises (MNEs) are expected to align with the right to just and favorable working conditions. **Working Hours and Occupational Safety:** The Declaration advocates for reasonable working hours, regular rest periods, and occupational safety and health measures. These principles safeguard workers' health, safety, and well-being, thereby reinforcing their right to a safe and healthy work environment.

Training and Skill Development, Training and Lifelong Learning: Multinational Enterprises (MNEs) are encouraged to invest in their employees' training and skill development, promoting lifelong learning opportunities. The training supports the right to education and the development of personal and professional skills, contributing to individuals' career advancement and economic empowerment. Industrial Relations, Freedom of Association, and Collective Bargaining: The MNE Declaration emphasizes the respect for workers' rights to form and join trade unions and engage in collective bargaining. This Principle is central to the ILO's core labor standards. It aligns with the right to freedom of association and the right to organize, as recognized in international human rights law. The Declaration promotes dialogue between employers, workers, and governments to address workplace issues, resolve conflicts, and ensure fair labor practices. Effective social dialogue helps protect workers' rights and fosters an environment of mutual respect and cooperation.

The MNE Declaration's principles align closely with the UN Guiding Principles on Business and Human Rights (UNGPs), which outline the corporate responsibility to respect human rights, the state's duty to protect human rights, and the need for access to remedies for human rights abuses. Specifically, corporate responsibility, as emphasized in the MNE Declaration, highlights the responsibility of multinational enterprises to conduct their operations in a manner that respects workers' rights and promotes social welfare. The MNE Declarations are consistent with the UNGPs' call for businesses to respect human rights by conducting human rights due diligence and addressing adverse impacts in their operations and value chains. State responsibility to protect, the Declaration encourages governments to establish legal and institutional frameworks that protect labor rights and ensure that multinational enterprises (MNEs) comply with national and international labor standards. The Declaration aligns with the UNGPs' emphasis on the state's duty to protect human rights through effective regulation and enforcement. Access to remedies, the MNE Declaration calls for mechanisms that allow workers to voice their grievances and seek redress for labor rights violations. The MNE Declaration supports the UNGPs' third pillar, which stresses the importance of access to

effective remedies for individuals and communities affected by corporate human rights abuses.

Implementation and monitoring within the ILO are facilitated by a unique tripartite structure that involves governments, employers, and workers' organizations to support the implementation and monitoring of the MNE Declaration. The Declaration fosters dialogue and cooperation among governments, multinational enterprises (MNEs), and workers' representatives, encouraging the adoption of best practices in labor and social policies. Moreover, the ILO provides technical assistance and advisory services to help countries and multinational enterprises (MNEs) effectively implement the principles of the MNE Declaration. The ILO also facilitates a regular reporting process, allowing countries and MNEs to share their experiences, best practices, and challenges in applying the principles of the MNE Declaration.

Despite the principles outlined in the MNE Declaration, challenges remain in ensuring consistent application across different countries and sectors. These include varying enforcement of labor laws, differences in national labor standards, and the complex global supply chains of multinational enterprises (MNEs). The opportunity is the MNE Declaration provides a framework for promoting socially responsible business conduct and improving labor standards globally. By adhering to its principles, MNEs can contribute to sustainable development, promote decent work, and support the realization of human rights in the workplace.

The ILO Tripartite Declaration of Principles Concerning Multinational Enterprises and Social Policy (MNE Declaration) provides comprehensive guidance for multinational enterprises on responsible labor practices, aligning closely with the broader business and human rights regime. It emphasizes fair employment, non-discrimination, occupational safety, freedom of association, social dialogue, and the support, protection, and promotion of human rights in the workplace. By fostering collaboration among governments, employers, and workers' organizations, the MNE Declaration contributes to a global framework that encourages multinational enterprises (MNEs) to operate responsibly and

respect labor rights in line with international human rights standards and the UN Guiding Principles on Business and Human Rights.

### 3.3 Global Compact on the Tenth Principle of Global Compact

Global Compact is a voluntary corporate responsibility initiative. It establishes the Ten Principles of Global Compact. The ten principles of the Global Compact are based on international agreements, including the Universal Declaration of Human Rights, the International Labour Organization's Declarations on Fundamental Principles and Rights at Work, the Rio Declaration on Environment and Development, and the United Nations Convention Against Corruption. The Global Compact is a United Nations initiative launched in 2000, which aims to promote corporate social responsibility and sustainable development. The initiative is based on ten principles, namely.

Human Rights	Labor	Environment	Anti-corruption
<p><b>Principle 1:</b> Businesses should support and respect the protection of internationally proclaimed human rights</p> <p><b>Principle 2:</b> Ensure they are not complicit in human rights abuses.</p>	<p><b>Principle 3:</b> Businesses should uphold the freedom of association and effectively recognize the right to collective bargaining.</p> <p><b>Principle 4:</b> The elimination of all forms of forced and compulsory labor</p> <p><b>Principle 5:</b> The effective abolitions of child labor</p> <p><b>Principle 6:</b> The elimination of discrimination in respect of employment and occupation</p>	<p><b>Principle 7:</b> Businesses should support a precautionary approach to environmental challenges.</p> <p><b>Principle 8:</b> Undertake initiatives to promote greater environmental responsibility.</p> <p><b>Principle 9:</b> Encourage the development and diffusion of environmentally friendly technologies.</p>	<p><b>Principle 10:</b> Businesses should work against corruption, including extortion and bribery.</p>

Table 1: 10<sup>th</sup> Global Compact Principle <sup>118</sup>

The Global Compact is a voluntary initiative, and companies are encouraged to incorporate the ten principles into their operations and strategies. Companies are also expected to publicly report their progress in implementing the principle.

<sup>118</sup> Rehulina Rehulina, inspired by Global Compact on the 10<sup>th</sup> Principle

The initiative has more than 12.000 signatories<sup>119</sup> from over 160 countries, including businesses, non-governmental organizations, labor unions, academic institutions, and the government. The Global Compact provides a platform for collaboration and dialogue among diverse stakeholders, promoting partnerships among businesses, governments, and civil society to address social and environmental challenges.

3.3.1 Principle 1 Businesses should support and respect the protection of internationally proclaimed human rights.

The Global Compact's first Principle highlights businesses' responsibility to respect and promote human rights in their operations and to support efforts to protect them at the international, national, and local levels.

3.3.2 Principle 2 makes sure that they are not complicit in human rights abuses.

The second Principle highlights the responsibility of businesses to ensure that they are not complicit in human rights abuses, whether directly or indirectly, and to take appropriate actions when such abuses are identified.

3.3.3 Principle 3 Businesses should uphold the freedom of associations and effectively recognize the right to collective bargaining.

The third Principle of the Global Compact emphasizes the importance of upholding the freedom of association and the right to collective bargaining as fundamental labor rights and calls on businesses to respect and promote these rights in their operations and supply chains.

3.3.4 principle 4: The elimination of all forms of forced and compulsory labor

The fourth Principle of the Global Compact emphasizes the importance of eliminating all forms of forced and compulsory labor, urging businesses to take proactive measures to prevent and address incidents of forced labor in their operations and supply chains.

---

<sup>119</sup> <https://unglobalcompact.org/what-is-gc/participants>, accessed May 21, 2024

3.3.5 principle 5: The effective abolitions of child labor

The fifth Principle of the Global Compact emphasizes the importance of effectively abolishing child labor and calls on businesses to take active measures to prevent and address incidents of child labor in their operations and supply chains.

3.3.6 Principle 6: The elimination of discrimination with respect to employment and occupation

The sixth Principle of the Global Compact emphasizes the importance of eliminating discrimination in employment and occupation and calls on businesses to take proactive measures to promote equality and non-discrimination in their operations and supply chains.

3.3.7 Principle 7: Businesses should support a precautionary approach to environmental challenges.

The seventh Principle of the Global Compact emphasizes the importance of supporting a precautionary approach to environmental challenges. It encourages businesses to take proactive measures to minimize their environmental impact and promote sustainable development.

3.3.8 Principle 8: Undertake initiatives to promote greater environmental responsibility.

This Principle emphasizes the importance of undertaking initiatives to promote greater environmental responsibility and calls on businesses to take proactive measures to reduce their environmental impact and support sustainable development. The Principle includes adopting sustainable business practices, such as using renewable energy sources, reducing greenhouse gas emissions, conserving natural resources, and managing waste pollution.

3.3.9 Principle 9: Encourage the development and diffusion of environmentally friendly technologies.

This Principle emphasizes the importance of encouraging the development and diffusion of environmentally friendly technologies and calls on businesses to invest in research and development, adopt and promote existing environmentally friendly technologies, and collaborate with other stakeholders to accelerate the transition to a sustainable economy.

### 3.3.10 Principle 10: Businesses should work against corruption, including extortion and bribery.

The last Principle emphasizes the importance of working against corruption, including extortion and bribery, and calls on businesses to establish and implement effective anti-corruption policies and procedures, promote transparency and accountability, and collaborate with other stakeholders to prevent and combat corruption.

The United Nations Global Compact's Tenth Principle addresses the issue of anti-corruption, emphasizing the responsibility of businesses to operate with integrity and transparency. This Principle is closely connected to the broader framework of business and human rights, as corruption can have far-reaching negative impacts on human rights, including access to justice, equitable economic opportunities, and the fair distribution of resources. The Tenth Principle of the UN Global Compact states: "Businesses should work against corruption in all its forms, including extortion and bribery. This Principle urges businesses to adopt practices that combat corruption in all operations. It emphasizes the importance of ethical business conduct, promoting transparency, accountability, and good governance.

**Relationship Between Corruption and Human Rights:** Corruption is fundamentally linked to human rights violations. Businesses engaging in corrupt practices, such as bribery, extortion, or fraud, can lead to human rights abuses, including

**Undermining the Rule of Law.** Corruption can erode legal and institutional frameworks designed to protect human rights. For example, when businesses bribe officials to circumvent environmental regulations, it can lead to environmental degradation that impacts the health and livelihoods of local communities.

**Exacerbating Inequality and Poverty:** Corrupt practices often disproportionately impact marginalized and vulnerable populations. Corruption can divert public resources from essential services, such as healthcare, education, and infrastructure, thereby undermining individuals' economic, social, and cultural rights.

**Compromising Access to Justice:** When businesses use bribery to influence legal outcomes or evade accountability for human rights abuses, it compromises victims' access to justice. Compromises can prevent affected individuals from seeking redress and can perpetuate cycles of abuse and exploitation.

**Violating Labor Rights:** Corruption can lead to labor rights violations, such as unsafe working conditions, forced labor, and unfair wages. For instance, if a company bribes labor inspectors to overlook violations, workers may be denied their rights to fair treatment and safe working conditions.

To align with the Tenth Principle, business actors must take proactive measures to prevent and address corruption in their operations and relationships. Preventing and addressing issues includes implementing anti-corruption policies: Businesses should develop and enforce robust anti-corruption policies that clearly define acceptable conduct and prohibit all forms of corruption, including bribery, extortion, and fraud. These policies should apply to all employees, suppliers, and business partners.

**Conducting Due Diligence:** Anti-Corruption Due Diligence is Critical to Human Rights Due Diligence. Companies should assess the risk of corruption in their operations and supply chains, particularly in regions or sectors where corruption is prevalent. Due diligence involves monitoring transactions, conducting background checks on partners, and identifying potential red flags.

**Training and Awareness:** Companies should provide regular training and awareness programs for employees and partners on anti-corruption laws, ethical business practices, and transparency. This education helps foster a culture of integrity and ethical behavior within the organization.

**Promoting Transparency and Accountability:** Businesses should adopt transparent practices in their financial reporting, procurement processes, and decision-making. Promoting transparency involves maintaining accurate records, conducting regular audits, and ensuring that all financial dealings are subject to thorough scrutiny. Transparency is a crucial

element in preventing corruption and building trust with stakeholders. Reporting and Whistleblowing Mechanisms: Establishing confidential reporting and whistleblowing mechanisms allows employees and stakeholders to report suspected corruption or unethical conduct without fear of retaliation. Effective mechanisms encourage the reporting of violations and facilitate the investigation and resolution of issues.

Global Compact and Broader Human Rights Frameworks, UN Guiding Principles on Business and Human Rights (UNGPs): The UNGPs provide a framework for businesses to respect human rights, including conducting human rights due diligence and providing remediation for harm. The Tenth Principle complements the UNGPs by emphasizing the importance of combating corruption to uphold human rights. Corruption undermines the principles of accountability and transparency central to the UNGPs. Alliance with other global initiatives, the Tenth Principle aligns with international anti-corruption frameworks, such as the UN Convention against Corruption (UNCAC) and the OECD Guidelines for Multinational Enterprises. These frameworks require businesses to implement anti-corruption measures as part of their commitment to ethical conduct and corporate responsibility.

Examples of implementation include joining multi-stakeholder initiatives, such as the Extractive Industries Transparency Initiative (EITI), which demonstrates that many companies have joined initiatives promoting transparency and accountability in the extractive sector. By participating in the EITI, companies commit to disclosing their payments to governments, thereby reducing the risk of corruption and promoting equitable resource management. As a result, the company has successfully avoided corruption-related scandals, enhanced its reputation, and contributed to a more fair business environment.

Challenges and ongoing efforts to ensure compliance with anti-corruption measures across complex global supply chains can be daunting. Thus, Companies must work diligently to enforce their policies with suppliers and partners in regions with varying legal and cultural standards. Moreover, balancing transparency and business Interests is also important; while transparency is key to combating

corruption, companies must also navigate competitive business environments where full disclosure could impact strategic interests. Striking this balance requires careful consideration and a commitment to ethical practices.

The Tenth Principle of the UN Global Compact underscores the role of businesses in combating corruption, recognizing that corruption has a direct and detrimental impact on human rights. By implementing anti-corruption policies, conducting due diligence, promoting transparency, and fostering a culture of integrity, businesses can help prevent human rights violations and contribute to a more just and equitable society. This Principle aligns with broader human rights frameworks, such as the UN Guiding Principles on Business and Human Rights, reinforcing the interconnectedness of ethical business practices and the protection of human rights.

### 3.4 International Organization for Standardization (ISO) 26000: Social Responsibility

ISO 26000 is an international standard providing guidelines on social responsibility.<sup>120</sup> Unlike other ISO standards, it does not offer certification but serves as a guidance document to help organizations improve their social responsibility practices. The International Organization for Standardization (ISO) launched the standard in 2010<sup>121</sup> It represents a globally recognized framework for incorporating social, environmental, ethical, and governance considerations into business and organizational activities.

#### 3.4.1 Key Features of ISO 26000

**Non-Certifiable:** ISO 26000 is not meant for certification purposes. It is a purely guidance document intended to help organizations understand and act on the principles of social responsibility.<sup>122</sup> It contrasts with certifiable standards like ISO

---

<sup>120</sup> Thomas Hemphill, “The ISO 26000 Guidance on Social Responsibility International Standard: What Are the Business Governance Implications?,” *Corporate Governance (Bingley)* 13, no. 3 (2013): 305–17, <https://doi.org/10.1108/CG-08-2011-0062>.

<sup>121</sup> Nils Brunsson, Andreas Rasche, and David Seidl, “The Dynamics of Standardization: Three Perspectives on Standards in Organization Studies,” *Organization Studies* 33, no. 5–6 (2012): 613–32, <https://doi.org/10.1177/0170840612450120>.

<sup>122</sup> Anna Zinenko, Maria Rosa Rovira, and Ivan Montiel, “The Fit of the Social Responsibility Standard ISO 26000 within Other CSR Instruments: Redundant or Complementary,” *Sustainability*

9001 (Quality Management) and ISO 14001 (Environmental Management). The voluntary nature means organizations have no legal requirement to adopt the standard, although it is widely considered best practice for organizations aiming to contribute to sustainable development. It is designed for all types of organizations, regardless of size, sector, or geographical location. Stakeholders encompass businesses, governments, non-profit organizations, and even small enterprises.

ISO 26000 provides a comprehensive framework for organizations to understand and integrate social responsibility into their strategies and operations. It emphasizes ethical behavior, environmental stewardship, human rights, and transparency while guiding organizations in engaging with stakeholders and fostering long-term community and environmental well-being. While non-certifiable, its adoption reflects an organization's commitment to sustainable development and socially responsible behavior.

#### 3.4.2 Seven Core Subjects

The ISO 26000 standard outlines seven core subjects of social responsibility,<sup>123</sup> Highlighting crucial areas where organizations are expected to demonstrate social responsibility. Each core subject encompasses various issues that organizations should actively consider and address.

##### 3.4.2.1 Organizational Governance

Governance structures are essential for integrating social responsibility into the organization's decision-making processes. This subject stresses the importance of ethical behavior, transparency, and accountability at all levels of an organization. Effective governance ensures that decisions consider not only economic factors but also social, environmental, and ethical factors.

##### 3.4.2.2 Human Rights

ISO 26000 emphasizes respect for human rights and calls for organizations to identify, prevent, and address any human rights abuses that may result from their operations. It includes the right to non-discrimination, the right to life, liberty, and

---

*Accounting, Management and Policy Journal* 6, no. 4 (2015): 498–526, <https://doi.org/http://dx.doi.org/10.1108/SAMPJ-05-2014-0032>.

<sup>123</sup> Lars Moratis, “Standardizing a Better World? Essays and Critical Reflections on the ISO 26000 Standard for Corporate Social Responsibility” (Open Universiteit, 2015).

security, as well as the rights of workers and communities impacted by organizational activities.

#### 3.4.2.3 Labor Practices

Labor Practices' main subject focuses on how an organization treats its workforce, including wages, working conditions, occupational health and safety, fair treatment, social dialogue, and the elimination of child labor and forced labor. Fair and equitable labor practices should also extend to the organization's suppliers and partners.

#### 3.4.2.4 The Environment

ISO 26000 encourages organizations to minimize their environmental footprint by reducing waste, pollution, and energy consumption while increasing the use of renewable resources. Specific environmental responsibilities include Preventing environmental degradation, adopting sustainable consumption and production practices, protecting biodiversity, and restoring natural habitats.

#### 3.4.2.5 Fair Operating Practices

Fair operating practices emphasize the importance of operating in a fair and transparent manner. Fair operating practices encompass areas such as anti-corruption, fair competition, and responsible political engagement. Organizations are expected to promote ethical conduct throughout their supply chain and ensure they do not engage in bribery or exploitation.

#### 3.4.2.6 Consumer Issues

Organizations should protect consumer rights by providing products and services that are safe, reliable, and meet legal standards. Transparency in marketing, ensuring data protection, and enabling customer complaints handling are also central to this core subject. This subject also emphasizes the importance of organizations providing accurate information to consumers, thereby ensuring fair marketing practices and adequate consumer protection.

#### 3.4.2.7 Community Involvement and Development:

Organizations are expected to contribute to the economic and social development of the communities in which they operate. Social development can be achieved through education, employment opportunities, local infrastructure

development, and support for community health and well-being. The standard advocates for engaging with communities to understand their needs and contributing to their development in a mutually beneficial way.

ISO 26000 is grounded in seven principles of social responsibility that guide how organizations should behave concerning the core subjects. These principles are accountability, and organizations must take responsibility for the impact of their decisions and actions on society, the environment, and the economy. Transparency refers to the openness of an organization in disclosing information about decisions and activities that impact society and the environment. Ethical Behavior: The organization should behave ethically in all its dealings, following international norms of behavior. Respect for Stakeholder Interests: An organization should consider the interests of all stakeholders affected by its decisions and activities, including employees, customers, communities, and investors. Respect for the Rule of Law: The organization must comply with all applicable laws and regulations in the countries in which it operates. Respect for International Norms of Behavior: Beyond local laws, organizations should adhere to international norms of behavior, including human rights and labor standards. Respect for Human Rights: Organizations must recognize and promote human rights across all their operations.

How to Implement ISO 26000: First, engage leadership; the leadership must be committed to the principles of social responsibility and demonstrate this commitment through decision-making and resource allocation. Identifying key stakeholders is crucial for recognizing and engaging with stakeholders who are affected by the organization's activities, including employees, customers, suppliers, and local communities. Assess the Organization's Current Practices: Conduct a thorough assessment of current social responsibility practices and identify areas for improvement, aligning them with the core subjects of ISO 26000. Develop Policies and Strategies Based on the Assessment. Organizations should develop or refine policies and strategies to address labor practices, environmental impact, and ethical behavior, informed by the assessment. Implement a Social Responsibility Action Plan: Once policies are in place, develop an action plan that includes specific steps, timeframes, and resource allocations for implementing social responsibility

initiatives. Monitor and Communicate Progress: Monitoring is crucial to meet social responsibility objectives. Organizations should also communicate their progress to stakeholders in a transparent manner.

The benefits of Implementing ISO 26000 include an enhanced reputation. By adopting social responsibility practices, organizations enhance their reputation and gain the trust of their customers, employees, and the broader public. Second, improved stakeholder relations result from engaging stakeholders, creating more robust collaborative relationships, and ensuring that the organization considers their needs and interests. Third-party risk management, as outlined in ISO 26000, enables organizations to identify risks related to social responsibility, such as human rights violations or environmental harm, and manage those risks proactively. Fourth, compliance with legal and regulatory requirements by following ISO 26000 helps organizations ensure they meet or exceed local and international legal requirements, reducing the risk of non-compliance. Lastly, long-term sustainability, which means integrating social responsibility into operations, contributes to long-term sustainability by promoting ethical, responsible, and environmentally friendly business practices.

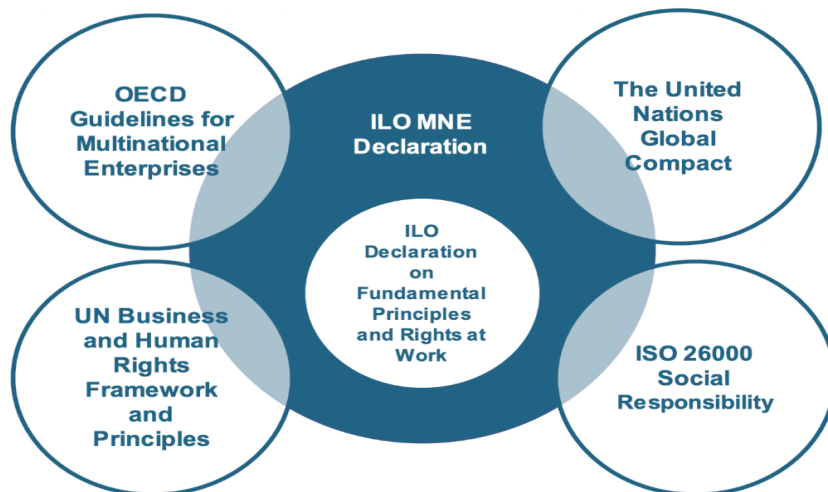


Figure 8: Relation between OECD Guidelines for Multinational Enterprises, ILO MNC Declaration,

UN Business and Human Rights Framework and Principles, National Global Compact, and ISO 26000 Social Responsibility<sup>124</sup>

The figure above illustrates the six relationships between the OECD Guidelines for Multinational Enterprises, the ILO MNC Declaration, the UN Business and Human Rights Framework and Principles, the National Global Compact, and ISO 26000 Social Responsibility. The OECD Guidelines for Multinational Enterprises, the ILO MNC Declaration, the UN Business and Human Rights Framework and Principles, the National Global Compact, and ISO 26000 Social Responsibility are all frameworks or standards that guide businesses on responsible and sustainable business practices. While each framework has its specific focus and approach, they share common goals and principles and are interrelated in several ways. For example, the OECD Guidelines and the ILO MNC Declaration guide multinational enterprises on responsible business conduct, including human rights, labor standards, and environmental sustainability. The UN Business and Human Rights Framework and Principles build upon these guidelines and declarations, providing a more comprehensive framework for businesses to respect human rights throughout their operations. The National Global Compact initiative is a local adaptation of the United Nations Global Compact. It provides a set of principles and guidelines for businesses to align their operations with universal sustainability principles and take actions that advance societal goals. This framework is based on ten principles, including human rights, labor standards, and environmental sustainability, and is relevant to businesses of all sizes and sectors. The 26000 Social Responsibility is an international standard that guides businesses on social responsibility and sustainable business practices. These standard addresses various issues, including human rights, labor practices, environmental concerns, fair operating practices, consumer protection, and community involvement and development. It is a comprehensive framework that helps

---

<sup>124</sup> Taken from books inspired by OECD Guidelines for Multinational Enterprises, ILO MNC Declaration, UN Business and Human Rights Framework and Principles, National Global Compact, and ISO 26000 Social Responsibility The OECD Guidelines for Multinational Enterprises, the ILO MNC Declaration, the UN Business and Human Rights Framework and Principles, the National Global Compact, and ISO 26000 Social Responsibility

businesses identify and manage their social responsibility impacts, thereby improving their overall sustainability performance.

These frameworks and standards are interconnected and complementary, and businesses can combine them to develop comprehensive and practical approaches to responsible and sustainable business practices. By aligning their operations with these frameworks, businesses can contribute to achieving global sustainability goals and create value for themselves and society.

### 3.5 National Human Rights Institutions (NHRI)

A National Human Rights Institution (NHRI, hereafter) is an official State institution established by law to protect, promote, monitor, and fulfill the human rights of the people. Unlike other national institutions, NHRIs are accredited with an internationally accepted quality label based on compliance with the Paris Principles. This study examines how it worked in Bangladesh and Indonesia and to what extent it faced difficulties in compliance with international standards. In this study, the researcher employed a qualitative research approach due to the nature of the study. Data were collected mainly through various secondary documents and interviews with different stakeholders. This study found that government supporters or like-minded people became commission members. Additionally, NHRI failed to respond to human rights violations and lacked the necessary institutional infrastructure. After many years, the national institution needed to establish guidelines in accordance with the Paris Principles.

National Human Rights Institutions (NHRIs) are state-mandated bodies, independent of government influence, with constitutional or legal mandates to protect and promote human rights at the national level. Moreover, NHRIs can play a crucial role in ensuring that the Corporate Sustainability Due Diligence Directive (CSDDD) achieves its objective of protecting human rights and promoting responsible corporate behavior throughout the global value chain.<sup>125</sup> NHRIs are

---

<sup>125</sup> Dicalou, Mathilde; Holly, Gabrielle: *National Human Rights Institutions – Critical but Overlooked Actors: Leveraging the NHRI mandate to ensure the practical transposition and implementation of the Corporate Sustainability Due Diligence Directive*, *VerfBlog*, 2024/5/31, <https://verfassungsblog.de/national-human-rights-institutions-critical-but-overlooked-actors/>, DOI: [10.59704/192c720ed6a0c525](https://doi.org/10.59704/192c720ed6a0c525).

often perceived as a more 'neutral actor' in the ecosystem of stakeholders involved in the corporate accountability arena. The NHRI is not an NGO with a specific campaigning agenda, nor are they government institutions that must align with their respective government's position; they are expert institutions interested in promoting respect for international, regional, and national human rights instruments by their government and other actors within their jurisdictions.

National Human Rights Institutions (NHRIs) play a vital role in protecting and promoting human rights within the business context. They serve as watchdogs, ensuring states and businesses fulfill their obligations under the United Nations Guiding Principles on Business and Human Rights. Despite their challenges, NHRIs have made significant contributions by fostering greater corporate accountability, providing access to remedies, and promoting sustainable and responsible business practices. As the global focus on business and human rights intensifies, NHRIs will remain crucial in advocating for stronger protections and remedies for individuals affected by corporate activities. National Human Rights Institutions (NHRIs) are independent bodies established by states to promote and protect human rights at the national level. They are crucial in ensuring that businesses respect human rights and hold them accountable for any violations. In business and human rights, NHRIs are increasingly crucial for advancing the United Nations Guiding Principles on Business and Human Rights (UNGPs), which outline the responsibilities of states and businesses in preventing and addressing human rights abuses linked to business activities.

### 3.5.1 Critical Roles of NHRIs in Business and Human Rights

**Monitoring and Reporting on Human Rights Impacts:** NHRIs monitor business practices and their potential or actual impacts on human rights. They regularly assess whether businesses comply with international human rights standards and national laws. They report on human rights violations, recommending that businesses and governments improve their respect for human rights in business operations. **Providing Remedies and Access to Justice:** NHRIs offer a pathway for individuals and communities to seek redress for human rights violations caused by businesses. They may facilitate complaint mechanisms, conduct investigations, and

recommend remedies for those affected by business-related human rights abuses. NHRIS helps bridge the accountability gap, ensuring that affected individuals and communities have access to justice through both non-judicial and judicial mechanisms. Advising Governments on Policy and Legislation: NHRIs advise governments on how to shape policies and regulations that align with international human rights obligations, particularly in the business sector. Advice to governments includes providing input into National Action Plans (NAPs) on business and human rights, which outline a country's strategy for implementing the United Nations Guiding Principles on Business and Human Rights (UNGPs). They also encourage the integration of human rights principles into corporate governance frameworks and national legal systems. Promoting Corporate Responsibility to Respect Human Rights: NHRIs work to raise awareness among businesses about their responsibility to respect human rights. Promoting corporate responsibility involves encouraging companies to adopt human rights due diligence processes, as required under the second pillar of the United Nations Guiding Principles on Business and Human Rights (UNGPs). They promote the incorporation of human rights risk assessments into business operations, supply chains, and investment decisions. Facilitating Multi-Stakeholder Engagement: NHRIs often act as conveners, bringing together governments, businesses, civil society, and communities to discuss business-related human rights violations. This multi-stakeholder engagement helps build consensus and foster cooperative approaches to addressing human rights challenges. These dialogues focus on improving corporate responsibility, mitigating negative impacts on communities, and ensuring fair remedies for affected parties. Capacity Building and Education: NHRIs provide training and resources for businesses, governments, and civil society organizations on the human rights responsibilities of corporations. By building capacity in human rights issues, NHRIs help stakeholders understand how to prevent and address human rights violations in business. They also support community education to empower individuals and groups affected by business operations, enabling them to defend their rights and seek remedies. Investigating and Publicizing Business-Related Human Rights Abuses: National Human Rights Institutions (NHRIs) can investigate cases where businesses are accused of

violating human rights. Their findings can be used to hold companies accountable, improve business practices, and recommend policy changes. Publicizing the results of investigations can pressure businesses and governments to address human rights concerns effectively.

### 3.5.2 Challenges for NHRIs in Addressing Business and Human Rights Issues

**Limited Jurisdiction and Authority:** In many countries, NHRIs may have limited legal authority to hold businesses accountable or impose penalties for human rights violations. Their role is often advisory, which can limit their ability to enforce compliance. **Resource Constraints:** NHRIs often face resource constraints, including insufficient funding and staff, which limits their capacity to conduct thorough investigations or provide adequate support to affected communities. **Lack of Political Will:** In some countries, the effectiveness of NHRIs is hindered by a lack of political will to address business-related human rights abuses. Governments may be reluctant to implement robust regulatory frameworks or support NHRIs in holding powerful corporations accountable. **Corporate Resistance:** Businesses may resist NHRI oversight, particularly when it involves publicizing human rights abuses or recommending costly operational changes. This resistance can impede the progress of NHRIs in ensuring respect for human rights in the business context.

### 3.5.3 Success Stories and Contributions of NHRIs to Business and Human Rights

**Development of National Action Plans (NAPs) on Business and Human Rights:** Several countries, with the support of National Human Rights Institutions (NHRIs), have developed National Action Plans (NAPs) on business and human rights. NHRIs contribute to the drafting, implementing, and monitoring of these plans, ensuring they address vital human rights issues related to businesses. For example, in Kenya, the Kenya National Commission on Human Rights (KNCHR) played a crucial role in developing the country's National Action Plan (NAP), advising on areas such as labor rights, land acquisition, and community engagement. **Facilitating Grievance Mechanisms:** NHRIs in countries such as India and South Africa have successfully established grievance mechanisms to support individuals and communities affected by corporate misconduct. By facilitating

dialogue between affected groups and businesses, they have helped achieve tangible remedies. For example, the South African Human Rights Commission investigated human rights abuses in the mining sector, improving conditions for workers and communities impacted by mining operations. Promoting Corporate Accountability: The Danish Institute for Human Rights (DIHR) has played a pivotal role in promoting corporate accountability within Denmark and internationally. They developed human rights impact assessments for businesses and worked with companies to integrate human rights into their operations. DIHR's collaboration with multinational companies has been a model for how NHRIs can foster proactive corporate responsibility.

#### 3.5.4 The Role of NHRIs in Advancing the UNGPs on Business and Human Rights

The United Nations Guiding Principles on Business and Human Rights (UNGPs), endorsed in 2011, serve as the global standard for preventing and addressing human rights abuses by businesses. NHRIs are essential for the successful implementation of these principles. Pillar 1, state duty to protect, the NHRIs assist governments in fulfilling their duty to protect human rights by advising on legal reforms and ensuring businesses comply with human rights standards. Pillar 2, corporate responsibility to respect, involves the NHRIs engaging directly with businesses to ensure they respect human rights through due diligence and responsible business practices. Pillar 3, access to remedy, ensures that the NHRIs enable affected parties to access effective remedies when corporate activities violate their rights. They provide non-judicial mechanisms for resolving disputes, such as mediation, and contribute to the broader legal framework for accountability.

#### 3.5.5 Paris Principle 1991

The Paris Agreement, adopted in 2015 under the United Nations Framework Convention on Climate Change (UNFCCC), is a global effort to combat climate change by limiting global warming to below 2 degrees Celsius, with the goal of 1.5 degrees. While the main goal is environmental, the agreement acknowledges and integrates human rights principles.

- 3.5.5.1 There are four key points regarding the relationship between the Paris Agreement and the recognition of human rights in its preamble: The Paris Agreement's preamble explicitly acknowledges the importance of considering human rights when addressing climate change. It states that Parties should when taking action to address climate change, respect, promote, and consider their respective obligations on human rights, the right to health, the rights of Indigenous peoples, local communities, migrants, children, persons with disabilities, and people in vulnerable situations and the right to development, as well as gender equality, empowerment of women and intergenerational equity."
- 3.5.5.2 Vulnerability and adaptation: The agreement emphasizes the importance of protecting those most vulnerable to climate change, including many marginalized and disadvantaged groups. The agreement aligns with human rights principles, which emphasize the protection of vulnerable populations.
- 3.5.5.3 A rights-based approach: While the Paris Agreement is not a human rights treaty, it promotes a rights-based approach to climate actions. Rights-based approaches evolve, ensuring that measures to combat climate change do not infringe on human rights and ideally support the fulfillment of these rights.
- 3.5.5.4 Integrations with SDGs The Paris Agreement is closely linked with the SDGs, many of which directly pertain to human rights, such as poverty reduction, access to clean water, and good health and well-being.

#### UN Paris principle

- 3.5.5.5 Establishment by law or the Constitutions
- 3.5.5.6 A broad mandate to promote and protect human rights.
- 3.5.5.7 Formal and functional independence
- 3.5.5.8 Pluralism represents all aspects of society.
- 3.5.5.9 Adequate resources and financial autonomy
- 3.5.5.10 Freedom to address any arising human rights issues.
- 3.5.5.11 Annual reporting on the national human rights situations

#### 3.5.5.12 Cooperations with national and international actors, including civil society.

In 1992, the UN Commission on Human Rights endorsed internationally recognized principles regarding the status, powers, and functioning of national human rights institutions. The UN Principles relating to the Status of National Institutions are commonly referred to as the Paris Principles. These were subsequently endorsed by the UN General Assembly in 1993, which set out the basic guidelines recommended by the UN for establishing a national human rights institution. The UN defines a national human rights institution as a government body established under the constitution or by law designed to promote and protect human rights. The UN broadly groups national human rights institutions into three categories: human rights commissions, ombudsmen, and specialized national institutions designed to protect the rights of a particular vulnerable group (such as ethnic minorities, indigenous populations, refugees, women, or children).<sup>126</sup>

The Paris Principles stress, as fundamental features designed to contribute to independence, the need for a founding constitutional or legislative statute, "as broad a mandate as possible;" an independent appointments procedure, with terms of office specified by law; a pluralistic and representative composition; regular and effective functioning; independence from the executive branch; and adequate funding. In recommending methods of operation, the Paris Principles call on governments to establish national institutions that can initiate any human rights matter at the government's suggestion or upon the request of "any petitioner." Responsibilities should include reporting and making recommendations to the government on human rights matters (including the adoption or amendment of national legislation and reporting situations of human rights violations). They promote conformity of national law and practice with international human rights standards, including ratifying international human rights treaties and cooperating with national, regional, and UN human rights bodies. Promote, including

---

<sup>126</sup> Human Rights Watch (Government Human Rights Commission in Africa, Protector or pretenders, [https://www.hrw.org/reports/2001/africa/overview/int-standards.html#P257\\_30848](https://www.hrw.org/reports/2001/africa/overview/int-standards.html#P257_30848), Access on July 27, 2024

contributions to country reports submitted to UN treaty bodies, committees, and human rights education programs.

The Paris Principles guide human rights commissions to collaborate with entities that protect and promote human rights. These principles emphasize the importance of practical cooperation with non-governmental human rights organizations, trade unions, social and professional bodies, notable scientists, philosophers, religious leaders, academics, and other experts, as well as with parliament and government departments (in an advisory role only).

Human rights commissions are empowered to pursue resolutions through "amicable settlements," "binding decisions," or "confidential means" when necessary. They should inform petitioners of their rights and remedies, facilitating access to these protections. Commissions are also responsible for resolving complaints or referring them to the appropriate authorities and recommending human rights issues to the government, including necessary legal and practical reforms. While the Paris Principles provide a strong foundation of normative guidelines, their limitations become evident when evaluating the actual performance of human rights commissions. Adhering to these high standards can enhance the likelihood of a severe and proactive commission. However, as highlighted by the Paris Principle, even strict compliance with these principles in a commission's founding statutes does not guarantee its effectiveness. The actual test lies in commissioners committed to upholding human rights and prepared to resist opposition from other government sectors.

## CHAPTER IV

### BUSINESS AND HUMAN RIGHTS IN THE EUROPEAN UNION AND ASSOCIATIONS SOUTHEAST ASIAN NATIONS

An International regional organization is an organization built based on geographic areas.<sup>127</sup> In modern international law, there are numerous regional organizations, mainly due to the world's division into five continents. Second, most of the world is Separated by the sea. Third, the state aims to maintain peace and security within its neighboring countries, to reap economic benefits from conducting business in larger areas, and so on. These reasons drive the country to establish international and regional organizations. The international organizations of regional significance include the European Union (EU), the Organization of American States (OAS), the African Union (AU), the Association of Southeast Asian Nations (ASEAN), and the Caribbean Community (CARICOM), among others.

In today's context of free trade, particularly within regions that encompass multiple countries, it is essential to recognize the complexity faced by businesspeople operating across national borders. Each country establishes its regulations governing business practices, ensuring that these do not infringe upon human rights. However, this diversity of laws can sometimes lead to conflicts between the legal frameworks of different nations. While it is imperative to uphold universal human rights, regional organizations play a critical role in developing coherent rules that apply to all member states. By implementing a unified regulatory framework, these organizations enable both member countries and business professionals to navigate cross-border operations with greater certainty and confidence, relying on an established legal basis.

Integration in regional organizations must establish clear rules for businesspeople, primarily due to the opening of free markets among member

---

<sup>127</sup> Philip Cooke, "Regional Knowledge Capabilities, Embeddedness of Firms and Industry Organisation: Bioscience Megacentres and Economic Geography," *European Planning Studies* 12, no. 5 (2004): 625–41, <https://doi.org/10.1080/0965431042000219987>.

countries. This integration cannot neglect the human rights of citizens. Thus, human rights must be one of the rules applicable in regional organizations, including for business actors. As stated in the introduction, applying human rights obligations to corporate and business actors has been a subject of discussion and debate for many years, with numerous countries and organizations attempting to address the issue through various legal frameworks and international agreements. In this chapter, we will explore the State of Business and human rights in the EU and ASEAN, examining their similarities and differences and proposing revolutionary ideas to address the existing challenges.

In United Nations Resolution Number, A/HRC/8/5, April 7, 2008, the Secretary-General's Special Representative for Business and Human Rights, John Ruggie, established a framework for interacting with the state, business actors, and citizens regarding business responsibility to people's human rights. In the United Nations Resolution A/HRC/17/31, dated March 21, 2011, the guiding principles, often referred to as the Guiding Principles on Business and Human Rights (UNGPs), comprise 31 principles. Interestingly, When the Member States unanimously agreed upon the United Nations Human Rights Council Convened the UNGP. Things like this are extremely rare.<sup>128</sup> As stated in previous chapters, the UN Resolution on Business and Human Rights has three pillars. The first is the state's responsibility to protect its citizens. The second pillar says the corporation's responsibility to promote, and the third pillar says access to remedy for the people. The three pillars are shown in the picture below.<sup>129</sup>

---

<sup>128</sup> Ruggie, John. Just business, not as Usual, Lee Kuan Yew School of Public Policy, Public Lecture June 10, 2013, [https://www.youtube.com/watch?v=bJw1bwS5\\_nU&t=17s](https://www.youtube.com/watch?v=bJw1bwS5_nU&t=17s), accessed on March 23, 2022

<sup>129</sup> UN Guiding Principles 101: A Beginner's Guide to the UN Guiding Principles on Business and Human Rights, <https://shiftproject.org/resources/ungps101/>, Accessed on May 5, 2022



Figure 9: UN Framework on business and human rights<sup>130</sup>

Moreover, agreeing does not mean it will be easy to be implemented. Thus, countries have implemented this resolution into their regulation. Therefore, the United Nations resolution mandated that states create and implement derivative rules within their countries. Interestingly, in addition to being members of the United Nations, many countries are also members of regional organizations. This regional organization aims to regulate the welfare and security of its member states. Because one of the regional organizations has been inaccessible to trade areas, the regional organization must also regulate laws and regulations that apply to member states relating to business activities that do not harm human rights. Thus, their member country has guidelines on how its member states conduct business and can apply the UN mandate to companies and human rights (BHR).

#### 4.1 International Organization as Subject of International Law

There are many forms of international organizations. It can be based on purposes such as those of the International Labor Organization (ILO), the International Monetary Fund, the World Trade Organization (WTO), and others. It can also be based on universality or a multilateral organization such as the United Nations (UN). It can also be based on area or geography, such as the Association of Southeast Asian Nations (ASEAN), the European Union (EU), the African Union (AU), the Organization of American States (OAS), and many other forms of international organizations. EU and ASEAN are two examples of organizations

<sup>130</sup> Shift Project, <https://shiftproject.org/resources/ungps101/> accessed April 29, 2025

based on geography, known as regional organizations.<sup>131</sup> As it is named a regional international organization, the regional organization is an organization formed based on geographical location. Therefore, neighboring countries agreed to establish a territorial organization, with its members being geographically adjacent to one another.

This dissertation will focus on two international regional organizations: the European Union (EU) and the Association of Southeast Asian Nations (ASEAN). There are several reasons why the writer chooses the EU and ASEAN. On the one hand, there are similarities: first, both organizations are regional in nature. The members of this organization are countries that share a common region with their neighboring countries. Second, all member countries are members of the United Nations. Third, they share similar goals (economic, security, cultural, and social). Both organizations recognize that the member state has the right to respect the sovereignty of another member state.

On the other hand, the differentiation. The EU is often referred to as a nation, whereas ASEAN is not. In the EU, domestic law is integrated with EU regulations, and a ruling by a court in a member state may be influenced by the judgment of the European Court of Justice (ECJ).<sup>132</sup> Meanwhile, ASEAN's ASEAN regulations will be enforced after member states have ratified ASEAN conventions. Another point is that the EU has its currency (17 out of 27 member states have adopted it, and all member states recognize it), while ASEAN does not have such a currency. It will not happen soon. Lastly, the EU has a court called the Court of Justice of the European Union (CJEU), whereas ASEAN does not have a similar court.

As written above, all member states of the two organizations are part or member countries of the UN. Hence, the two organizations are bound by the provisions of the UN resolutions. Thus, these two regional organizations will examine how they regulate the UN Framework to Respect, protect, and remedy

---

<sup>131</sup> Jacob Katz Cogan, Ian Hurd, and Ian Johnstone, *The Oxford Handbook of International Organizations* (London, UK: Oxford University Press, 2016).

<sup>132</sup> Fulvia Ristuccia, "The right to social assistance of children in education and their primary carers: Jobcenter Krefeld," *Common Market Law Review* 58 no. 3 (2021): 877-904, <https://kluwerlawonline.com/journalarticle/Common+Market+Law+Review/58.3/COLA2021053>

human rights and UNGPs for their member states. The UNGPs explicitly request states to take "appropriate steps to prevent, investigate, punish, and redress business-related human rights abuses (UNGPs) and clarify that this means enforcing appropriate legislation and regulations that require companies to respect human rights." This action can take place through any state instrument. That is why the state encourages having a national action Plan (NAP) on Business and Human Rights for the state.

Moreover, these two regional organizations also have to make regulations on how to implement the UN Resolution on business and human rights. To implement the BHR among their member state. The writer researched how two international and regional organizations address the Business and Human Rights (BHR) regime.

The EU has been at the forefront of promoting business and human rights, with various legal instruments and policies designed to promote responsible business conduct. The EU Has adopted the UN Guiding Principle on Business and Human Rights and has also developed many initiatives to promote responsible business practices; however, before we talk more about how the EU regulates UN Resolution on Business and Human Rights, it is best if we have a glance what and who the EU is and then continue to see how EU applying the UN Framework protect, respect and remedy and Guidance Principles on Business and Human rights.

## 4.2 EU in human rights and Business and human rights regimes

### 4.2.1 European Union as Overview

EU was established on May 9, 1950. However, the name was not the European Union but the European Coal and Steel Community (ECSC). Initially, the primary purpose was economic, specifically in relation to corporate coal and steel production.<sup>133</sup> The first five members are France, West Germany, Italy, The Netherlands, Belgium, and Luxembourg. Nowadays, there are 27 member states of

---

<sup>133</sup> Schuman Declaration May 1950, [https://european-union.europa.eu/principles-countries-history/history-eu/1945-59/schuman-declaration-may-1950\\_en](https://european-union.europa.eu/principles-countries-history/history-eu/1945-59/schuman-declaration-may-1950_en), Accessed on April 29, 2020

the EU (excluding the United Kingdom), which are Denmark, Ireland (since 1973), Greece (since 1981), Spain (since 1986), and Portugal. Austria, Finland, Sweden (1995), Czechia, Cyprus, Estonia, Hungary, Latvia, Lithuania, Malta, Poland, Slovakia, Slovenia (2004), Bulgaria, Romania (2007) Croatia (2023). The EU funding agreements, from the newest to the latest, are the Treaty of Lisbon, Treaty of Nice, Treaty of Amsterdam, Treaty on European Union (Maastricht Treaty), Single European Act, Merger Treaty (Brussels Treaty), and Treaty of Rome (EEC and EURATOM Treaties), as shown in the picture below.<sup>134</sup> The EU's institutions and decision-making system are constantly evolving.

Today, there is a 3 (three main bodies) the European Commission (suggested law for the EU), the European Parliament (elected by all people in Europe to stand for their rights), the Council of the European Union (people who make decisions in every country of the EU come together and make the council of the EU). Other bodies that are also important in the EU are the Court of Justice of the European Union (the function is to make sure that all laws are correctly in the European Union and the Court of Auditors (the function is to check if the money of the EU is spent in the right way). In terms of administration, 20 EU agencies and organizations carry out specific legal functions and 4 (four) interinstitutional services that support the institutions.

#### 4.2.2 Human Rights in European

Human rights are one area that receives much attention in the EU. As written in Article 2 of the Treaty on European Union (TFU), "the union is founded on values such as respect for human dignity, freedom, democracy, equality, rule of law and respect for human rights including minority rights. Moreover, under Article 6(2) of the TFU, human rights in the EU are subject to a constitutional obligation to accede.<sup>135</sup> Human rights are binding in the EU because Article 6(2) states that human rights are fundamental rights, and the EU also recognizes human rights as a

---

<sup>134</sup> Chris Turner, *Key Facts Key Cases: EU Law* (London: Routledge, 2014).

<sup>135</sup> Piet Eeckhout, "The European Convention on Human Rights and Fundamental Freedoms as an Integral Part of EU Law—Some Reflections on Status and Effect," in *The European Union in the World: Essays in Honour of Marc Maresceau* (Leiden; Boston: Martinus Nijhoff Publishers, 2014), p. 87, <https://doi.org/10.1163/9789004259140>.

"General Principle of EU Law." The Charter of Fundamental Rights of the European Union (CFR), established under the Lisbon Treaty, encompasses civil, political, economic, and social rights. It has six chapters: dignity, freedom, equality, solidarity, citizen rights, and justice. General principles of EU Law, proceeding from the Court of Justice of the European Union (CJEU), fundamental rights (inspired by the European Convention on Human Rights (ECHR), and constitutional tradition of member states. EU law-making (directive, regulations)

The other document regarding human rights in Europe is the Convention for the Protection of Human Rights and Fundamental Freedoms, commonly referred to as the European Convention on Human Rights (ECHR). It was drafted in 1950 and entered into force on September 3, 1953. this convention is divided into three sections. The first section is titled "Rights and Freedom." The second selection is the European Court of Human Rights (ECHR). The third section is miscellaneous Provisions and consists of 59 Articles. This convention has several protocols, including the protocols outlined in the amendments to this convention.

ECHR established the European Court of Human Rights (ECtHR),<sup>136</sup> European citizens ~~of all member states~~ can bring their cases to this court if they believe their state is violating their human rights. This court is based in Strasbourg, France. ECHR was established in 1959 but was permanent in 1998. The individual complaints mechanism of ECtHR is the crown jewel of the world's most advanced international system for protecting civil and political liberties.<sup>137</sup> Nowadays, a redesign proposal for the ECtHR is being considered in response to a growing backlog of complaints. This proposal should be understood not as ministerial changes in judicial procedure, nor as resolving the debate over whether the ECtHR should strive for individual or constitutional justice, but rather as raising more fundamental questions concerning the court's future identity. Thus, the goal is to eliminate the need for aggrieved individuals to seek regional relief and embed it more firmly in the national legal and political system, where domestic authorities

---

<sup>136</sup> Laurence R. Helfer, "Redesigning the European Court of Human Rights: Embeddedness as a Deep Structural Principle of the European Human Rights Regime," *European Journal of International Law* 19, no. 1 (2008): 125–59, <https://doi.org/10.1093/ejil/chn004>.

<sup>137</sup> Ibid.,

refuse to investigate human rights abuses. All EU member states are signatories to the European Convention on Human Rights (ECHR). The signatories mean that when human rights violations occur, such as those related to business activities, member states can also bring their cases to the European Court of Human Rights. However, the ECHR is not part of the EU, as the Council of Europe established it. The ECHR has introduced a new chapter allowing for EU membership, and the Lisbon Treaty provides the EU with the opportunity to become a member party.<sup>138</sup> however, this matter is still under discussion.

The table below lists nine international human rights conventions and indicates which conventions EU member states have ratified as a party. If ratified (√), has signed (S) or neither approved nor signed (-) among the 27-member State of the EU,<sup>139</sup> Furthermore, interestingly, none of the EU member countries have ratified the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families. Additionally, almost all member countries have ratified or signed the other eight conventions. This table shows that awareness and understanding of human rights in EU countries are very high.

	ICERD (1966)	ICCPR (1966)	ICESCR (1966)	CEDAW (1979)	CAT (1984)	CRC (1989 )	CPRMW (1990)	CEPPED (2006)	CRPD (2006)
Austria (1995)	√ 1982	√ 1978	√ 1978	√ 1982	√ 1987	√ 1992	-	√ 2008	√ 2008
Belgium (1958)	√ 1975	√ 1983	√ 1983	√ 1985	√ 1999	√ 1991	-	√ 2011	√ 2009
Bulgaria (2007)	√ 1966	√ 1970	√ 1970	√ 1982	√ 1986	√ 1991	-	-	S 2008
Croatia (2013)	√ 1992	√ 1992	√ 1992	√ 1992	√ 1992	√ 1992	-	√ 2022	√ 2007
Cyprus (2004)	√ 1967	√ 1969	√ 1969	√ 1985	√ 1991	√ 1991	-	S 2007	√ 2011
Czechia (2004)	√ 1993	√ 1993	√ 1993	√ 1993	√ 1993	√ 1993	-	√ 2017	√ 2019
Denmark (1973)	√ 1971	√ 1972	√ 1972	√ 1983	√ 1987	√ 1991	-	√ 2022	√ 2009
Estonia	√ 1991	√ 1991	√ 1991	√ 1991	√ 1991	√ 1991	-	-	√ 2012
Finland (1995)	√ 1970	√ 1953	√ 1975	√ 1986	√ 1989	√ 1991	-	S 2007	√ 2016

<sup>138</sup> Ibid.,

<sup>139</sup> <https://indicators.ohchr.org>, Accessed on May 23, 2022

France (1958)	√ 1971	√ 1980	√ 1980	√ 1983	√ 1986	√ 1990	-	√ 2008	√ 2010
Germany (1958)	√ 1969	√ 1973	√ 1973	√ 1985	√ 1990	√ 1990	-	√ 2009	√ 2009
Greece (1981)	√ 1970	√ 1997	√ 1985	√ 1983	√ 1988	√ 1993	-	√ 2015	√ 2012
Hungary (2004)	√ 1967	√ 1974	√ 1974	√ 1980	√ 1987	√ 1991	-	-	√ 2007
Ireland (1973)	√ 2000	√ 1989	√ 1989	√ 1985	√ 2000	√ 1992	-	S 2007	√ 2018
Italy (1958)	√ 1976	√ 1978	√ 1978	√ 1985	√ 1989	√ 1991	-	√ 2015	√ 2009
Latvia (2004)	√ 1992	√ 1992	√ 1992	√ 1992	√ 1992	√ 1992	-	-	√ 2010
Lithuania (2004)	√ 1998	√ 1991	√ 1991	√ 1994	√ 1996	√ 1992	-	√ 2013	√ 2010
Luxembourg (1958)	√ 1978	√ 1983	√ 1983	√ 1989	√ 1987	√ 1994	-	√ 2022	√ 2011
Malta (2004)	√ 1991	√ 1990	√ 1990	√ 1991	√ 1990	√ 1990	-	√ 2015	√ 2012
Netherlands (1958)	√ 1971	√ 1978	√ 1978	√ 1991	√ 1988	√ 1995	-	√ 2011	√ 2016
Polan (2004)	√ 1968	√ 1977	√ 1977	√ 1990	√ 1989	√ 1991	-	S 2013	√ 2012
Portugal (1986)	√ 1992	√ 1978	√ 1978	√ 1990	√ 1989	√ 1980	-	√ 2014	√ 2009
Romania (2007)	√ 1970	√ 1974	√ 1974	√ 1992	√ 1982	√ 1990	-	-	√ 2011
Slovakia (2004)	√ 1993	√ 1993	√ 1993	√ 1993	√ 1993	√ 1993	-	√ 2014	√ 2010
Slovenia (2004)	√ 1992	√ 1992	√ 1992	√ 1992	√ 1993	√ 1992	-	√ 2021	√ 2008
Spain (1986)	√ 1968	√ 1977	√ 1977	√ 1984	√ 1987	√ 1990	-	√ 2009	√ 2007
Sweden (1995)	√ 1971	√ 1971	√ 1971	√ 1980	√ 1986	√ 1990	-	S 2007	√ 2008

Table 2: Nine international human rights conventions and which conventions EU members state as a party<sup>140</sup>

#### 4.2.3 European Union in Human Rights and Business

The European Union (EU) plays a critical role in promoting human rights in its internal and external policies. In recent decades, the EU has increasingly focused on the intersection of human rights and business, shaping a regulatory framework that aligns corporate practices with international human rights standards. The EU's actions are guided by its commitment to human rights,

<sup>140</sup> Rehulina Rehulina, from various sources

democracy, and the rule of law, with businesses being viewed as key players in fostering sustainable development, ethical trade, and responsible practices. The European Union (EU) is one of the world's leading advocates of human rights protection, both within Europe and globally. In the context of business, the EU's human rights framework is closely tied to its efforts to regulate corporate responsibility. The EU recognizes that businesses have a significant impact on human rights through their operations, supply chains, and interactions with workers, communities, and consumers.

The European Union is a global leader in promoting business and human rights. Through a combination of legislation, trade agreements, and international advocacy, the EU seeks to ensure that businesses respect human rights and contribute to sustainable development. While challenges remain in ensuring corporate accountability and providing access to justice for victims, the EU continues to shape global norms through initiatives such as the Corporate Sustainability Due Diligence Directive and its ongoing commitment to the United Nations Guiding Principles on Business and Human Rights.

#### 4.2.3.1 Charter of Fundamental Rights of the European Union

The Charter of Fundamental Rights of the European Union document outlines the fundamental human rights that the EU is committed to upholding. These include labor rights, protection from discrimination, and respect for human dignity.<sup>141</sup> Businesses operating in the EU are expected to respect these fundamental rights. Although not an EU-specific document, the European Convention on Human Rights (ECHR) applies to all EU member states, ensuring they comply with established human rights standards. The European Court of Human Rights (ECtHR) holds states accountable for violations, which often have implications for business operations. EU Action Plan on Human Rights and Democracy (2020-2024) focuses on mainstreaming human rights in all EU policies, including trade, development, and security. It reinforces the commitment to responsible business conduct and human rights due diligence in global value chains.

---

<sup>141</sup> European Union, "The Charter of Fundamental Rights of the European Union," *The Review of International Affairs* § (2012), <https://doi.org/10.1093/acprof:oso/9780199644322.003.0007>.

The EU's business and human rights (BHR) agenda is shaped by the global standards outlined in the UNGPs, which were endorsed by the UN in 2011. The EU has actively embraced these principles, driving initiatives and legislation that hold businesses accountable for human rights abuses. The UNGPs are the primary global framework that guides the relationship between business and human rights. They consist of three pillars: State Duty to Protect human rights, Corporate Responsibility to Respect human rights, and Access to Remedy for those affected by human rights violations.

4.2.3.2 The EU's efforts in business and human rights align with these three pillars.

Pillar 1, the state's responsibility to protect the EU, encourages member states to develop National Action Plans (NAPs) on business and human rights. These plans outline how each state will implement the UNGPs, including measures to ensure businesses respect human rights. The EU Non-Financial Reporting Directive (NFRD) requires large companies to disclose information on their social and environmental impacts, including human rights issues, thus enhancing transparency.

Pillar 2, which emphasizes corporate responsibility to respect, states that the EU is encouraging businesses to integrate human rights due diligence into their operations. Human rights due diligence involves identifying, preventing, mitigating, and addressing human rights impacts linked to a business's activities. Proposed EU Mandatory Human Rights Due Diligence (HRDD) legislation would require companies to assess their impact on human rights and the environment throughout their entire supply chain.

Pillar 3, access to remedy the EU, supports both judicial and non-judicial mechanisms for victims of business-related human rights abuses. This includes supporting national and European courts in adjudicating human rights cases involving corporations. The European Network of National Human Rights Institutions (ENNHRI) plays a crucial role in helping victims access remedies.

#### 4.2.3.3 Key EU Initiatives and Legislative Frameworks on Business and Human Rights

The EU Non-Financial Reporting Directive (NFRD), introduced in 2014, mandates large companies (with over 500 employees) to report on their sustainability practices, including human rights. It focuses on non-financial disclosures related to environmental, social, and governance (ESG) factors. The Corporate Sustainability Reporting Directive (CSRD), a revision of the Non-Financial Reporting Directive (NFRD), is expected to extend these reporting requirements to more companies and increase transparency. The EU's Green Deal commits to making Europe climate-neutral by 2050. This initiative also integrates social responsibility, as businesses are encouraged to adopt sustainable practices that respect human rights, particularly in supply chains. There is an overlap between environmental sustainability and human rights, particularly regarding the rights of workers and communities affected by environmental degradation.

The EU Conflict Minerals Regulation (2017/821) ensures that companies importing tin, tantalum, tungsten, and gold (commonly known as 3TG minerals) into the EU do not contribute to human rights abuses in conflict-affected areas. It requires companies to undertake supply chain due diligence to prevent human rights violations linked to mineral extraction. EU Action Plan on Human Rights and Democracy (2020-2024): This action plan integrates business and human rights considerations into EU foreign policy, trade agreements, and development cooperation. It supports the protection of human rights defenders and promotes responsible business conduct globally. Corporate Sustainability Due Diligence Directive: This proposed directive aims to introduce mandatory human rights and environmental due diligence for companies operating in the EU. It would require businesses to identify, assess, prevent, and mitigate adverse human rights impacts in their operations and supply chains. The directive would apply to oversized and smaller companies in high-risk sectors, such as textiles, mining, and agriculture.

#### 4.2.3.4 Human Rights Impact Assessments (HRIAs)

The EU has committed to conducting human rights impact assessments as part of its trade agreements, ensuring that business operations under these agreements do not infringe upon human rights. In 1999, the European Parliament adopted a Resolution on a Code of Conduct for European TNCs, calling for modalities to ensure and monitor that European companies observe international labor standards and other human rights, particularly when operating in developing countries. Adopted in Gothenburg in 2001, the European Strategy for Sustainable Development focused on the sustainable development of both humans and the environment.<sup>142</sup> The European Parliament resolution and the Gothenburg strategy informed a series of specific CSR-targeted initiatives from the Commission, dating back to 2000. The Commission's 2001 Green Paper on CSR, *promoting a European Framework for Corporate Social Responsibility*, which argued that companies should take social responsibility voluntarily, stressed the vital human rights dimension of CSR, particularly concerning international operations and global supply chains, and referred to soft law instruments such as the ILO Tripartite Declaration and the OECD Guidelines, the 2002 Communication on CSR. *Business Contribution to Sustainable Development* stated, among other things, that companies were to demonstrate social responsibility to the Third World and explicitly encouraged companies to take ILO labor standards and the OECD's Guidelines as minimum standards in their Codes of Conduct. The most recent Communication on CSR, the 2006 Communication, *"Implementing the Partnership for Growth and Jobs," which makes Europe a pole of excellence in CSR*, linked CSR, especially to the Lisbon process and its goals of inclusiveness, employment, and social cohesion. This Communication also contained aspects of human and labor rights related to non-EU relations, including competitiveness (so-called 'responsible competitiveness'), also referred to by the Lisbon strategy. *The EU's Contribution to Implementing the Decent Work Agenda in the World* links corporate

---

<sup>142</sup> Karin Buhmann, "Integrating Human Rights in Emerging Regulation of Corporate Social Responsibility: The EU Case," *International Journal of Law in Context* 7, no. 2 (2011): 139–79, <https://doi.org/10.1017/S1744552311000048>.

social responsibility (CSR) with decent work, aligning with the core labor standards defined by the International Labour Organization (ILO). The latter has regard for labor conditions in countries outside the EU.

The EU has moved to the implementation of BHR because the EU has two resolutions that have regulated specifically the BHR area, which:

- 5.1.1.1 The European Parliament resolution of March 10, 2021, with recommendations to the Commission on corporate due diligence and corporate accountability (2020/2129(INL)) and corporate liability for serious human rights abuses in third countries.
- 5.1.1.2 European Parliament resolution of October 25, 2016, on corporate liability for serious human rights abuses in third countries (2015/2315(INI))
- 5.1.1.3 Mandatory due diligence (MDD) laws are required to hold companies accountable for the environmental and human rights impacts of their supply chains. February 2020

#### 4.2.4 EU Multi-stakeholder Forum

In 2002, the European Commission launched a Multi-Stakeholder Forum (MSF) on Corporate Social Responsibility (CSR), aiming to develop a European guiding framework for CSR. In 2006, the Commission launched a new CSR Alliance initiative, designed as a learning forum for European companies.<sup>143</sup> In February 2020, the European Commission published the results of a study on due diligence requirements through the supply chain. The study shows that 70% of the 334 Business survey respondents agreed that EU-level regulations on a general due diligence requirement for human rights and environmental impact could benefit businesses.<sup>144</sup> The EU Multi-Stakeholder Forum refers to a platform or forum

---

<sup>143</sup> Ibid., ICCPR: International Convention on Political and Civil Rights, ICESCR: International Convention on Economic, Social and Political Rights, ICERD: International Convention on the Elimination of Racial Discrimination. CEDAW: Convention on the Elimination of Discrimination Against Women. CAT: Convention Against Torture and Other Cruel. CRC: Convention on Children's Rights CPRMW: Convention on the Protection of the Rights of Migrant Workers. CRPD: Convention on the Rights of Persons with Disabilities. CEPPED: Convention on the Protection of all Persons from Enforced Disappearances. <https://indicators.ohchr.org> accessed on May 11, 2022

<sup>144</sup> EU Reporter correspondent, EUREPORTER, <https://www.eureporter.co/frontpage/2020/02/25/commission-study-shows-the-need-for-eu-level->

established by the European Union that brings together a diverse range of stakeholders, including businesses, civil society organizations, government representatives, and other interested parties. These forums are typically established to foster dialogue, exchange best practices, and collaborate on critical issues that affect the EU's policy agenda.

One of the critical initiatives of the EU is the corporate responsibility (CSR) strategy, which aims to promote responsible business practices and corporate social responsibility. This strategy encompasses a range of measures, including promoting transparency and accountability in the supply chain, utilizing sustainable materials and energy, and encouraging companies to adopt fair labor practices. Another important initiative of the EU is the European Partnership for Responsible Minerals, which aims to promote the responsible sourcing of minerals, particularly in conflict-affected areas. The partnership aims to enhance working conditions for miners, promote environmental sustainability, and prevent human rights violations.

#### 4.2.4.1 Purpose and Objectives

The primary aim is to create a space for open dialogue among different stakeholders, ensuring that diverse perspectives on critical issues are considered. These forums contribute to the formulation of EU policies by providing insights and recommendations from various sectors, including businesses, non-governmental organizations (NGOs), and academics. Participants often share best practices, particularly on complex issues such as sustainability, corporate responsibility, digital transformation, or regulatory frameworks. Collaboration: Facilitates stakeholder cooperation to develop joint initiatives or partnerships to tackle social, environmental, or economic challenges.

#### 4.2.4.2 Key Participants

Multinational corporations, small and medium-sized enterprises (SMEs), and business associations offer practical insights into how EU policies impact the industry. NGOs, advocacy groups, and other civil society entities voice concerns about the social and environmental impacts of corporate actions and public policies.

---

[legislation-on-due-diligence-throughout-the-supply-chain-on-humanrights-and-environmentalimpacts/](#) Accessed June 1, 2024.

Government and EU Institutions: Representatives from EU bodies (like the European Commission) or national governments play a crucial role in ensuring that the forum's outcomes are integrated into policy development. Academics and experts will provide research-based evidence and expert opinions to inform discussions and enhance the forum's intellectual rigor.

#### 4.2.4.3 Focus Areas:

The specific focus areas of the EU Multi-Stakeholder Forum can vary depending on its purpose and objectives. One of the most well-known forums is the EU Multi-Stakeholder Forum on Corporate Social Responsibility, which addresses the responsibilities of businesses towards society and the environment. Encouraging businesses and stakeholders to adopt sustainable practices and contribute to the EU's climate goals, including the Green Deal. Exploring the impact of digitalization on society, labor markets, and human rights. Human Rights and Social Justice addresses how business practices and public policies affect fundamental rights and social equity.

#### 4.2.4.4 Outcomes

The forum often concludes with producing reports or policy recommendations that inform the decision-making processes of EU institutions. At the same time, the forum may not have legislative. In some cases, participants may agree on voluntary standards or practices, particularly in areas like responsible business conduct or environmental sustainability. The EU Multi-Stakeholder Forum is a vital platform for fostering collaboration and dialogue among different sectors and interests within the EU. Its objective is to enhance policymaking by incorporating a broad range of perspectives, ensuring that EU regulations are inclusive and effective in addressing critical challenges, such as sustainability, human rights, and technological innovation.

#### 4.2.5 The EU Directive on Corporate Sustainability Due Diligence (CSDDD)

On May 24, EU member states formally confirmed the Corporate Sustainability Due Diligence Directive (CSDDD).<sup>145</sup> The final sights of this landmark law after a 4-year legislative process at the EU level and almost a decade of advocacy.<sup>146</sup> Member states have two years to transpose into national legislation. Civil society welcomed the directive as a game-changer despite its loopholes and called on EU governments to ensure solid national legislation, effective implementation, and enforcement. The passage of the Corporate Sustainability Due Diligence Directive (CSDDD) by the European Parliament marks a significant step forward in promoting corporate accountability and sustainability across the European Union (EU).

Adopting the Corporate Sustainability Due Diligence Directive (CSDDD) by the European Parliament signifies a crucial step in enhancing corporate accountability and sustainability within the European Union (EU). This directive mandates the implementation of extensive due diligence practices throughout supply chains to identify, prevent, and mitigate adverse human rights and environmental impacts resulting from corporate activities.<sup>147</sup> The CSDDD aims to protect workers, communities, and ecosystems from harm caused by corporations by requiring companies to examine and address their social and environmental responsibilities. However, the directive's success depends on several critical factors. The scope and stringency of the due diligence requirements placed on companies, as well as the strength of enforcement mechanisms to ensure compliance, are essential. Additionally, the effectiveness of the CSDDD relies on active

---

<sup>145</sup> European Parliament legislative resolution of April 24, 2024, on the proposal for a directive of the European Parliament and of the Council on Corporate Sustainability Due Diligence and amending Directive (EU) 2019/1937 (COM(2022)0071 – C9-0050/2022 – 2022/0051(COD))

<sup>146</sup> Dominik Fuchs, “Obligations of the Private Sector To Protect Reporting Persons: A Comparative Analysis of the EU Whistleblower Protection Directive and the Draft Corporate Sustainability Due Diligence Directive,” *InterEULawEast* 10, no. 2 (2023): 51–80, <https://doi.org/10.22598/iele.2023.10.2.3>.

<sup>147</sup> Yenkong Ngangjoh-hodu et al., *The Proposed EU Corporate Sustainability Due Diligence Directive and Its Impact on LDCs A Legal Analysis* (Helsinki, Finland: Ministry for Foreign Affairs of Finland, 2023).

engagement and cooperation among stakeholders, including civil society organizations, affected communities, and industry representatives, throughout the implementation and monitoring phases. Articles 4 (four) to 11 of CSDD empathize the obligation of corporate due diligence into 6 (six) actions, which are<sup>148</sup>

4.2.5.1 companies should integrate due diligence into their policies and also establish an appropriate due diligence policy that is updated annually;<sup>149</sup>

4.2.5.2 companies should identify actual or potential adverse impacts arising from their activities, those of their subsidiaries, and of 'established business relationships';<sup>150</sup>

4.2.5.3 companies should prevent and mitigate potential adverse impacts,<sup>151</sup> and bring actual adverse impacts to an end and minimize their extent using 'appropriate measures';<sup>152</sup>

4.2.5.4 companies should establish and maintain a complaints procedure. It must be possible for these complaints to be lodged by affected persons, trade unions, and civil society organizations;<sup>153</sup>

4.2.5.5 companies should monitor the effectiveness of their due diligence policy and measures at least once a year, based on qualitative and quantitative indicators;<sup>154</sup>

4.2.5.6 companies should publicly communicate on due diligence.<sup>155</sup> Companies not covered by the NFRD<sup>156</sup> Must communicate due diligence through an annual report on their website.<sup>157</sup>

---

<sup>148</sup> Article 4(1) CSDD

<sup>149</sup> Article 5 CSDD

<sup>150</sup> Article 6 CSDD

<sup>151</sup> Article 7 CSDD

<sup>152</sup> Article 8 CSDD

<sup>153</sup> Article 9 CSDD

<sup>154</sup> Article 10 CSDD

<sup>155</sup> Article 11 CSDD

<sup>156</sup> Directive 2014/95/EU of October 22, 2014, amending Directive 2013/34/EU as regards the publication of non-financial information and information on diversity by certain large companies and groups. Note that its successor, the CSRD, was adopted in November 2022. See <https://www.consilium.europa.eu/en/press/press-releases/2022/11/28/council-gives-final-green-light-to-corporate-sustainability-reporting-directive/>.

<sup>157</sup> Article 11

Furthermore, sufficient resources, capacity-building efforts, and technical assistance are crucial to helping companies and tiny and medium-sized enterprises (SMEs) meet their due diligence obligations. While the CSDDD is a commendable step toward promoting corporate sustainability and responsibility, its success relies on robust enforcement, stakeholder participation, and supportive measures to ensure compliance. This will enable the EU to further its commitment to sustainable development and the protection of human rights. Moreover, it is suggested that the European Union's CSDDD integrate these principles to strengthen its effectiveness in addressing corporate wrongdoing. By incorporating mechanisms for exemplary damages and corporate dissolution, the CSDDD can enhance its capacity to hold corporations accountable for their actions. Furthermore, future research is needed to explore the universal applicability of these principles across different legal systems and jurisdictions. Understanding how these measures can be implemented and enforced globally will be crucial for promoting corporate accountability and protecting human rights and the environment on a broader scale.<sup>158</sup>

To be comprehensive, I elaborate further on the EU Directive on Corporate Sustainability Due Diligence (CSDDD/CS3D). The Corporate Sustainability Due Diligence Directive (CSDDD or CS3D) is a legislative initiative introduced by the European Union (EU) aimed at holding companies accountable for their impact on human rights, environmental sustainability, and corporate governance throughout their supply chains.

#### 4.2.5.1 Background and Legislative Process

The EU introduced the CSDDD as part of its broader efforts to promote sustainable business practices under the European Green Deal and Sustainable Finance Agenda. This directive starts on February 23, 2022 – The European Commission proposed the directive. On December 1, 2022 – The European Council

---

<sup>158</sup> Emmanuel Kojo Nartey, “Addressing Corporate Human Rights Violations and Environmental Harm: Advancing a Holistic Remedial Framework through Tort Law and the EU Corporate Sustainability Due Diligence Directive (CSDDD),” *Athens Journal of Law* 10, no. 3 (2024): 345–72, <https://doi.org/10.30958/ajl.10-3-6>.

adopted a negotiating position. On June 1, 2023 – The European Parliament approved its version of the directive. On December 14, 2023, a provisional agreement was reached between the EU institutions. March 15, 2024 – The EU Council achieved consensus on the directive, allowing it to move forward. Moreover, on April 24, 2024, the EU formally confirmed the directive, marking a significant step in the enforcement of corporate due diligence. This directive is expected to be fully implemented by 2026-2027, with companies required to integrate due diligence processes into corporation activities.

The European Union (EU) has taken significant steps toward ensuring responsible business conduct with the Corporate Sustainability Due Diligence Directive (CSDDD). This directive aims to hold companies accountable for human rights violations and environmental damages within their supply chains. It builds upon existing frameworks, such as the UNGPs and the OECD Guidelines for Multinational Enterprises, focusing on the responsibility of businesses in business conduct. The European Commission introduced the proposal for the CSDDD on February 23, 2022, as part of the EU's broader commitment to sustainability under the European Green Deal and the Sustainable Finance Action Plan. A significant milestone in the legislative process was reached on March 15, 2024, when the EU Council achieved consensus on the directive. This agreement marked a crucial step toward finalizing the law, as EU Member States aligned on the key provisions and scope of the directive. The consensus ensured that the directive could progress to the final legislative stages, including formal adoption by the European Parliament. Following this agreement, the directive was officially confirmed by the EU on April 24, 2024, further solidifying the EU's commitment to enhanced corporate accountability and sustainable governance. The directive aims to ensure fair competition, reduce corporate impunity, and align business activities with the EU's sustainability goals.

The need for a legally binding framework has arisen due to growing global concerns about corporate misconduct, including labor exploitation, environmental degradation, and inadequate supply chain accountability. Prior to the CSDDD,

many companies followed voluntary sustainability guidelines, but enforcement was inconsistent, and violations often went unpunished. By introducing mandatory corporate due diligence requirements, the EU aims to shift from a self-regulated approach to a more structured and legally enforceable system. Furthermore, the directive is designed to complement other EU legislative efforts, such as The EU Taxonomy Regulation, which defines sustainable economic activities; the Sustainable Finance Disclosure Regulation (SFDR), which mandates sustainability-related disclosures in the financial sector; and the Corporate Sustainability Reporting Directive (CSRD), which strengthens corporate reporting requirements on sustainability matters.

#### 4.2.5.2 Objective of the CSDDD

The CSDDD aims to Establish corporate due diligence obligations for human rights and environmental protection, ensuring companies identify, prevent, mitigate, and remediate negative impacts within their supply chains. It also introduces legal accountability mechanisms for businesses failing to comply, promotes sustainable business models that align with the EU's climate and human rights goals, and establishes corporate due diligence obligations for human rights and environmental protection. Strengthen corporate governance by requiring board-level oversight of sustainability policies.

#### 4.2.5.3 Scope and Companies Affected

The CSDDD applies to EU-based companies and non-EU Companies. The EU-Base Company with more than 500 employees and a turnover exceeding €150 million and more than 250 employees and a turnover exceeding €40 million, if at least 50% of revenue comes from high-risk sectors such as agriculture, mining, or textiles. Moreover, non-EU companies with operations in the EU meet similar financial thresholds. The directive primarily affects large multinational corporations, though smaller companies indirectly involved in supply chains may also need to comply. SMEs operating as suppliers to larger corporations will need to align with sustainability standards to maintain and strengthen their business relationships.

#### 4.2.5.4 Key Due Diligence Requirements

The directive introduces new legal responsibilities for companies, including Mandatory due diligence obligations covering global supply chains, a duty for company directors to oversee and integrate due diligence into corporate strategy, penalties and liability mechanisms for non-compliance, access to justice for victims of corporate human rights violations and Annual reporting obligations to enhance transparency. This means that companies must adopt proactive approaches to sustainability rather than relying on reactive crisis management.

The CSDDD mandates a six-step due diligence process: Identify and assess risks in corporate operations and supply chains by conducting risk analyses; Prevent and mitigate human rights abuses and environmental harm through policy adjustments and supplier engagement; Monitor and track the effectiveness of due diligence measures using key performance indicators (KPIs); Remediate adverse impacts where harm has occurred, including financial compensation for victims; Engage stakeholders, including affected communities and workers, through consultations and impact assessments. Moreover, report publicly on due diligence actions and outcomes in sustainability reports.

#### 4.2.5.5 Legal Liabilities & Enforcement

EU Member States must establish penalties for companies that fail to meet due diligence obligations, which may include financial sanctions and trade restrictions. Companies can face civil liability if they fail to prevent harm within their supply chains, which may lead to lawsuits from affected communities and non-governmental organizations (NGOs). The directive provides victims of corporate misconduct with legal avenues to seek justice, ensuring that they can claim compensation even outside the EU. Regulatory bodies will oversee corporate compliance and issue fines for violations, creating a robust enforcement mechanism.

#### 4.2.5.6 Impact on Businesses and Supply Chains

The impact on business and supply chain for large, medium, and small companies (SMEs). A large company requires extensive supply chain mapping and risk assessment to identify sustainability risks. When this accrues, it may lead to

contract terminations with non-compliant suppliers to reduce liability exposure.<sup>159</sup> Moreover, medium and small corporations are indirectly affected, as the larger companies will impose compliance requirements to maintain their partnerships. Thus, small and medium-sized companies must align their operations with sustainability standards to avoid losing contracts to larger firms. To expand their activities to include more small and medium-sized companies, they required additional resources, such as expertise, to comply with due diligence processes.

#### 4.2.5.7 Human rights and environmental responsibility

Companies must address human rights concerns, such as Forced labor and child labor, in their manufacturing and agricultural supply chains. Discrimination and unsafe working conditions, ensuring diversity, inclusion, and fair wages. Freedom of association and collective bargaining, allowing workers to organize freely. On environmental issues, companies are required to prevent deforestation in supply chains by verifying raw material sourcing, limiting carbon emissions and pollution through sustainable production methods, and ensuring sustainable resource use and biodiversity protection by promoting circular economy practices.

The Corporate Sustainability Due Diligence Directive (CSDDD/CS3D) represents a significant shift in corporate accountability, as it makes sustainability due diligence a legally binding requirement. It ensures that businesses prioritize human rights and environmental protection across their global supply chains.

### 4.3 ASEAN in Human Rights and Business and Human Rights Regimes

In contrast to the EU, ASEAN needs to develop legal frameworks and policies faster to promote business and human rights. However, there has been some positive development in recent years, with some ASEAN countries taking steps to promote responsible business conduct. The business and human rights (BHR) regime in Asia is a complex and evolving landscape influenced by diverse political systems, economic priorities, and cultural contexts. While progress has been made in integrating human rights into business practices, challenges persist due to weak enforcement, corporate resistance, and varying levels of government commitment.

---

<sup>159</sup> Increased legal liability exposure, meaning companies must be proactive in preventing violations

Asia's business and human rights regime is still developing, with progress in some countries but significant gaps in enforcement and accountability. Economic priorities often take precedence over human rights; however, international pressure and evolving legal frameworks are driving a gradual change.

Many Asian countries are signatories to international human rights treaties, and some have adopted the UN Guiding Principles on Business and Human Rights (UNGPs). However, unlike Europe, Asia lacks a regional human rights court or a legally binding framework for business and human rights. However, the ASEAN Human Rights Declaration (2012) is a non-binding declaration that mentions corporate responsibility but lacks enforcement mechanisms. Asian Development Bank (ADB) Initiatives: Encourages corporate responsibility in projects but does not enforce human rights laws. Bilateral Trade Agreements: Some trade agreements (e.g., the EU-Vietnam Free Trade Agreement) include human rights clauses, pressuring governments to align with international norms.

#### 4.3.1 ASEAN an Overview

ASEAN was established in August 1967 in Bangkok. Five countries signed the ASEAN Declaration: the foreign ministry of Indonesia, Malaysia, the Philippines, Singapore, and Thailand. The declaration itself only contains five articles, in which the main aim of the organization is about the corporation in the economic, social, cultural, technical, and other fields, and in the promotion of regional peace and stability through abiding respect for justice and the rule of law and adherence to principles of the UN Charter.<sup>160</sup> In addition, after its establishment, there are 11 ASEAN member countries, namely Indonesia, Malaysia, the Philippines, Singapore, Thailand, Vietnam, Myanmar, Lao PDR, Cambodia, and Brunei Darussalam. Brunei Darussalam joined in January 1984, Vietnam in July 1996, Lao PDR and Myanmar in July 1997, Cambodia in April 1999, and Timor Leste in June 2023.<sup>161</sup>

---

<sup>160</sup> The Founding of ASEAN, <https://asean.org/about-asean/the-founding-of-asean/> Access on May 5, 2022

<sup>161</sup> Gerard Clarke, "The Evolving ASEAN Human Rights System," *Northwestern Journal of International Human Rights* 11, no. 1 (2012): 1–27.

Not until 2007 did ASEAN adopt its ASEAN Charter, which entered into force in December 2008.<sup>162</sup>

#### 4.3.2 Human Rights in ASEAN

The discussion on human rights in ASEAN began at the 1993 Annual Meeting of ASEAN Foreign Ministers. Nevertheless, the ASEAN Human Rights Declaration (AHRD) was adopted in Phnom Penh, Cambodia on November 18, 2012. The AHRD consists of 40 Articles, which are divided into six: general principle (nine Articles), civil and political rights (10 Articles), economic, social, and cultural rights (eight articles), due to development (three pieces), right to peace and corporation in the promotion and protection of human rights (2 Article). Moreover, the AHRD drafter took almost two years. The draft began in September 2010,<sup>163</sup> Finished and entered into force on November 18, 2012. The drafter time was happening because the draft given is always rejected by two- or three-member states. The ADHR is significant to the development of human rights in Southeast countries. This statement is based on two reasons.

First and foremost, ADHR clarifies the mandate of the ASEAN Intergovernmental Commission on Human Rights (AICHR)<sup>164</sup>. Second, the ADHR is a precursor to a formal treaty for the region. The American Declaration of Human Rights and Duties of Man preceded the American Convention on Human Rights. The Universal Declaration of Human Rights preceded the two covenants, specifically the International Convention on Civil and Political Rights (ICCPR) and the International Convention on Economic, Social, and Cultural Rights (ICESCR).<sup>165</sup> Adopted in 2012, the ASEAN Human Rights Declaration outlines the fundamental human rights recognized by ASEAN member states. It emphasizes the protection of economic, social, and cultural rights, which are relevant in the context of business operations. While the AHRD is not legally binding, it reflects ASEAN's

---

<sup>162</sup> Ibid.,

<sup>163</sup> Ibid.,

<sup>164</sup> Catherine Shanahan Renshaw, "The ASEAN Human Rights Declaration 2012," *Human Rights Law Review* 13, no. 3 (2013): 557–579, <https://doi.org/10.1093/hrlr/ngt016>.

<sup>165</sup> Ibid.,

commitment to protecting human rights and serves as a foundation for further developments in business and human rights practices.

Having the AHRD means ASEAN has two existing human rights system pillars: the instrument and the mechanism. Nevertheless, these two pillars do not make ASEAN a "complete" human rights system because there are three pillars: human rights, instrument, mechanism, and judicial organ.<sup>166</sup> Thus, ASEAN needs one more post, which is a judicial organ. There are 9 (nine) main international human rights conventions on human rights, but only 3 (three) conventions are ratified by all 10 ASEAN Member states, CEDAW, CRC, and CRPD, as shown in the table below.<sup>167</sup>

	Bru	Cam	Ind	Lao	Mal	Mya	Phi	Sin	Tha	Vie	TL
ICERD (1966)	-	√ 1983	√ 1999	√ 1974	-	-	√ 1967	√ 2017	√ 2003	√ 1982	√ 2003
ICCPR (1966)	-	√ 1992	√ 2006	√ 2009	-	-	√ 1986	-	√ 1996	√ 1982	√ 2003
ICESCR (1966)	-	√ 1992	√ 2006	√ 2007	-	√ 2017	√ 1974	-	√ 1999	√ 1982	√ 2003
CEDAW (1979)	√ 2006	√ 1983	√ 1984	√ 1981	√ 1995	√ 1997	√ 1981	√ 1995	√ 1985	√ 1982	√ 2003
CAT (1984)	S 2006	√ 1992	√ 1998	√ 2012	-	-	√ 1986	-	√ 2007	√ 1990	√ 2003
CRC (1989)	√ 1995	√ 1992	√ 1990	√ 1991	√ 2012	√ 1991	√ 1990	√ 1995	√ 1992	√ 1990	√ 2003
CPRMW (1990)	-	S 2004	√ 2012	S 2008	-	-	√ 1995	√	-	-	√ 2004
CEPPED (2006)	-	√ 2013	-	S 2008	-	-	-	-	S 2012	-	-
CRPD (2006)	√ 2016	√ 2012	√ 2011	√ 2009	√ 2010	√ 2011	√ 2008	√ 2013	√ 2008	√ 2015	√ 2023

Table 3: Nine international human rights conventions and which conventions that ASEAN members state as a party. Note: -: neither ratified nor signed. S: signed √: ratified and signed<sup>168</sup>.

<sup>166</sup> Hien Bui, "The ASEAN Human Rights System: A Critical Analysis," *Asian Journal of Comparative Law* 11, no. 1 (2016): 111–40, <https://doi.org/10.1017/asjcl.2016.9>.

<sup>167</sup> ICCPR: International Convention on Political and Civil Rights, ICESCR: International Convention on Economic, Social and Political Rights, ICERD: International Convention on Eliminating Racial Discrimination. CEDAW: Convention on the Elimination of Discrimination Against Women. CAT: Convention Against Torture and Other Cruel. CRC: Convention on Children's Rights CPRMW: Convention on the Protection of the Rights of Migrant Workers. CRPD: Convention on the Rights of Persons with Disabilities. CEPPED: Convention on the Protection of all Persons from Enforced Disappearances. <https://indicators.ohchr.org> accessed on May 11, 2022

<sup>168</sup> Rehulina Rehulina, from various resources

According to this table, ASEAN countries have yet to recognize the importance of human rights. However, ASEAN intends to regulate human rights within the organization.

#### 4.3.3 ASEAN Inter-governmental Commission on Human Rights (AICHR)

Intergovernmental and governmental institutions are developing the ASEAN Human Rights system. In the inter-governmental, there are the ASEAN inter-governmental Commission on Human Rights (AICHR), ASEAN Commission on the Promotion and Protection of the Rights of the Women and Children (ACWC), ASEAN Committee on the Implementation of the ASEAN Declaration on the Implementation of the Protection and promotions of the Rights of Migrant Worker (ACMW), and ASEAN Secretariat. The government Has national human rights institutions in Indonesia, the Philippines, Thailand, Malaysia, and Myanmar, as well as the Southeast Asia National Human Rights Institutions Forum (SEANF). However, the AICHR drafted the ASEAN Human Rights Declaration. ASEAN Intergovernmental Commission on Human Rights (AICHR) was established in 2009 under Article 14 of the ASEAN Charter. AICHR's mandate is to promote and protect the human rights and fundamental freedoms of the people and uphold international human rights instruments, as prescribed in the Universal Declaration of Human Rights (UDHR) and human rights conventions to which ASEAN member states are parties.

#### 4.3.4 ASEAN in Human Rights and Business

The ASEAN Intergovernmental Commission on Human Rights (AICHR) was established in 2009 as the main body responsible for promoting human rights within the ASEAN region. While AICHR's mandate is primarily advisory and does not have enforcement powers, it plays a vital role in advocating for the protection of human rights, including in the business sector. AICHR has participated in dialogues and initiatives focused on Business and Human Rights to incorporate the UN Guiding Principles (UNGPs) into regional policies and encourage businesses to respect human rights.

In the area of Human rights in general, we can see from Table 3.1 that of nine Main human rights conventions, only two have been ratified by all ASEAN Member states, so the development of human rights in ASEAN could be smoother. Thus, it is also happening in the realm of human rights and business. As is known, all ASEAN countries are members of the United Nations. Since the UN Passed the UN Resolution on the UN Framework on Business and Human Rights in 2008 and the UN Guiding Principles on Business and Human Rights in 2011 (after twelve years) and when this resolution was issued, it said the acceptance of this resolution was approved anonymously by UN members, and that means including all ASEAN Member states. However, discussions on implementing the UN Framework on Business and Human Rights only began in 2018. Moreover, the process remains at the level of dialogue and has yet to progress to creating legal documents that regulate human rights and business in the ASEAN region.

ASEAN's journey in integrating human rights and business and human rights (BHR) principles is still in its early stages of evolution. While some progress has been made, particularly in adopting National Action Plans (NAPs) and promoting Corporate Social Responsibility (CSR), significant challenges still need to be addressed in the corporate sector. The dialogue can primarily focus on BHR or a specific aspect of the human rights discussion. The dialogue was held during the fifth Interregional Dialogue (4-6 June 2018) in Bangkok, Thailand. In the first meeting, member states will share their excellent practices of implementing BHR in their countries—the 28<sup>th</sup> meeting of the ASEAN Intergovernmental Commission on Human Rights, scheduled for March 25, 2019, in Bangkok. There are so-called AICHR priority programs and activities. Business and human rights, along with sustainable development, children's rights, women's rights, and the rights of persons with disabilities, as well as freedom of expression and freedom of religion and belief, are on the agenda. Interregional dialogue "sharing good practices on Business and Human Rights" June 10-11, 2019, in Bangkok, Thailand. During this time, member states discussed developing a national business and human rights action plan, as well as the relationship between the UNGPs and trade liberalization through a free trade agreement. On September 21, 2021, ASEAN Human Rights

Dialogue in Jakarta via video conference, and Human Rights Dialogue on November 21, 2021, in Jakarta via video conference. Provide a regional platform on human rights among the ASEAN Member States (AMS) and share best practices and experiences in promoting and protecting human rights in their respective country.

However, the ASEAN CSR Network was established in 2011 to promote corporate social responsibility in the region. The network aims to promote sustainable business practices, improve working conditions, and enhance environmental sustainability. Moreover, there have been efforts to address human rights abuses in the region, particularly in relation to the palm oil industry. The roundtable on sustainable palm oil, in which ASEAN countries have developed a certification scheme to promote sustainable palm oil production and prevent human rights abuses.

The Association of Southeast Asian Nations (ASEAN) is playing an increasingly significant role in promoting human rights, particularly in the context of business operations. As one of the most economically dynamic regions in the world, Southeast Asia faces significant human rights challenges arising from the rapid expansion of industries such as manufacturing, agriculture, mining, and tourism. The Business and Human Rights (BHR) framework, primarily guided by the United Nations Guiding Principles on Business and Human Rights (UNGPs), is becoming increasingly relevant in ASEAN, particularly in addressing corporate human rights violations and promoting responsible business practices. ASEAN's approach to human rights and business is still evolving, with member states at different stages of integrating human rights into corporate responsibility frameworks. The region is working toward better alignment with global Business and human rights standards, although challenges remain due to political, economic, and cultural differences among member states. ASEAN's progress in integrating business and human rights principles is still formative. The UN Guiding Principles on Business and Human Rights (UNGPs) provide the global framework, and ASEAN member states are working to align with these principles, albeit at different levels of implementation.

Pillar one, state responsibility to protect human rights, National Action Plans (NAPs) on Business and Human Rights; some ASEAN countries have begun developing or considering National Action Plans (NAPs) in line with the UNGPs. These plans outline how states will protect human rights, ensure corporate accountability, and provide access to remedies for victims of business-related human rights violations.

Thailand is a pioneer in ASEAN, having adopted the first National Action Plan on Business and Human Rights in 2019.<sup>169</sup> Thailand's NAP focuses on four key areas: labor rights, land rights, the environment, and the protection of human rights defenders. Followed by Vietnam in July 2023<sup>170</sup> and Indonesia on September 2023<sup>171</sup>. Meanwhile, Malaysia and the Philippines<sup>172</sup> At the development stage, consultations have begun to develop their NAPs, and Singapore promotes corporate responsibility but has not committed to an NAP on BHR.

Regarding regulatory frameworks and enforcement, ASEAN member states generally have domestic laws that protect human rights, including labor rights, environmental regulations, and anti-corruption measures. However, enforcing these laws remains challenging in some countries due to weak regulatory bodies, corruption, and political instability. Certain ASEAN countries, such as Singapore and Malaysia, have established robust legal frameworks to protect workers' rights and environmental standards. However, these laws may not always fully align with international human rights standards.

Pillar two, corporate responsibility to respect human rights; CSR has gained traction across ASEAN, with businesses increasingly recognizing the importance of ethical operations. Some ASEAN governments have actively promoted corporate social responsibility (CSR) initiatives, encouraging businesses to respect labor

---

<sup>169</sup> Muslim Mr. Dokho, "Thailand's Engagement on the United Nations Guiding Principles on Business and Human Rights (UNGPs): Motives Behind the Implementation of the Action Plan" (Thammasat University, 2019).

<sup>170</sup> <https://globalnaps.org/country/vietnam> accessed on November 11, 2024

<sup>171</sup> <https://globalnaps.org/country/indonesia/> accessed on November 11, 2024

<sup>172</sup> Benjamin, Golda, and Bobbie Sta Maria. "National Action Plans on Business and Human Rights in the ASEAN: Observations and Recommendations on the Procedural Aspects of NAP Development." *Business and Human Right Holding Governments Accountable in Asia* (2018): 5.

standards, minimize environmental harm, and contribute to local communities. In countries like the Philippines and Indonesia, businesses are required to conduct CSR activities, particularly in sectors such as mining and energy, where companies are mandated to invest in the communities, they operate in. corporation has an obligation to do human rights due diligence, human rights due diligence is critical in ensuring businesses respect human rights throughout their supply chains. However, most ASEAN countries still need mandatory human rights due diligence laws. Some ASEAN companies, as well as giant multinational corporations (MNCs), have voluntarily adopted human rights due diligence processes, often driven by pressures from global supply chains and consumer demand for responsible business practices.

Pillar three, access to remedy, judicial and non-judicial mechanisms, and access to effective remedies for victims of business-related human rights abuses remains a significant challenge in ASEAN. While legal systems in many ASEAN countries offer judicial remedies, these mechanisms can be slow, expensive, and subject to political interference. Some countries have established national human rights institutions (NHRIs), such as the National Human Rights Commission of Indonesia (Komnas HAM) and the Philippine Commission on Human Rights (CHR), which provide non-judicial mechanisms for addressing complaints of human rights violations. However, these institutions often need more enforcement powers and rely on recommendations rather than binding rulings. Moreover, several companies in ASEAN have implemented grievance mechanisms as part of their corporate social responsibility (CSR) or human rights policies, enabling workers and communities to raise concerns about human rights abuses. However, these mechanisms are often underutilized or ineffective due to a lack of awareness or a lack of trust. Some companies have partnered with international organizations in sectors such as palm oil and garment manufacturing to establish third-party grievance mechanisms, addressing worker exploitation and environmental concerns.

#### 4.3.5 ASEAN Initiatives on Business and Human Rights

The ASEAN CSR Network (ACN) is a regional initiative that promotes corporate social responsibility and business ethics throughout the region. It encourages businesses to adopt responsible practices that respect human rights and the environment. ACN has raised awareness of the UNGPs among businesses and governments in ASEAN and has supported capacity-building programs to improve corporate responsibility. Regional Dialogues and Workshops: ASEAN regularly hosts regional dialogues and workshops on business and human rights, bringing together stakeholders from the public and private sectors, civil society, and academia to discuss challenges and solutions in promoting responsible business conduct. These platforms have helped raise awareness about the UNGPs and encouraged ASEAN member states to develop National Action Plans (NAPs) and strengthen their enforcement mechanisms.

ASEAN Economic Community (AEC) Blueprint 2025. The AEC Blueprint 2025 includes commitments to sustainable economic growth and corporate governance. While the blueprint does not explicitly focus on human rights, it emphasizes the need for businesses to adopt ethical practices and contribute to social and environmental development. This blueprint reflects ASEAN's broader commitment to inclusive growth, where businesses contribute to the well-being of communities while pursuing economic objectives.

#### 4.4 The ASEAN Guidelines for Responsible Business Conduct

The ASEAN Guidelines for Responsible Business Conduct (ASEAN RBC Guidelines)<sup>173</sup> It was launched in 2021 as a framework to promote ethical and sustainable business practices in the ASEAN region. These guidelines are based on internationally recognized principles, particularly the UN Guiding Principles on Business and Human Rights (UNGPs), the OECD Guidelines for Multinational Enterprises, and the ILO Tripartite Declaration of Principles Concerning Multinational Enterprises and Social Policy. It was adopted in 2021 by the ASEAN

---

<sup>173</sup> Wahab, Andika Ab. "Inclusive and Responsible Business Conduct in ASEAN: Belt and Road Projects as a Model." *Asian Yearbook of International Economic Law 2023*. Cham: Springer Nature Switzerland, 2023. 153-169.

Business Advisory Council (ASEAN-BAC), with support from international organizations and stakeholders. The purpose of the ASEAN RBC Guidelines is to provide businesses with a voluntary framework for responsible business conduct (RBC) that aligns with ASEAN's economic growth while respecting human rights, labor rights, and environmental sustainability. The scope of ASEAN RBC Guidelines is applicable across all ASEAN member states.<sup>174</sup> The ASEAN RBC Guidelines (2021) represents a significant step toward promoting ethical and sustainable business practices in Southeast Asia. However, their effectiveness depends on stronger national implementation, corporate commitment, and regional cooperation to move from voluntary guidelines to enforceable standards.

The ASEAN RBC Guidelines Cover the guidelines set key principles for businesses to operate ethically and responsibly, focusing on

- 4.4.1 Human rights and labor rights: Businesses should respect human rights as defined by the UNGPs, companies must avoid forced labor, child labor, and discrimination, and workers should have fair wages, safe working conditions, and freedom of association.
- 4.4.2 Environmental Protection and Sustainability: Businesses must adopt sustainable environmental practices and minimize pollution, deforestation, and biodiversity loss, encouraging climate action and responsible resource management.
- 4.4.3 Good governance and anti-corruption companies should operate with transparency, accountability, and ethical decision-making, promoting anti-bribery measures and compliance with national and international laws.
- 4.4.4 Fair business practices and consumer protection foster fair competition and responsible marketing, and businesses should prioritize protecting consumer rights and data privacy.

The guidelines were developed through a multi-stakeholder consultation process involving ASEAN Member States, where governments provided input on aligning RBC with national policies, as well as businesses and industry groups.

---

<sup>174</sup> Mares, Radu. "International frameworks for responsible business conduct." *Responsible Business Conduct in Cambodia—A Textbook*. Raoul Wallenberg Institute of Human Rights, 2024. 40-52.

ASEAN-BAC engaged with private sector representatives to ensure feasibility, and Civil Society and international organizations, such as the ILO, UNDP, and OECD, contributed expertise on labor rights and corporate responsibility.

The ASEAN RBC Guidelines are voluntary.<sup>175</sup>, meaning there is no legal enforcement, but governments and businesses are encouraged to adopt them, and ASEAN countries can use the guidelines to develop national policies and corporate regulations. Moreover, companies are encouraged to conduct human rights due diligence (HRDD) and improve supply chain responsibility. Thus, the ASEAN RBC Guidelines face numerous challenges due to their non-binding nature. The guidelines do not impose legal obligations, making enforcement weak, and corporate resistance may occur because businesses may view RBC as a financial burden rather than an opportunity. Not to mention the varied national laws: ASEAN countries have different legal systems, making regional standardization difficult. Nevertheless, the ASEAN RBC Guidelines could strengthen responsible business practices; ASEAN may Encourage mandatory human rights due diligence (HRDD) in national policies, improve monitoring and reporting on corporate human rights and environmental impacts, and develop regional complaint mechanisms for business-related human rights violations.

#### 4.5 Comparison of Business and human rights in EU and ASEAN

	EU	ASIAN
Agency	<ul style="list-style-type: none"> <li>- EU Agency for Fundamental Rights (FRA)</li> <li>- European Court of Justice</li> </ul>	The ASEAN Intergovernmental Commission on Human Rights (AICHR)
Human Rights Document	Charter on Fundamental Rights of the European Union (CFREU)	ASEAN Human Rights Declarations
Resolution/decision	<ul style="list-style-type: none"> <li>- The EU Directive on Corporate Sustainability Due Diligence (CSDDD) on April 24, 2024</li> </ul>	-

<sup>175</sup> Mohan, Mahdev. "Corporate Accountability in Southeast Asia: National Action Plans for Responsible Business Conduct under International Law." *ASEAN International Law* (2022): 527-543.

	<ul style="list-style-type: none"> <li>- European Parliament resolution of March 10, 2021, with recommendations to the Commission on corporate due diligence and corporate accountability (2020/2129(INL))</li> <li>- Corporate liability for serious human rights abuses in third countries The European Parliament resolution of October 25, 2016, on corporate liability for serious human rights abuses in third countries (2015/2315(INI))</li> </ul>	
NAP	17 Members states (Belgium, the Netherlands, Denmark, Finland, Lithuania, Sweden, Italy, Germany, France, Ireland, Norway, Poland, Slovenia, Spain, and Czech Republic)	Thailand, Vietnam, and Indonesia
Remedy Framework	Encourage establishing or joining a grievance mechanism <sup>176</sup>	-

Table 4 UNGPS in EU and ASEAN

From the table, we can see that both regional organizations have established an agency to implement the BHR within their organizations. The EU is overseen by the EU Agency for Fundamental Rights (FRA), and ASEAN is governed by the ASEAN Intergovernmental Commission on Human Rights (AICHR). Furthermore, each regional organization has a main document on human rights. However, the document remains a declaration for ASEAN rather than a convention like the EU. The EU has a Charter of Fundamental Rights. Meanwhile, ASEAN is ASEAN Human Rights Declarations,

<sup>176</sup> Daniel Augenstein, Mark Dawson, and Pierre Thielbörger, “The UNGPs in the European Union: The Open Coordination of Business and Human Rights?,” *Business and Human Rights Journal* 3, no. 1 (2018): 1–22, <https://doi.org/10.1017/bhj.2017.30>.

Moreover, the EU has made more movement regarding the implementation of BHR because the EU has two resolutions that have regulated specifically the BHR area, which:

4.5.1 The European Parliament Resolution of March 10, 2021, with recommendations to the Commission on corporate due diligence and corporate accountability (2020/2129(INL)) and corporate liability for serious human rights abuses in third countries.

4.5.2 European Parliament Resolution of October 25, 2016, on corporate liability for serious human rights abuses in third countries (2015/2315(INI))

Meanwhile, ASEAN is still in a state of dialogue.

The table also shows that 17 members have the NAP, while ASEAN has only three. In the EU, around 65% of member states have a National Action Plan (NAP), but in ASEAN, the figure is only 25%. Another exciting aspect is that the EU has encouraged its members to establish grievance mechanisms for remedy, whereas ASEAN still needs to address this issue.

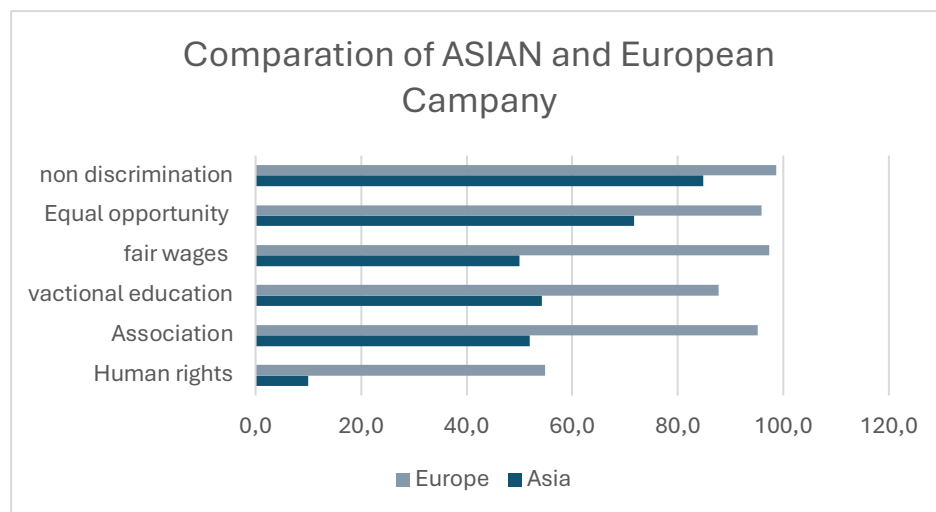


Figure 10: Comparison of ASIAN and European Company <sup>177</sup>

Ricard Wolford surveyed how the two companies, from Europe and Asia, conduct corporate social responsibility. They observe six elements: non-discrimination, equal opportunity, fair wages, vocational education, association,

<sup>177</sup> [https://www.researchgate.net/figure/Number-of-Internet-users-as-a-percentage-from-the-population-of-the-regions-of-the-world\\_fig2\\_349850818](https://www.researchgate.net/figure/Number-of-Internet-users-as-a-percentage-from-the-population-of-the-regions-of-the-world_fig2_349850818)

and human rights. Moreover, this figure suggests that an increasing number of European companies are incorporating human rights into their corporate social responsibility practices. In the AICHR's five-year work plan for 2021-2025, at priority area 2.5, which promotes a mechanism for Coordinating a Human Rights-Based Approach (HRBA) and Remedies in ASEAN, the organization will actively conduct regional consultations and share experiences, promoting the UN Guiding Principles on Business and Human Rights in ASEAN. This action is based on documenting best practices and lessons learned in developing the National Action Plan (NAP) on business and human rights in the ASEAN region.<sup>178</sup>

Despite the positive steps taken by the EU and ASEAN, much work must be done to promote business and human rights, like

- 5.4.1 mandatory Human Rights Due Diligence: both the EU and ASEAN should induce mandatory human rights due diligence requirements for companies operating in their region. This would require companies to identify, prevent, and mitigate human rights risks in their operation and supply chain.
- 5.4.2 A binding international agreement: The EU and ASEAN should collaborate to develop a binding international agreement on business and human rights. This agreement would establish a clear standard for responsible business conduct and provide a framework for holding companies accountable for human rights abuses.
- 5.4.3 Public procurement: The EU and ASEAN should leverage their collective purchasing power to promote responsible business conduct. Governments could require companies to bind public contracts to demonstrate their commitment to human rights and responsible business practices.
- 5.4.4 Civil society engagement: The EU and ASEAN should promote greater engagement with civil society organizations to ensure that

---

<sup>178</sup>Five-Year Work Plan of the AICHR 2021-2025, [https://aichr.org/wp-content/uploads/2020/10/AICHR-FYWP-2021-2025-approved-at-53rd-AMM\\_for-web.pdf](https://aichr.org/wp-content/uploads/2020/10/AICHR-FYWP-2021-2025-approved-at-53rd-AMM_for-web.pdf) accessed on May 14, 2022

the voices of affected communities are heard. Civil society organizations play a crucial role in monitoring and holding companies accountable for human rights abuses.

Business and human rights are critical issues that require urgent attention. While the EU has made significant progress in promoting responsible business conduct, there is still much work to be done in ASEAN. ASEAN has recognized the importance of business and human rights, but its efforts remain largely voluntary and non-binding. While some countries are making progress, enforcement remains a significant challenge. The challenges ASEAN faces in BHR implementation stem from weak enforcement, as governments often lack the political will or resources to regulate business-related human rights abuses. Labor exploitation, like forced labor, low wages, and unsafe working conditions, are common in industries like textiles, electronics, and agriculture. Land and environmental issues such as land grabbing and deforestation linked to business activities (palm oil, mining) frequently harm indigenous communities. Victims of corporate human rights violations struggle to seek legal remedies due to weak judicial systems and government-business ties.

In conclusion, human rights protection in the business regimes of two regional organizations is in an emerging phase. However, the EU is one step ahead of the ASEAN, Where the EU has agreed on EU Directive The EU Directive on Corporate Sustainability Due Diligence (CSDDD) and not to mention that the EU has a regional court; thus, the EU has more comprehensive regulation compared to ASEAN on human rights protection on the protection of the individual in business activities.

## CHAPTER V DISCUSSION

### Understanding Human Rights Corporate Supply Chain Responsibility in Business and Human Rights

The protection of human rights has been a part of human history since its inception. However, in modern times, international human rights provisions began with the UDHR, followed by the two human rights covenants that followed it, namely the ICCPR and the ICESCR, which in turn gave birth to various more specific human rights conventions. In its development, human rights that were originally only imposed on the state were extended to corporations. Because business activities have been found to interfere with human rights, various initiatives have emerged. As explained in the previous chapters, a resolution was adopted by the United Nations to impose human rights obligations on corporations through the UN Framework and the UNGPs. As explained in this section.

#### 5.1 State and Corporate Responsibility in human right

Business and human rights regulations are an essential aspect of ensuring that corporations operate in a socially responsible manner. While the government is crucial in setting regulatory standards, international organizations play a vital role in regulating business and human rights. The United Nations has been at the forefront of this effort, with the guiding principle on Business and Human Rights providing a framework for responsible business practice. As mentioned in the introduction, the UN Framework protects, respects, and remedies, and its guiding principles have three pillars, namely the responsibility of the state to protect human rights, the responsibility of companies to respect human rights, and the obligation of states and corporations to protect them with a remedy when human rights are violated. So, states and corporations have their obligations, and this guiding also emphasizes that there is no desire from the guiding principle to make new international rules in human rights. It affirms that obligations to protect human rights are states' obligations.

The history of human rights burdens dates back at least to the development of multinational companies. However, the history of corporate responsibility for

human rights dates back to the 1970s, with the establishment of the United Nations Commission on Transnational Corporations. The Commission failed to draft an agreeable code for TNCs (Transnational Corporations) and subsequently failed to implement it due to various reasons.<sup>179</sup> Although the TNC code fails, the UN continues to pursue the issue of TNC's social responsibility in different forms and forums. One of these is the conversation about giving corporate social responsibility to the surrounding environment, which is referred to as corporate social responsibility (CSR). However, in CSR, the company is responsible only for the environment around which it operates. Meanwhile, the burden of human rights is further related to the company, its surrounding environment, and the wider community affected by the company's operations. The obligation to respect means that the company must comply with all laws related to protecting human rights as regulated by the country in which the company operates. As stated in the general principle, the role of business enterprises as unique organs of society performing specialized functions requires them to comply with all applicable laws and respect human rights.

In August 2003, the Sub-commission on the Promotion and Protection of Human Rights<sup>180</sup> Approval of the norms on responsibility to transnational corporations on other business Enterprises regarding Human Rights (UN Norms) by the sub-commission on the promotion and Protection of Human Rights represents a new vigor on the part of the UN in regulating corporate human rights abuses. However, these Norms have not received the attention of academia.<sup>181</sup> Academia argues that this obligation is not in line with the international principle of human rights, which states that human rights obligations are primarily a state's obligation toward its citizens. Last but not least, the UN Framework and UNGPs

---

<sup>179</sup> John Gerard Ruggie, "Business and Human Rights: The Evolving International Agenda," Corporate Social Responsibility Initiative (Cambridge, MA, 2007), <http://www.hks.harvard.edu/m-rcbg/CSRI/>.

<sup>180</sup> Norms on the Responsibilities of Transnational Corporations and other Business Enterprises concerning Human Rights, Sub-Commission on the Promotion and Protection of Human Rights, 55th Sess., Agenda Item 4, 1, E/CN.4/Sub.2/2003/12/Rev.2 (2003),

<sup>181</sup> Surya Deva, "UN's Human Rights Norms for Transnational Corporations and Other Business Enterprises: An Imperfect Step in the Right Direction?," *ILSA J Int'l & Comp L* 10, no. 2 (2004), <https://nsuworks.nova.edu/ilsajournal/vol10/iss2/21>.

have been well received by nations, and since their adoption, they have been attempted to be implemented by various parties, including both states and corporations.

Milton Friedman once stated that a company's primary purpose is profit-making, but it has increasingly abandoned this view.<sup>182</sup> Others may also argue that corporations are merely legal fictions established for the agency necessary to assume responsibility for human rights.<sup>183</sup> Conversely, the triple bottom line concept (profit, planet, people) initiated by John Elkington is increasingly entering the mainstream of business ethics.<sup>184</sup> The Triple Bottom Line (TBL) is a business sustainability framework that expands the traditional focus on profit also to include social and environmental responsibility. The triple bottom line encourages businesses to measure success not just by financial performance but also by their impact on people and the planet. The Three Pillars of the Triple Bottom Line are people, planet, and profit. People (social responsibility) Focuses on how businesses impact employees, customers, and communities. Encourages fair wages, ethical labor practices, diversity, and respect for human rights. Involves corporate social responsibility (CSR) initiatives like community engagement, fair working conditions, and philanthropy. Example: A company ensuring safe working conditions and fair wages in its supply chain benefits both employees and society. Planet (environmental responsibility) encourages businesses to minimize environmental harm and use resources sustainably. Includes reducing carbon footprint, waste management, water conservation, and renewable energy use. Supports sustainable practices like green supply chains, eco-friendly packaging,

---

<sup>182</sup> Justine Nolan, "Refining the Rules of the Game: The Corporate Responsibility to Respect Human Rights," *Utrecht Journal of International and European Law* 30, no. 78 (2014): 7–23, <https://doi.org/10.5334/ujiel.ca>.

<sup>183</sup> It is worth noting that if the position were accepted as accurate, most normative work in business ethics would be undermined since all normative business ethicists operate with the view that businesses are capable of ethical or unethical conduct at the same level in Denis G. Arnold, "Transnational Corporations and the Duty to Respect Basic Human Rights," *Business Ethics Quarterly* 20, no. 3 (2010): 371–99, <https://doi.org/10.5840/beq201020327>.

<sup>184</sup> Sugianto and Dwi Soediantono, "Literature Review of ISO 26000 Corporate Social Responsibility (CSR) and Implementation Recommendations to the Defense Industries," *Journal of Industrial Engineering & Management Research* 3, no. 2 (2022): 73–87, <http://www.jiemar.org>. Accessed on January 18, 2023

and pollution control. Example: A company using biodegradable packaging and renewable energy reduces environmental damage. Profit (economic sustainability) ensures businesses remain financially viable while balancing social and environmental responsibility. A sustainable business creates long-term value rather than just short-term financial gains. Involves ethical financial practices, responsible investments, and fair trade. For example, a sustainable fashion brand makes a profit while using ethical labor and eco-friendly materials.

The Triple Bottom Line approach benefits, such as improved brand reputation, because customers prefer companies that prioritize sustainability. Second, better employee engagement. Ethical companies attract and retain top talent. By focusing on tried and long-term profitability, these sustainable businesses reduce risks and increase efficiency. Furthermore, to comply with Regulations, businesses must follow environmental and social laws. However, the Triple Bottom Line faces challenges in implementation, including higher initial costs. Sustainable materials and ethical labor can be expensive due to the need to measure social and environmental impact, so some businesses focus on short-term profits and resist sustainability efforts. Hence, the Triple Bottom Line (TBL) helps businesses achieve long-term success by balancing profitability (Profit), social responsibility (People), and environmental sustainability (Planet). While challenges exist, companies that integrate TBL into their strategy often experience higher brand loyalty, operational efficiency, and long-term growth, as they are not primarily seeking profit but are also concerned with the planet and people. Thus, companies must respect human rights in their business operations.

State obligations under international law to protect against human rights violations by individuals (including legal persons) against other individuals, and international law as a normative source for company due diligence and the corporate responsibility to respect human rights.<sup>185</sup>

---

<sup>185</sup> Ruggie, "Protect, Respect, and Remedy: The UN Framework for Business and Human Rights"; John Gerard Ruggie, "Report of the Special Representative of the Secretary-General on the Issue of Human Rights and Transnational Corporations and Other Business Enterprises," *Netherlands Quarterly of Human Rights* 2, no. March (2011), UN Doc. A/HRC/8/5 [https://www2.ohchr.org/english/bodies/hrcouncil/docs/17session/A.HRC.17.31\\_en.pdf](https://www2.ohchr.org/english/bodies/hrcouncil/docs/17session/A.HRC.17.31_en.pdf). accessed May 6, 2009

### 5.1.1 State Duty to Project Human Rights

Pillar one, the UN Framework protects, respects, and remedies states that:

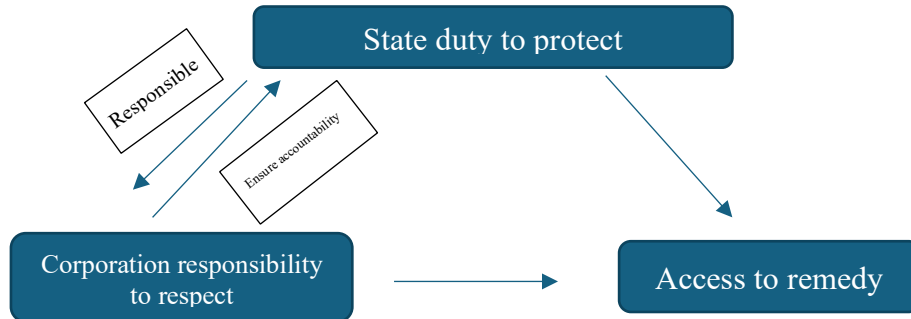


Figure 11: Represent of the UN Protect Respect and Remedy framework for corporations<sup>186</sup>

The figure appears to represent the "Protect, Respect, and Remedy" Framework, a part of the United Nations Guiding Principles on Business and Human Rights (UNGPs). This framework outlines the roles of states and corporations in protecting human rights and providing access to remedies. Here is a holistic interpretation of the diagram based on the three key pillars: State Duty to Protect emphasizes the responsibility of the state to protect individuals from human rights abuses by third parties, including businesses. States must establish regulations, policies, and enforcement mechanisms to prevent human rights violations related to corporations. Legal and Policy Frameworks include implementing laws that protect against corporate abuses and holding businesses accountable when violations occur. Corporate Responsibility to Respect. The role of corporations is to respect human rights independently. Corporate responsibility means businesses should avoid infringing on human rights and take proactive measures to prevent and address any human rights impacts caused by their operations. Due diligence corporations must conduct human rights due diligence to identify, prevent, mitigate, and account for how they address adverse human rights impacts. Access to remedy: When human rights violations occur, individuals and communities affected must have access to effective remedies. The remedy could be through judicial or non-judicial mechanisms. Both the state and corporations ensure

<sup>186</sup> Rehulina Rehulina, from various resources, inspired by UNGPs

access to remedy. States must ensure that judicial mechanisms are available, while corporations should provide grievance mechanisms as part of their operational practices.

The “State duty to protect“ is directly connected to the "Corporation responsibility to respect" and "Access to remedy." The state sets the framework to hold corporations accountable, and both must facilitate access to remedies when human rights are violated. The arrows indicating "responsible" show that corporations must respect human rights in alignment with the state's duty to protect, ensuring they are accountable for their actions.

This framework emphasizes a shared responsibility between states and corporations to protect human rights, respect those rights, and provide effective remedies when violations occur. The state's role is regulatory and protective, while corporations are responsible for conducting due diligence and providing remedies as needed. "States must protect against human rights abuse by third parties, including business enterprises, within their territory or jurisdiction.<sup>187</sup> This requires taking appropriate steps to prevent, investigate, punish, and redress such abuse through effective policies, legislation, regulations, and adjudication.” Principle 2 (two) of UNGPS explains that state regulations and functions in meeting state duty to protect the state should:<sup>188</sup>

- 5.1.1.1 Enforce laws that are aimed at, or have the effect of, requiring business enterprises to respect human rights and periodically assess the adequacy of such laws and address any gaps.
- 5.1.1.2 Ensure that other laws and policies governing the creation and ongoing operations of business enterprises, such as corporate law, do not constrain but enable business respect for human rights.
- 5.1.1.3 Provide practical guidance to business enterprises on respecting human rights throughout their operations.

---

<sup>187</sup> Liliana Lizarazo-Rodriguez, “The UNGPs on Business and Human Rights and the Greening of Human Rights Litigation: Fishing in Fragmented Waters?,” *Sustainability (Switzerland)* 13, no. 19 (2021): 1–25, <https://doi.org/10.3390/su131910516>.

<sup>188</sup> Ruggie, "Report of the Special Representative of the Secretary-General on the Issue of Human Rights and Transnational Corporations and Other Business Enterprises."

5.1.1.4 Encourage and, where appropriate, require business enterprises to communicate how they address their human rights impact.

### 5.1.2 Corporate Responsibility to Respect (Business and human rights in UN Protect Respect and Remedy and UNGPs (due diligence))

To ensure the most effective implementation of human rights obligations, the UN Framework and its guiding principles recommend that businesses incorporate these obligations into their company policies and practices. This includes adopting principles as the minimum standards for their codes of conduct or internal rules of operation and establishing mechanisms to hold the company accountable for these standards. Moreover, UNGP principle 4 (four) also mentions that states should take additional steps to protect against human rights abuses by business enterprises that are owned or controlled by the state or receive assistance from the state. As mentioned above, the first pillar is the state's duty to protect. Pillar Two is a corporate responsibility to respect, and Pillar Three is access to remedy.

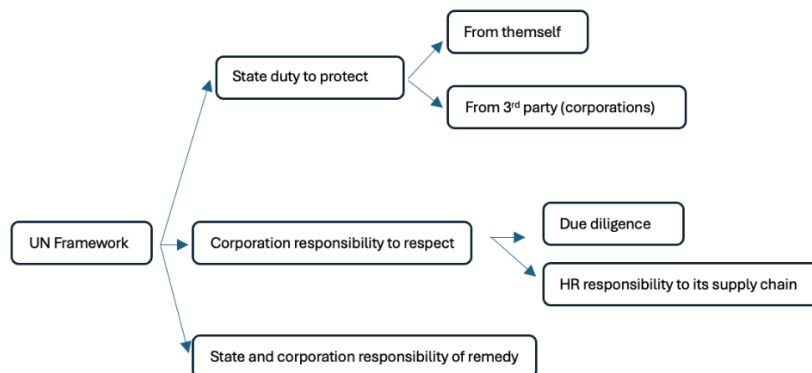


Figure 12: UN Framework for State and Corporation in due diligent<sup>189</sup>

From the figure, we can study that the state duty to protect includes protecting human rights abuses by third parties, including business enterprises, through policies and regulations and providing access to remedy whether through litigation or non-litigation mechanisms; the second responsibility of corporation or business actor to respect human rights, which mean that the company must act with due

<sup>189</sup> Rehulina Rehulina, inspired by UNGPs

diligence to avoid the execution of trade on the other party and address the adverse effects which they are involved and third, the broader access to victims to an effective remedy, both judicial and non-judicial. As the picture shows, we study that corporations must respect human rights. These obligations in UNGPs are broken down into 11 principles, and one obligation business actors have regarding human rights is to do due diligence. The Office of the High Commissioner for Human Rights (OHCHR) sought to define the term Human Rights Due Diligence as follows.<sup>190</sup>

“This measure of prudence, activity, or assiduity is expected adequately from, and is ordinarily exercised by, a reasonable and prudent [person or enterprise] under the particular circumstances; not measured by any absolute standard but depending on the relative facts of the particular case.”

Meanwhile, Hajerati defines Human rights due diligence as a mechanism for companies to implement human rights policies, assess the impact of their activities on human rights, track, and report performance, and establish a complaint mechanism for alleged human rights violations committed by companies, either directly or indirectly.<sup>191</sup>

Legislative frameworks for mandatory human rights due diligence (HRDD) in some states are introducing laws that require businesses to conduct due diligence on their human rights impacts.<sup>192</sup> These laws, such as the proposed EU Corporate Sustainability Due Diligence Directive,<sup>193</sup> Ensure that businesses proactively identify and address potential human rights risks in their operations and supply chains, thereby reducing the likelihood of harm and the need for remediation. Moreover, several countries have introduced both mandatory and voluntary Human

---

<sup>190</sup> OHCHR, “The Corporate Responsibility to Respect Human Rights: An Interpretive Guide” HR/PUB/12/ (2012), [https://www.ohchr.org/sites/default/files/Documents/Publications/HR.PUB.12.2\\_En.pdf](https://www.ohchr.org/sites/default/files/Documents/Publications/HR.PUB.12.2_En.pdf).

<sup>191</sup> Hajerati, Upaya Kemenkumham sebagai National Focal Point Bisnis dan HAM dalam Rangka Pemenuhan Pilar 1 UNGPs, conference presentation at National Conference on Business and Human rights University of Airlangga, Surabaya November 17, 2021

<sup>192</sup> Simon Burger, “The Settlement of Corporate Human-Rights Due-Diligence (CHRDD) Disputes in Commercial Arbitration,” *Yearbook on International Arbitration and ADR* 8 (2024): 185–202, <https://eur-lex.europa.eu/legal-content/PT/TXT/PDF/?uri=CELEX:32016R0679&from=PT%0A>.

<sup>193</sup> Christopher Patz, “The EU’s Draft Corporate Sustainability Due Diligence Directive: A First Assessment.” *Business and Human Rights Journal* 7, no. 2 (2022):291-297, doi:10.1017/bhj.2022.19.

Rights Due Diligence (HRDD) frameworks to hold businesses accountable for their impact on human rights and the environment. These efforts align with UNGPs, which encourage governments to implement due diligence requirements. The country that has introduced mandatory HRDD is France, with the Duty of Vigilance Law (2017).<sup>194</sup> The scope applies to companies with 5,000 or more employees in France or 10,000 or more globally. Where corporations must implement vigilance plans to assess and mitigate risks related to human rights, environmental harm, and corruption; if a corporation fails, the company can get penalties. The victims can sue companies for failing to meet due diligence obligations. Germany with Supply Chain Due Diligence Act (LkSG) 2023.<sup>195</sup> The scope applies to companies with 3,000 or more employees (2023) and 1,000 or more employees (2024). Corporations are required to conduct supply chain risk assessments, report on due diligence measures, and take corrective actions. When human rights violations occur, corporations can get fines of up to €8 million or 2% of global revenue. Norway is Transparency Act (2022)<sup>196</sup> The scope of the Transparency Act applies to large companies operating in Norway. Companies must conduct human rights due diligence, report publicly, and respond to consumer inquiries in a timely and prompt manner. Penalties are regulatory fines for non-compliance.

Meanwhile, Countries with Voluntary or partial due diligence regulations are the United Kingdom and Switzerland. The United Kingdom is Modern Slavery Act (2015)<sup>197</sup> The scope applies to companies with a turnover of £36 million or more and state-requirement companies, which are required to report their efforts to combat modern slavery in their supply chains. If a company fails, it may face penalties, including reputational damage resulting from non-compliance with

---

<sup>194</sup> Schilling-Vacaflor, Almut. "Putting the French Duty of Vigilance Law in Context: Towards corporate accountability for human rights violations in the global South?" *Human Rights Review* 22.1 (2021): 109-127.

<sup>195</sup> Bäumlner, Jelena. "Germany's Supply Chain Due Diligence Act: Is It Compatible with WTO Obligations?." *ZEUS Zeitschrift für Europarechtliche Studien* 25.2 (2022): 265-286.

<sup>196</sup> Ditlev-Simonsen, Caroline Dale. "Acting on the Norwegian Transparency act: interpretation and implementation." *The Fragility of Responsibility: Norway's Transformative Agenda for Research, Innovation and Business* (2024).

<sup>197</sup> Haynes, Jason. "The modern slavery act (2015): a legislative commentary." *Statute Law Review* 37.1 (2016): 33-56.

regulations. Switzerland is Due Diligence Rules under Indirect Approach (2022)<sup>198</sup> The scope requires companies to follow due diligence in conflict minerals and child labor. Corporations must also provide mandatory risk assessments and public reporting. Failure to report can lead to fines.

The due diligence responsibility is outlined under the second pillar of the UNGPs, where corporations are responsible for respecting human rights. This responsibility includes ensuring that individuals and communities impacted by their operations can access effective remedies. Businesses must establish operational-level grievance mechanisms and cooperate with judicial and non-judicial processes to redress human rights violations. In the Guiding Principles, human rights due diligence encompasses an ongoing management process that a reasonable and prudent company must undertake, considering its specific circumstances (including sector, operating context, size, and similar factors), to fulfill its responsibility to respect human rights. HRDD is a crucial concept of UNGPs because discharging corporate responsibility to respect human rights requires due diligence, which describes the steps that a company must take to become aware of, prevent, and address adverse impacts on human rights. However, limited information is available on how companies conduct Human Rights Due Diligence (HRDD), which is consistent with their responsibility to respect human rights under the United Nations Guiding Principles on Business and Human Rights (UNGPs).<sup>199</sup>

"The risk-based due diligence process includes a series of complementary actions: assessing actual and potential human rights impacts, integrating and acting on the findings, tracking responses, and communicating how impacts are addressed." The process should continue because human rights risks are dynamic and can change as the operations and operating context of the business enterprise

---

<sup>198</sup> Neri-Castracane, Giulia, Damiano Canapa, and Teymour Brander. "The Swiss Legislation on Business and Human Rights: A Reform Needed Towards Harmonization with EU Law." *European Business Organization Law Review* (2024): 1-33.

<sup>199</sup> Robert McCorquodale et al., "Human Rights Due Diligence in Law and Practice: Good Practices and Challenges for Business Enterprises," *Business and Human Rights Journal* 2, no. 2 (2017): 195–224, <https://doi.org/10.1017/bhj.2017.2>.

evolve.<sup>200</sup> The due diligence process can be incorporated into environmental or social impact assessments. It should involve meaningful consultation with potentially affected groups and other relevant stakeholders, taking into account the nature and context of the operation. Therefore, assessing contextual human rights issues and stakeholder needs is crucial.

Beginning in the 1980s, a series of ideology and policy shifts swept through the Anglo-American variant of capitalism. The changes included weakening regulations, social safety nets, and unions; outsourcing government functions to private contractors, Offshoring government functions to private contractors; offshoring production; Encouraging the ascendance of finance and finalization of the real economy and stipulating that maximizing shareholder value was the primary if the not sole purpose of the listed corporation.<sup>201</sup> This is a significant distinction when HRDD is proactive rather than reactive: If practical, HRDD prevents or reduces adverse impacts. Communication in the spirit of the UNGPs is not just a matter of reporting but also part of an HRDD process that connects the firm with its stakeholders, particularly (potential) victims, to prevent harm. HRDD has been named a game-changer for companies, from 'naming and shaming' to 'knowing and showing.'<sup>202</sup>

As stated above, the UNGPs were endorsed by the Special Representative of the Human Rights Council and included in the Guide Principles annexed in the final

---

<sup>200</sup> To identify, prevent, mitigate, and account for their adverse human rights impacts, business enterprises should conduct human rights due diligence. The process should include assessing actual and potential human rights impacts, integrating and acting upon the findings, tracking responses, and communicating how impacts are addressed. Human rights due diligence: (a) Should cover adverse human rights impacts that the business enterprise may cause or contribute to through its activities or which may be directly linked to its operations, products, or services by its business relationships; (b) Will vary in complexity with the size of the business enterprise, the risk of severe human rights impacts, and the nature and context of its operations;(c) Should be ongoing, recognizing that the human rights risks may change over time as the business enterprise's operations and operating context evolve.

<sup>201</sup> John Gerard Ruggie, Caroline Rees, and Rachel Davis, "Ten Years After: From Un Guiding Principles to Multi-Fiduciary Obligations," *Business and Human Rights Journal* 6, no. 2 (2021): 179–97, <https://doi.org/10.1017/bhj.2021.8>.

<sup>202</sup> Karin Buhmann, "Neglecting the Proactive Aspect of Human Rights Due Diligence? A Critical Appraisal of the EU's Non-Financial Reporting Directive as a Pillar One Avenue for Promoting Pillar Two Action," *Business and Human Rights Journal* 3, no. 1 (2018): 23–45, <https://doi.org/10.1017/bhj.2017.24>.

report to the Human Rights Council (A/HRC/17/31). The General Assembly adopted it in Resolution 17/4 of June 16, 2011. The UNGPs contain three main parts (from the UN Respect, Protect, and Remedy Framework on Business and Human Rights as the main principle on the duty of state and corporation in human rights). The state's commitment to protecting human rights, the corporate responsibility to respect human rights, and access to remedy. All three parts are divided into 31 Principles.<sup>203</sup>

The state's responsibility to protect human rights is outlined in 10 principles within the UN Guiding Principles on Business and Human Rights (UNGPs). The fundamental principle States that States must protect against human rights abuse within their territory and jurisdiction by third parties, including business enterprises. The state's duty to protect requires taking appropriate steps to prevent, investigate, and redress such abuse through effective policies, legislation, regulations, and adjudication in accordance with a due diligence state obligation. The state obligation on due diligence is written in parts three (commentary), four, and 7 (at the commentary). The third principle states that the guide for business enterprises on respecting human rights should outline expected outcomes and facilitate the sharing of best practices. The state should advise on appropriate methods, including human rights due diligence, and how to consider gender issues effectively, vulnerability, and marginalization also, recognizing the specific challenges that Indigenous peoples may face, women, national or ethnic minorities, religious and linguistic minorities, children, persons with disabilities, and migrant workers and their families. The fourth principle said that states should take additional steps to protect against human rights abuses by business enterprises. These are owned or controlled by the state or receive substantial support and services from State agencies, such as export credit agencies and official investment insurance or guarantee agencies, including those that incorporate human rights due diligence, where appropriate. Furthermore, the seventh principal commentary stated

---

<sup>203</sup> V. Mani et al., "Social Sustainability in the Supply Chain: Construct Development and Measurement Validation," *Ecological Indicators* 71 (2016): 270–79, <https://doi.org/10.1016/j.ecolind.2016.07.007>.

that States should warn business enterprises of the heightened risk of involvement in gross human rights abuses in conflict-affected areas. They should review whether their policies, legislation, regulations, and enforcement measures effectively address this heightened risk, including provisions for human rights due diligence by businesses.

The corporate responsibility to respect human rights, including due diligence, was declared in relation to human rights, as well as the state, in Principles 15<sup>th</sup>, 17<sup>th</sup>, 18<sup>th</sup>, and 20<sup>th</sup>. In UNGPs, business enterprises should have policies and processes that are appropriate to their size and circumstances, enabling them to meet their responsibility to respect human rights. Such as having a policy of respecting human rights, conducting an identify, prevent, mitigate, and account process for how corporations address human rights, and having the ability to remediate any adverse human rights impact that they cause and contribute to. In the 17<sup>th</sup>, business enterprises should exercise due diligence on human rights to identify, prevent, mitigate, and account for how they address their adverse human rights impacts. The process should include evaluating both actual and potential human rights impacts and integrating and acting on the findings. Tracking responses and communicating how impacts are addressed.

Human rights due diligence: (a) should cover adverse human rights impacts that the business enterprise may cause or contribute to through its activities or which may be directly linked to its operations, products, or services by its business relationships; (b) will vary in complexity with the size of the business enterprise, the risk of severe human rights impacts, and the nature and context of its operations; (c) should be ongoing, recognizing that the human rights risks may change over time as the business enterprise's operations and operating context evolve. In the 18<sup>th</sup> commentary, the initial step in conducting human rights due diligence is to identify and assess the nature of the actual and potential adverse human rights impacts a business enterprise may be involved in. The purpose is to understand the specific impacts on individuals within a particular operational context. Typically, this involves assessing the human rights context prior to a proposed business activity. Where possible, identify who may be affected, catalog relevant human rights

standards and issues, and project how the proposed activity and associated business relationships could have adverse human rights impacts on those identified. In part 20<sup>th</sup> of the commentary, operational-level grievance mechanisms can also provide critical feedback on the effectiveness of the business enterprise's human rights due diligence from those directly affected.

Due diligence on state and corporate responsibility in remedy can be found in several sections, specifically parts 12, 22, and 29. Part 12<sup>th</sup> said that where business enterprises identify that they have caused or contributed to adverse impacts, they should provide for or cooperate in their remediation through legitimate processes. Where a business enterprise identifies such a situation, whether through its human rights due diligence process or other means, its responsibility to respect human rights requires active participation in remediation, by itself or in cooperation with other actors. Operational-level grievance mechanisms for those potentially impacted by business enterprise activities can effectively facilitate remediation when they meet specific core criteria in Principle 31. Twenty-nine said that to make it possible for grievances to be addressed early and remediated directly, business enterprises should establish or participate in effective operational-level grievance mechanisms for individuals and communities who may be adversely affected, and in the commentary said that state and corporations support the identification of adverse human rights impacts as part of an enterprise's ongoing human rights due diligence. They provide a channel for those directly impacted by the enterprise's operations to raise concerns when they believe they are being or will be adversely affected. Business enterprises can identify systemic problems and adapt their practices by analyzing trends and patterns of complaints.

To protect individual rights from power abuses. Its primary goal is to ensure that victims of wrongful actions, known as tortfeasors, receive appropriate compensation for the harm they have suffered. This branch of law addresses breaches of fundamental rights, privacy violations, and human rights abuses. It includes protecting individuals from intimidation during legal proceedings and offering remedies to indirect victims, such as close family members impacted by

the wrongful conduct. Central to tort law's remedial approach is the principle of "*ubi jus ibi medium*," meaning that where there is a legal right, there must also be a corresponding remedy. As a result, both judicial and extrajudicial remedies are available to address tortious actions. The remedy's type and extent depend on the severity of the tort, aiming to restore the victim to their pre-incident condition. Victims of torts, including human rights violations, may seek compensatory damages or injunctions to prevent future harm. In summary, tort law plays a crucial role in providing redress for victims of human rights abuses by deterring wrongful conduct and ensuring accountability and justice within society. Thus, the last area covers access to remedies, explicitly focusing on inclusionary methods within the corporate structure to prevent and remedy intentional or unintentional rights violations.<sup>204</sup> An effective grievance mechanism is part of the corporation's responsibility to respect<sup>205</sup>

---

<sup>204</sup> Regina M. Paulose N. Hasan Camilla Gray Umme Tamima Md New Lines Institute, *The Accountability, Politics, and Humanitarian Toll of the Rohingya Genocide*, June 11, 2024 <https://newlinesinstitute.org/displacement-and-migration/the-accountability-politics-and-humanitarian-toll-of-the-rohingya-genocide/> Accessed July 3, 2024

<sup>205</sup> John Ruggie, *Protect, Respect and Remedy A Framework for Business and Human Rights*, (from artikel in folder the beginning)

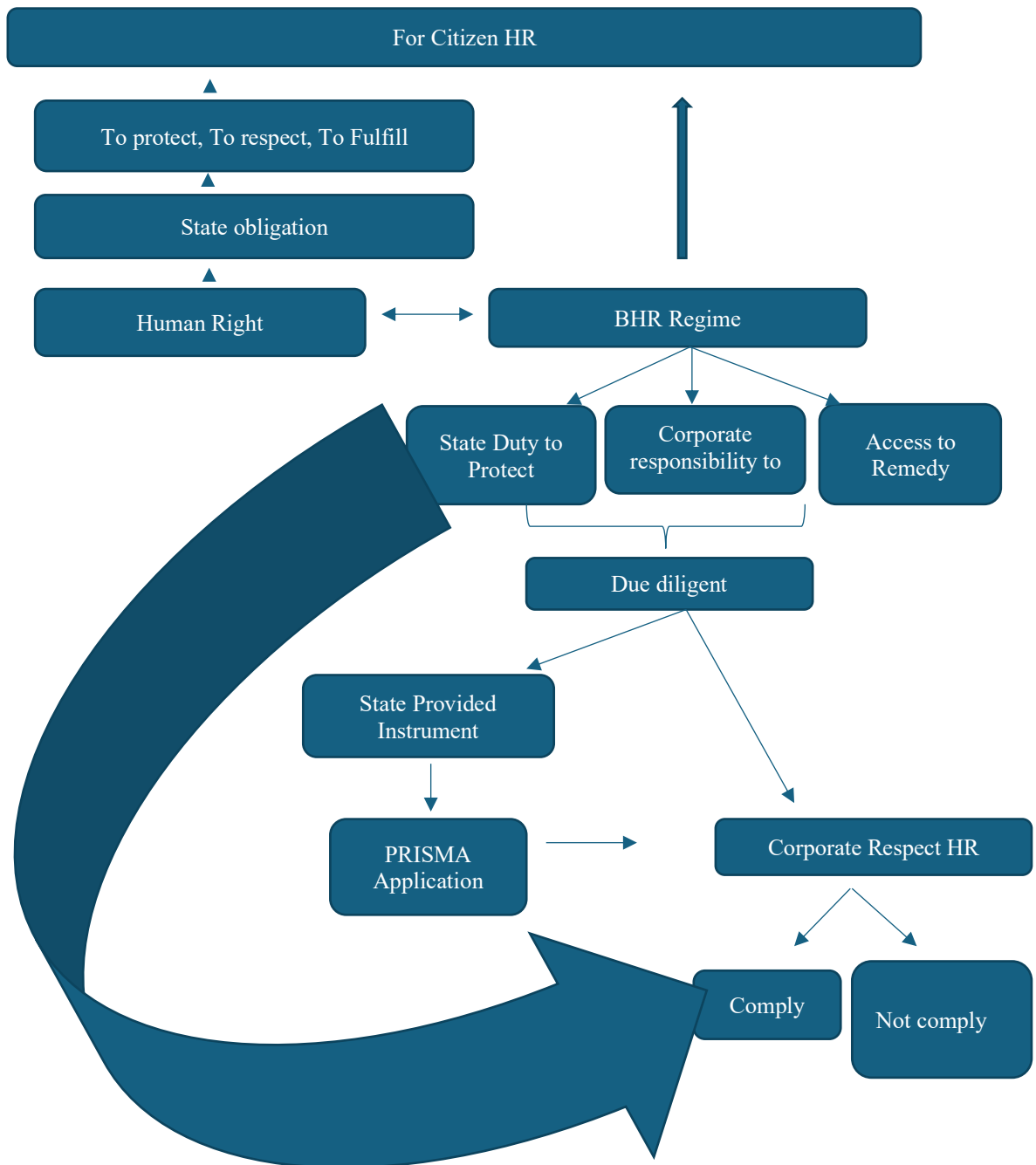


Figure 13: State Human rights duty is to respect, protect, and fulfill human rights.<sup>206</sup>

The figure above shows that the state's Human rights duty is to respect, protect, and fulfill human rights. Still, in the Business and Human Rights (BHR) regime, the human rights duty barrier is not only stated but also applied to other actors, such as business actors or corporations. Although the duty is different, as

<sup>206</sup> Re hulina Re hulina from various resources

can be seen, the state must uphold corporate responsibility and respect. From the picture we learn that picture we can see that in human rights law, the state has the responsibility for the fulfillment of human rights, both by state officials and by third parties, through 3 (three) forms of protection, namely, to protect, respect, and fulfill. Respect means obligation; respect is intended to require states to enforce the ICCPR and ICESCR, either directly or indirectly, against the rights set out in the convention. The obligation to protect means that the state protects the human rights of its citizens by preventing both intentional and unintentional violations by the state apparatus or third parties. At the same time, the obligation to fulfill requires states to take various legislative, administrative, budgetary, legal, and other measures to implement the human rights stipulated in the convention.

The picture on the right illustrates a new regime in which the state and corporations bear human rights obligations. However, the forms of obligations are different. The state has a duty to protect its relation to its responsibilities on the left side, namely, to protect, respect, and fulfill human rights and corporate obligations to respect. The obligation to respect referred to here is the obligation of the role of business enterprises as specialized organs of society performing specialized functions, required to comply with all applicable laws and respect human rights. So, corporations have an obligation to apply the provisions of human rights law in their business activities. It is hoped that the rule of law, as outlined in national laws and human rights provisions, is reflected in international human rights treaties.

There is an obligation of due diligence to the state and corporations involved. The state must investigate instruments to assess how corporations conduct their activities. So, Indonesia made an application called PRISMA. PRISMA is an application made by the state (Indonesia), where corporations are asked to answer 13 questions contained in this application, including uploading proof of implementation. Then, through this application, the state can see how a corporation runs its business and whether it can be said to have been copied. Comply with existing human rights as a corporate responsibility to respect human rights.

Since they approved the UN Protect, Respect, and Remedy framework, they have become a point of reference for systematizing and intensifying actions to

protect human rights in business practices, primarily through the adoption of National Action Plans (NAPs).<sup>207</sup> Corporations' due diligence is written at principle 17 of UNGPs. According to Principle 17, the due diligence process involves four key actions: assessing actual and potential human rights impacts, integrating and acting upon the findings, tracking responses, and communicating how human rights impacts are addressed.<sup>208</sup> HRDD is a promising approach to help address human rights issues and lift global business standards for corporations to comply with human rights. According to the UNDP in ASIA, Thailand is the first country to have a plan for business and human rights. Therefore, to date, no specific legislation has required Thai companies to conduct Human Resource Development and Diversity (HRDD).<sup>209</sup>

### 5.1.3 State and corporate responsibility regarding access to remedy.

Access to remedy was a tried and tested pillar in the UN Framework; the responsibility for ensuring access to remedies for victims of business-related human rights abuses is shared between states and corporations. States have a duty to provide effective judicial and non-judicial mechanisms for redress, while corporations must establish accessible grievance mechanisms and cooperate with national and international processes for redress. Several substantive and procedural-legal issues prevent victims from seeking redress in national and international courts.<sup>210</sup> However, despite progress, challenges such as judicial barriers, corporate resistance, and cross-border legal complexities hinder victims' access to remedies. Both states and businesses must collaborate to overcome these challenges, ensuring that those harmed by business activities can seek justice and obtain appropriate remedies.

---

<sup>207</sup> Marcin Kilanowski, "Evaluating the Polish NAPs: Lessons for the Future Implementation of the Un Guiding Principles on Business and Human Rights," *Business and Human Rights Journal* 9, no. 1 (2024): 163–68, <https://doi.org/10.1017/bhj.2023.4>.

<sup>208</sup> Diana Guarnizo-Peralta, "Marketing Ultra-Processed Food and Beverages to Children in Latin America: Business Responsibilities and State Duties," *Business and Human Rights Journal* 7, no. 3 (2022): 418–38, <https://doi.org/10.1017/bhj.2022.10>.

<sup>209</sup> Nam Ake Lekfuangfu and Varutt Kitticungchit, Thailand Human Rights Due Diligence, <https://www.globalcompliance.com/2022/06/23/thailand-human-rights-due-diligence-09062022/> Accessed October 30, 2022

<sup>210</sup> Jernej Letnar Černič, "Moving Towards Protecting Human Rights in Global Business Supply Chains," *Boston University International Law Journal* 36, no. 2 (2018): 101–16.

In the context of business and human rights, the responsibility to provide access to remedy is a fundamental principle outlined in the United Nations Guiding Principles on Business and Human Rights (UNGPs). This principle ensures that individuals and communities affected by human rights abuses related to business activities have adequate access to remedies through judicial or non-judicial mechanisms. Both states and corporations have distinct but complementary responsibilities to ensure that victims can seek and obtain redress for grievances arising from corporate misconduct. Under the UNGPs, states have a responsibility to provide access to effective judicial and non-judicial remedies for victims of business-related human rights abuses.<sup>211</sup> This responsibility falls under the first pillar of the UNGPs, known as the state responsibility, to protect human rights. States must ensure that their legal systems and enforcement mechanisms are robust enough to hold businesses accountable for human rights violations.<sup>212</sup>

#### 5.1.3.1 Judicial Mechanisms

States must provide judicial systems that can effectively address business-related human rights violations.<sup>213</sup> These rights are also written in Article 6 (six) UDHR. An effective legal system ensures that courts are independent, impartial, and accessible to all parties, including victims and those who have been harmed. Fair trials and due process must be guaranteed to victims, who have the right to access legal representation and protection from business intimidation or retaliation.<sup>214</sup> In sanctions and remedies, judicial systems should be empowered to impose sanctions or penalties on businesses that violate human rights.<sup>215</sup> Remedies

---

<sup>211</sup> Liliana Lizarazo-Rodríguez, “The UN ‘Guiding Principles on Business and Human Rights’: Methodological Challenges to Assessing the Third Pillar: Access to Effective Remedy,” *Nordic Journal of Human Rights* 36, no. 4 (2018): 353–70, <https://doi.org/10.1080/18918131.2018.1547525>.

<sup>212</sup> Benny Santoso, “‘Just Business’ - Is the Current Regulatory Framework an Adequate Solution to Human Rights Abuses by Transnational Corporations?,” *German Law Journal* 18, no. 3 (2017): 533–58, <https://doi.org/10.1017/S2071832200022057>.

<sup>213</sup> Anita Ramasastry, “Corporate Social Responsibility Versus Business and Human Rights: Bridging the Gap Between Responsibility and Accountability,” *Journal of Human Rights* 14, no. 2 (2015): 237–59, <https://doi.org/10.1080/14754835.2015.1037953>.

<sup>214</sup> M. Cherif Bassiouni, “International Recognition of Victims’ Rights,” *Human Rights Law Review* 6, no. 2 (2006): 203–79.

<sup>215</sup> Dinah Shelton, *Remedies in International Human Rights Law* (London: Oxford University Press, 2005), <https://doi.org/10.1093/acprof:oso/9780199207534.001.0001>.

could include compensation, injunctions, or restitution to victims. Moreover, States must work to eliminate barriers to accessing courts, such as high costs, language barriers, lengthy procedures, or geographical limitations. Remedies are essential for marginalized groups, such as indigenous communities or migrant workers.

#### 5.1.3.1.1 Effective Legal Systems and Access to Justice

Under international law, such as Article 8 (eight) UDHR, including pillar three of UNGPs,<sup>216</sup> States have a responsibility to establish and maintain legal systems capable of addressing business-related human rights abuses. This includes developing judicial systems that are independent, impartial, and accessible to those affected by such violations. The UNGPs' "Protect, Respect, and Remedy" framework emphasizes the state's duty to protect human rights, requiring states to prevent and address harm caused by third parties, including businesses. The principles align with Article 8 of the Universal Declaration of Human Rights (UDHR), which upholds the right to an effective remedy for violations of fundamental rights.<sup>217</sup>

#### 5.1.3.1.2 Fair Trials and Due Process

Judicial remedies must guarantee fair trials and due process,<sup>218</sup> As outlined in international standards, such as the International Covenant on Civil and Political Rights (ICCPR), particularly Article 14.<sup>219</sup> By ensuring these standards, states help provide effective remedies, reinforcing principles set out in the OECD Guidelines for Multinational Enterprises and the ILO Declaration on Fundamental Principles

---

<sup>216</sup> Surya Deva, "Human Rights Violations by Multinational Corporations and International Law: Where from Here?," *Connecticut Journal of International Law* 19 (2003): 1–57, <https://ssrn.com/abstract=637665>.

<sup>217</sup> August Reinisch, "Developing Human Rights and Humanitarian Law Accountability of the Security Council for the Imposition of Economic Sanctions Author(s): August Reinisch Source," *The American Journal of International Law* 95, no. 4 (2001): 851–72.

<sup>218</sup> Jixi Zhang, "Fair Trial Rights in ICCPR," *Journal of Politics and Law* 2, no. 4 (2009): 39–43, <https://doi.org/10.5539/jpl.v2n4p39>.

<sup>219</sup> Evelyne Schmid, "The Right to a Fair Trial in Times of Terrorism: A Method to Identify the Non-Derogable Aspects of Article 14 of the International Covenant on Civil and Political Rights," *Göttingen Journal of International Law* 1, no. 1 (2009): 29–44.

and Rights at Work.<sup>220</sup> Access to impartial adjudication of cases against powerful entities ensures that the judicial system functions equitably.<sup>221</sup>

#### 5.1.3.1.3 Sanctions and Remedies

An effective judicial system should be empowered to enforce accountability by imposing sanctions on businesses that violate human rights. These sanctions, as mandated by international frameworks such as the UHDR and the UN Convention Against Corruption (UNCAC), may include fines, injunctions, or restitution, allowing victims to recover damages.<sup>222</sup> The UNGPs reiterate the importance of remedies that include monetary compensation, apologies, or corrective actions. Sanctions should be not only punitive but also preventive, deterring further abuses. Remedies in international law may include apology, monetary compensation, restitution, and other forms of compensation.

#### 5.1.3.1.4 Overcoming Barriers to Justice

States are encouraged to mitigate barriers to accessing justice, as noted in the UN Committee on Economic, Social and Cultural Rights (CESCR) General Comment No. 24,<sup>223</sup> which outlines the importance of accessible and affordable legal systems. High legal costs, language differences, complex procedures, and geographical distances are common barriers that prevent vulnerable communities such as indigenous groups, women, migrant workers, and rural populations from seeking legal recourse. Addressing these barriers aligns with the Sustainable Development Goals (SDGs), particularly SDG 16, which promotes peace, justice, and strong institutions, ensuring access to justice for all.<sup>224</sup>

---

<sup>220</sup> Jernej Letnar Čerňič, "Corporate Responsibility for Human Rights: A Critical Analysis of the OECD Guidelines for Multinational Enterprises," *Hanse Law Review* 4, no. 1 (2008): 71–100, <https://doi.org/10.2139/ssrn.1317263>.

<sup>221</sup> Charles Gardner Geyh, "The Dimensions of Judicial Impartiality," *Florida Law Review* 65, no. 2 (2014), <http://scholarship.law.ufl.edu/flr/vol65/iss2/4>.

<sup>222</sup> Tom Dannenbaum, "Translating the Standard of Effective Control into a System of Effective Accountability: How Liability Should Be Apportioned for Violations of Human Rights by Member State Troop Contingents Serving as United Nations Peacekeepers," *Harvard International Law Journal* 51, no. 1 (2010): 113–92.

<sup>223</sup> Audrey R. Chapman and Benjamin Carbonetti, "Human Rights Protections for Vulnerable and Disadvantaged Groups: The Contributions of the UN Committee on Economic, Social and Cultural Rights," *Human Rights Quarterly* 33, no. 3 (2011): 682–732, <https://doi.org/10.1353/hrq.2011.0033>.

<sup>224</sup> Constance L Mcdermott et al., "SDG 16: Peace, Justice, and Strong Institutions-A Political Ecology Perspective," in *Sustainable Development Goals: Their Impacts on Forests and People*, ed.

### 5.1.3.2 Non-Judicial Mechanisms

Non-judicial mechanisms can include negotiation and mediation. In the UNGPs, states are encouraged to establish or strengthen National Human Rights Institutions (NHRIs), which provide non-judicial avenues for victims to seek redress. NHRIs can investigate complaints, mediate disputes, and make recommendations to corporations and governments. Besides NHRIs, some states have established ombudsperson offices or other independent agencies to investigate complaints and assist in resolving disputes between businesses and affected communities. States can also promote the establishment of grievance mechanisms at the local or sectoral level, which provides a platform for resolving conflicts without going to court. These mechanisms should be legitimate, accessible, and transparent.

### 5.1.3.3 Cooperation with Judicial and Non-Judicial Processes

Businesses must cooperate with judicial mechanisms and national human rights institutions (NHRIs) in investigations and dispute resolutions. Remedies include providing necessary information, participating in hearings, and complying with court rulings or recommendations from national human rights institutions (NHRIs). In cases of proven human rights violations, businesses are responsible for providing appropriate remedies, including financial compensation, restoring rights, or corrective actions. They must comply with legal decisions and work to prevent further violations.

### 5.1.3.4 International Cooperation

In cases where abuses occur in global supply chains, states must cooperate transnationally to ensure that businesses can be held accountable.<sup>225</sup> Even if violations occur outside their borders, states could include mutual legal assistance treaties or other forms of international cooperation to address cross-border human rights violations.

---

Winkel G Katila P, Pierce Colfer CJ, de Jong W, Galloway G, Pacheco P (Cambridge University Press, 2019), 510–40, <https://sustainabledevelopment.un.org/sdg16>.

<sup>225</sup> Galit A. Sarfaty, “Shining Light on Global Supply Chains Galit,” *Harvard International Law Journal* 56, no. 2 (2015): 419–63.

#### 5.1.3.5 Operational-Level Grievance Mechanisms:

Businesses should establish grievance mechanisms as part of their human rights due diligence processes. These mechanisms enable workers, customers, and affected communities to report concerns about potential or actual human rights abuses directly to the company. Grievance mechanisms must be accessible to all stakeholders, including those in vulnerable or marginalized positions, such as migrant workers, women, and indigenous peoples. The process must be transparent so stakeholders understand how their complaints will be handled. Businesses must ensure that their grievance mechanisms are timely and responsive to complaints, providing remedies such as compensation, apologies, or changes in business practices. The mechanism should be legitimate and equitable, providing continuous learning opportunities to improve processes. Corporations should engage with stakeholders, including workers, communities, and civil society organizations, in the design and implementation of these mechanisms to ensure they address local needs and contexts.

The other approach is third-party grievance mechanisms, which are industry-level mechanisms. Some industries, such as mining or textiles, have established third-party grievance mechanisms that operate at the sector level, allowing stakeholders to raise concerns directly with industry bodies. These mechanisms often involve independent oversight and work in partnership with civil society organizations to ensure impartiality and transparency. Corporations sometimes participate in multi-stakeholder initiatives (MSIs), which provide platforms for resolving grievances. For example, the Fair Labor Association (FLA) and the Roundtable on Sustainable Palm Oil (RSPO) provide mechanisms for handling complaints related to labor and environmental abuses in global supply chains.

## 5.2 The Forms of Corporate Human Rights Responsibility throughout its Supply Chain

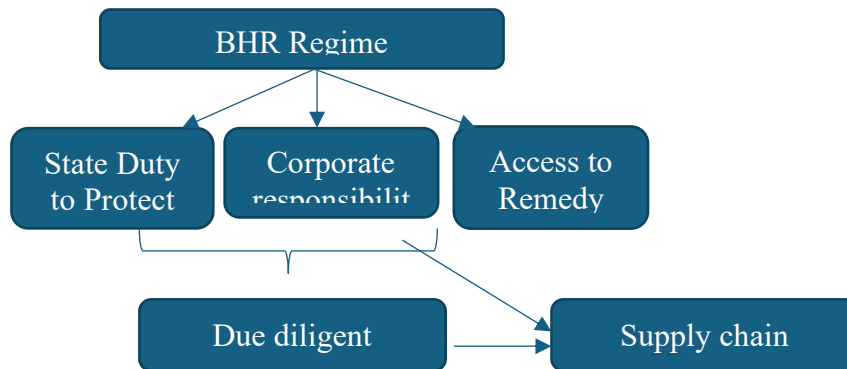


Figure 14: The form of corporate human rights responsibility throughout its supply chain.<sup>226</sup>

This figure represents a conceptual framework of the Business and Human Rights (BHR) Regime, which is based on three main pillars: state responsibility to protect. State responsibility to protect human rights by implementing laws, regulations, and policies that ensure businesses operate in a manner that respects human rights. Corporate responsibility requires businesses to respect human rights by ensuring their operations do not cause or contribute to human rights violations. Moreover, victims of corporate-related human rights abuses should have access to mechanisms (legal, judicial, or non-judicial) to seek redress.

The third sequence of the image is the relationship between due diligence and the supply chain. This is linked to both the State Duty to Protect and Corporate Responsibility, highlighting that businesses must actively assess and address potential human rights risks in their operations. The Supply Chain concept is closely connected to Due Diligence, emphasizing that companies must ensure their entire supply chain adheres to ethical and human rights standards. Hence, this diagram outlines the essential elements of the BHR regime, showing the interplay between state responsibilities, corporate obligations, and the mechanisms for remedying human rights abuses, with a particular emphasis on due diligence and supply chain management. Furthermore, the relationship between due diligence and supply chain management in the BHR Regime suggests that in BHR, these two areas are deeply

<sup>226</sup> Rehulina Rehulina, inspired by UNGPs

interconnected. Businesses are expected to exercise due diligence in identifying, preventing, and mitigating human rights risks in their operations, including those throughout their supply chains.

Due diligence is a preventive mechanism. Due diligence refers to the process by which companies proactively assess and address potential risks to human rights. This includes identifying, implementing, monitoring, engaging, and taking corrective. Identifying risks is related to human rights abuses like forced labor, child labor, environmental damage, et cetera. The implementing measure's purpose is to prevent harm; meanwhile, monitoring business activities and relationships aims to ensure corporate compliance. Additionally, engaging in due diligence contact with stakeholders, such as workers, communities, NGOs, and other relevant parties, helps improve transparency. Lastly is taking corrective actions when violations occur.

On the other hand, the supply Chain is a key risk area, as it represents one of the most significant risks in business operations when it comes to human rights violations. Many multinational corporations rely on complex, multi-tiered supply chains, where production may involve multiple suppliers across different countries. Some key risks include Poor working conditions in factories, exploitative (labor practices (unfair wages, excessive work hours), Child labor or forced labor), and environmental degradation affecting local communities.

Since companies are legally and ethically responsible for ensuring that human rights are respected throughout their supply chains, due diligence becomes essential to achieving this. Thus, how due diligence impacts the supply chain is when due diligence helps businesses manage and mitigate risks within their supply chains by performing supplier audits and assessments, by conducting regular audits to check compliance with human rights and labor laws such as contractual obligations, including human rights clauses in contracts with suppliers, training and capacity building, educating suppliers and workers on ethical practices and compliance, transparency and reporting, disclosing supply chain practices and publishing and sustainability reports. Moreover, addressing violations by working with suppliers to improve conditions or, in severe cases, terminating relationships

with non-compliant suppliers. In other words, due diligence is not just a legal obligation—it is a strategic tool for businesses to ensure ethical and sustainable supply chain management. By embedding human rights due diligence into their supply chain processes, businesses can minimize legal risks, enhance their brand reputation, and contribute to a more just and equitable global economy.

Transparency is a crucial aspect of managing supply chains in relation to human rights. Companies must be transparent about their supply chain practices, allowing stakeholders, including consumers, investors, and advocacy groups, to have visibility into the company's practices and its suppliers and partners. This transparency is crucial for accountability and fosters a culture of responsibility throughout the supply chain. In recent years, there has been a growing recognition of the need to move beyond compliance and toward a more proactive approach to human rights in the supply chain. This shift is driven by a combination of factors, including increased consumer awareness, pressure from advocacy groups, and legislative developments that mandate greater business accountability and transparency.<sup>227</sup> The role of technology in monitoring and ensuring human rights compliance in the supply chain is becoming increasingly significant. Tools like blockchain,<sup>228</sup> for example, it can provide transparent and unalterable records of transactions and interactions throughout the supply chain, offering a new level of transparency and accountability in tracking the origin of products and the conditions under which they were produced. Collaboration among stakeholders is crucial for addressing human rights challenges in supply chains. Collaboration encompasses partnerships among businesses, governments, civil society organizations, and communities impacted by supply chain activities. Such collaboration can lead to shared solutions, leverage resources and expertise, and create more sustainable and rights-respecting supply chain practices.

---

<sup>227</sup> Laura Albareda et al., “The Changing Role of Governments in Corporate Social Responsibility: Drivers and Responses,” *Business Ethics: A European Review* 17, no. 4 (2008): 347–63, <https://doi.org/10.1111/j.1467-8608.2008.00539.x>.

<sup>228</sup> Amanda Graham, “Blockchain as an Instrument for Human Rights Business Practice,” Dissertation (Columbia University, 2017).

Addressing human rights in the supply chain is not just a moral imperative but also a strategic one. Companies that fail to consider human rights in their supply chains face risks ranging from reputational damage and consumer boycotts to legal challenges and financial losses. Similarly, companies that proactively address these issues can benefit from an enhanced reputation, increased customer loyalty, and improved operational efficiencies. In other words, the supply chain in the context of human rights is a multifaceted and dynamic field that requires ongoing attention, innovation, and collaboration. As global awareness and expectations around human rights continue to evolve, so must the strategies and practices of companies seeking to manage their supply chains responsibly. Ensuring respect for human rights throughout the supply chain is both a legal and ethical requirement, as well as a fundamental component of sustainable business practices in the 21st century. The importance of assessing and addressing human rights risks across all stages of the production process cannot be overstated. It is a critical step in ensuring that companies operate ethically, sustainably, and in accordance with international standards. This comprehensive approach helps identify potential adverse impacts on individuals and communities, guiding businesses to implement strategies that prevent human rights violations. At the raw material sourcing stage, assessing human rights risks involves scrutinizing the conditions under which materials are extracted or produced. A comprehensive approach includes evaluating labor practices, their impact on local communities, and environmental considerations. Addressing these risks early on can prevent complicity in human rights abuses, such as forced labor or environmental degradation, setting a responsible foundation for the production process.

During manufacturing, companies must ensure that factories and workplaces adhere to safe, humane, and dignified working conditions. This includes preventing child labor, ensuring fair wages, and safeguarding against workplace discrimination. Regular audits and assessments at this stage are crucial for detecting human rights violations and promptly implementing corrective actions. In the supply chain, companies must extend their human rights due diligence to include suppliers and subcontractors. The audit requires a deep understanding of the supply

network and collaboration with partners to ensure they also respect and uphold human rights standards. Failure to do so can result in significant reputational damage and legal repercussions if suppliers are found to have violated human rights.

The distribution phase also presents risks regarding workers' rights and safety. Companies must ensure that their products are transported and delivered in a manner that respects the rights of all parties involved in these processes, from truck drivers to warehouse staff, thereby safeguarding against exploitation and unsafe working conditions. Businesses should consider the human rights implications of their products and services at the consumer level. This includes ensuring products are safe and that marketing practices are ethical and non-discriminatory. Consumers are increasingly aware of the ethical aspects of their purchases, and companies that prioritize human rights in their product offerings can foster stronger customer trust and loyalty.

Assessing and addressing human rights risks is not a one-time task but an ongoing process that requires vigilance and adaptability. Companies must continually monitor their operations and supply chains, staying attuned to evolving human rights issues and adapting their practices to mitigate risks effectively. Engaging with stakeholders, including workers, communities, NGOs, and human rights experts, is crucial in the risk assessment process. These stakeholders can provide valuable insights into the real-world impacts of business activities, helping companies identify and address issues that may not be apparent from an internal perspective. Beyond ethical considerations, there are practical business benefits to rigorously assessing and addressing human rights risks. Companies that proactively manage these risks can avoid costly legal challenges, boycotts, and campaigns arising from human rights violations. Moreover, demonstrating a commitment to human rights can enhance a company's brand, attract ethical investors, and foster loyalty among consumers and employees.

The importance of assessing and addressing human rights risks in the production process is multifaceted, encompassing both ethical and legal considerations, as well as business implications. By integrating human rights due

diligence into every production stage, companies can prevent harm and contribute to a more equitable and sustainable global economy, benefiting society and businesses.

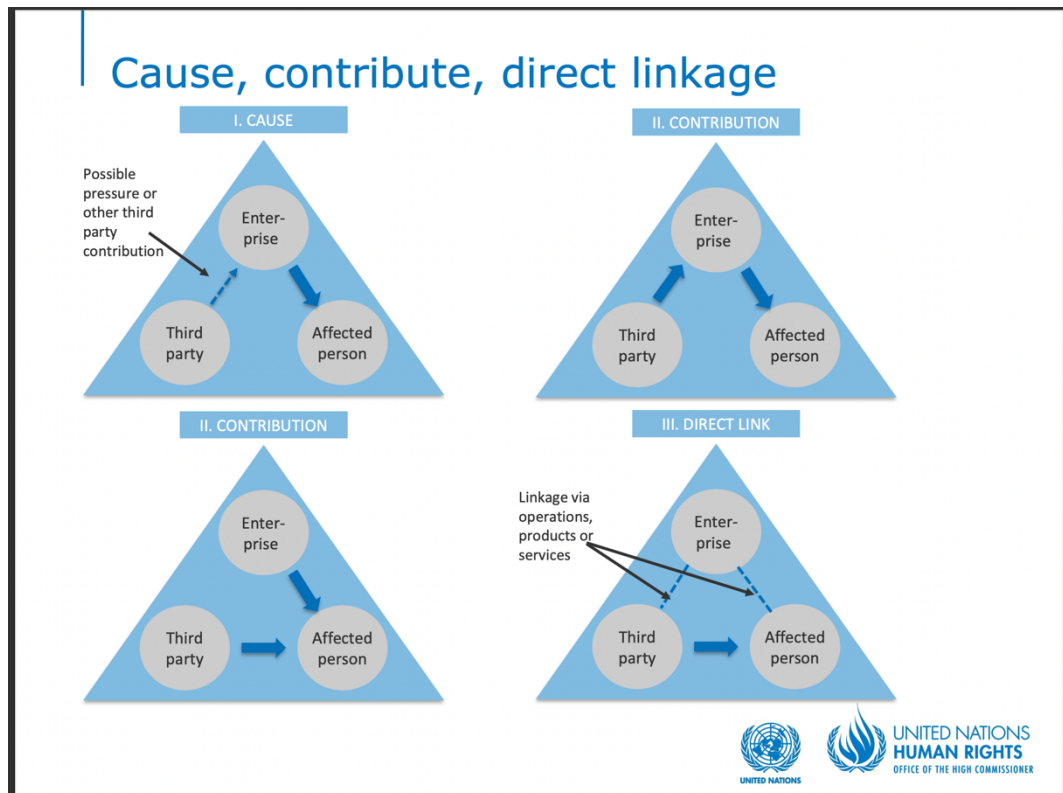


Figure 15: Cause, contribute, and direct link in business and human rights <sup>229</sup>

The image illustrates the concepts of "Cause," "Contribute," and "Direct Linkage" in the context of human rights impacts related to enterprises. Here is a breakdown of each section in the diagram: Cause Enterprise Direct Cause: In the top-left diagram labeled "I. cause," the enterprise directly causes the human rights impact on the affected person. There may be possible pressure or influence from a third party, but the enterprise's actions are the primary cause of the harm. Example: A company polluting a local water supply through its manufacturing processes directly causes harm to the health of the local community. Direct responsibility occurs when the enterprise's actions are the primary cause of the harm.

<sup>229</sup> Lene Wendland, "Adviser Business and Human Rights, Introductions to the Guiding Principle on Business and Human Rights," Office of the United Nations High Commissioner for Human Rights, PPT

The diagrams on the right labeled "II. contribution" show scenarios where the enterprise contributes to the harm, but it is not the sole cause. Instead, the harm results from a combination of the enterprise's actions and those of a third party. Contribution: In the first "contribution" diagram, the enterprise and the third party jointly contribute to the harm experienced by the affected person. Contributions imply a shared responsibility between the enterprise and the third party. Contribution In the second "contribution" diagram, the enterprise influences the third party, which in turn directly affects the person. Contributions can include situations where the enterprise's business practices indirectly lead to adverse human rights impacts. Example: A company working with a supplier known for unsafe labor practices could contribute to the supplier's continued exploitation of workers. In indirect involvement, the actions of an enterprise and those of a third party result in harm.

Direct Link Linkage through Operations, Products, or Services: The bottom-right diagram labeled "III. Direct link" shows a situation where there is a direct linkage between the enterprise's operations, products, or services and the harm experienced by the affected person. The enterprise is linked to the harm through its business relationships, even if it did not directly cause or contribute to it. An example is a tech company sourcing minerals from a supplier that uses child labor. While the company does not directly employ child labor, it is directly linked to the violation through its supply chain. A direct link is a connection through the enterprise's operations, products, or services, where it may not directly cause or contribute to the impact but is still linked to it through its business relationships.

This framework is crucial for businesses to understand their responsibilities in upholding human rights, guiding them on where to take action, whether through direct remediation, influencing third parties, or addressing supply chain issues.

5.2.1 A cooperative network within the supply chain is formed under the human rights regime.

Forming a cooperative network within the supply chain under the human rights regime signifies a collective effort among businesses, suppliers, and other

stakeholders to uphold and advance human rights standards.<sup>230</sup> This network aims to foster collaboration and shared responsibility, ensuring that every entity involved in the supply chain contributes positively to human rights outcomes. Such a cooperative network begins with aligning values and commitments among all participants in the supply chain. This alignment involves adopting a shared understanding of human rights principles, setting common goals, and establishing mutual expectations for performance and accountability in upholding these standards.

Effective communication is a cornerstone of this cooperative network. Regular interactions, transparent information sharing, and open dialogue about human rights challenges and performance enable participants to identify issues, share best practices, and coordinate efforts to address concerns collaboratively. Capacity building is another critical aspect of the network. By providing training and resources to suppliers and partners, especially in regions or sectors where human rights risks are heightened, companies can empower the entire supply chain to effectively recognize, prevent, and address human rights issues. The network also benefits from integrating monitoring and reporting mechanisms that allow tracking of human rights performance across the supply chain. These systems help identify risks and violations, guide corrective actions, and provide transparency to stakeholders, including consumers, investors, and advocacy groups. Engaging with local communities and stakeholders is essential for the network to be effective and grounded in the realities of the contexts in which the supply chain operates. This engagement ensures that the network's efforts are responsive to the needs and rights of those most affected by its activities. The cooperative network fosters innovation by pooling resources and expertise to develop new approaches and tools for human rights due diligence and impact assessment. Collaboration can lead to more effective and efficient methods for identifying and addressing human rights issues in the supply chain. This network's accountability is shared, meaning that lead

---

<sup>230</sup> Dorothée Baumann-Pauly et al., "Industry-Specific Multi-Stakeholder Initiatives That Govern Corporate Human Rights Standards: Legitimacy Assessments of the Fair Labor Association and the Global Network Initiative," *Journal of Business Ethics* 143, no. 4 (2017): 771–87, <https://doi.org/10.1007/s10551-016-3076-z>.

companies, suppliers, and partners are responsible for upholding human rights standards. This shared responsibility encourages a culture of integrity and continuous improvement throughout the supply chain. The network's success relies on its ability to adapt and respond to changing circumstances and emerging human rights challenges. This flexibility ensures that the network remains relevant and effective in addressing both current and future human rights issues in the supply chain. Forming a cooperative network within the supply chain under the human rights regime represents a progressive step towards more ethical and sustainable business practices. By working together, companies and their partners can create a supply chain that minimizes harm and contributes positively to the realization of human rights globally.

#### 5.2.1 The regime aims to ensure responsibility throughout the production process to prevent human rights violations.

The regime's goal of ensuring responsibility throughout production is fundamental to preventing human rights violations in business operations.<sup>231</sup> This comprehensive approach requires all parties involved in the production chain to actively identify, prevent, mitigate, and account for their impacts on human rights, thereby adopting a proactive stance toward safeguarding the rights and dignity of individuals.<sup>232</sup> At the core of this goal is the principle of due diligence, a process that requires businesses to systematically and continuously assess their human rights impacts. This process enables companies to identify where they may cause or contribute to adverse human rights impacts and develop strategies to prevent or mitigate these risks. Responsibility throughout the production process also involves transparency. Companies are expected to communicate openly about their human rights policies, the steps to address potential and actual impacts, and how they remediate any adverse effects. This transparency is crucial for accountability,

---

<sup>231</sup> Diane F. Orentlicher, "Settling Accounts: The Duty to Prosecute Human Rights Violations of a Prior Regime," *The Yale Law Journal* 100, no. 8 (1991): 2537–2615, <https://doi.org/10.2307/796903>.

<sup>232</sup> Baumann-Pauly et al., "Industry-Specific Multi-Stakeholder Initiatives That Govern Corporate Human Rights Standards: Legitimacy Assessments of the Fair Labor Association and the Global Network Initiative."

allowing stakeholders, including consumers, investors, and civil society, to monitor and evaluate business practices. The regime emphasizes the importance of remediation. When human rights violations occur, businesses must have processes to provide redress and ensure that similar violations do not recur. This commitment to remediation not only helps to address the immediate impacts on affected individuals but also contributes to the long-term sustainability of the business.

Collaboration is vital to the regime's effectiveness. Businesses, governments, NGOs, and other stakeholders can create more robust mechanisms for preventing and addressing human rights violations by working together. This collaborative approach can lead to the development of shared best practices, resources, and innovations that enhance the collective ability to uphold human rights in the business sector. The regime also underscores the need for a sector-specific approach. Different industries face unique human rights challenges, and a tailored strategy enables more effective identification and mitigation of these risks. By understanding the specific context of an industry, companies can implement targeted actions that are more likely to prevent human rights violations. A global perspective is essential for ensuring responsibility throughout the production process. In our interconnected world, supply chains often span multiple countries and regions, each with its legal and regulatory landscape regarding human rights. Companies must navigate these complexities to ensure their global operations adhere to the highest human rights standards. The goal of the regime is not only to prevent harm but also to promote positive contributions to human rights. Businesses have the opportunity to positively influence society through inclusive employment practices, community engagement, and support for the rights of marginalized groups. By embracing this broader vision, companies can become catalysts for advancing human rights. Continuous improvement is a cornerstone of the regime. The dynamic nature of business and human rights contexts means that what is considered best practice today may evolve into something different tomorrow. Companies are encouraged to continually reassess and enhance their human rights strategies to stay ahead of emerging challenges and opportunities.

Ultimately, the regime's goal of ensuring responsibility throughout the production process is about embedding respect for human rights into the DNA of business operations. This approach helps prevent violations, builds trust and credibility with stakeholders, fosters long-term business success, and contributes to a more just and sustainable global economy. Multinational corporations benefit from outsourcing large parts of their operations to low-wage countries. Because it keeps production cost low and allows more significant profit<sup>233</sup> Two arguments can be developed to explore the relationship between human rights and corporations. First, the corporation's operations may lead to the erosion of human rights enjoyed by a comprehensive set of constituents, representing one often overlooked form of increasing inequality. Second, by infringing the rights of others, the corporation may end up profusely rewarding a few individuals.<sup>234</sup> According to UNGPs, corporate responsibility includes the responsibility of a business corporation's home state to take action against it for perpetrating human rights abuses in a different conflict-affected state. Prevention of unpaid labor human rights violations is as follows:

5.2.1.1 States make regulations to assist business enterprises in complying with internationally recognized human rights laws.

5.2.1.2 The states identify the conflict-affected areas and the human rights at stake.

5.2.1.3 By identifying these areas, the host country should ensure that the MNC is aware of the risks associated with engaging in business activities that may impact human rights in that region before engaging with local business enterprises. The host country can be identified with the state's business human rights agency.

5.2.1.4 The enterprise is Encouraging the creation of a voluntary standard.

5.2.1.5 They are encouraging business enterprises to join international initiatives.

---

<sup>233</sup> Karin Lukas, "Human rights in the supply chain: influence and accountability." *The UN Guiding Principles on Business and Human Rights*, (Leiden: Brill Nijhoff, 2012), 151-168, [https://doi.org/10.1163/9789004225794\\_007](https://doi.org/10.1163/9789004225794_007)

<sup>234</sup> Elisa Giuliani, "Why Multinational Enterprises May Be Causing More Inequality than We Think," *Multinational Business Review* 27, no. 3 (2019): 221–25, <https://doi.org/10.1108/MBR-10-2018-0068>.

The host country can promote or request that investment companies follow the principles promoted in global industries. The most important aspects to include in the voluntary principles for security and human rights are the varying membership types, their operational functions, and the subject matter.

5.2.1.6 E-states could require reporting requirements for business enterprises.

5.2.1.7 Due diligence: To mitigate the risk of exploiting high-skilled workers, the host country should require business enterprises to conduct human rights due diligence before commencing operations within its territory.

5.2.1.8 Protecting human rights by negotiating human rights protection in trade and investment agreements

5.2.1.9 Multilateral agreements

These nine obligations are company obligations for their own company and supply chain, whether the supply chain is located in their own country or other countries, as the first type of human rights supply chain obligation. The supply chain is a company that produces, manufactures, or assembles its products. Alternatively, as type three of a corporation's supply chain responsibility in human rights, when the supply chain company is not a branch of the company, nor the company that has raw materials, manufactures, or assembles the product, but rather part of the marketing process, which involves introducing the product to the people.

The corporate responsibility of the company's supply chain is evident in its annual reports and reporting standards. An annual report is a company's report, usually once a year. This report aims to summarize the company's journey over the past year, highlighting both its accomplishments and areas for improvement. Thus, people are aware of how the company operates. This annual report is typically an open-access publication, allowing people, governments, and other stakeholders to access it openly.

The concept of supply chain production and the manufacturing process began in the 1990s, following intense media coverage that highlighted the harm to human rights caused by soil or offshore production as companies produced their

goods.<sup>235</sup> International alignment of expectations that companies behave responsibly by Human rights harm on their operations,<sup>236</sup> Companies such as H&M, Levi Strauss Mexico, El Puerto de Liverpool, Diltex Group, and Palacio de Hierro Group in Mexico have adopted forms of due diligence and codes of conduct for suppliers that include requirements related to human rights.<sup>237</sup>

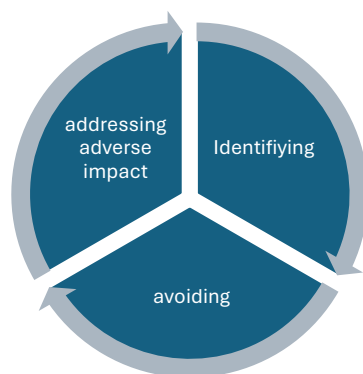


Figure 16: A cyclical process of managing and mitigating adverse impacts in a business or organizational context, specifically focusing on identifying, avoiding, and addressing adverse impacts.<sup>238</sup>

The figure illustrates a cyclical process for managing and mitigating adverse impacts in a business or organizational context, with a specific focus on identifying, avoiding, and addressing these impacts. Each part of the cycle begins with identification. This stage involves recognizing and assessing potential adverse impacts caused by business operations, activities, or supply chains. It is the first step in understanding what issues need to be addressed. Companies typically use due diligence processes to identify human rights violations, environmental concerns, or other negative impacts. The second step is avoidance; after identifying potential risks, the next step is to implement measures to prevent these adverse

<sup>235</sup> Justine Nolan, “The Corporate Responsibility to Respect Rights: Soft Law or Not Law?,” in *Human Rights Obligations of Business: Beyond the Corporate Responsibility to Respect?*, ed. Surya Deva and David Bilchitz (Cambridge University Press, 2011), <https://doi.org/10.1017/CBO9781139568333>.

<sup>236</sup> Robert McCorquodale and Justine Nolan, “The Effectiveness of Human Rights Due Diligence for Preventing Business Human Rights Abuses,” *Netherlands International Law Review* 68, no. 3 (2021): 455–78, <https://doi.org/10.1007/s40802-021-00201-x>.

<sup>237</sup> Business and Human Rights Resource Center, Hidden Cost: Human Rights Policy and Practice in Mexico's Apparel Supply Chains, <https://www.business-humanrights.org/en/from-us/briefings/labour-rights-in-fashion-policy-and-practice-in-mexicos-apparel-supply-chains/>, accessed on September 26, 2024

<sup>238</sup> Ibid.,

impacts before they occur. Avoidance may include implementing practice changes, adopting preventive policies, or taking proactive steps to mitigate risk. The goal is to prevent negative consequences, particularly in relation to human rights, environmental sustainability, and ethical issues. Third is addressing adverse impacts; if adverse impacts occur despite preventive efforts, this stage focuses on addressing and mitigating those impacts. Addressing adverse impacts can involve corrective actions, remediation for affected parties, or ensuring the issue is appropriately handled through compensation, reforms, or adjustments in business practices.

Moreover, the arrows in the diagram indicate that this is an ongoing, continuous process. Businesses must continually identify new risks, mitigate their impacts where possible, and address any remaining impacts that arise. This cycle repeats as businesses evolve, new risks emerge, and different impacts are realized. The figures outline a three-part framework for businesses or organizations to handle their negative impacts responsibly. It begins with identifying potential risks, avoiding them whenever possible, and addressing them effectively if they do occur. This continuous improvement cycle aligns with best corporate responsibility and risk management practices.

Interestingly, a survey was conducted by Consultancy. EU,<sup>239</sup> In Europe, over 60% of companies consider having onshore activities outside their country and region. The survey results for Asia-based companies, presented as a Pie chart, are shown below.

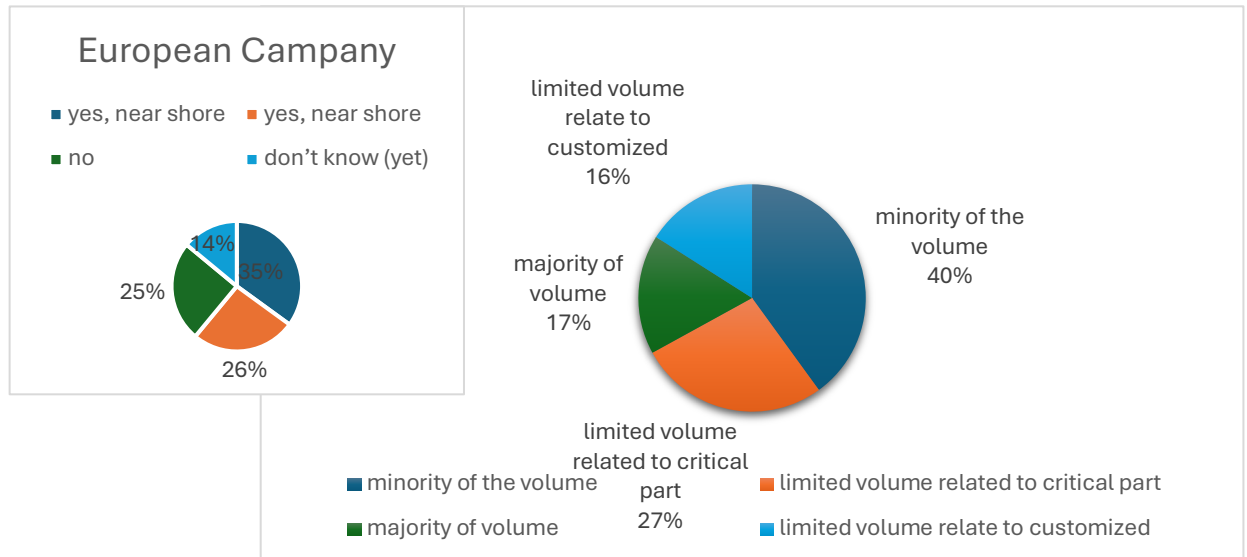


Figure 16: The percentage of European companies with an Asian country on their shore<sup>240</sup>

The pie chart shows the percentage of European companies with an Asian country on their shore. The phenomenon is happening because Asian countries have low wages and little to no legislation on human rights. This situation will bring more benefits to the corporation and increase its profit. Thus, a company must also have a duty toward its supply chain. This research examines how international regulations affect a corporation's obligations within its supply chain, utilizing the UN Guiding Principles on Business and Human Rights, also known as the "Protect, Respect, and Remedy" framework, as the primary theoretical foundation.

People have increased awareness about the origin and manufacturing of the product. So, 'where' and 'how' the product is made 'under' what conditions the produced became necessary, the supply chain can be defined as a series of events from raw materials to finished materials to consumers, including promotion through

<sup>239</sup>European Companies Increasingly moving to restore Asia Production, <https://www.consultancy.eu/news/7430/european-companies-increasingly-moving-to-reshore-asia-production> accessed on May 9 May 9, 2022

<sup>240</sup> Ibid.,

various media. From raw materials to the complete arranged activities, economic actors engage in every stage to bring a product to market. In other words, the supply chain refers to the entire life cycle of the company project. The supply chain is not a value chain because it is defined as the sequence of processes involved in producing and distributing a product or service.

Meanwhile, the value chain refers to the process or activities by which a company adds value to a product, including production, marketing, and after-sales services. A recent supply chain incident has occurred in the Bangladesh RMG industry. This case started when a fire at the Tazreen factory in 2012 killed and injured at least 312 people and over 200 more.<sup>241</sup> Around these years, the Rana Plaza building collapsed, killing more than 1100 people and harming over 2500 more. The international community believes this is due to the lack of protection for the company. Following this accident, many foreign buyers withdrew their orders for Bangladeshi garments.<sup>242</sup> This act of the company undermines its human rights obligations to its corporation.

### 5.2.2 The form of supply chain in business and human rights Regimes

Generally, international human rights treaties do not impose direct legal obligations on business enterprises. Still, the United Nations Guiding Principles set the baseline responsibility of all enterprises as respect for human rights. National law has established the framework for legal liability and the enforcement of infringement in accordance with international human rights standards. Business enterprises can affect the human rights of their employees, customers, and workers in the supply chain around their operations. As stated in Principle 13 UNGPs, the responsibility to respect human rights requires that business enterprises: (a) Avoid causing or contributing to adverse human rights impacts through their activities and address such impacts when they occur; (b) Seek to prevent or mitigate adverse

---

<sup>241</sup> Mahmudul Islam, Bangladesh RMG Industry's Robust Growth and Challenges, <https://businessinspection.com.bd/rmg-industry-of-bangladesh/>, accessed on May May 19, 2022

<sup>242</sup> Anil Kumar et al., "Evaluating Sustainable Drivers for Social Responsibility in the Context of Ready-made Garments Supply Chain," *Journal of Cleaner Production*, 2019, <https://doi.org/10.1016/j.jclepro.2019.119231>.

human rights impacts that are directly linked to their operations, products or services by their business relationships, even if they have not contributed to those impacts.

Moreover, Chapter II (General Policies) of the OECD guidance on RBC states that enterprises should seek to prevent or mitigate the impact where they have not contributed to that impact, even if the impact is nevertheless linked to their operations, products, or services through a business relationship. From this statement, the OECD imposes a corporate obligation on its supply chain, so even if a company does not cause harm, it still has a responsibility if its suppliers or contractors (in their supply chain) cause harm. Chapter IV (Human rights) also adds that a company must avoid or causing to adverse human rights impacts and address such impacts when they occur, and seek to prevent or mitigate adverse human rights impacts that are directly linked to their business operations, products, or services by a business relationship, even if they have not contributed to those impact.

Furthermore, Paragraphs 8 (eight) and 9 (nine) of the ILO Declaration of Principles concerning Multinational Enterprise said that even if companies work through subcontractors, they should promote respect for labor rights throughout the supply chain. Paragraphs 42 to 45 also discuss the supply chain, stating that the enterprise should take steps to ensure that subcontractors and suppliers also respect fundamental labor standards.

From principle 13 UNGPs, OECD Guidance, and ILO MNE Declaration, a business can be involved in its supply chain in three ways:

- (i) It is causing adverse human rights impacts through its activities.
- (ii) It contributes to adverse human rights impacts through its actions, either directly or indirectly, through another entity, such as a government, business, or other organization.
- (iii) Neither causing nor contributing to the harmful effects but still being indirectly involved in impacts directly linked to its operations, products, or services because of relationships with business partners, entities in the value chain, or any other nonstate or state entity directly related to its business operations, products, or services.

Although the three supply chain concepts are resolution, guidance, and declarations, as the writer wrote in Chapter 2 (two (3)), resolution can transform into customary international law as long it at least meets two main requirements, which are time and continuing. The UNGPs were agreed upon by the state 15 years ago, and most people have incorporated this norm into their national laws. Moreover, international organizations like the OECD and ILO have applied the UNGPs' principles to their operations.

#### *5.2.2.1 Causing adverse human rights impacts through corporation activities.*

Causing adverse human rights impacts through corporation activities means that the corporation's supply chain activities are causing harm to human rights. Principle 13 states, '... avoid causing..., ... human rights impacts that are directly linked to their operations.' States must ensure that businesses within their jurisdiction do not violate human rights, either at home or abroad, by adhering to the principles outlined in the UN Protect, Respect, and Remedy Framework and its accompanying guidance. This principle states that the state and corporations are responsible for upholding human rights.<sup>243</sup>

Causing itself has the meaning of making something happen. Cambridge defines causing as making something happen, especially something wrong.<sup>244</sup> Thus, pushing human rights corporations to respect human rights in their supply chains means the corporation, as a parent company, needs to take responsibility and conduct due diligence. This supply chain responsibility is applied to companies with subsidiaries in other countries. Thus, the company acts as a parent company. Another example is when the company invests and cooperates with other countries regarding foreign direct investment.

---

<sup>243</sup> Jernej Letnar Čerňič, "Institutional Actors As International Law-Makers in Business and Human Rights: The United Nations Guiding Principles on Business and Human Rights and Beyond," *Pravni Zapisi* 12, no. 2 (2021): 594–617, <https://doi.org/10.5937/pravzap0-35034>. accessed March 20 March 20 2024

<sup>244</sup> <https://dictionary.cambridge.org/dictionary/english/cause>, Access on May 18 May 18, 2022

The table below shows the top ten foreign companies' direct investments in an ASIAN country.<sup>245</sup>

1. UK 2. Japan 3. Netherland	Top sources country for foreign direct investment	Brunei
1. Malaysia 2. China 3. Taiwan		Cambodia
1. Singapore 2. Japan 3. South Korea		Indonesia
1. Thailand 2. China 3. Vietnam		Laos
1. US 2. South Korea 3. Japan		Malaysia
1. China and Hongkong 2. Thailand 3. South Korea		Myanmar
1. Japan 2. Netherland 3. U. S		Philippines
1. Netherland 2. U.S 3. Japan		Singapore
1. Japan 2. Malaysia 3. The US.		Thailand
1. Taiwan 2. South Korea 3. Singapore		Vietnam

Table 5: Foreign direct investment for ASEAN countries

As Table 4 shows, one of the reasons the supply chain matters is the availability of Foreign direct investment. As in countries seeking to attract investment through race-to-the-bottom-style wage, competition tends to result in activities and business relationships that engage with and help to reproduce social

<sup>245</sup> Christine Kaufmann et al., *Business and Human Rights in ASEAN: A Baseline Study* (Depok, Indonesia: Human Rights Resource Centre Human, 2013), <http://hrrca.org/wp-content/uploads/2015/09/Business-and-Human-Rights-in-ASEAN-Baseline-Study-ebook.pdf>.

problems that are structural and therefore difficult for one company to solve on its own, such as low wages, poor working conditions, the repression of workers' organizations and vulnerabilities associated with migrant labor. What should a responsible business do when it is not the sole source of risk, adverse impact, or a structural problem that requires collective solutions? The reality of dilemmas is genuine for most companies, particularly those operating in global value chains, which connect them to complex and risky production processes. Within the ASEAN region, a growing trend is emerging where neighboring countries are investing in their own countries.

In the context of UNGPs, direct causation of human rights harm refers to situations where a company's actions or failures to act directly lead to adverse human rights impacts. This causation does not involve intermediate actors; the company's activities immediately cause harm. Direct causation occurs when there is a clear and immediate link between a company's operations, products, or services and the negative impact on human rights. This is not about indirect or distant impacts but rather the direct, observable consequences of a company's actions or inactions. For example,

- 5.2.2.1.1 Labor rights violations: If a company forces its employees to work in unsafe conditions, leading to injuries or fatalities, it is directly violating the right to safe and healthy working conditions. For instance, a garment factory that does not implement adequate safety measures, resulting in an accident that injures workers, is directly responsible for the harm.
- 5.2.2.1.2 Environmental degradation, such as a mining company discharging toxic waste into a local water source without proper treatment, directly harms the community's right to clean water and health. Directly discharging pollutants without regard for environmental safeguards exemplifies the direct causation of harm to human rights.
- 5.2.2.1.3 Displacement of communities: If a corporation builds a large-scale development project without the consent of the local community, leading to their forced eviction, the company is directly causing harm to their rights to housing and an adequate standard of living. An example

is a real estate developer who must properly consult with the local community before starting construction, which can result in the displacement of families.

5.2.2.1.4 Privacy violations: A tech company that collects and uses personal data without the informed consent of its users directly infringes on their right to privacy. For instance, if a social media platform harvests user data for profit without transparent policies and user consent, it directly infringes upon users' rights to privacy.

Their supplier and sub-contractor can create a form of human rights violation by the company. For example, forced labor in the supply chain, the supplier or subcontractor may utilize forced labor within their operations, either through coercion, deception, or debt bondage. For example, workers are forced to work long hours in unsafe conditions without adequate pay. This happened in the Foxconn and Apple Case; Foxconn, a Taiwanese multinational electronics contract manufacturer, is known for producing electronic products for major companies, including Apple.<sup>246</sup> Since the early 2000s, Foxconn has been one of Apple's primary suppliers, manufacturing products like the iPhone, iPad, and MacBook. Their partnership significantly contributed to Apple's growth and the rapid production of cutting-edge technology. However, Foxconn's factories, particularly in China, have been scrutinized for labor practices. Reports of harsh working conditions emerged, including long hours, low wages, and strict management. The spotlight on these conditions peaked in 2010 when a series of worker suicides occurred at Foxconn's Shenzhen factory, drawing global attention to the human cost behind Apple's products. The case around Foxconn and Apple primarily revolves around labor rights violations. Investigations by journalists and NGOs revealed several concerning practices:

5.2.2.2.1 Working Conditions at Foxconn's factories were often subjected to long working hours, with some reports

---

<sup>246</sup> Hilary K. Josephs, "Production Chains and Workplace Law Violations: The Case of Apple and Foxconn," *Global Business Law Review* 3, no. 2 (2013): 211–28, <https://engagedscholarship.csuohio.edu/gblr/vol3/iss2/5>.

indicating shifts exceeding 12 hours. Workers were also required to perform repetitive tasks in a high-pressure environment with strict demands for quality and performance.

5.2.2.2.2 Foxconn workers lived in on-site dormitories under crowded conditions. The lack of personal space and the monotonous routine created a stressful environment. Worker Suicides: The spate of suicides in 2010 at Foxconn's Shenzhen plant brought widespread media attention. It was reported that 18 employees attempted suicide, with 14 deaths. The incidents were attributed to the grueling work environment, harsh management, and inadequate employee support.

Apple faced significant criticism for its association with Foxconn. As the primary buyer of Foxconn's services, critics argued that Apple was responsible for ensuring fair labor practices in its supply chain. In response, Apple took steps to address these issues, such as joining the Fair Labor Association (FLA) and conducting regular audits of its suppliers. In 2012, Apple became a member of the Fair Labor Association (FLA), which conducted an independent investigation into the working conditions of Apple's supplier, Foxconn, a private company based in China. Apple supports the FLA of the FLA's "Workplace Code of Conduct" to conduct investigations into Foxconn suppliers located at three factories in Guanlan, Longhua, and Chengdu, China. There are a series of measures to improve welfare by protecting the health and safety of workers, minimizing overtime, and ensuring decent wages, thereby empowering workers to take an interest in their lives and livelihoods.<sup>247</sup> It shows that after the scrutiny, both Apple and Foxconn took several actions to address the criticisms. They improved the working conditions. Foxconn has attempted to improve working conditions at its factories by reducing overtime

---

<sup>247</sup> Desty Maharani and Tirta Nugraha Mursitama, "Implementing Ethical 'Code of Work Ethics': A Case Study of Apple and Foxconn Supply Chain," *E3S Web of Conferences* 426 (2023): 1–9, <https://doi.org/10.1051/e3sconf/202342602152>.

hours, increasing wages, and enhancing dormitory conditions. Safety measures were also enhanced to create a better work environment. On the other side, Apple intensified its supplier responsibility program, conducting more frequent audits and imposing stricter standards on its suppliers. Apple's Supplier Code of Conduct was updated to enforce labor rights, including reasonable working hours and humane treatment. Apple engaged the FLA to conduct independent audits of Foxconn facilities. These audits provided transparency and highlighted areas for improvement. By this, Foxconn began to invest in automation to reduce reliance on human labor. This move aimed to minimize the risk of labor rights issues and raised concerns about job losses.

The situation at Foxconn has reportedly improved since the peak of the crisis, with better working conditions and increased wages. However, challenges persist as periodic reports of labor rights violations continue to surface. Apple continues to monitor its supply chain and publish an annual Supplier Responsibility Progress Report to maintain transparency. The Foxconn and Apple case is a significant example of the ethical dilemmas companies face in globalized production networks. It highlights the ongoing need for corporate responsibility and the importance of striking a balance between efficiency and human rights to achieve economic growth. Another example is German retailer KIK, who had to pay compensation for the Ali Express factory fire in Karachi, Pakistan, in 2012, as KiK is the company's primary buyer. KiK paid \$1 million immediately after the tragedy.<sup>248</sup> After extended campaigning and negotiation in September 2016, KiK agreed to pay \$5.15 million into the fund to provide pensions for the affected families.<sup>249</sup> The background is that on September 11, 2012, a devastating fire broke out at the Ali Enterprises garment factory in Karachi, Pakistan, resulting in the deaths of at least 260 workers. The factory produced clothing for several

---

<sup>248</sup> Martje Theuws et al., *Fatal Fashion "Analysis of Recent Factory Fires in Pakistan and Bangladesh: A Call to Protect and Respect Garment Workers' Lives"*, Clean Cloth Campaign & Somo (Amsterdam: Stichting Onderzoek Multinationale Ondernemingen (SOMO), Centre for Research on Multinational Corporations, 2013).

<sup>249</sup> Abitipuliti, Compensations payments to the victims of the Ali Enterprises fire have finally begun, <http://www.abitipuliti.org/news/iniziati-finalmente-i-risarcimenti-alle-vittime-dellincendio-alla-ali-enterprises-del-2012/> accessed June 3, 2024.

international retailers, including the German discount retailer KIK. This tragedy highlighted severe issues related to industrial safety standards, corporate responsibility, and the treatment of workers in developing countries.

The fire at the Ali Enterprises factory<sup>250</sup> is considered one of the deadliest industrial disasters in Pakistan's history. The blaze quickly engulfed the building, trapping hundreds of workers inside. Emergency exits were either blocked or non-existent, and windows were barred with metal grills, leaving workers with no escape. Additionally, the factory was reported to have only one functional exit, which was insufficient for the number of employees present. Working Conditions: Prior to the fire, the factory was notorious for its poor working conditions. Employees worked long hours in an environment that lacked basic safety measures. The building was overcrowded, had inadequate emergency exits, and lacked essential fire safety equipment, including alarms and sprinklers. Reports indicated that the factory management had locked the exits to prevent theft, which tragically contributed to the high death toll during the fire.

KIK was one of the primary buyers from the Ali Enterprises factory, sourcing garments for its retail operations. The association with KIK brought the company under intense scrutiny due to its indirect involvement in the fire. Before the fire, Ali Enterprises had received a certification from an international social auditing firm, indicating compliance with safety standards. However, the fire exposed the inadequacies and superficial nature of these audits, raising questions about the effectiveness of certification processes and the responsibility of international buyers to ensure the safety of their supply chains. Corporate Responsibility: Following the disaster, KIK faced backlash for not ensuring its suppliers adhered to safety standards. As a significant client of Ali Enterprises, KIK was criticized for prioritizing low-cost production over worker safety. This incident sparked a debate on the responsibility of international corporations to oversee labor practices and safety conditions in their supply chains, particularly in developing countries.

---

<sup>250</sup> Clean Clothes Campaign, Justices for the Ali enterprises victims, <https://cleanclothes.org/campaigns/past/ali-enterprises>, Accessed February 9, 2025

In response to the public outcry, KIK negotiated with worker representatives and labor rights organizations to compensate the victims and their families. In 2016, after several years of negotiations, KIK agreed to pay \$5.15 million in compensation to the families of the deceased and injured workers.<sup>251</sup> This settlement was a significant step towards corporate accountability, although it came after considerable pressure from global labor rights groups. Legal actions were also pursued against the factory owners and government officials for negligence. However, these cases faced numerous challenges, including corruption, bureaucratic hurdles, and inadequate enforcement of labor laws in Pakistan. The Karachi factory fire had broader implications for the global garment industry, as it highlighted the urgent need for improved safety standards in garment factories, particularly in countries like Pakistan, where labor laws are often poorly enforced. The tragedy led to increased calls for international retailers to ensure that their suppliers comply with safety regulations and ethical labor practices.

The incident brought global attention to the working conditions in garment factories in South Asia, similar to the scrutiny that followed the Rana Plaza collapse in Bangladesh in 2013. It highlighted the risks faced by workers in supply chains, prioritizing cost-cutting over safety and human rights. Corporate Accountability: The settlement with KIK set a precedent for holding multinational corporations accountable for the conditions in their supply chains. It sparked a conversation about the role of international buyers in ensuring the safety and rights of workers in their overseas factories. Since the fire, efforts have been made to improve factory safety in Pakistan. However, challenges persist due to systemic issues, including weak enforcement of labor laws, corruption, and economic pressures that drive manufacturers to cut corners on safety to remain competitive. KIK and other international retailers have been pressured to adopt more robust auditing and monitoring mechanisms to ensure safe working environments throughout their supply chains. The Ali Enterprises fire remains a tragic reminder of the human cost

---

<sup>251</sup> Miriam Saage-Maaß et al., *Transnational Legal Activism in Global Value Chains: The Ali Enterprises Factory Fire and the Struggle for Justice*, vol. 6 (Springer, 2021), <http://www.springer.com/series/15339>.

of inadequate safety standards and the need for ethical sourcing practices in the global garment industry.

Thus, causing human rights violations means that a company or entity's actions or operations directly infringe on individuals' or communities' fundamental rights. Causing human rights violations could involve practices such as forced labor, unsafe working conditions, environmental damage that affects health, or discrimination. In such cases, the company's conduct is the primary factor that harms or deprives the rights guaranteed by international human rights standards. Understanding direct causation is crucial for companies to effectively identify, prevent, and address their impacts on human rights. It underscores the importance of due diligence and proactive measures to ensure that their operations do not infringe on the rights of individuals and communities.

Corporations are responsible for "causing" harm when their supply chain engages in human rights violations as part of their business activities.

#### *5.2.2.2 Contributing to human rights harms either directly or through another entity*

Contribute can be defined as giving to achieve or provide something; thus, contributing to human rights harm means giving or acting in a way that results in the violation of one's human rights. In this type, the company's human rights violations are in its supply chain. As mentioned above, a supply chain is an integrated process in which various businesses collaborate to acquire raw materials, convert them into specific final products, and deliver these products to retailers and consumers.<sup>252</sup> For example, KFC is their supplier of chicken feet. The electronic company is one of their suppliers of raw materials, among others. Contributing to human rights harms means that a company or entity plays a role in causing or facilitating violations, either directly through its actions or indirectly through its relationships with other entities, such as suppliers, business partners, or governments. This contribution might not be the primary cause of the harm, but the

---

<sup>252</sup> Benita M. Beamon, "Supply Chain Design and Analysis: Models and Methods," *Int. J. Production Economics* 55 (2006): 281—294, <https://doi.org/10.1109/LEOS.2006.278761>.

company's involvement enables, exacerbates, or perpetuates the human rights violation.

Contribution to human rights harm through association with another entity, as outlined in UNGPs, "...contributing to adverse human rights impact through their activities or contribute ...". This situation refers to situations where a company's actions, products, or services facilitate, exacerbate, or incentivize human rights abuses committed by another party. This form of contribution does not require the company to engage in the harmful act directly but indicates that the company's involvement supports or influences the act in some way. Contribution to human rights harm occurs when a company's actions or business relationships enable, facilitate, or exacerbate human rights violations committed by another party, such as a partner or a governmental body. The company's involvement provides assistance or encouragement, making the harm more likely or severe. For example:

5.2.2.2.1 Financial Support to Harmful Projects: A bank that provides loans or financial services to an enterprise involved in land grabbing or environmental destruction contributes to human rights abuses. If, for instance, the bank finances a palm oil plantation that illegally seizes land from Indigenous communities without their consent, the bank contributes to the violation of the communities' land rights.

Financial institutions, including banks, investment firms, and development finance institutions, play a significant role in the global economy by providing the capital necessary for businesses to grow and operate. Their financial support has a direct influence on corporate behavior and human rights across various sectors through loans, investments, and other financial services. As critical stakeholders in the business and human rights landscape, financial institutions have the power and responsibility to promote human rights protection by ensuring that their financial activities do not contribute to human rights violations.

Direct contributions to financial institutions may contribute to human rights violations if their financial services or products support projects with known adverse human rights impacts. For example, providing a loan to a company building

a dam that will forcibly displace Indigenous communities without adequate compensation can directly link the financial institution to human rights abuses. Meanwhile, indirect contributions are more commonly made when financial institutions indirectly contribute to human rights harms by providing financial support to companies that engage in practices such as forced labor, environmental degradation, or poor working conditions within their supply chains.

The financial support provided by banks and investors influences corporate decision-making. When companies rely on financial institutions for capital, they are often subject to conditions or requirements set by their financiers. This leverage enables financial institutions to encourage companies to adopt responsible business practices, including adherence to human rights standards. Financial institutions can either enable or exacerbate negative human rights impacts when they fail to incorporate human rights considerations into their financing decisions. For example, financing extractive industries without due diligence on their social and environmental practices can lead to human rights abuses such as land grabbing, environmental harm, and the violation of indigenous rights. Responsibilities of financial institutions in human rights protection: Financial institutions are responsible for respecting human rights as outlined in international frameworks, such as the United Nations Guiding Principles on Business and Human Rights (UNGPs). This responsibility includes conducting human rights due diligence to identify, prevent, and mitigate adverse impacts linked to their financial activities.

Human rights due diligence, as assessed and monitored by financial institutions, is expected to evaluate the potential impacts of their financial support on human rights. Human rights due diligence involves evaluating the human rights risks associated with their clients' operations and sectors. Ongoing monitoring ensures that financial support does not contribute to human rights abuses over time. Thus, in their operations, financial institutions must conduct screening and risk management, where banks and investors should screen clients and projects for human rights risks before providing financial support. Monitoring may include assessing a company's labor practices, community relations, environmental management, and supply chain standards.

Financial institutions have significant leverage over the companies they finance. They can use this leverage to encourage or require clients to adopt human rights policies, implement mitigation measures, and engage in responsible business practices. For example, a bank can condition financing on a company implementing a robust human rights due diligence process. When human rights risks are identified, financial institutions should engage with clients to address these issues. The identified might involve working with a company to improve labor conditions, adopt environmental safeguards, or remediate adverse impacts. Moreover, financial institutions should publicly commit to respecting human rights and integrating these commitments into their policies, procedures, and decision-making processes. This transparency demonstrates a commitment to ethical finance and sets expectations for clients and stakeholders. Furthermore, Financial institutions should disclose their human rights policies, due diligence processes, and how they address human rights impacts. Transparency helps build trust with stakeholders and demonstrates accountability for their role in promoting human rights.

Examples of financial support and human rights protection include the Equator Principles. Nowadays, many global banks have adopted the Equator Principles, a risk management framework that determines, assesses, and manages environmental and social risks associated with projects. These principles require signatory banks to ensure that financed projects meet international human rights, labor, and environmental protection standards.

Investment firms increasingly incorporate environmental, social, and governance (ESG) criteria into their investment decisions. SRI includes assessing companies' human rights performance, such as labor practices and community impact. Investors may divest from or avoid investing in companies with poor human rights records. World Bank and IFC Standards, The World Bank, and the International Finance Corporation (IFC) have established environmental and social safeguards that require projects to adhere to human rights standards. For example, the IFC's Performance Standards on Environmental and Social Sustainability establish requirements for labor and working conditions, community health, and the protection of indigenous peoples in projects funded by the IFC.

Challenges in upholding human rights in financial support have become complex due to the global nature of supply chains, as financial institutions often finance companies with intricate supply chains, making it challenging to monitor and ensure compliance with human rights standards throughout these networks. Financial institutions face balancing profit motives with ethical considerations. While financing high-risk sectors may be lucrative, it often involves higher human rights risks, requiring careful assessment and management. A lack of transparency in financial transactions can obscure the human rights impacts of financial support. For example, financing projects in countries with weak governance or human rights protections can be challenging to scrutinize. Financial institutions have a crucial role in the business and human rights regime due to their influence over corporate behavior through capital provision. By conducting human rights due diligence, leveraging their influence to promote responsible business practices, and committing to transparency, financial institutions can effectively contribute to the protection and promotion of human rights. However, they face challenges related to complex supply chains, the balance between profit and ethics, and the need for robust monitoring and oversight. Addressing these challenges is critical to ensuring financial support aligns with human rights standards and contributes to sustainable and ethical business practices.

5.2.2.2.2 Logistics and transportation provider: Entities involved in logistics and transportation within the supply chain can contribute to human rights harm through their practices. For example, if a shipping company transports goods produced using forced labor or child labor, it indirectly enables and facilitates those human rights violations.

Logistics and transportation providers play a crucial role in global supply chains, facilitating the movement of goods and services across vast distances to connect producers, manufacturers, and consumers. Given their pivotal role, these companies significantly impact human rights and face various challenges and responsibilities in ensuring their operations respect and protect human rights. Potential Human Rights Impacts in Logistics and Transportation.

Labor Rights can harm the logistics and transportation industry, which often involves a large workforce, including truck drivers, warehouse workers, port laborers, and logistics managers. These workers may face issues such as poor working conditions, long working hours, inadequate rest breaks, and unsafe working environments in parts of the logistics sector. For instance, truck drivers may be pressured to meet tight delivery schedules, which can lead to fatigue and an increased risk of accidents. Additionally, in some regions, logistics workers receive low wages and lack adequate labor protections. Contract workers, temporary employees, and migrant laborers are particularly vulnerable to exploitation, with limited access to benefits, job security, or legal recourse.

Forced labor and human trafficking can happen in the logistics sector, particularly in international shipping and road transport, and is at risk of being linked to forced labor and human trafficking. Human rights risks can occur through exploitative recruitment practices, where workers are coerced into harsh working conditions, have their identification documents withheld, or are subjected to deceptive employment terms. The health and safety of workers in logistics and transportation are at risk due to various hazards, including heavy lifting, exposure to hazardous materials, prolonged driving hours, and the potential for accidents. The operations of logistics and transportation providers can also have a significant impact on local communities. For instance, large-scale transport operations can lead to environmental pollution (air, noise, and water), disrupting the livelihoods and health of residents. The construction of logistics infrastructure, such as ports or warehouses, may also result in land displacement and impact the rights of local communities.

Logistics and transportation providers are responsible for respecting human rights across their operations and business relationships. The construction of infrastructure involves implementing policies, conducting due diligence, and taking proactive measures to prevent and address human rights abuses. Providers should conduct regular human rights due diligence to identify, prevent, and mitigate operational risks. Due diligence includes assessing labor practices, working conditions, and the potential impacts of their activities on local communities and

the environment. Companies should ensure that all employees, including those working under contract or temporarily, receive fair wages, reasonable working hours, and safe working conditions. Fair labor practices involve adhering to labor standards, providing rest breaks, and ensuring a safe work environment. Workers should have the right to form or join trade unions and engage in collective bargaining without fear of retaliation. Companies should support workers' rights to freedom of association and establish mechanisms for addressing grievances and resolving disputes. Logistics providers must be vigilant against forced labor and human trafficking within their operations and supply chains. Company policy includes implementing strict policies against such practices, conducting regular audits, and ensuring transparent recruitment practices. Companies must comply with health and safety regulations and implement robust safety protocols, including regular training, proper equipment maintenance, and measures to prevent accidents and injuries. Logistics operations can have significant impacts on local communities. Companies should engage with affected communities, assess environmental and social impacts, and take steps to mitigate any adverse effects. Companies can involve adopting environmentally sustainable practices, such as reducing emissions and minimizing noise pollution.

Some logistics companies, such as DHL and Maersk, have developed human rights policies and participate in industry initiatives like the UN Global Compact, ILO standards, and the Sustainable Shipping Initiative. These frameworks guide companies in implementing responsible business practices that protect human rights and promote sustainable development. Logistics providers can audit their supply chains to ensure that third-party suppliers and subcontractors comply with labor standards and human rights policies. For example, a logistics company may audit its trucking subcontractors to ensure fair wages, safe driving hours, and compliance with labor laws. By adopting environmentally sustainable practices, logistics providers can reduce their negative impact on communities. For instance, using eco-friendly vehicles, optimizing delivery routes to reduce emissions, and investing in renewable energy for warehouses can help minimize environmental harm.

Challenges in upholding human rights in complex supply chains of the logistics sector often involve multi-tiered supply chains, making it challenging to monitor and ensure compliance with human rights standards at every level. Competitive cost pressures in logistics can lead to prioritizing efficiency over workers' rights and safety. Companies must strike a balance between cost-effectiveness and ethical labor practices. Human rights standards and labor laws vary across countries. Logistics providers in multiple jurisdictions must navigate differing regulations and cultural norms while upholding consistent human rights protections. Logistics and transportation providers are vital to global commerce, but they are also responsible for protecting human rights within their own operations and supply chains. Human rights protections encompass ensuring fair labor practices, addressing risks of forced labor, maintaining health and safety standards, and mitigating their impact on local communities. By conducting human rights due diligence, engaging with stakeholders, and adopting sustainable practices, logistics companies can contribute to a more ethical and socially responsible supply chain.

Understanding the concept of contribution to human rights harm is vital for companies to navigate their responsibilities under the UNGPs. It emphasizes the need for thorough due diligence to identify potential indirect impacts on human rights and to take proactive steps to prevent or mitigate their involvement in such abuses, thereby fostering responsible business conduct in alignment with global human rights standards. Contributing to human rights harms involves being part of a chain of actions or relationships that result in violations. Companies must recognize their indirect influence on such harms and take steps to ensure that their business practices do not contribute to the infringement of human rights, emphasizing the importance of thorough due diligence and responsible business conduct. In this context, a company contributes to human rights harms when it knows of the violations occurring and its activities, policies, or lack of oversight have a causal connection to the harm. The company may not directly carry out the violation. However, its business practices, such as inadequate supply chain management, insufficient labor standards, or financial incentives, create an environment that allows such harm to occur. Recognizing this contribution is

crucial for companies to take responsibility and implement measures to prevent and address human rights abuses within their sphere of influence.

### 5.2.3 *Neither causing nor contributing to human rights harm.*

Non-causation and non-contribution to human rights harm within the context of UNGPs refer to a scenario where a company is neither directly causing human rights violations through its activities nor contributing to violations through its relationships with other entities. However, the company may still be connected to the harm through its products, services, or business relationships and is responsible for addressing these impacts. Non-causation and non-contribution occur when a company's operations, products, or services are linked to a human rights violation. However, the company has not directly caused or contributed to the harm.

Neither Causing nor Contributing to Human Rights Harm" refers to a situation where a company or entity is not directly responsible for, nor does it contribute to, human rights violations. However, this does not entirely absolve the company of its responsibilities. Here is a breakdown of what this entails: Not Causing Harm happens when the company's activities, operations, or decisions are not the direct source of the harm. There is no causal link between the company's actions and the human rights violation. For example, a company does not employ forced labor or engage in activities that directly lead to such abuses. Not Contributing to Harm means the company does not play a role in enabling, facilitating, or exacerbating the harm. It does not have a relationship with third parties that might lead to a situation where its involvement indirectly contributes to human rights abuses.

Direct linkage without contribution or causation: Even if a company neither causes nor contributes to human rights harm, it may still be "directly linked" to the harm through its business relationships. In such cases, a direct link exists between the company's operations, products, or services and human rights harm through its business relationships, such as those with its suppliers, customers, or partners. For example, a company sourcing material from a supplier known for poor labor

practices has a direct link to potential human rights violations in its supply chain. Responsibility Under UNGPs, companies are responsible for using their leverage to influence these business relationships and encourage adherence to human rights standards, even if they are not directly causing or contributing to harm.

A practical Example Scenario is a multinational electronics company that purchases components from a supplier in another country. The supplier operates ethically and holds relevant certifications. Later, it is revealed that the supplier's subcontractor is involved in child labor. Thus, the electronics company neither caused nor contributed to child labor directly, as it did not engage in or influence practices that led to the exploitation of children. However, it may have a direct link to human rights violations through its supply chain. While not causing or contributing to such issues, the company is expected to continuously assess its supply chain, engage in due diligence, and utilize its leverage to prevent and mitigate such problems. The due diligence process may involve working with the supplier to address the issue or reassessing their business relationship if they fail to take corrective action.

Implications for business practice due diligence: Companies must conduct human rights due diligence to identify, prevent, and address human rights risks in their operations and value chains. Implementing due diligence means maintaining ongoing assessments of potential human rights impacts, even when they do not directly cause or contribute to them. If a company is directly linked to human rights harm, it should utilize its influence and leverage to promote positive change. For example, it can require its suppliers to adhere to specific labor standards or work collaboratively with stakeholders to improve conditions. The company should engage with affected stakeholders, including workers, communities, and human rights organizations, to understand the harm and explore potential remediation actions, if appropriate.

In some cases, a company may have limited leverage over its business partners, especially in complex global supply chains. However, it is still expected to take reasonable steps to influence positive change. Identifying links to human rights abuses in extensive, multi-tiered supply chains can be a challenging task.

Companies need to implement robust monitoring mechanisms to detect potential risks early on. Neither causing nor contributing to human rights harm" means that a company is not directly responsible for or actively involved in human rights violations. However, companies may still be directly linked to such harm through business relationships. In these cases, they are responsible under UNGPs to use their leverage to influence and mitigate these impacts, demonstrating a commitment to ethical business practices and respect for human rights throughout their operations and value chains. This link requires the company to take action to prevent or mitigate the impact, even though it is not directly responsible for the abuse. The corporation example for this type is

#### 5.2.3.1 Advertising company

The function of an advertising company in introducing a product to the public involves creating awareness, generating interest, building brand identity, and ultimately driving sales through strategic marketing campaigns and communications strategies. It will increase sales volume and provide benefits to advertising company tenant companies. Advertising companies play a significant role in shaping public perception, consumer behavior, and cultural norms. This influence positions them in a unique relationship with the concept of business and human rights, as their actions can have both direct and indirect impacts on individuals and communities. Advertising companies can have a direct impact on human rights through the content they create. Misleading advertisements, promotion of harmful stereotypes, or content that incites discrimination can violate rights such as equality, non-discrimination, and dignity. For example, ads that perpetuate gender stereotypes can contribute to societal inequality. In the digital age, targeted advertising often involves collecting and using personal data. When advertising companies collect, store, and use data without proper consent or transparency, they risk violating individuals' privacy rights. Data collection becomes significant when companies employ invasive techniques, such as tracking online behavior or exploiting personal information, without adequate safeguards in place. Indirect impacts, such as those through business relationships, supply chains, and labor rights, as well as advertising campaigns, are often executed through

complex supply chains involving freelancers, production companies, and media agencies. Advertising companies can indirectly contribute to human rights abuses if they engage with suppliers that exploit labor, offer unsafe working conditions, or employ discriminatory practices. Advertising companies often collaborate with various industries, including those with contentious human rights records, such as fast fashion, tobacco, and fossil fuel companies. By promoting products from companies associated with environmental damage, poor labor practices, or unethical sourcing, advertising agencies can indirectly contribute to or be implicated in human rights harms.

Advertising companies uphold ethical standards in their campaigns. Advertising includes promoting truthful and non-discriminatory messages and avoiding content that could lead to harm or exploitation. Ethical advertising practices ensure that their operations do not infringe on privacy rights or perpetuate negative stereotypes. Companies in the advertising industry should perform due diligence to ensure their activities and partnerships do not contribute to human rights violations. This includes assessing the human rights impact of their campaigns, vetting clients and suppliers, and addressing any potential risks in their value chain. Given their power to shape public opinion, advertising companies have the potential to advocate for human rights through positive messaging. Creating campaigns promoting diversity, inclusion, and social responsibility can foster awareness and drive societal change toward respecting and protecting human rights.

**Examples and Cases of Data Privacy:** In 2019, Facebook faced criticism for allowing third-party advertisers to access user data, which led to potential privacy violations. Advertising companies that leverage such platforms for targeted marketing must know their role in ensuring data is used ethically. Several advertising campaigns have been criticized for reinforcing harmful stereotypes or marginalizing certain groups. For instance, ads that objectify women or that use racial stereotypes can perpetuate social inequality, highlighting the need for advertisers to consider the human rights implications of their content.

The UNGPs emphasize the corporate responsibility to respect human rights, which includes advertising companies. They are expected to avoid infringing on

human rights and address adverse impacts in which they are involved. Corporations' responsibility involves implementing policies, conducting due diligence, and providing remediation where necessary. Ethical Advertising Standards: Industry bodies, such as the International Chamber of Commerce (ICC), provide codes of conduct that include respect for human rights in advertising practices and promote truthful, decent, and socially responsible advertising.

Advertising companies have a significant influence on human rights, both directly through their messaging and indirectly through their business practices and partnerships. They must navigate the fine line between promoting products and upholding human rights by adopting ethical advertising practices, respecting privacy, avoiding harmful content, and conducting thorough due diligence. By aligning their strategies with human rights principles, advertising companies can avoid contributing to human rights violations and play a proactive role in promoting social responsibility and positive change.

#### 5.3.2.2 Auditing company

Auditing companies play a critical role in the business and human rights landscape by assessing, verifying, and providing assurance on various aspects of corporate operations, including financial performance, compliance, and adherence to ethical standards. Their involvement has significant implications for human rights, as audits can uncover or inadvertently overlook practices that violate human rights within an organization or its supply chain.

Auditing firms often conduct human rights due diligence for companies, assessing both the potential and actual human rights impacts of their operations. The auditing process includes evaluating labor practices, supply chain management, environmental compliance, and community relations. Effective audits help identify risks, ensuring that companies do not infringe on the rights of workers, local communities, or consumers. Many companies rely on auditing firms to verify compliance with internal policies, industry standards, and international human rights frameworks, such as the UN Guiding Principles on Business and Human Rights (UNGPs), the ILO Declaration, and OECD guidance on responsible business conduct. Auditors assess whether companies adhere to labor rights, environmental

standards, and ethical sourcing policies, assuring stakeholders that human rights obligations are being met. Auditing firms often perform supplier audits, especially for companies with complex global supply chains. These audits are crucial for identifying human rights risks such as forced labor, child labor, unsafe working conditions, and inadequate wages. By evaluating suppliers against established ethical standards, auditors help companies ensure that their products and services are produced responsibly.

When conducted effectively, audits can have a positive impact on human rights by uncovering abuses, promoting transparency, and driving corrective actions. For instance, audits may reveal unfair labor practices, environmental harm, or health and safety violations, prompting companies to take remedial actions. A common criticism of traditional audits is that they can be superficial or checklist-driven, focusing on compliance with formal requirements rather than substantive human rights outcomes. Some audits may overlook deeper issues, such as forced labor or discrimination, due to their narrow scope or the reluctance of workers to speak openly during audits. Auditing firms may face conflicts of interest, particularly when they are paid by the companies they are auditing. This financial relationship can lead to biased assessments, where auditors may underreport or overlook human rights violations to retain their clients.

In some cases, auditing firms have been accused of failing to identify severe human rights abuses. For example, before the Rana Plaza collapse in Bangladesh in 2013, the factory had passed several audits that failed to identify critical safety issues, highlighting the limitations of the auditing process. Before the disaster, the factory had undergone audits and received certifications; however, these audits failed to identify the hazardous working conditions that ultimately led to the disaster. This incident sparked a global conversation about the effectiveness of social audits and the need for more robust human rights assessments.<sup>253</sup> Following reports of labor abuses at Foxconn, one of Apple's key suppliers, Apple engaged

---

<sup>253</sup> Jason Motlagh and Atish Saha, "The Ghosts of Rana Plaza: In Bangladesh, one year after the worst accident in the history of the garment industry, recovery remains a fragile process, justice seems elusive, and reform has a long way to go," *Virginia Quarterly Review* 90 no. 2 (2014): 44-89.

third-party auditors to assess working conditions in its supply chain. While audits uncovered issues such as excessive working hours and inadequate wages, they also faced criticism for being limited in scope and not fully addressing systemic problems. The UNGPs emphasize the responsibility of businesses to conduct human rights due diligence, which includes assessing actual and potential human rights impacts. Auditing companies play a crucial role in facilitating this process by providing assessments and recommendations to mitigate risks. Best practices for auditing firms involve maintaining independence and transparency throughout the auditing process. Auditors should adopt a rights-based approach, engage with affected stakeholders (including workers and local communities), and report their findings openly, allowing companies and stakeholders to address the identified issues effectively. Collaborative initiatives, such as the FLA and the Ethical Trading Initiative (ETI), encourage companies to adopt comprehensive auditing and monitoring practices that extend beyond traditional compliance checks, incorporating human rights principles into the audit process.

The auditing industry is evolving towards more robust human rights audits that go beyond compliance and checklist approaches. These audits involve deeper engagement with workers and communities, using methodologies such as worker interviews, unannounced inspections, and integrating human rights impact assessments. Auditing firms are increasingly leveraging digital tools and data analytics to improve the accuracy and effectiveness of human rights assessments. Data analytics encompasses the use of technology for remote monitoring, data analysis to identify patterns of abuse, and crowd-sourced reporting to gather insights directly from workers and affected communities. Auditing companies play a pivotal role in the business and human rights regime by providing assessments that can uncover human rights abuses and drive corporate accountability. While audits have the potential to positively impact human rights, they face challenges related to superficial assessments, conflicts of interest, and limitations in addressing systemic issues. Auditing firms must adopt more thorough, rights-based approaches to strengthen their role, ensure independence, and engage with stakeholders who

are affected by their work. By doing so, they can contribute to a more responsible business environment that respects and promotes human rights.

5.3.2.1 Marketplace Presence: A company may operate in a region or country where human rights abuses are prevalent. However, it neither directly engages in abusive practices nor has business relationships that contribute to those abuses. For example, a retail company selling products in a country with a poor human rights record may not be directly involved in any violations. However, it is expected to conduct due diligence to ensure it does not benefit from or inadvertently support such abuses.

5.3.2.2 Product misuse: a company produces or sells products that are later used by others to commit human rights abuses without the company's direct involvement or encouragement. For instance, a manufacturer of industrial equipment that another company uses, which harms workers' health or safety, falls under this category. The original manufacturer is not causing or contributing to the harm but is responsible for assessing and addressing the potential misuse of its products.

5.3.2.3 In indirect association, a company may have a business relationship with an entity not directly involved in human rights abuses but connected to another entity. For example, a company invests in a firm that, in turn, has a subsidiary engaged in discriminatory employment practices. While the investing company is not directly causing or contributing to the discrimination, it is linked through its investment and should take steps to address the issue. Sector-wide impact: A company operates in a sector known for human rights concerns, such as environmental degradation or poor labor practices. However, it has not caused or contributed to these issues individually. The company, however, is expected to engage in industry-wide efforts to improve practices and address the systemic issues within the sector.

Non-causation and non-contribution emphasize that companies are responsible for respecting human rights beyond their immediate sphere of influence, encouraging them to take proactive steps to ensure their operations and business relationships do

not indirectly support or benefit from human rights abuses. This approach fosters a more holistic commitment to human rights within the business community, aligning corporate practices with global standards and societal expectations.

A company might even be involved in the production process, but it is said to have undermined human rights, for example, an advertising company. Advertising companies do not participate in every step of the product-making process, but they can influence consumers to buy or not buy a product. In addition, where an infringement of human rights is merely 'directly linked to a company's operations, products, or services' through 'their business relationships,' a business has a different responsibility, namely to 'seek to prevent or mitigate' the infringement. The Commentary to Guiding Principle 19 explains that causation and contribution to adverse impacts require a company's response to 'cease or prevent' the effect. The Commentary explains that 'direct linkage' through business relationships is more complex, requiring the company to consider its leverage and the scope of working with others to develop leverage. These implications are repeated by Guide Principle 19, Section B, 'Operational Principles' of the UNGPs, which states that 'appropriate action will vary according to the nature of the causal relationship causal, contributory or linkage and the extent to which the company has leverage concerning the impact of human rights at issue.

The characteristic supply chain,

	Causing	Contributing	Neither causing nor contributing
Definition	A situation where a company is part of the parent company	A situation where the parent company makes cooperation in making goods or services.	A situation where the parent company introduced their product to the market.
Relation to Parent company	direct	Indirect	No relationship
Example	Supplier, sub-contractor, Branches	Financial institutions Transportation company	Advertising company, Auditing firm

Table 6: Characteristic comparison of the type of supply chain<sup>254</sup>

<sup>254</sup> Re hulina Re hulina from various resources

## CHAPTER VI

### Conclusion

#### 6.1 Conclusion

Based on the results of the discussion of the formulation of the problem, conclusions can be drawn from the dissertation, namely:

1. The state has an obligation under international law to safeguard its citizens within its territory and jurisdiction from human rights abuses, both by itself and by third parties. UNGPs stated that state and corporate responsibility in business and human rights is a human rights responsibility shared by both the state and corporations. Although the obligations of the two are different, Where the state must protect, the corporation has the responsibility to respect. Moreover, states and corporations are responsible for creating remedy mechanisms when human rights violations occur. State responsibility in BHR is to provide clear rules and regulations through its laws and policies so that corporations do not harm people's human rights while conducting their business activities. The state also has to enforce laws that are aimed at or have the effect of requiring business enterprises to respect human rights and periodically assess the adequacy of such laws, address any gaps, and ensure that other laws and policies governing business enterprises' creations and ongoing operations, such as corporate law, do not constrain but enable business respect for human rights, provide practical guidance to business enterprises on respecting human rights throughout their operations, encourage and, where appropriate, require business enterprises to communicate how they address their human rights impact. Meanwhile, the corporation's responsibility is to respect all rules and regulations provided by the state and to uphold the minimum human rights provisions outlined in the International Covenant on Economic, Social and Cultural Rights (ICESCR) or the International Covenant on Civil and Political Rights (ICCPR), depending on the applicable convention. Furthermore, the corporation also has an obligation to conduct due diligence, namely assessing the business before starting and examining the supply chain beforehand, so that the

supply chain it owns can be ensured not to violate human rights in its business activities.

6.1 Based on principle 13 of UNGPs, this research found that corporate human rights responsibility throughout its supply chain has 3 (three) forms, which are direct causing, contribution, and neither causing nor contributing to human rights harm. First, causing. Causing human rights violations can occur when a company's activities lead to adverse human rights outcomes through its subsidiaries and suppliers. Direct causation occurs when there is a clear and immediate link between a company's operations, products, or services and the negative impact on human rights. Their supplier and subcontractor can create a form of human rights violation within the company, such as unsafe working conditions, forced labor, low wages, and environmental damage, among others. Second, contributing. Contributes to human rights harm means that a company indirectly contributes to rights violations through its business relationships or partnerships, not by direct actions but by facilitating or exacerbating harm. For instance, financial institutions, logistics, and transportation providers. Lastly, neither causing nor contributing to human rights harm, this scenario describes a situation where a company is neither directly causing nor contributing to rights abuses but is connected to them through its operations or business relationships. In such cases, the company should use its influence to prevent or mitigate human rights impacts. Examples include advertising agencies and accounting firms.

## REFERENCE

### Rule and Regulation

- ASEAN, ASEAN Human Rights Declaration (adopted 18 November 2012).
- European Parliament and Council of the European Union, Directive (EU) 2024/1760 of 13 June 2024 on Corporate Sustainability Due Diligence, Official Journal of the European Union, L 234, 5 July 2024.
- European Union, Charter of Fundamental Rights of the European Union [2012] OJ C 326/391.
- Directive (EU) 2022/2464 of the European Parliament and of the Council of 14 December 2022 amending Regulation (EU) No 537/2014, Directive 2004/109/EC, Directive 2006/43/EC and Directive 2013/34/EU, as regards corporate sustainability reporting, O.J. (L 322) 15
- Germany, *Lieferkettensorgfaltspflichtengesetz* (Supply Chain Due Diligence Act), Law No. 1370/2021 of 16 July 2021, Federal Law Gazette (BGBl) I at 3154.
- France, Law No. 2017-399 of 27 March 2017 on the Duty of Vigilance of Parent Companies 2017
- International Labour Organization (ILO), Tripartite Declaration of Principles concerning Multinational Enterprises and Social Policy 2017
- OECD Guidelines for Multinational Enterprises on Responsible Business Conduct 2023
- Organisation for Economic Co-operation and Development (OECD), OECD Due Diligence Guidance for Responsible Business Conduct (OECD Publishing 2018).
- United Nations Universal Declaration of Human Rights, UN Doc A/810, GA res. 217A (III) (adopted on 10 December 1948) ('UDHR').
- United Nations, *International Covenant on Civil and Political Rights*, UN Doc A/RES/2200A(XXI) (adopted 16 December 1966, entered into force 23 March 1976).
- United Nations, *International Covenant on Economic, Social and Cultural Rights*, UN Doc A/RES/2200A(XXI) (adopted 16 December 1966, entered into force 3 January 1976).
- United Nations Human Rights Council, Protect, Respect and Remedy: a Framework for Business and Human Rights (7 April 2008) UN Doc A/HRC/8/5.
- United Nations Human Rights Council, Guiding Principles on Business and Human Rights: Implementing the United Nations "Protect, Respect and Remedy" Framework (21 March 2011) UN Doc A/HRC/17/31.
- United Nations General Assembly, *Principles Relating to the Status of National Institutions* (Paris Principles) (adopted 20 December 1993) UN Doc A/RES/48/134.
- International Law Commission (ILC), Draft Conclusions on Identification of Customary International Law, with Commentaries (2018) UN Doc A/73/10, ch V.

### **Journal Articles**

- Aaronson, Susan Ariel, and Ian Higham. "“Re-Righting Business’: John Ruggie and the Struggle to Develop International Human Rights Standards for Transnational Firms.” *Human Rights Quarterly* 35, no. 2 (2013): 1–37.
- Ahn, Keon-Hyung. "Main Contents and Implications of the 2023 Revision of the OECD Guidelines for Multinational Enterprises.” *Journal of International Logistics and Trade* 22, no. 2 (2024): 80–92. <https://doi.org/10.1108/JILT-12-2023-0081>.
- Albareda, Laura, Josep M. Lozano, Antonio Tencati, Atle Midttun, and Francesco Perrini. "The Changing Role of Governments in Corporate Social Responsibility: Drivers and Responses.” *Business Ethics: A European Review* 17, no. 4 (2008): 347–63. <https://doi.org/10.1111/j.1467-8608.2008.00539.x>.
- Arnold, Denis G. "Transnational Corporations and the Duty to Respect Basic Human Rights.” *Business Ethics Quarterly* 20, no. 3 (2010): 371–99. <https://doi.org/10.5840/beq201020327>.
- Augenstein, Daniel, Mark Dawson, and Pierre Thielbörger. "The UNGPs in the European Union: The Open Coordination of Business and Human Rights?” *Business and Human Rights Journal* 3, no. 1 (2018): 1–22. <https://doi.org/10.1017/bhj.2017.30>.
- Bäumler, Jelena. "Germany’s Supply Chain Due Diligence Act: Is It Compatible with WTO Obligations?." *ZEuS Zeitschrift für Europarechtliche Studien* 25.2 (2022): 265-286.
- Bassiouni, M. Cherif. "International Recognition of Victims’ Rights.” *Human Rights Law Review* 6, no. 2 (2006): 203–79.
- Baumann-Pauly, Dorothee, Justine Nolan, Auret van Heerden, and Michael Samway. "Industry-Specific Multi-Stakeholder Initiatives That Govern Corporate Human Rights Standards: Legitimacy Assessments of the Fair Labor Association and the Global Network Initiative.” *Journal of Business Ethics* 143, no. 4 (2017): 771–87. <https://doi.org/10.1007/s10551-016-3076-z>.
- Beamon, Benita M. "Supply Chain Design and Analysis: Models and Methods.” *Int. J. Production Economics* 55 (2006): 281—294. <https://doi.org/10.1109/LEOS.2006.278761>.
- Benjamin, Golda, and Bobbie Sta Maria. "National Action Plans on Business and Human Rights in the ASEAN: Observations and Recommendations on the Procedural Aspects of NAP Development." *Business and Human Right Holding Governments Accountable in Asia* (2018): 5.
- Blachford, Kevin. "Revisiting the Expansion Thesis: International Society and the Role of the Dutch East India Company as a Merchant Empire.” *European Journal of International Relations* 26, no. 4 (2020): 1–19. <https://doi.org/10.1177/1354066120932300>.
- Bilchitz, David. "Corporate Law and the Constitution: Towards Binding Human Rights Responsibilities for Corporations.” *South African Law Journal* 125, no. 4 (2008): 754-789.
- Bonucci, Nicola. "The OECD at Fifty: Some Observations on the Evolving Nature

- of an International Organization.” *George Washington International Law Review* 43, no. 2 (2011): 239-254
- Brown, Bartram S. “The Protection of Human Rights in Disintegrating States: A New Challenge.” *Chicago-Kent Law Review* 68, no. 1 (1992): 203–28.
- Brunsson, Nils, Andreas Rasche, and David Seidl. “The Dynamics of Standardization: Three Perspectives on Standards in Organization Studies.” *Organization Studies* 33, no. 5–6 (2012): 613–32. <https://doi.org/10.1177/0170840612450120>.
- Buchholtz, Gabriele. “Social and Labour Standards in the OECD Guidelines: Enforcement Mechanisms,” *International Organizations Law Review* 17, no. 1 (2020): 133-152.
- Bueno, Nicolas, and Claire Bright. “Implementing Human Rights Due Diligence through Corporate Civil Liability.” *International and Comparative Law Quarterly* 69, no. 4 (2020): 789–818. <https://doi.org/10.1017/S0020589320000305>.
- Buhmann, Karin. “Analysing OECD National Contact Point Statements for Guidance on Human Rights Due Diligence: Method, Findings and Outlook.” *Nordic Journal of Human Rights* 36, no. 4 (2018): 390–410. <https://doi.org/10.1080/18918131.2018.1547526>.
- . “Confronting Challenges to Substantive Remedy for Victims: Opportunities for OECD National Contact Points under a Due Diligence Regime Involving Civil Liability.” *Business and Human Rights Journal* 8, no. 3 (2023): 403–26. <https://doi.org/10.1017/bhj.2023.9>.
- . “Integrating Human Rights in Emerging Regulation of Corporate Social Responsibility: The EU Case.” *International Journal of Law in Context* 7, no. 2 (2011): 139–79. <https://doi.org/10.1017/S1744552311000048>.
- . “Neglecting the Proactive Aspect of Human Rights Due Diligence? A Critical Appraisal of the EU’s Non-Financial Reporting Directive as a Pillar One Avenue for Promoting Pillar Two Action.” *Business and Human Rights Journal* 3, no. 1 (2018): 23–45. <https://doi.org/10.1017/bhj.2017.24>.
- Bui, Hien. “The ASEAN Human Rights System: A Critical Analysis.” *Asian Journal of Comparative Law* 11, no. 1 (2016): 111–40. <https://doi.org/10.1017/asjcl.2016.9>.
- Calvano, Lisa. “Multinational Corporations and Local Communities: A Critical Analysis of Conflict.” *Journal of Business Ethics* 82, no. 4 (2008): 793–805. <https://doi.org/10.1007/s10551-007-9593-z>.
- Cassel, Douglass. “Human Rights and Business Responsibilities in the Global Marketplace.” *Business Ethics Quarterly* 11, no. 2 (2001): 261–74. <https://doi.org/10.5840/10.2307/3857749>.
- Cassese, Antonio. “The Geneva Protocols of 1977 on the Humanitarian Law of Armed Conflict and Customary International Law.” *UCLA Pacific Basin Law Journal* 3, no. 1–2 (1984): 55–118. <https://doi.org/10.5070/p831-2021915>.
- Čerňič, Jernej Letnar. “Corporate Responsibility for Human Rights: A Critical Analysis of the OECD Guidelines for Multinational Enterprises.” *Hanse Law Review* 4, no. 1 (2008): 71–100. <https://doi.org/10.2139/ssrn.1317263>.
- . “Institutional Actors As International Law-Makers in Business and Human

- Rights: The United Nations Guiding Principles on Business and Human Rights and Beyond.” *Pravni Zapisi* 12, no. 2 (2021): 594–617. <https://doi.org/10.5937/pravzap0-35034>.
- . “Moving Towards Protecting Human Rights in Global Business Supply Chains.” *Boston University International Law Journal* 36, no. 2 (2018): 101–16.
- Chapman, Audrey R., and Benjamin Carbonetti. “Human Rights Protections for Vulnerable and Disadvantaged Groups: The Contributions of the UN Committee on Economic, Social and Cultural Rights.” *Human Rights Quarterly* 33, no. 3 (2011): 682–732. <https://doi.org/10.1353/hrq.2011.0033>.
- Clarke, Gerard. “The Evolving ASEAN Human Rights System.” *Northwestern Journal of International Human Rights* 11, no. 1 (2012): 1–27.
- Cooke, Philip. “Regional Knowledge Capabilities, Embeddedness of Firms and Industry Organisation: Bioscience Megacentres and Economic Geography.” *European Planning Studies* 12, no. 5 (2004): 625–41. <https://doi.org/10.1080/0965431042000219987>.
- Cronstedt, Claes, Robert C Thompson, and Geoffrey Robertson. “A Proposal for an International Arbitration Tribunal on Business and Human Rights.” *Harvard International Law Journal Online Symposium* 57, no. October 2008 (2016): 66–69. <http://ssrn.com/abstract=2657885>.
- Dannenbaum, Tom. “Translating the Standard of Effective Control into a System of Effective Accountability: How Liability Should Be Apportioned for Violations of Human Rights by Member State Troop Contingents Serving as United Nations Peacekeepers.” *Harvard International Law Journal* 51, no. 1 (2010): 113–92.
- Deva, Surya. “Human Rights Violations by Multinational Corporations and International Law: Where from Here?” *Connecticut Journal of International Law* 19 (2003): 1–57. <https://ssrn.com/abstract=637665>.
- . “UN’s Human Rights Norms for Transnational Corporations and Other Business Enterprises: An Imperfect Step in the Right Direction?” *ILSA J Int’l & Comp L* 10, no. 2 (2004). <https://nsuworks.nova.edu/ilsajournal/vol10/iss2/21>.
- Donaghey, Jimmy, and Juliane Reinecke. “When Industrial Democracy Meets Corporate Social Responsibility — A Comparison of the Bangladesh Accord and Alliance as Responses to the Rana Plaza Disaster.” *British Journal of Industrial Relations* 56, no. 1 (2017): 1–29. <https://doi.org/10.1111/bjir.12242>.
- Donnelly, Jack. “Human Rights as Natural Rights.” *Human Rights Quarterly* 4, no. 3 (1982): 391–405. [https://hal.archives-ouvertes.fr/hal-02516241/file/BESSON\\_S.\\_-\\_Human\\_Rights\\_Theory\\_and\\_Human\\_Rights\\_History.pdf](https://hal.archives-ouvertes.fr/hal-02516241/file/BESSON_S._-_Human_Rights_Theory_and_Human_Rights_History.pdf).
- Dugard, Jackie. “The International Covenant on Economic, Social and Cultural Rights: Commentaries, Cases, and Materials.” *Nordic Journal of Human Rights* 33, no. 3 (2015): 269–70. <https://doi.org/10.1080/18918131.2015.1060031>.
- Dupont, Vincent, Diana Pietrzak & Boris Verbrugge, “A step in the right direction, or more of the same? A systematic review of the impact of human rights due

- diligence legislation,” *Human Rights Review* 25, no. 2 (2024): 131-54, <https://doi.org/10.1007/s12142-024-00724-9>.
- Eide, Asbjørn. “The Historical Significance of the Universal Declaration.” *International Social Science Journal* 50, no. 158 (1998): 475–97. <https://doi.org/10.1111/1468-2451.00162>.
- Frey, Barbara A. “The Legal and Ethical Responsibilities of Transnational Corporations in the Protection of International Human Rights.” *Minnesota Journal of Global Trade* 6 (1997): 153–88.
- Friedrich, Jürgen. “Legal Challenges of Nonbinding Instruments: The Case of the FAO Code of Conduct for Responsible Fisheries.” *German Law Journal* 9, no. 11 (2008): 1539–64. <https://doi.org/10.1017/S2071832200000572>.
- Fuchs, Dominik. “Obligations of the Private Sector To Protect Reporting Persons: A Comparative Analysis of the EU Whistleblower Protection Directive and the Draft Corporate Sustainability Due Diligence Directive.” *InterEULawEast* 10, no. 2 (2023): 51–80. <https://doi.org/10.22598/iele.2023.10.2.3>.
- Gamble Jr., John King. “The Treaty/Custom Dichotomy: An Overview” *Texas International Law Journal* 16, no. 3 (Summer 1981): 305-320.
- Geyh, Charles Gardner. “The Dimensions of Judicial Impartiality.” *Florida Law Review* 65, no. 2 (2014). <http://scholarship.law.ufl.edu/flr/vol65/iss2/4>.
- Giuliani, Elisa. “Why Multinational Enterprises May Be Causing More Inequality than We Think.” *Multinational Business Review* 27, no. 3 (2019): 221–25. <https://doi.org/10.1108/MBR-10-2018-0068>.
- Goff, Lord. “Judge, Jurist and Legislature.” *The Denning Law Journal* 2, no. 1 (2012): 79–95. <https://doi.org/10.5750/dlj.v2i1.160>.
- Guarnizo-Peralta, Diana. “Marketing Ultra-Processed Food and Beverages to Children in Latin America: Business Responsibilities and State Duties.” *Business and Human Rights Journal* 7, no. 3 (2022): 418–38. <https://doi.org/10.1017/bhj.2022.10>.
- Gustafsson, Maria Therese, Almut Schilling-Vacaflor, and Andrea Lenschow. “Foreign Corporate Accountability: The Contested Institutionalization of Mandatory Due Diligence in France and Germany.” *Regulation and Governance* 17, no. 4 (2023): 891–908. <https://doi.org/10.1111/rego.12498>.
- Hamburger, Philip A. “Natural Rights, Natural Law, and American Constitutions.” *The Yale Law Journal* 102, no. 4 (1993): 907–60. <https://doi.org/10.2307/796836>.
- Hamm, Brigitte I. “A Human Rights Approach to Development.” *Human Rights Quarterly* 23, no. 4 (2001): 1005–31. <https://doi.org/10.1353/hrq.2001.0055>.
- Haynes, Jason. “The modern slavery act (2015): a legislative commentary.” *Statute Law Review* 37.1 (2016): 33-56.
- Helfer, Laurence R. “Redesigning the European Court of Human Rights: Embeddedness as a Deep Structural Principle of the European Human Rights Regime.” *European Journal of International Law* 19, no. 1 (2008): 125–59. <https://doi.org/10.1093/ejil/chn004>.
- Hemphill, Thomas. “The ISO 26000 Guidance on Social Responsibility International Standard: What Are the Business Governance Implications?” *Corporate Governance (Bingley)* 13, no. 3 (2013): 305–17.

- <https://doi.org/10.1108/CG-08-2011-0062>.
- Hoff, Anneloes, and Janne Mende. "The Governance Authority of Non-State Actors in the Business and Human Rights Regime." *Journal of Human Rights* 21, no. 5 (2022): 593–603. <https://doi.org/10.1080/14754835.2022.2104119>.
- Jochnick, Chris. "Confronting the Impunity of Non-State Actors: New Fields for the Promotion of Human Rights." *Human Rights Quarterly* 21, no. 1 (1999): 56–79. <https://doi.org/10.1353/hrq.1999.0008>.
- Josephs, Hilary K. "Production Chains and Workplace Law Violations: The Case of Apple and Foxconn." *Global Business Law Review* 3, no. 2 (2013): 211–28. <https://engagedscholarship.csuohio.edu/gblr/vol3/iss2/5>.
- Kahn, Paul W. "Nuclear Weapons and the Rule of Law." *International Law and Politics* 31 (1999): 349–417. <http://hdl.handle.net/20.500.13051/2701>.
- Kilanowski, Marcin. "Evaluating the Polish NAPs: Lessons for the Future Implementation of the Un Guiding Principles on Business and Human Rights." *Business and Human Rights Journal* 9, no. 1 (2024): 163–68. <https://doi.org/10.1017/bhj.2023.4>.
- Kinley, David, and Junko Tadaki. "From Talk to Walk: The Emergence of Human Rights Responsibilities for Corporations at International Law." *Virginia Journal of International Law* 44, no. 4 (2004): 931–1024. <https://heinonline.org/HOL/LandingPage?handle=hein.journals/vajint44&div=34&id=&page=>.
- Kojo Nartey, Emmanuel. "Addressing Corporate Human Rights Violations and Environmental Harm: Advancing a Holistic Remedial Framework through Tort Law and the EU Corporate Sustainability Due Diligence Directive (CSDDD)." *Athens Journal of Law* 10, no. 3 (2024): 345–72. <https://doi.org/10.30958/ajl.10-3-6>.
- Kolk, Ans, Rob van Tulder, and Carlijn Welters. "International Codes of Conduct and Corporate Social Responsibility: Can Transnational Corporations Regulate Themselves?" *Transnational Corporations* 8, no. 1 (1999): 143–80.
- Kumar, Anil, Abdul Moktadir, Zahidur Rhaman Liman, Angappa Gunasekaran, Klaus Hegemann, and Syed Abdul Rehman Khan. "Evaluating Sustainable Drivers for Social Responsibility in the Context of Ready-Made Garments Supply Chain." *Journal of Cleaner Production*, 2019. <https://doi.org/10.1016/j.jclepro.2019.119231>.
- Lagoutte, Stéphanie. "New Challenges Facing States within the Field of Human Rights and Business." *Nordic Journal of Human Rights* 33, no. 2 (2015): 158–80. <https://doi.org/10.1080/18918131.2015.1048601>.
- Lazarus, Richard J. "Super Wicked Problems and Climate Change: Restraining the Present to Liberate the Future." *Cornell Law Review* 94, no. 5 (2009): 1153–1233.
- Lizarazo-Rodriguez, Liliana. "The UNGPs on Business and Human Rights and the Greening of Human Rights Litigation: Fishing in Fragmented Waters?" *Sustainability (Switzerland)* 13, no. 19 (2021): 1–25. <https://doi.org/10.3390/su131910516>.
- Lizarazo-Rodriguez, Liliana. "The UN 'Guiding Principles on Business and Human Rights': Methodological Challenges to Assessing the Third Pillar: Access to

- Effective Remedy.” *Nordic Journal of Human Rights* 36, no. 4 (2018): 353–70. <https://doi.org/10.1080/18918131.2018.1547525>.
- Maassarani, Tarek F., Margo Tatgenhorst Drakos, and Joanna Pajkowska. “Extracting Corporate Responsibility: Towards a Human Rights Impact Assessment.” *Cornell International Law Journal* 40, no. 1 (2007): 135–69. <http://scholarship.law.cornell.edu/cilj/vol40/iss1/3%0AThis>.
- Maharani, Desty, and Tirta Nugraha Mursitama. “Implementing Ethical ‘Code of Work Ethics’: A Case Study of Apple and Foxconn Supply Chain.” *E3S Web of Conferences* 426 (2023): 1–9. <https://doi.org/10.1051/e3sconf/202342602152>.
- Mani, V., Rajat Agarwal, Angappa Gunasekaran, Thanos Papadopoulos, Rameshwar Dubey, and Stephen J. Childe. “Social Sustainability in the Supply Chain: Construct Development and Measurement Validation.” *Ecological Indicators* 71 (2016): 270–79. <https://doi.org/10.1016/j.ecolind.2016.07.007>.
- Marco Fasciglione. “The Enforcement of Corporate Human Rights Due Diligence: From the UN Guiding Principles on Business and Human Rights to the Legal Systems of EU Countries.” *Human Rights & International Legal Discourse* 1 (2016): 94–117.
- Mares, Radu. “The Limits of Supply Chain Responsibility: A Critical Analysis of Corporate Responsibility Instruments.” *Nordic Journal of International Law* 79, no. 2 (2010): 193–244. <https://doi.org/10.1163/157181010X12668401898995>.
- . *The UN Guiding Principles on Business and Human Rights*. Leiden: Martinus Nijhoff Publishers, 2011.
- Martin-Ortega, Olga. “Human Rights Due Diligence for Corporations: From Voluntary Standards to Hard Law at Last?” *Netherlands Quarterly of Human Rights* 32, no. 1 (2014): 44–74. <https://doi.org/10.1177/016934411403200104>.
- Maxim, Felicia. “Hard Law Versus Soft Law in International Security.” *Conferința Internațională de Drept, Studii Europene Și Relații Internaționale*, no. VIII (2020): 113–26. <https://www.ceeol.com/search/article-detail?id=880766>.
- Mayar, Aziza. “The NCP Procedure of the OECD Guidelines: Monitoring and RBC Improvement during the Follow-Up Step.” *Erasmus Law Review* 2022, no. 1 (2022). <https://doi.org/10.5553/ELR.000216>.
- McCorquodale, Robert, and Justine Nolan. “The Effectiveness of Human Rights Due Diligence for Preventing Business Human Rights Abuses.” *Netherlands International Law Review* 68, no. 3 (2021): 455–78. <https://doi.org/10.1007/s40802-021-00201-x>.
- McCorquodale, Robert, Lise Smit, Stuart Neely, and Robin Brooks. “Human Rights Due Diligence in Law and Practice: Good Practices and Challenges for Business Enterprises.” *Business and Human Rights Journal* 2, no. 2 (2017): 195–224. <https://doi.org/10.1017/bhj.2017.2>.
- Mcdermott, Constance L, Emmanuel Acheampong, Seema Arora-Jonsson, Rebecca Asare, Wil De Jong, Mark Hiron, Kaysara Khatun, et al. “SDG 16: Peace, Justice and Strong Institutions-A Political Ecology Perspective.” In *Sustainable Development Goals: Their Impacts on Forests and People*, edited by Winkel G Katila P, Pierce Colfer CJ, de Jong W, Galloway G, Pacheco P,

- 510–40. Cambridge University Press, 2019. <https://sustainabledevelopment.un.org/sdg16>.
- Motlagh, Jason, Atish Saha, “The Ghosts of Rana Plaza: In Bangladesh, one year after the worst accident in the history of the garment industry, recovery remains a fragile process, justice seems elusive, and reform has a long way to go.” *Virginia Quarterly Review* 90 no. 2 (2014): 44-89.
- Mohan, Mahdev. "Corporate Accountability in Southeast Asia: National Action Plans for Responsible Business Conduct under International Law." *ASEAN International Law* (2022): 527-543.
- Nazarenko, Darya. “Business and Human Rights in Global Supply Chains: Towards Greater Transparency in the Garment Industry.” Johannes Kepler University Linz, 2022.
- Neri-Castracane, Giulia, Damiano Canapa, and Teymour Brander. "The Swiss Legislation on Business and Human Rights: A Reform Needed Towards Harmonization with EU Law." *European Business Organization Law Review* (2024): 1-33.
- Ngangjoh-hodu, Yenkong, Tarcisio Gazzini, Avidan Kent, and Kristian Siikavirta. *The Proposed EU Corporate Sustainability Due Diligence Directive and Its Impact on LDCs A Legal Analysis*. Helsinki, Finland: Ministry for Foreign Affairs of Finland, 2023.
- Nolan, Justine. “Refining the Rules of the Game: The Corporate Responsibility to Respect Human Rights.” *Utrecht Journal of International and European Law* 30, no. 78 (2014): 7–23. <https://doi.org/10.5334/ujiel.ca>.
- . “The Corporate Responsibility to Respect Rights: Soft Law or Not Law?” In *Human Rights Obligations of Business: Beyond the Corporate Responsibility to Respect?*, edited by Surya Deva and David Bilchitz. Cambridge University Press, 2011. <https://doi.org/10.1017/CBO9781139568333>.
- Nussbaum, Martha C. “Capabilities and Human Rights.” *Fordham Law Review* 66, no. 2 (1997): 273–300. <https://doi.org/10.7551/mitpress/3302.003.0007>.
- O’Brien, Claire Methven, and Sumithra Dhanarajan. “The Corporate Responsibility to Respect Human Rights: A Status Review.” *NUS Law Working Paper*. Singapore, 2015. <https://doi.org/10.1108/AAAJ-09-2015-2230>.
- O’Brien, John. *International Law*. London: Cavendish Publishing Limited, 2001.
- Ochoa, Christiana. “The Individual and Customary International Law Formation.” *Virginia Journal of International Law* 48, no. 1 (2007): 119–86.
- Orentlicher, Diane F. “Settling Accounts: The Duty to Prosecute Human Rights Violations of a Prior Regime.” *The Yale Law Journal* 100, no. 8 (1991): 2537–2615. <https://doi.org/10.2307/796903>.
- Patz, Christopher. “The EU’s Draft Corporate Sustainability Due Diligence Directive: A First Assessment.” *Business and Human Rights Journal* 7, no. 2 (2022): 291–297, doi:10.1017/bhj.2022.19.
- Ramasastri, Anita. “Corporate Social Responsibility Versus Business and Human Rights: Bridging the Gap Between Responsibility and Accountability.” *Journal of Human Rights* 14, no. 2 (2015): 237–59. <https://doi.org/10.1080/14754835.2015.1037953>.

- Reinisch, August. "Developing Human Rights and Humanitarian Law Accountability of the Security Council for the Imposition of Economic Sanctions Author(s): August Reinisch Source." *The American Journal of International Law* 95, no. 4 (2001): 851–72.
- Renshaw, Catherine Shanahan. "The ASEAN Human Rights Declaration 2012," *Human Rights Law Review* 13, no. 3 (2013): 557–579, <https://doi.org/10.1093/hrlr/ngt016>.
- Ristuccia, Fulvia. "The right to social assistance of children in education and their primary carers: Jobcenter Krefeld." *Common Market Law Review* 58 no. 3 (2021): 877-904, <https://kluwerlawonline.com/journalarticle/Common+Market+Law+Review/58.3/COLA2021053>
- Ruggie, John Gerard, "Protect, Respect, and Remedy: The UN Framework for Business and Human Rights." In *International Human Rights Law*, 519–38, 2008.
- . "Report of the Special Representative of the Secretary- General on the Issue of Human Rights and Transnational Corporations and Other Business Enterprises." *Netherlands Quarterly of Human Rights* 2, no. March (2011). [https://www2.ohchr.org/english/bodies/hrcouncil/docs/17session/A.HRC.17.31\\_en.pdf](https://www2.ohchr.org/english/bodies/hrcouncil/docs/17session/A.HRC.17.31_en.pdf).
- Ruggie, John Gerard, Caroline Rees, and Rachel Davis. "Ten Years After: From Un Guiding Principles to Multi-Fiduciary Obligations." *Business and Human Rights Journal* 6, no. 2 (2021): 179–97. <https://doi.org/10.1017/bhj.2021.8>.
- Saage-Maaß, Miriam, Peer Zumbansen, Michael Bader, and Palvasha Shahab. *Transnational Legal Activism in Global Value Chains: The Ali Enterprises Factory Fire and the Struggle for Justice*. Vol. 6. Springer, 2021. <http://www.springer.com/series/15339>.
- Sanchez, Juan Carlos Ochoa. "The Roles and Powers of the OECD National Contact Points Regarding Complaints on an Alleged Breach of the OECD Guidelines for Multinational Enterprises by a Transnational Corporation." *Nordic Journal of International Law* 84, no. 1 (2015): 89–126. <https://doi.org/http://dx.doi.org/10.1163/15718107-08401006>.
- Santoso, Benny. "'Just Business' - Is the Current Regulatory Framework an Adequate Solution to Human Rights Abuses by Transnational Corporations?" *German Law Journal* 18, no. 3 (2017): 533–58. <https://doi.org/10.1017/S2071832200022057>.
- Sarfaty, Galit A. "Shining Light on Global Supply Chains Galit." *Harvard International Law Journal* 56, no. 2 (2015): 419–63.
- Saul, Ben. "In the shadow of human rights: Human duties, obligations, and responsibilities." *Columbia Human Rights Law Review* 32, no. 3 (2000): 565-624.
- Scharf, Michael P. "Seizing the 'Grotian Moment': Accelerated Formation of Customary International Law in Times of Fundamental Change." *Cornell International Law Journal* 43, no. 3 (2010): 439–69.
- Schilling-Vacaflor, Almut. "Putting the French Duty of Vigilance Law in Context: Towards corporate accountability for human rights violations in the global

- South?." *Human Rights Review* 22.1 (2021): 109-127.
- Schmid, Evelyne. "The Right to a Fair Trial in Times of Terrorism: A Method to Identify the Non-Derogable Aspects of Article 14 of the International Covenant on Civil and Political Rights." *Göttingen Journal of International Law* 1, no. 1 (2009): 29–44.
- Schuler, Gefion. "Effective Governance through Decentralized Soft Implementation: The OECD Guidelines for Multinational Enterprises." *German Law Journal* 9, no. 11 (2008): 1753–78. <https://doi.org/10.1017/S207183220000064X>.
- Schwabel, Stefan N. "The Effect of Resolutions of the U.N. General Assembly on Customary International Law." *American Society of International Law* 73 (2013): 301–9.
- Sivakumaran, Sandesh. "Beyond States and Non-State Actors: The Role of State-Empowered Entities in the Making and Shaping of International Law." *Columbia Journal of Transnational Law* 55, no. 2 (2017): 343–94.
- Sluijs, Jessika van der. "The Infrastructure of Normative Legitimacy in Domestic Soft Law – Sketching the Field." *Scandinavian Studies in Law* 62 (2017): 245–60.
- Smit, Lise, Gabrielle Holly, Robert McCorquodale, and Stuart Neely. "Human Rights Due Diligence in Global Supply Chains: Evidence of Corporate Practices to Inform a Legal Standard." *International Journal of Human Rights* 25, no. 6 (2020): 945–73. <https://doi.org/10.1080/13642987.2020.1799196>.
- Subramanian, S. R. "UN Security Council and Human Rights: An Inquiry into the Legal Foundations of the Responsibility to Protect in International Law." *Utrecht Journal of International and European Law* 37, no. 1 (2022): 20–40. <https://doi.org/10.5334/ujiel.471>.
- Sugianto, and Dwi Soediantono. "Literature Review of ISO 26000 Corporate Social Responsibility (CSR) and Implementation Recommendations to the Defense Industries." *Journal of Industrial Engineering & Management Research* 3, no. 2 (2022): 73–87. <http://www.jiemar.org>.
- Thielbörger, Pierre, and Tobias Ackermann. "A Treaty on Enforcing Human Rights Against Business: Closing the Loophole or Getting Stuck in a Loop?" *Indiana Journal of Global Legal Studies* 24, no. 1 (2017): 43–79. <https://doi.org/10.2979/indjglolegstu.24.1.0043>.
- Tyler, Tom R. "Methodology in Legal Research." *Utrecht Law Review* 13, no. 3 (2017): 38–42. <https://doi.org/10.1177/0963721410397271>.
- Vagts, Detlev F. "The Multinational Enterprise: A New Challenge for Transnational Law." *Harvard Law Review* 83, no. 4 (1970): 739–92. <https://doi.org/10.2307/1339838>.
- Weissbrodt, David, and Muria Kruger. "Norms on the Responsibilities of Transnational Corporations and Other Business Enterprises with Regard to Human Rights." *The American Journal of International Law* 97, no. 4 (2003): 901–22. <https://doi.org/10.1017/S2071832200016643>.
- Wicaksono, Dian Agung. "Penormaan Hukum Islam Dalam Sistem Hukum Indonesia Ditinjau Dari Ajaran Teologi Hukum Thomas Aquinas." *Jurnal Filsafat* 31, no. 1 (2021): 49–73. <https://doi.org/10.22146/jf.51754>.

- Wildhaber, Luzius. "Some Aspects of the Transnational Corporation in International Law." *Netherlands International Law Review* 27, no. 1 (1980): 79–88. <https://doi.org/10.1017/S0165070X00013814>.
- Zhang, Jixi. "Fair Trial Rights in ICCPR." *Journal of Politics and Law* 2, no. 4 (2009): 39–43. <https://doi.org/10.5539/jpl.v2n4p39>.
- Zinenko, Anna, Maria Rosa Rovira, and Ivan Montiel. "The Fit of the Social Responsibility Standard ISO 26000 within Other CSR Instruments: Redundant or Complementary." *Sustainability Accounting, Management and Policy Journal* 6, no. 4 (2015): 498–526. <https://doi.org/http://dx.doi.org/10.1108/SAMPJ-05-2014-0032>.

### **Books**

- Ahsinin, Adzkar, Heribertus Jaka Triyana, Ratna Juwita, Rehulina Tarigan, and Wahyu Wagiman. *Relasi Bisnis Dan Hak Asasi Manusia: Konteks Dan Perspektif Hukum Di Indonesia*. Yogyakarta: Lembaga Studi dan Advokasi Masyarakat (ELSAM), 2016.
- Balaton-Chrimes, Samantha. "POSCO's Odisha Project: OECD National Contact Point Complaints and a Decade of Resistance." Australia, 2015.
- Buhmann, Karin, navigating from 'Train Wreck' to being 'welcomed': negotiation strategies and argumentative patterns in the development of the UN Framework, Human Rights Obligations of Business Beyond the Corporate Responsibility to Respect, Edited by Surya Deva and David Bilchitz, Cambridge Press, 2013
- Burger, Simon. "The Settlement of Corporate Human-Rights Due-Diligence (CHRDD) Disputes in Commercial Arbitration." *Yearbook on International Arbitration and ADR* 8 (2024): 185–202. <https://eur-lex.europa.eu/legal-content/PT/TXT/PDF/?uri=CELEX:32016R0679&from=PT%0A>.
- Cogan, Jacob Katz, Ian Hurd, and Ian Johnstone. *The Oxford Handbook of International Organizations*. London, UK: Oxford University Press, 2016.
- Crawford, James. *Fisheries (UK v Norway), ICJ Reports 1951 p.116. Brownlie's Principles of Public International Law*. 8th ed. London: Oxford University Press, 2008. <https://doi.org/10.1093/he/9780199699698.001.0001>.
- Deva, Surya, and David Birchall. *Research Handbook on Human Rights and Business*. Cheltenham, UK; Northampton, USA: Edward Elgar Publishing Limited, 2020. <https://doi.org/10.4337/9781786436405>.
- Ditlev-Simonsen, Caroline Dale. "Acting on the Norwegian Transparency act: interpretation and implementation." *The Fragility of Responsibility: Norway's Transformative Agenda for Research, Innovation and Business* (2024).
- Dokho, Muslim Mr. "Thailand's Engagement on the United Natipns Guiding Principles on Business and Human Rights (UNGPS): Motives Behind the Implementation of the Action Plan." Thammasat University, 2019.
- Dunning, John H., and Sarianna M. Lundan. *Multinational Enterprises and the Global Economy*. 2nd ed. Cheltenham, UK: Edward Elgar Publishing, Inc., 2008.
- Eeckhout, Piet. "The European Convention on Human Rights and Fundamental Freedoms as an Integral Part of EU Law—Some Reflections on Status and

- Effect.” In *The European Union in the World: Essays in Honour of Marc Maresceau*, 87. Leiden; Boston: Martinus Nijhoff Publishers, 2014. <https://doi.org/10.1163/9789004259140>.
- European Union. *The Charter of Fundamental Rights of the European Union, The Review of International Affairs* (2012). <https://doi.org/10.1093/acprof:oso/9780199644322.003.0007>.
- Freeman, Michael. *Human Rights: An Interdisciplinary Approach*. Sec. ed. Cambridge: Polity Press, 2011.
- Gaiya, Abel B.S. “Regime of International Development: A History of Development Assistance Since 1500,” 2010.
- Guy, Richard John. “First Spaces of Colonialism: The Architecture of Dutch East India Company Ships.” *Disertation*. Cornell University, 2012.
- Gordon, Kathryn. “The OECD Guidelines and Other Corporate Responsibility Instruments: A Comparison.” *OECD Working Papers on International Investment*, 2001. <https://doi.org/http://dx.doi.org/10.1787/302255465771>.
- Kaufmann, Christine, Geetanjali Mukherjee, Phallack Esq Kong, Patricia Rinwigati-Waagstein, Geetanjali Mukherjee, Long Seh Lih, Hnin Wut Yee, et al. *Business and Human Rights in ASEAN: A Baseline Study*. Depok, Indonesia: Human Rights Resource Centre Human, 2013. <http://hrrca.org/wp-content/uploads/2015/09/Business-and-Human-Rights-in-ASEAN-Baseline-Study-ebook.pdf>.
- Lagoutte, Stéphanie, Thomas Gammeltoft-Hansen, John Cerone. *Tracing the Role of Soft Law in Human Rights*. London: Oxford University Press, 2016.
- Lukas, Karin. "Human rights in the supply chain: influence and accountability." *The UN Guiding Principles on Business and Human Rights*. Leiden: Brill Nijhoff, 2012. 151-168, [https://doi.org/10.1163/9789004225794\\_007](https://doi.org/10.1163/9789004225794_007)
- Mares, Radu. *The UN Guiding Principles on Business and Human Rights*. Leiden: Martinus Nijhoff Publishers, 2011.
- \_\_\_\_\_. "International frameworks for responsible business conduct." *Responsible Business Conduct in Cambodia—A Textbook*. Raoul Wallenberg Institute of Human Rights, 2024. 40-52.
- Mardiniah, Naning, et al. *Meneropong hak atas education and health services: Situation Analysis in Three Districts: Indramayu, Sikka and Jayapura*. Jakarta: CEDSA-LP3ES, 2005.
- Moratis, Lars. “Standardizing a Better World? Essays and Critical Reflections on the ISO 26000 Standard for Corporate Social Responsibility.” Open Universiteit, 2015.
- Ogunranti, Akinwumi. “The Relationality of Community Development Agreements towards a Human Rights Due Diligence Good Faith Requirement.” *Canadian Yearbook of International Law*, 2024, 1–22. <https://doi.org/10.1017/cyl.2024.11>.
- OHCHR. “The Corporate Responsibility to Respect Human Rights: An Interpretive Guide” HR/PUB/12/ (2012). [https://www.ohchr.org/sites/default/files/Documents/Publications/HR.PUB.12.2\\_En.pdf](https://www.ohchr.org/sites/default/files/Documents/Publications/HR.PUB.12.2_En.pdf).
- Olan, Justine. 2013. "The Corporate Responsibility to Respect Human Rights: Soft

- Law Or Not Law?" In *Human Rights Obligations of Business: Beyond the Corporate Responsibility to Respect*, edited by Surya Deva and David Bilchitz, 138–161. Cambridge: Cambridge University Press. doi:10.1017/CBO9781139568333.010. <https://www.cambridge.org/core/books/human-rights-obligations-of-business/corporate-responsibility-to-respect-human-rights-soft-law-or-not-law/BFEDCB2C62FB804ABAE7533196E4545E>.)
- Paine, Thomas, edited by Philip S. Foner, New York: The Citadel Press, 1945, vol. 1, p. 273 in Jack Donnelly, "Human Rights as Natural Rights," *Human Rights Quarterly* 4, no. 3, 1982: 391-405
- Peters, Anne, Lucy Koechlin, Till Forster, and Gretta Fenner Zinkernagel. *Non-State Actors as Standard Setters*. Cambridge University Press, 2009.
- Ruggie, John Gerard. "Business and Human Rights: The Evolving International Agenda." Corporate Social Responsibility Initiative. Cambridge, MA, 2007. <http://www.hks.harvard.edu/m-rcbg/CSRI/>.
- Shelton, Dinah. *Remedies in International Human Rights Law*. London: Oxford University Press, 2005. <https://doi.org/10.1093/acprof:oso/9780199207534.001.0001>.
- Sicilia, David B. "Industrialization and the Rise of Corporations, 1860–1900," *A Companion to 19th-Century America*. Blackwell Publisher, 2001.
- Rhona K. M. Smith, et al., *Human Rights Law*. Yogyakarta: Center for Human Rights Studies Universitas Islam Indonesia, 2008.
- Theuws, Martje, Mariette van Huijstee, Pauline Overeem, Jos van Seters, and Tessel Pauli. *Fatal Fashion "Analysis of Recent Factory Fires in Pakistan and Bangladesh: A Call to Protect and Respect Garment Workers' Lives"*. *Clean Cloth Campaign & Somo*. Amsterdam: Stichting Onderzoek Multinationale Ondernemingen (SOMO), Centre for Research on Multinational Corporations, 2013.
- Turner, Chris. *Key Facts Key Cases: EU Law*. London: Routledge, 2014.
- United Nations Human Rights and Office of the High Commissioner. *The Corporate Responsibility to Respect Human Rights: An Interpretive Guide*. New York: United Nations., 2012
- Wahab, Andika Ab. "Inclusive and Responsible Business Conduct in ASEAN: Belt and Road Projects as a Model." *Asian Yearbook of International Economic Law 2023*. Cham: Springer Nature Switzerland, 2023. 153-169.
- Wendland, Lene, Adviser Business and Human Rights, Introductions to the Guiding Principle on Business and Human Rights, Office of the United Nations High Commissioner for Human Rights.
- Wibowo, Harry, Anharudin. *Meneropong Hakmudi Hakmu Education and Health Services: Situation Analysis in Three Districts: Indramayu, Sikka and Jayapura*. Jakarta: CESDA-LP3ES, 2005.
- Wouters, Jan, and Anna-luise Chané. "Multinational Corporations in International Law." Lauven, Belgium. 2015.

## **Regulations**

European Parliament legislative resolution of April 24, 2024, on the proposal for a directive of the European Parliament and of the Council on Corporate Sustainability Due Diligence and amending Directive (EU) 2019/1937 (COM(2022)0071 – C9-0050/2022 – 2022/0051(COD))

The Office of the High Commissioner for Human Rights (OHCHR) leads the business and human rights agenda. The UN system supports the UN Human Rights Council and the UN Working Group on Business and Human Rights in promoting the dissemination and implementation of the UN Guiding Principles on Business and Human Rights

## **News Articles**

Abitipuliti, Compensations payments to the victims of the Ali Enterprises fire have finally begun, <http://www.abitipuliti.org/news/iniziati-finalmente-i-risarcimenti-alle-vittime-dellincendio-alla-ali-enterprises-del-2012/>

Barbara Demck and David Sarno, China Labor Bulletin, <https://clb.org.hk/en/content/latest-news-reports-foxconn-suicides>

Business and Human Rights Recourse Center, Hidden Cost: Human Rights Policy and Practice in Mexico's Apparel Supply Chains, <https://www.business-humanrights.org/en/from-us/briefings/labour-rights-in-fashion-policy-and-practice-in-mexicos-apparel-supplychains/>

Business and Human Rights Resources Center, Sony Admits own audit Found Probable labor code violation by Malaysia Contractor, <https://www.business-humanrights.org/en/latest-news/sony-admits-own-audit-found-probable-labour-code-violation-by-malaysian-contractor/> accessed on October 18, 2024

Business and Human Rights Resources Center, Update: Sony disclosure re-allegation of Labor Rights abuse of Bangladeshi worker at Malaysian Supplier, <https://www.business-humanrights.org/en/latest-news/update-sony-disclosure-re-allegations-of-labour-rights-abuse-of-bangladeshi-workers-at-malaysian-supplier/> Accessed October 18, 2024

Christopher O. Tollefsen, *the new natural law theory*, *New Natural Law Theory (NLNRAC)*, <https://www.nlprac.org/contemporary/new-natural-law-theory.html>, Accessed April 23, 2025

Clean Clothes Campaign, Justices for the Ali enterprises victims, <https://cleanclothes.org/campaigns/past/ali-enterprises>, Accessed February 9, 2025

EU Reporter correspondent, EUREPORTER, <https://www.eureporter.co/frontpage/2020/02/25/commission-study-shows-the-need-for-eu-level-legislation-on-due-diligence-throughout-the-supply-chain-on-humanrights-and-environmentalimpacts/>

European Companies Increasingly moving to restore Asia Production, <https://www.consultancy.eu/news/7430/european-companies-increasingly-moving-to-reshore-asia-production>

Mahmudul Islam, Bangladesh RMG Industry's Robust Growth and Challenges, <https://businessinspection.com.bd/rmg-industry-of-bangladesh/>, accessed on May 19, 2022

MalayMail, Sony Admit own audit found probable labor code violation by Malaysian contractor, [https://www.malaymail.com/news/malaysia/2024/10/18/sony-admits-own-audit-found-probable-labour-code-violation-by-malaysian-contractor/154022#google\\_vignette](https://www.malaymail.com/news/malaysia/2024/10/18/sony-admits-own-audit-found-probable-labour-code-violation-by-malaysian-contractor/154022#google_vignette) accessed on October 18, 2024.

Nam Ake Lekfuangfu and Varutt Kitticungchit, Thailand Human Rights Due Diligence, <https://www.globalcompliance.com/2022/06/23/thailand-human-rights-due-diligence-09062022/> accessed October 30, 2022

Regina M. Paulose N. Hasan Camilla Gray Umme Tamima Md New Lines Institute, *The Accountability, Politics, and Humanitarian Toll of the Rohingya Genocide*, June 11, 2024 <https://newlinesinstitute.org/displacement-and-migration/the-accountability-politics-and-humanitarian-toll-of-the-rohingya-genocide/>

### **Websites**

Alec von Graffenried, 14. December 2012 Analysis and comments by the Swiss Coalition for Corporate Justice [https://www.publiceye.ch/fileadmin/doc/Konzernverantwortung/2016\\_NAP\\_Report\\_E.pdf](https://www.publiceye.ch/fileadmin/doc/Konzernverantwortung/2016_NAP_Report_E.pdf) Accessed at March 1, 2022

CEPPED: Convention on the Protection of all Persons from Enforced Disappearances. <https://indicators.ohchr.org> accessed on May 11, 2022

CNN World, at least 117 Killed in fire at Bangladeshi Clothing Factory, [https://edition.cnn.com/2012/11/25/world/asia/bangladesh-factory-fire/?hpt=hp\\_t](https://edition.cnn.com/2012/11/25/world/asia/bangladesh-factory-fire/?hpt=hp_t), Access April 25, 2025

Directive 2014/95/EU of 22 October 2014 amending Directive 2013/34/EU as regards the publication of non-financial information and information on diversity by certain large companies and groups. Note that its successor, the CSRD, was adopted in November 2022. See <https://www.consilium.europa.eu/en/press/press-releases/2022/11/28/council-gives-final-green-light-to-corporate-sustainability-reporting-directive/>

<https://www.consilium.europa.eu/en/press/press-releases/2022/11/28/council-gives-final-green-light-to-corporate-sustainability-reporting-directive/>

<https://dictionary.cambridge.org/dictionary/english/cause>, Access on May 18, 2022

<https://www.etymonline.com/word/company>, accessed on May 16, 2022

Five-Year Work Plan of the AICHR 2021-2025, [https://aichr.org/wp-content/uploads/2020/10/AICHR-FYWP-2021-2025-approved-at-53rd-AMM\\_for-web.pdf](https://aichr.org/wp-content/uploads/2020/10/AICHR-FYWP-2021-2025-approved-at-53rd-AMM_for-web.pdf) accessed on May 14, 2022

<https://globalnaps.org/country/vietnam> accessed on November 11, 2024

<https://globalnaps.org/country/indonesia/> accessed on November 11, 2024

Human Rights Watch (Government Human Rights Commission in Africa, Protector or pretenders, [https://www.hrw.org/reports/2001/africa/overview/int-standards.html#P257\\_30848](https://www.hrw.org/reports/2001/africa/overview/int-standards.html#P257_30848), Access on July 27, 2024

ILO Info story, The Rana Plaza Disaster Ten Years on: what has change, <https://webapps.ilo.org/infostories/en-GB/Stories/Country-Focus/rana-plaza>

ILO,

[https://ecampus.itcilo.org/pluginfile.php/104547/mod\\_scorm/content/23/index\\_lms\\_html5.html](https://ecampus.itcilo.org/pluginfile.php/104547/mod_scorm/content/23/index_lms_html5.html) accessed January 6, 2023

<https://www.ilo.org/regions-and-countries>, accessed on May 21, 2024

[https://www.ilo.org/empent/areas/mne-declaration/WCMS\\_570332/lang--en/index.htm](https://www.ilo.org/empent/areas/mne-declaration/WCMS_570332/lang--en/index.htm) Accessed April 19, 2023

Key millstone, <https://www.oecd.org/60-years/timeline/>

National Actions Plan on Business and Human Rights, Country, <https://globalnaps.org/country/>

Sandberg, U. 2023 Update of the OECD Guidelines for Multinational Enterprises on Responsible Business Conduct, Worldfavor, available at: <https://blog.worldfavor.com/2023-update-of-the-oecd-guidelines-for-multinational-enterprises-on-responsible-business-conduct>

Schuman Declarations May 1950 [https://european-union.europa.eu/principles-countries-history/history-eu/1945-59/schuman-declaration-may-1950\\_en](https://european-union.europa.eu/principles-countries-history/history-eu/1945-59/schuman-declaration-may-1950_en),

The Founding of ASEAN, <https://asean.org/about-asean/the-founding-of-asean/>  
Access on May 5, 2022

The OECD at 60, [https://read.oecd-ilibrary.org/view/?ref=1059\\_1059103-whi5k2wv7w&title=OECD-at-60](https://read.oecd-ilibrary.org/view/?ref=1059_1059103-whi5k2wv7w&title=OECD-at-60)

\_\_\_\_\_, OECD, OECD Guidelines for Multinational Enterprises on Responsible Business conduct, [https://www.oecd.org/en/publications/oecd-guidelines-for-multinational-enterprises-on-responsible-business-conduct\\_81f92357-en.html](https://www.oecd.org/en/publications/oecd-guidelines-for-multinational-enterprises-on-responsible-business-conduct_81f92357-en.html),

\_\_\_\_\_, (2018), OECD Due Diligence Guidance for Responsible Business Conduct, <https://www.oecd.org/investment/due-diligence-guidance-for-responsible-business-conduct.htm>

\_\_\_\_\_, the structure of Tripartite Declaration concerning Multinational Enterprises and Social Policy: An Employers' Guide,

\_\_\_\_\_, The ILO MNE Declaration: What is in for Workers? [https://ilo.primo.exlibrisgroup.com/discovery/fulldisplay/alma995003690902676/41ILO\\_INST:41ILO\\_V2](https://ilo.primo.exlibrisgroup.com/discovery/fulldisplay/alma995003690902676/41ILO_INST:41ILO_V2) accessed January 4, 2023

UN Guiding Principles 101: A Beginner's Guide to the UN Guiding Principles on Business and Human Rights, <https://shiftproject.org/resources/ungps101/>  
Accessed on May 5, 2022

<https://unglobalcompact.org/what-is-gc/participants> accessed on May