

BUSINESS AND HUMAN RIGHTS

1. WHAT IS BUSINESS AND HUMAN RIGHTS (BHR)?

The concept of “Business and Human Rights” (BHR) was developed in response to the growing awareness of the substantial influence that business operations may have on people’s ability to exercise their human rights as individuals and as a community. BHR, which is based on international human rights standards, highlights that companies have an obligation to uphold, defend, and respect human rights in all aspects of their operations, supply chains, and dealings with stakeholders. United Nations Guiding Principles on Business and Human Rights (UNGPs), which outlined the obligations of governments and corporations in this area, were a major factor in the rise in popularity of the idea in 2011.¹



2. KEY DOCUMENTS

UN Guiding Principles on Business and Human Rights (UNGPs)

UNGPs were unanimously approved by the UN Human Rights Council in 2011. The UNGPs are the most reputable normative framework in the world for directing ethical business practices and addressing violations of human rights in international supply chains and corporate activities.²

¹ *Business and Human Rights in the Digital Environment Accompanying notes, 2020; <https://www.ohchr.org/en/topic/business-and-human-rights>*

² *UNDP, UNGP Brochure, 2021.*

UN Global Compact's Ten Principles

The Ten Principles of the UN Global Compact provide a framework for companies to match their operations and strategies with widely recognized standards in the fields of labor, anti-corruption, human rights, and the environment. These guidelines are intended to direct companies in developing sustainable and ethical practices. They are drawn from a number of international accords and declarations. These guidelines give companies a solid base on which to build when incorporating sustainability and ethical behavior into their plans, daily operations, and corporate culture. Businesses can help achieve more general social objectives, such as the Sustainable Development Goals (SDGs) established by the UN, by embracing and putting these concepts into practice.³

Ten Principles⁴

Human Rights

- ▶ **Principle 1:** Businesses should support and respect the protection of internationally proclaimed human rights; and
- ▶ **Principle 2:** Make sure that they are not complicit in human rights abuses.

Labour

- ▶ **Principle 3:** Businesses should uphold the freedom of association and the effective recognition of the right to collective bargaining;
- ▶ **Principle 4:** The elimination of all forms of forced and compulsory labour;
- ▶ **Principle 5:** The effective abolition of child labour; and
- ▶ **Principle 6:** The elimination of discrimination in respect of employment and occupation.

Environment

- ▶ **Principle 7:** Businesses should support a precautionary approach to environmental challenges;
- ▶ **Principle 8:** Undertake initiatives to promote greater environmental responsibility; and
- ▶ **Principle 9:** Encourage the development and diffusion of environmentally friendly technologies.

Anti-Corruption

- ▶ **Principle 10:** Businesses should work against corruption in all its forms, including extortion and bribery.

3. <https://unglobalcompact.org/what-is-gc/mission>

4. <https://unglobalcompact.org/what-is-gc/mission/principles>

Organisation for Economic Co-operation and Development (OECD) Guidelines for Multinational Enterprises

OECD Guidelines for Multinational Enterprises are a series of suggestions given to multinational companies operating in or from nations that comply with the standards. In order to encourage ethical business activities, these rules address issues including bribery, corruption, disclosure, labor practices, environmental concerns, and consumer rights. Even though the rules are not legally obligatory, governments have pledged to support their voluntary adherence by multinational enterprises.⁵

International Labour Organization (ILO) The Tripartite Declaration of Principles Concerning Multinational Enterprises and Social Policy

ILO incorporated human rights principles into its framework for multinational enterprises in its Tripartite Declaration of Principles Concerning Multinational Enterprises and Social Policy (The MNE Declaration). It highlights:

- ▶ Upholding fundamental rights in the workplace,
- ▶ Non-discrimination in vocation and employment,
- ▶ Abolition of child labor and forced labor,
- ▶ Promotion of fairness in terms of treatment and opportunity,
- ▶ Granting social security and promoting economic growth,
- ▶ Encouraging possibilities for workers to receive training and education.

In the context of international corporate operations, these principles support the advancement and defense of human rights and are consistent with larger human rights frameworks.⁶



5. OECD (2023), *OECD Guidelines for Multinational Enterprises on Responsible Business Conduct*, OECD Publishing, Paris.

6. ILO, *Tripartite Declaration of Principles concerning Multinational Enterprises and Social Policy*, 6th Edition, 2022.

The Edinburgh Declaration

Adopted in 2010, the Edinburgh Declaration is a foundational statement in the discourse surrounding business and human rights. It focuses on the function of National Human Rights Institutions (NHRIs) in particular. The Declaration emphasizes that NHRIs must take the initiative to address human rights issues that are connected to their commercial operations. Holding companies responsible for possible violations of human rights during business activities is part of this. The significance of guaranteeing victims of such mistreatment have access to justice is also emphasized in the paper. The Edinburgh Declaration, in its whole, presents NHRIs as indispensable agents for the advancement of ethical business practices and the development of a framework within which corporations uphold human rights in the course of their activities. It promotes a cooperative strategy in which NHRIs cooperate with corporations, governments, and civil society organizations to accomplish this objective.⁷

European Union (EU) Corporate Sustainability Due Diligence Directive (CSDDD)

The EU's Corporate Sustainability Due Diligence Directive (CSDDD) is crucial in guaranteeing that businesses functioning within the European Union adhere to human rights regulations. It creates a new legal obligation on businesses to recognize, stop, lessen, and deal with any adverse effects on the environment and human rights that may arise from their operations. This holds true for a company's subsidiaries and the whole value chain in addition to its internal operations. Businesses will have to provide tangible policies and measures to support their efforts at due diligence. The CSDDD seeks to hold businesses responsible for the environmental and human rights impact of their supply chains and to advance sustainable business practices within the EU.⁸

3. WHY IS BHR IMPORTANT?

The business impacts on human rights are wide-ranging, multi-dimensional, and context dependent as these are influenced by the type of industry and the environment in which it operates. The number of businesses has increased dramatically in recent decades, and they now possess enormous economic clout and sway. With revenues greater than the gross domestic product of many industrialized economies and emerging nations combined, businesses make up the bulk of the world's largest economic entities. Consequently, companies are in a unique position to assist the government in promoting sustainable development and helping to uphold basic rights since they are an essential component of society.⁹

7. *International Coordinating Committee of National Human Rights Institutions (ICC) and Danish Institute for Human Rights (DIHR), Business and Human Rights A Guidebook for National Human Rights Institutions, 2013.*

8. <https://www.consilium.europa.eu/en/press/press-releases/2023/12/14/corporate-sustainability-due-diligence-council-and-parliament-strike-deal-to-protect-environment-and-human-rights/>

9. *Commission on Human Rights of the Philippines, Guidance Document on Business and Human Rights, 2020.*

Business and Human Rights is important due to its potential to address systemic issues of inequality, exploitation, and marginalization that can arise from business activities. By integrating human rights considerations into business practices, BHR seeks to ensure that economic development is sustainable, equitable, and respects the dignity and rights of all individuals. Moreover, adhering to BHR principles can enhance corporate reputation, mitigate legal risks, and contribute to long-term business sustainability.¹⁰

Business operations can have a substantial influence on a number of human rights, including the right to work, the environment, society, indigenous rights, privacy and information access, consumer rights, and community rights. Forced labor and hazardous working circumstances are two examples of behaviors that might jeopardize workers' rights, which include fair salaries, safe working conditions, and freedom from discrimination. The right to a clean and healthy environment is compromised by environmental deterioration brought on by commercial activity, such as pollution and deforestation. Land development projects and the extractive industries frequently violate the rights of indigenous peoples, especially their rights to land and culture. Corporate data collection and monitoring techniques may have an impact on rights to privacy and access to information. False advertising and product flaws may breach consumer rights, including those related to fair pricing and product safety. Furthermore, inadequate consultation might jeopardize community rights, particularly the ability to participate in decision-making processes.¹¹



RESPECT HUMAN RIGHTS

10. OHCHR, *Business and Human Rights in Challenging Contexts Considerations for Remaining and Exiting*, 2023.

11. <https://www.ungpreporting.org/resources/how-businesses-impact-human-rights/>

4. KEY PRINCIPLES OF BHR

In 2011, the United Nations Human Rights Council unanimously endorsed the UN Guiding Principles on Business and Human Rights. The UNGPs rest on three “pillars”:¹²

▶ **Pillar I: The State Duty to Protect Human Rights:** Under international human rights law, States must protect against human rights abuses within their territory and/or jurisdiction by third parties, including business enterprises. This means States must prevent, investigate, punish and redress human rights abuses that take place in domestic business operations.

▶ **Pillar II: The Corporate Responsibility to Respect Human Rights:** Business enterprises have a responsibility to avoid infringing on the rights of others and to address adverse human rights impacts with which they are involved.

The UNGPs affirm that business enterprises must prevent, mitigate and, where appropriate, remedy human rights abuses that they cause or contribute to. Businesses must seek to prevent or mitigate any adverse impacts related to their operations, products or services, even if these impacts have been carried out by suppliers or business partners.¹³

▶ **Pillar III: Access to Remedy:** When adverse impacts occur, those affected must have access to effective remedy.

The UNGPs provide that when a company violates human rights on its land, under its authority, or both, the provide is required to provide the impacted parties with access to a meaningful remedy. The ideas of access to remedies are not exclusive to states. They also state that businesses must set up or take part in efficient processes for receiving and handling complaints from people and groups that might be negatively impacted by their operations.¹⁴

UN GUIDING PRINCIPLES ON BUSINESS AND HUMAN RIGHTS



12. OHCHR, *Business and Human Rights in Challenging Contexts Considerations for Remaining and Exiting*, 2023.

13. The UN Working Group on Business and Human Rights, *The UN Guiding Principles on Human Rights and Business An Introduction*.

14. The UN Working Group on Business and Human Rights, *The UN Guiding Principles on Human Rights and Business An Introduction*.

The responsibility of business to respect human rights under the second pillar of the UNGPs is categorized under three main chapters:¹⁵

- ▶ **Respect:** Businesses should refrain from infringing on the human rights of individuals and should avoid being complicit in human rights abuses.
- ▶ **Protect:** Businesses have a duty to prevent human rights abuses within their operations and supply chains, including those that may be caused by their business partners.
- ▶ **Remedy:** When human rights abuses occur, businesses should provide appropriate remedies, such as compensation, restitution, or rehabilitation, to those affected. This may include establishing grievance mechanisms to facilitate access to remedy for victims.

5. HUMAN RIGHTS DUE DILIGENCE

A fundamental component of Pillar II of the UNGPs' "corporate responsibility to respect" is human rights due diligence. Business enterprises should do due diligence with regard to human rights in order to detect, avoid, mitigate, and account for how they resolve their detrimental consequences. The procedure need to comprise evaluating the real and possible effects on human rights, incorporating and implementing the results, monitoring the replies, and conveying the ways in which the effects are handled.¹⁶

The relevance of HRDD to all enterprises is due to the UNGPs' application to all States and businesses, irrespective of their size, sector, location, ownership, structure, and whether they are global or just operate domestically.¹⁷

HRDD includes four key steps: assessing actual and potential human rights impacts; integrating and acting on the findings; tracking responses; and communicating about how impacts are addressed.¹⁸

Assessing actual and potential human rights impacts: Determine the real and possible effects on people that business operations or business relationships may have.

Integrating and acting on the findings: Take action to stop these effects from happening, lessen their chance and severity, exert influence in business dealings, and offer relief when effects do happen.

Tracking responses: Keep an eye on how well the company's procedures for determining and mitigating these effects are working.

Communicating: Disseminate information to external stakeholders regarding the business's approach to mitigating impacts and risks, where appropriate through public reporting.

15. *The UN Working Group on Business and Human Rights, The UN Guiding Principles on Human Rights and Business An Introduction.*

16. UNGPs, Principle 17.

17. <https://teachbhr.org/resources/teaching-bhr-handbook/teaching-notes/human-rights-due-diligence/>

18. Shift, Human Rights Due Diligence in High Risk Circumstances: Practical Strategies for Businesses, 2015.

6. ROLE OF THE NATIONAL HUMAN RIGHTS INSTITUTIONS (NHRIS)

NHRIs have an important role to play in advancing business and human rights intersection therefore they ensure businesses operate respect for and upholding of human rights standards. The UN Paris Principles state that NHRIs must have a broad mission to uphold and advance human rights. This mission includes all three of the Protect, Respect, Remedy framework's pillars as well as the public and private sectors.¹⁹

In the Edinburgh Declaration, NHRIs committed to actively considering how their mandates under the Paris Principles can be strengthened or applied in order to promote and protect human rights as they relate to business.²⁰

- ▶ Monitoring states' and non-state actors', including businesses' compliance with human rights,
- ▶ Advising all relevant actors on how to prevent and remedy such abuses,
- ▶ Providing and/or facilitating access to judicial and/or non-judicial remedies, for example by supporting victims, handling complaints and/or undertaking mediation and conciliation,
- ▶ Conducting research and undertaking education, promotion and awareness-raising activities,
- ▶ Integrating human rights and business issues when interacting with international human rights bodies, including UN treaty bodies, Special Procedures, the Human Rights Council and the Universal Periodic Review, as well as regional human rights mechanisms.



19. *International Coordinating Committee of National Institutions for the Promotion and Protection of Human Rights, Submission to the United Nations Working Group on Transnational Corporations and Other Business Enterprises, 2011.*

20. *International Coordinating Committee of National Institutions for the Promotion and Protection of Human Rights, The Edinburgh Declaration, para. 16.*

6.1. WHAT CAN NHRIS DO ABOUT BHR?²¹

Human Rights Standards Promotion: To make sure that companies understand what is expected of them, NHRIs work towards creating awareness about human rights standards. These may include providing feedback on the responsibilities of firms regarding their responsibility to observe international regulations like UN Guiding Principles on Business and Human Rights.

Monitoring and Reporting: The impact of businesses on human rights within their jurisdictions is monitored by national Human Rights Institutions. They do this through looking into individual or community complaints arising from the operations of business enterprises and carrying out independent research to evaluate the records of corporate entities on human rights grounds.

Advocacy and Dialogue: NHRIs often help bring together companies, government departments, civil societies and affected communities so that they can deal with specific instances whereby there is violation of human being's rights through doing business. They encourage organizations to adopt policies as well as practices which promote respect for humans' right by these institutions.

Policy Development: NHRIs contribute to the development of countrywide legal guidelines, regulations, and policies that govern enterprise conduct to ensure compliance with human rights requirements. They can also provide input to legislative methods and recommend for the incorporation of human rights considerations into commercial enterprise-related legal guidelines and policies.

Capacity Building: NHRIs guide potential-building projects geared toward strengthening the ability of organizations to combine human rights into their operations. This may additionally contain presenting schooling, resources, and tools to assist groups investigate and cope with their human rights affects.

Reporting and Recommendations: Based on their monitoring and studies activities, NHRIs issue reviews and tips to groups, authorities authorities, and different stakeholders. These reports spotlight human rights issues related to commercial enterprise sports and offer guidance on steps that can be taken to deal with them.

21. ICC and Danish Institute for Human Rights (DIHR), *Business and Human Rights A Guidebook for National Human Rights Institutions*, 2013; UNDP-OHCHR, *Toolkit for collaboration with National Human Rights Institutions*, 2010; OHCHR, *National Human Rights Institutions History, Principles, Roles and Responsibilities, Professional Training Series No. 4(Rev.1)*, 2010.

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