

**State Responsibility to protect Human Rights in  
private business: An analysis in the light of International  
Law and special reference to Pakistan.**



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FINAL APPROVAL

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## **DEDICATION**

To my mentor Muhammad Maqbool Bhat Shaheed, Father of the Kashmiri Nation, as well as  
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## **Declaration**

I hereby declare that the current thesis is entirely original work of mine, and that, to the best of my knowledge and belief, it does not contain any material that has already been published or written by someone else, or that has already been approved for the award of any other degree or diploma from the university or another institution of higher learning, unless appropriate acknowledgement has been made in text.

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## **LIST OF ABBRIVITION:**

ADA: Americans with Disabilities Act

ADEA: Age Discrimination in Employment Act

BHR: Business and Human Rights

CSR: Corporate Social Responsibilities

EEOC: Equal Employment Opportunity Commission

EPA: Equal Pay Act

EHRC: Equal and Human Rights Commission

ESG: Environmental Social and Governance

ESSI: Employees' Social Security Institution

FMLA: Family and Medical Leave Act

GRI: Global Reporting Initiative

GSSB: Global Sustainability Standard Board

HRC: Human Rights Council

HRDD: Human Rights Due Diligence

IGWG: Intergovernmental Working Group

IRS: Internal Revenue Service

ICCPR: International Covenant on Civil and Political Rights

ICESCR: International Covenant on Economic, Social and Cultural Rights

ILO: International Labour Organization

LLP: Limited Liability Partnership

IRA: Industrial Relations Act

NGOs: Non-Governmental Organization

NAP: National Action Plan

NCP: National Content Point

NBS: National Baseline Assessment

NIRC: National Industrial Relations Commission

OHCHR: Office of The High Commissioner for Human Rights

OSHA: Occupational Safety and Health Act

OECD: Organization for Economic Co-Operation and Development

PECA: Prevention Electric Crime Act

PBS: Pakistan Bureau of Statistics

RUPA: Revised Uniformed Partnership Act

RSIL: Research Society of International Law

SDGs: Sustainable Development Goals

SMSG: Special Representative of The Secretary General

TNCs: Transnational Referred Corporation

UNGPs: United Nations Guiding Principles

UNHRC: United Nations Human Rights Council

UDHR: Universal Declaration of Human Rights

UNGC: United Nations Global Impact

UPA: Uniform Partnership Act

UNDP: United Nations Development Program

UNWG: United National Working Group

USA: United State of America

UK: United Kingdom

WHO: World Health Organization

## **Abstract**

In Pakistan, the discussion between business and human rights is crucial. The sixty million-strong workforces in the nation continues to suffer several challenges, including poor pay that is lower than the legal minimum, barriers to unionization, dangerous working conditions, two to three million youngsters who are employed, and women receiving much less for the equal work as males. Nonetheless, a lot of prominent organizations are still ignorant of the matter of business and human rights. It is imperative that the National Action Plan on Human Rights, which even the Pakistani government introduced in 2021, be implemented as soon as feasible. Even though corporations have a big impact on national, regional, and global levels, and our understanding of these effects is still evolving, they affect the human rights of millions of Pakistanis at work and at home. The advantages of enhancing human rights in the workplace have been shown to be particularly underappreciated by organizations that are not export-oriented. United Nations Guiding Principles were designed to aid nations in advancing human rights and business agenda. This manual is a practical and all-encompassing guide for preventing and addressing the harmful impact that commercial activities may have on the rights of individuals. In accordance with the UNGPs, enterprises must uphold these rights and consider the negative effects of their operations, while nations have a general duty to preserve human and labour rights. Businesses and governments must work together to make sure that people and communities have access to legal recourse for the unfavorable effects of corporate operations. Due to its ability to monitor how much governments and corporations respect human rights, the business community may also play a significant role.

The focus of this research is on examining the responsibility of the state in protecting human rights within the private business sector according to international laws, treaties, and conventions, as well as national laws. Additionally, the study identifies areas of deficiency at the national level and offers recommendations to address them.

# INTRODUCTION

## Thesis Statement

In contemporary states, human rights are frequently violated by private business organizations more specifically corporations of developing countries like Pakistan, therefore, there is a need to formulate concrete and effective legal framework to prevent violations of human rights in business sector.

## Statement of the Research

According to Pakistan's National Action Plan 2021-2026, it is everyone's fundamental right to start a business since, under the state's duty to defend the human rights, all individuals are entitled to equal treatment.<sup>1</sup> The protection of human rights as enshrined in the International Covenant on Economic, Social, and Cultural Rights 1966,<sup>2</sup> the 2003 Standards<sup>3</sup>, the 2011 Maastricht Principles,<sup>4</sup> the United Nations Human Rights Council's Guiding Principles on Business and Human Rights.<sup>5</sup> The question of appropriate forum, policy, laws, or remedy for the infringement of such rights remains an issue to be addressed under the fundamental tenet

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<sup>1</sup> Dr. Shireen Mazari, *Guidance on National Action Plans on Business and Human Rights*, UN Working Group on Business and Human Rights, available at [https://www.ohchr.org/sites/default/files/Documents/Issues/Business/UNWG\\_NAPGuidance.pdf](https://www.ohchr.org/sites/default/files/Documents/Issues/Business/UNWG_NAPGuidance.pdf), last accessed Sep 10, 2022.

<sup>2</sup> *International Covenant on Economic, Social, and Cultural Rights*, United Nation Human Rights Office Of High Commissioner, General Assembly Resolution 2200A, (Dec 16, 1966), available at <https://www.ohchr.org/en/instruments-mechanisms/instruments/international-covenant-economic-social-and-cultural-rights>, last accessed Sep 11, 2022.

<sup>3</sup> David Weissbrodt 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*, vol. 97, no. 4 (2003): 901–22. available at <https://www.jstor.org/stable/3133689>, last accessed Sep 11, 2022.

<sup>4</sup> Sara L. Seck, *Conceptualizing the Home State Duty to Protect Human Rights*, in K. Buhmann, L. Roseberry and M. Morsing (eds), *Corporate Social and Human Rights Responsibilities*, Palgrave Macmillan, Basingstoke, (2011): 25- 51, available at [https://link.springer.com/chapter/10.1057/9780230294615\\_2#citeas](https://link.springer.com/chapter/10.1057/9780230294615_2#citeas), last accessed Sep 20, 2022.

<sup>5</sup> *Guiding Principles on Business and Human Rights*, (New York and Geneva: United Nations Office of the High Commissioner, 2011), available at [https://www.ohchr.org/sites/default/files/documents/publications/guidingprinciplesbusinesshr\\_en.pdf](https://www.ohchr.org/sites/default/files/documents/publications/guidingprinciplesbusinesshr_en.pdf), last accessed Sep 18, 2022.

of law that "Ubi Jus Ibi Remedium" means the law provides a remedy to preserve the right or damage for its loss when someone's right is violated or destroyed.<sup>6</sup> The private business ventures regularly violate human rights in modern societies, it is the state's major role to create an effective policy and regulations to stop human rights violations in the corporate sector.

## **Introduction**

On International level, the 1948 Universal Declaration of Human Rights (hereinafter referred to as UDHR) provides in its Preamble with more emphasis in Article 1, that dignity and respect for every member of society are the basis for justice, freedom, and peace in the world. Thereafter, UDHR in Article 23 provides the right to every person in the world to work in fair and benevolent working conditions, and to enjoy the freedom to choose their employer, and protection against unemployment. Everyone's right to remuneration for equal labor is one that should not be subject to any kind of discrimination. Every individual who works has a right to reasonable and beneficial compensation that ensures for his family and himself a life worthy of human dignity and is supported, when needed, by various forms of social assistance. Everyone has the freedom to establish and join trade unions to further their own interests.<sup>7</sup>

Now the question arises how can the current international human rights framework defend individuals and communities against human rights violations perpetrated by corporations? At present, the global community is in the initial phases of revising the human rights framework to enhance protection for individuals and communities from corporate violations of human rights.

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<sup>6</sup> Jessica Connell and Heather MacNaughton, "Remedies in the human rights context," *CIAJ*, (2009), available at [https://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=2006540](https://papers.ssrn.com/sol3/papers.cfm?abstract_id=2006540), last accessed Sep 18, 2022.

<sup>7</sup> UN General Assembly, *Universal Declaration of Human Rights*, 217 A (III), (Dec 10, 1948), available at: <https://www.refworld.org/docid/3ae6b3712c.html>, last accessed Feb 24, 2023.

Business and Human Rights (hereinafter referred to as BHR) has arisen as an emergent movement in international politics in the current decades. Since human rights have always been seen as problems requiring official action and enforcement, there hasn't been much international attention paid to the connection between business and human rights. The United Nation Human Rights Council (hereinafter referred to as UNHRC) gave unanimous approval to the United Nations Guiding Principles (hereinafter referred to as UNGPs) on Business and Human Rights on June 16, 2011. This established the groundwork for the business and human rights movement, guaranteeing that any adverse consequences of corporate operations on human rights could be adequately dealt with. The UNGPs, which are based on the protect, respect, and rectify or remedy framework, are the result of six years of discussions among relevant parties.<sup>8</sup>

The 17 Sustainable Development Goals (hereinafter referred to as SDGs) of the UN for 2030 clearly place a priority on concerns relating to people, the environment, and prosperity. All nations and stakeholders will adopt this plan, which is integrated and unbreakable and strikes a stability between the environment, social, and economic aspects of sustainable development. Over the next 15 years, the goals and targets will spur action in areas of vital significance to mankind, economic and environment. The 8.3 goal of SDGs emphasizes the need to promote policies that facilitate development through productive undertakings, job creation, entrepreneurship, innovation, and the growth of small to medium-sized enterprises.

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<sup>8</sup> United nations human rights OHCHR, *The Corporate Responsibility To Respect Human Rights*, (New York: Geneva,2012), available at [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), last accessed Feb 24, 2023.



This also includes providing access to financial services and promoting the formalization of such businesses.<sup>9</sup>

## **Research Objectives**

This research aims to:

1. Implement comprehensive legislation that expressly defines the State's role for human rights protection in the private sector, in accordance with applicable international laws and conventions.
2. Strengthen regulatory frameworks and establish independent monitoring mechanisms to ensure strict adherence to human rights standards within private businesses.
3. Engage in international laws and information sharing to exchange best practices and experiences with the US and UK, enabling the adoption of more effective measures in protecting human rights in private business ventures across contemporary national states.
4. Role of the National Action plan for business and human rights in US, UK & Pakistan.
5. The impact of the Pandemic COVID-19 on the Private Business Sector.

## **Literature Review**

On an international level there are some researchers and organizations that draw attention to the social, economic, and cultural rights that are subject to abuse and need to be protected. However, addressing state responsibility, formulating effective policies, enacting legislation,

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<sup>9</sup> United Nations, *The 17 Sustainable Development Goals*, Department of Economic and Social Affairs Disability, available at <https://www.un.org/development/desa/disabilities/envision2030.html>, last accessed Feb 24, 2023.

and ensuring their implementation to prevent human rights abuses within the private business sector remain significantly deficient.

In the Article Contextualizing the state duty to protect human rights as defined in the UN guiding principles on business and human rights<sup>10</sup> the writer Wouter Vandenhole argues that the Guiding Principles of UN have a restricted or narrow and retrospective approach to home states' human rights commitments (direct liabilities of multinational businesses as well). Furthermore, the author carefully examines the roles and responsibilities of both home states and host states. But what is not addressed is that the state has a duty to actively prevent human rights violations in the sphere of private business corporations. Therefore, researcher's aim to explore this important aspect, which relates to the formulation and implementation of strong policies and strict legislation to curb such abuses. It is imperative to delve into the comprehensive framework of state responsibility that extends not only to addressing violations reactively but also to actively preventing them within private business corporations.

Authors Sarah Joseph, Ursula Wynhoven, and Shubha Chandra discuss in this publication, *Human Rights Translated: A Business Reference Guide*<sup>11</sup> that the primary objective is to communicate the fundamentals of widely accepted human rights in a way that corporations will understand. The book intends to increase awareness of these rights among a wider audience by taking a business-friendly approach. This is accomplished via the deft use of real-world examples that demonstrate the complex interrelationship between business and human rights. The basic right to labor is one of the key topics covered in the book. This right

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<sup>10</sup>Wouter Vandenhole, "Contextualising the state duty to protect human rights as defined in the UN guiding principles on business and human rights," *ISSN*, (2012), available at <https://revistaselectronicas.ujaen.es/index.php/rej/article/view/825>, last accessed March 18, 2022.

<sup>11</sup> Sarah Joseph, Ursula Wynhoven and Shubha Chandra, *Human Rights Translated: A Business Reference Guide*, Monash University, available at [https://www2.ohchr.org/english/issues/globalization/business/docs/Human\\_Rights\\_Translated\\_web.pdf](https://www2.ohchr.org/english/issues/globalization/business/docs/Human_Rights_Translated_web.pdf), last accessed March 18, 2022.

recognizes that everyone has an inherent right to find meaningful job that fits with their preferences and talents. Additionally, it highlights how crucial it is to establish and maintain safe working environments that support workers' wellbeing. The valuable discoveries unveiled through this comprehensive study serve as a robust foundation for empowering the researcher in their mission to champion the safeguarding of human rights at various work sites. With these findings in hand, the researcher gains a substantial arsenal of insights to advocate for and enforce the ethical treatment of employees across workplaces.

The United Nations Guiding Principles were approved by UNHRC in June 2011 to address the negative effects of business activity on human rights.<sup>12</sup> Three chapters, or pillars, make up the Guiding Principles: protect, respect, and remedy. Each outlines specific actions that governments and businesses may take to fulfil their respective obligations to protect human rights and offer redress for violations that do occur. The UNGPs offer a universal standard for having to address and mitigate human rights abuses and violations brought on by business activity. This framework greatly aids the researcher in coming up with practical and useful recommendations while keeping in mind the guiding principles for addressing human rights breaches in the business sector. The researcher acquires a complete arsenal to address human rights violations in the corporate world by adhering to these standards.

Author Dr Nadia Bernaz in this study *Guidance on Business and Human Rights: A Review*<sup>13</sup> enshrines that the main goal of this report was to thoroughly evaluate the current interactions between corporate practices and human rights concepts. Given the rapidly

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<sup>12</sup> United Nations, *Guiding principle*, UNHRC, available at [https://www.ohchr.org/sites/default/files/documents/publications/guidingprinciplesbusinesshr\\_en.pdf](https://www.ohchr.org/sites/default/files/documents/publications/guidingprinciplesbusinesshr_en.pdf), last accessed March 18, 2022.

<sup>13</sup> Dr. Nadia Bernaz, *Guidance on Business and Human Rights: a Review*, (Middlesex University Business School Law Department), Equality and Human Rights Commission, available at [https://www.equalityhumanrights.com/sites/default/files/middlesex\\_university\\_report\\_17\\_june\\_0.pdf](https://www.equalityhumanrights.com/sites/default/files/middlesex_university_report_17_june_0.pdf), last accessed March 18, 2022.

changing legislative environment, providing practical advice, especially for Small and Medium-Sized Businesses (SMEs), was a crucial component. This thorough investigation examined important UK laws from the viewpoints of human rights and business, highlighting their importance to the sector. The significance of this report's focus on the complex interaction between these governmental initiatives and the private sector is notable, though. Despite the wide range of talks on business and human rights, the issue of protecting human rights in the context of private corporations is still not completely researched. So, the scope of the researchers' research included an investigation of state responsibility for the upholding of human rights in the private business sector. The state's crucial role in defending and protecting human rights in the context of the private sector was explored in this crucial expansion of the research.

The work explored by Mohit Kumar, edited by Tanmaya and Smriti Katiyar, in the Article Abuse of Human Rights in business operations<sup>14</sup> provides the state plays a crucial role in protecting human rights, which can be achieved through strengthening institutional and legal structures, promoting a culture of respect, enhancing governance checks and balances, providing independent oversight bodies, and working with international organizations. However, effective implementation requires thorough changes that demonstrate the state's commitment to preserving human rights, which is lacking in this research. The researchers' objectives encompass not only delving into the state's responsibility to safeguard human rights within private businesses but also analyzing the practical application of both national and international laws and policies. This entails a thorough examination of how legal frameworks are translated into real-world actions to ensure human rights are upheld in the corporate sector.

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<sup>14</sup> Mohit Kumar, edited by Tanmaya and Smriti Katiyar, "Abuse of Human Rights in business operations," *Ipleader*, (Nov 9, 2021), available at <https://blog.ipleaders.in/abuse-of-human-rights-in-business>, last accessed March 18, 2022.

The study, *A Human Rights-Based Approach in Private Sector Collaboration*,<sup>15</sup> gives thorough guidance on how to work with private sector partners and implement a human rights-based strategy successfully. In the context of the private corporate sector's interaction with human rights, the research carefully investigates the essential elements of protection, redress, and respect. It explores the difficulties of responding to human rights issues that can surface in such relationships. Notably, the research emphasizes an in-depth examination of private sector organizations' participation in defending human rights through a variety of channels, even as it discusses their obligations and expectations. However, it is important to note that for the researcher's further research, the analysis does not extensively focus on the dimension of state responsibility concerning potential human rights abuses. Instead, the study primarily centers around enhancing the understanding of how private sector partnerships can align with human rights principles, creating a more comprehensive perspective on promoting ethical and sustainable business practices.

The Article *Corporate Social Responsibility Versus Business and Human Rights: Bridging the Gap Between Responsibility and Accountability*<sup>16</sup> is submitted by Anita Ramasastry she examines the development of BHR from a legal perspective, comparing its objectives and ambitions with those of corporate social responsibility (hence referred to as CSR). This paper investigates how BHR's pursuit of responsibility creates a totally different story, one that places it in the realm of legally enforceable regulations, state-sponsored oversight, and the requirement of access to redress as a barometer of corporate accountability. The author claims that BHR might be developed from CSR to enable governments to offer

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<sup>15</sup> "A Human Rights Based Approach in Private Sector Collaboration," *Sida*, (January 2015), available at <https://cdn.sida.se/app/uploads/2021/05/06122930/human-rights-based-approach-private-sector.pdf>, last accessed March 18, 2022.

<sup>16</sup> Anita Ramasastry, "Corporate Social Responsibility Versus Business and Human Rights: Bridging the Gap Between Responsibility and Accountability," *Journal of Human Rights*, vol. 14, no. 2 (June 11, 2015): 237-259 available at <https://www.tandfonline.com/doi/full/10.1080/14754835.2015.1037953>, last accessed March 18, 2022.

incentives to firms that support human rights in its activities. But the researchers' analysis also investigated the state's obligation to protect human rights in the world of private business. In this critical extension of the research, the crucial role of the state in defending and safeguarding human rights in the context of the private sector was investigated. The author of the article at hand does not distinguish in this text between the human rights of the private and public sectors.

The author, Damiano de Felice in this article *Business and Human Rights Indicators to Measure the Corporate Responsibility to Respect: Challenges and Opportunities*,<sup>17</sup> emphasizes the many obstacles that must be overcome in the development of strong and emancipatory corporate policies in line with human rights principles. These obstacles encompass moral, methodological, technical, and political aspects. Additionally, it gives a brief overview of important initiatives that measure how corporate practices and human rights norms interact. However, a key point raised by the researcher and at the core of the inquiry relates to a perceived weakness in the article's analysis. This divide is made clear by the scant attention paid to the crucial role that nations play in defending and protecting human rights. The essay unintentionally leaves out a crucial aspect necessary for a thorough comprehension of the situation by failing to appropriately discuss the relevance of governmental accountability in this setting.

The study, *Recognizing the Impact of Business on Human Rights: Challenges and Opportunities for Pakistan*<sup>18</sup> discussed the protection of individual rights within the context of business is a topic of utmost significance in Pakistan, as this briefing paper explains. Sixty

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<sup>17</sup> Damiano de Felice, "Business and Human Rights Indicators to Measure the Corporate Responsibility to Respect: Challenges and Opportunities," *Human Rights Quarterly*, vol. 37, No. 2 (May 2015): 511-555, available at <https://www.ohchr.org/sites/default/files/Documents/Issues/Business/ForumSession4/Felice.pdf>, last accessed March 18, 2022.

<sup>18</sup> *Recognizing The Impact of Business on Human Rights: Challenges and Opportunities For Pakistan*, Democracy Reporting International, Paper 75, (Dec 2016) available at [https://democracyreporting.s3.eu-central-1.amazonaws.com/images/3232DRI-PK\\_GSP\\_Briefing-Paper\\_Business\\_and\\_Human-Rights\\_EN.pdf](https://democracyreporting.s3.eu-central-1.amazonaws.com/images/3232DRI-PK_GSP_Briefing-Paper_Business_and_Human-Rights_EN.pdf), last accessed Feb 5, 2023.

million people make up the nation's work force, which is nevertheless battling a few huge challenges. Along with low earnings that frequently go below the minimum wage, there are also significant obstacles that prevent unions from forming. The well-being of workers is also threatened by the frequently dangerous working conditions that are in place. The fact that between two and three million young people work, potentially subjecting them to exploitation, is a worrying development. The problem is made worse by gender inequalities because women frequently receive less money than men do for doing the same duties. This initial investigation explores not just the government's responsibility for protecting fundamental rights in the face of corporate influence but also provides a thorough understanding of Pakistan's existing issues and potential developments in the private sector. A researcher doing studies in this field can benefit from its informative information, which acts as a helpful resource.

## **Scope of Research**

This study revolves around the crucial domain of human rights protection within the realm of business. Within the landscape of business organizations, two predominant categories emerge: the public and private sectors. However, the scope of this research is intentionally confined to the realm of private business corporations, as these entities take center stage in the analysis. Notably, the study is particularly attuned to the intricate dynamics within Pakistan's legal framework and practices, with a specific focus on the safeguarding of human rights within private business corporations. While international laws and guidelines will undoubtedly play a role in shaping the discourse, the central spotlight remains on Pakistan's unique context and its response to human rights challenges within private business corporations, with comparison and critical analysis with the UK and US.

It's essential to acknowledge that this study might encounter certain limitations stemming from the intricacies of data availability, the evolving nature of the legal system, and

the propensity for regulatory shifts. Such inherent constraints will be carefully navigated to ensure the research's integrity and to draw accurate and meaningful conclusions within the specified scope.

## **Framing of Issues**

Following are some of the important issues which will be analyzed in this thesis:

1. a. How States ensure the protection of workers' human rights within the private business sector, particularly in corporations, as part of their international obligations and commitments?
- b. Are corporations obligated to adhere to a state's human rights commitments to safeguard the rights of their employees? (These issues have been addressed in Chapter 1)
2. What preventive actions have modern states, such as the US and UK, implemented to prevent human rights violations within private business corporations? (This issue has been addressed in Chapter 2)
3. a. How is the legal framework in Pakistan structured to regulate the protection of human rights for workers within private business corporations?
- b. To what extent does Pakistan's legal framework align with international labor standards in ensuring the protection of human rights within private business corporations? (These issues have been addressed in Chapter 3)
4. What steps can Pakistan take to incorporate best practices and improve the safeguarding of workers within private business corporations?? (This issue has been addressed in Chapter 4)



## **Research Methodology**

This qualitative research delves into the multifaceted realm of state responsibility concerning the safeguarding of human rights within the sphere of private business corporations. The study meticulously emphasizes analytical, comparative, and critical dimensions, unraveling the intricate web of relationships involved. Throughout the investigation, primary and secondary source approach is adopted, ensuring meticulous referencing and the proper acknowledgment of earlier scholars' contributions. The scholarly exploration encompasses an array of resources, including a comprehensive review of literature spanning books, peer-reviewed journals, scholarly articles, and digital materials. Additionally, a meticulous examination of international protocols, conventions, and reports from the UN Security Council enriches the research's depth.

The study is a comparative analysis that spotlights the United Kingdom and the United States, juxtaposing their respective approaches to the subject matter. This analytical framework provides invaluable insights into the diversity of methods employed by different states in addressing the convergence of human rights and the operations of private business corporations. Furthermore, the research shines a spotlight on Pakistan's legal system, serving as a focal point for the comparative exploration.

In line with the guidelines set forth by the 17th edition of the Chicago Manual of Style, the research meticulously navigates the landscape of relevant literature and previous studies. This approach ensures a robust foundation for the study while upholding scholarly integrity and adhering to established academic conventions. By synthesizing insights garnered from extensive scholarly engagements, the research endeavors to unravel the intricate interplay between the responsibilities borne by states and the imperative of protecting human rights within the intricate realm of private business corporations.

## **Significance of Research**

According to Pakistan's National Action Plan 2021–2026, it is everyone's fundamental right to create a company, regardless of where they reside, and the state is accountable for defending human rights so that everyone is treated equally. Crucially, the onus rests upon the state to diligently uphold human rights, ensuring equitable treatment for all. This commitment draws upon a robust foundation of international frameworks, including the tenets enshrined in the International Covenant on Economic, Social, and Cultural Rights, the Norms of 2003, the Maastricht Principles of 2011, and the Guiding Principles on Business and Human Rights, etc., put forth by the United Nations Human Rights Council.

What mechanisms, policies, or legislative avenues exist to address infringements on human rights protection in private business corporations? A cardinal principle of jurisprudence asserts that where rights are recognized, remedies must follow suit. Although a dedicated legal framework tailored to safeguarding human rights within private business corporations has yet to be established, this research undertakes the imperative task of offering recommendations that can mitigate the risk of human rights transgressions and fortify their protection. Through a comprehensive exploration of pertinent literature and expert insights, this study aims to chart a course toward effective redress, channeling its focus on areas of policy enhancement and potential legislative interventions. In doing so, it aspires to bridge the current gap between the recognition of these rights and the realization of accessible, robust remedies, thereby aligning Pakistan's trajectory with the broader global pursuit of human rights preservation within the realm of private enterprise.

# 1 CHAPTER: BUSINESS AS A HUMAN RIGHTS: INTERNATIONAL AND NATIONAL LEVEL

## 1. Introduction

This chapter will explore how the private sector is a potent force in the world on a national and international level. It serves as a strong weapon to advance national development and human rights all over the world, in addition to being an economic powerhouse. In addition, there exists an unbreakable relationship between private business corporations and the protection of human rights. We must be aware that there are going to be difficulties of any type when collaborating with states or international organizations on attempts to design or implement human rights policies. Private business corporations serve as both an economic growth engine and a human rights platform. The first issue has been thoroughly examined in this chapter.

### 1.1. Overview

Business as a Human Rights Duty-bearer Concept is an emerging international debate that necessitates duties and obligations on the businesses to uphold the rights of human beings likewise that of governments and in recent years, this idea has gained more acceptance in national and international laws and regulations.<sup>19</sup> The UNHRC unanimously approved a resolution presented by Argentina, Ghana, Norway, and Russia, and this resolution clearly expanded on the process started by the Guiding Principles on Business and Human Rights, which were affirmed by the UNHRC in 2011.<sup>20</sup>

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<sup>19</sup> Aurora Voiculescu and Helen Yanacopoulos, *The Business of Human Rights: An Evolving Agenda for Corporate Responsibility*, (London: Zed Books Ltd, 2011), ( 25 Jan, 2021) , available at <https://www.bloomsburycollections.com/book/the-business-of-human-rights-an-evolving-agenda-for-corporate-responsibility/> last accessed Oct 16, 2022.

<sup>20</sup> Olivier De Schutter, “Towards a New Treaty on Business and Human Rights”, *Business and Human Rights Journal*, vol 1, no. 1 (Nov 13, 2015): 41-67, available at

The UNHRC passed Resolution 26/9 in 2014, which approved the formation of an open-ended intergovernmental working group responsible for creating a legally binding instrument that would regulate the actions of transnational corporations and other business enterprises with regards to human rights. The resolution's aim is to ensure that these entities operate in accordance with international human rights law while respecting human dignity.<sup>21</sup>

This Intergovernmental Working Group (hereinafter referred to as the IGWG) is also tasked with developing a legally enforceable international instrument to oversee multinational (transnational) firms and other businesses operations in accordance with international human rights legislation.<sup>22</sup> While there is general agreement that business practices need to be regulated and held accountable, there is disagreement over what form that regulation should take. There are those who argue that voluntary measures are enough to tackle corporate human rights violations, but there are others who believe that a legally binding agreement is necessary.<sup>23</sup>

### **1.1.1. Business**

A business is a group of individuals working together to accomplish shared goals and objectives. A corporate organization should have both principles that reflect the firm's integrity and a vision that indicates what it hopes to accomplish in the future.<sup>24</sup> The action of creating a

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<https://www.cambridge.org/core/journals/business-and-human-rights-journal/article/towards-a-new-treaty-on-business-and-human-rights/45E25BD824C6EEB18CD8050752C119E7>, last accessed Oct 16, 2022.

<sup>21</sup> United Nations General assembly, Human Rights Council, 26/9 *elaboration of international legal binding instrument on transnational corporations and other business enterprises with respect to human rights*, 26<sup>th</sup> sess., Jul 14, 2014, available at <https://www.ihrb.org/pdf/G1408252.pdf>, last accessed Feb 7, 2023.

<sup>22</sup> Surya Deva, "Briefing Paper For Consultation: Scope Of The Business And Human Rights Treaty," *ESCR*, (October 2015), available at [https://www.escr-net.org/sites/default/files/scope\\_of\\_bhr\\_treaty\\_second\\_draft\\_oct\\_2015\\_-\\_eng.pdf](https://www.escr-net.org/sites/default/files/scope_of_bhr_treaty_second_draft_oct_2015_-_eng.pdf), last accessed Oct 16, 2022.

<sup>23</sup> Giorgia Papalia, "Doing Business Right: The Case For A Business and Human Rights Treaty," *Perth International Law Journal*, (2018): 96-113, available at <https://static1.squarespace.com/static/5c539c357046800916bad3fe/t/5ccc445c9b747a292f1e6bab/1556890721315/PerthILJ-v3-7-Papalia.pdf>, last accessed Oct 16, 2022.

living or earning money via the production, purchase, and sale of items (such as goods and services) is also business. A company or entrepreneurial entity operating in the industrial, commercial, or professional sectors is known as a business and businesses are groups that aim to make money by exchanging goods or services.<sup>25</sup> Businesses can be either for-profit or non-profit groups committed to charitable causes or other social causes. Businesses can be modest in size or large, and they can be run on a small or large scale, as sole proprietorships, or as global enterprises.<sup>26</sup>

William Pride, Robert Hughes, and Jack Kapoor, three renowned academics, define business as the organized endeavor of individuals to create and sell, for a profit, the commodities and services that meet society's demands. Business strategy depends on the type and method of the business. The objectives of the enterprise will change. Whatever the preferred technique, companies must offer an item, service, or good that, in some manner, fills a need in society.<sup>27</sup>

According to B. B. Ghosh, when people buy or sell products, they engage in business. This creates or acquires money.<sup>28</sup>

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<sup>24</sup> Maitrayee P, "What is business," available at <https://www.economicdiscussion.net/business/what-is-business/32494>, last accessed Feb 11, 2023.

<sup>25</sup> Susan Ward, "What is a Business," *the balance*, (Jul 18, 2020), available at <https://www.thebalancemoney.com/business-definition-2947960>, last accessed Feb 7, 2023.

<sup>26</sup> "Business Organizations," available at <https://www.britannica.com/topic/business-organization>, see also, Maitrayee P, "What is business", *economic discussion*, available at <https://www.economicdiscussion.net/business/what-is-business/32494>, last accessed March 17, 2022.

<sup>27</sup> Gloria Ogunbor, "What Is Business? Definition By Different Authors, Classification, Characteristics, Types, Forms, Objectives, Importance Of Business," (WordPress: April 7, 2020), available at <https://worldbusinessline.wordpress.com/2020/04/07/what-is-business-definition-by-different-authors-classification-characteristics-types-forms-objectives-importance-of-business>, last accessed Mach 17, 2022.

<sup>28</sup> "Business definitions by experts," *experts previews*, available at <http://expertpreviews.com/definition-of-business-by-different-authors-business-definition-by-experts/>, last accessed Feb 7, 2023.

According to Prof. Norman Richard Owens, business refers to a company that manufactures and distributes products to be sold on the open market or offers services in exchange for money.<sup>29</sup>

Therefore, business can include a wide range of operations such as production, selling, services, or any other business enterprise. Without uncertainty, contemporary business has raised the standard of living in monetary terms, but it has also led to dissatisfaction with the social and economic structures. The primary issues with business are:

Businesses nowadays are excessively preoccupied with generating money. The business's owners routinely exploit its workers. Businesses pollute the environment, air, and water, particularly in poor nations where there is no protection for human rights. This directly impacts people's health. Business disregards labor rights and human principles. Business frequently disregards the welfare of the consumer and delivers defective goods out of self-interest. Communication mediums, such as television, radio, magazines, newspapers, etc., attempt to market their goods or services by appealing to human emotions. Because of the impact of communication media, people are becoming less aware of moral principles. They are going weird and being much too materialistic. And the main point that should be emphasized is that there should be a peaceful working environment with no harassment or humiliating behavior towards employees or customers.

Therefore, in the author's opinion, a business should not only be used for the sale or acquisition of goods, for manufacture or distribution, or to meet social needs, but it should also be able to provide employees and customers with respectable working environments, protection of workers' rights and mature behaviors.

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<sup>29</sup> "Definition of Business," *QS Study*, (Sep 19, 2020), available at <https://qsstudy.com/definition-of-business/>, last accessed March 18, 2022.

According to the Internal Revenue Service (hereinafter referred to as IRS) of the United States of America (hereinafter referred to as USA), any activity that is done to generate revenue by selling goods or providing services is called business.<sup>30</sup> Also Under the Companies Act 2006, the United Kingdom (hereinafter referred to as UK) defines a business as a business or profession that is practiced for profit by an individual or group of individuals.<sup>31</sup>

In Pakistan, the term business, like in the US, has been defined in the Income Tax Ordinance 2001 Sec. 2(10) as referring to any form of trade, commerce, manufacturing, profession, vocation, or undertaking. However, it excludes employment and activities conducted as hobbies to raise funds for charitable or welfare objectives.<sup>32</sup> The clause does not define the term business as such, yet it provides a list of different activities that can be included in the term business. The extent of the Income Tax Ordinance 2001 is confined to income tax cases only. As far as corporations are concerned, they form one of the categories of business; unfortunately, the Companies Act 2017 of Pakistan neither defines the term company in its full spirit nor the term business.<sup>33</sup>

### **1.1.2. Business Organizations**

A business organization is an organized body, system, or society that organizes the framework and establishes control, ownership, and management.<sup>34</sup> Furthermore, business organization is the successful integration of specialized components for the fulfillment of a common goal or

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<sup>30</sup> U.S govt, Department of the Treasury, Internal Revenue Service, *Tax Guide for Small Business*, Publication 334, Jan 11, 2023, available at <https://www.irs.gov/pub/irs-pdf/p334.pdf>, last accessed May 15, 2023.

<sup>31</sup> *Companies Act 2006*, available at <https://www.legislation.gov.uk/ukpga/2006/46/section/2>, last accessed May 15, 2023.

<sup>32</sup> *Income tax Ordinance 2001*, government of Pakistan federal board of revenue, available at <https://download1.fbr.gov.pk/Docs/20217141672549772IncomeTaxOrdinanceAmendedupto30.06.2021.pdf>, last accessed August 29, 2023.

<sup>33</sup> *Companies Act 2017*, laws of Pakistan, available at [http://www.lawsfpakistan.com/companies-act-2017/#google\\_vignette](http://www.lawsfpakistan.com/companies-act-2017/#google_vignette), last accessed August 1, 2023.

<sup>34</sup> H. Eric Frank, *Organization Structuring*, (New Yor: McGraw-Hill, 1971), available at <https://www.amazon.com/Organization-Structuring-H-Eric-Frank/dp/0070942277>, also available in Central Library of International Islamic University Islamabad, last accessed Sep 1, 2022.

goals. The factors or components of production in a business organization are land, which includes all the efforts made by a person's physical surroundings, labor, and capital. A business organization is created when these elements work effectively together to produce or acquire money.<sup>35</sup>

They may be categorized generally into four groups. Depending upon the number of workers, the source of capital, the size of the organization, and governmental rules, each structure has different advantages and legal requirements.<sup>36</sup>

The type of business structure a firm selects, such as a partnership, sole proprietorship, or corporation, will often depend on the industry it operates in. The ownership model of the business is also shown by these arrangements. Additionally, private firms are different from public ones. Both have different management arrangements, laws, and rules on financial reporting.<sup>37</sup>

It is important to recognize that the legal definitions of business, sole proprietorship, partnership, limited liability partnership and company as provided earlier, are not comprehensive and may vary depending on the jurisdiction and specific legal framework. Local laws and regulations can further define and classify businesses based on factors such as size, organizational structure, or industry-specific considerations. Therefore, to obtain a complete understanding of the legal definition of a business, it is advisable to consult the relevant legislation and legal authorities in a specific jurisdiction.

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<sup>35</sup> Lewis H. Haney, *Business Organization and Combination: An Analysis of the Evolution and Nature of Business Organization in the United States and a Tentative Solution of the Corporation and Trust Problems*, (New York: the Macmillan company, 1914): 5-6 , available at <https://books.google.com.pk/books?id=wgqc4OBX6jAC>, last accessed Sep 1, 2022.

<sup>36</sup> “Understanding Organizational Structures,” *SHRM*, available at <https://www.shrm.org/resourcesandtools/tools-and-samples/toolkits/pages/understanding-organizational-structures.aspx>, last accessed Sep 4, 2023.

<sup>37</sup> Adams Hayes, “What Is a Company, How to Start One, Different Types,” *Investopedia*, (Jun 28, 2022), available at <https://www.investopedia.com/terms/c/company.asp>, last accessed Feb 12, 2022.



### 1.1.2.1. Sole Proprietorship

A firm that is owned, registered, and managed by a single individual. The owner has the option of hiring outside help to run and manage the company. It is liable indefinitely for the company's debts.<sup>38</sup> In short, the simplest type of business from which to run a business is a sole proprietorship. A one-person business is not a recognized legal entity. It only designates a person who is the company's owner and liable for all its debts. A sole proprietorship may do business under its owner's identity or a fictitious name. The fictitious name is just a trade name; it does not establish a different legal entity from the sole proprietorship's owner.<sup>39</sup> There are no laws which regulate sole proprietorship in Pakistan, therefore, there is no legal definition of this term. Yet the nature of business owned by the entrepreneur is governed by the relevant law dealing with that business, e.g., traders, etc. It means that a sole proprietorship is a type of business in which a single person owns and manages the enterprise. The person is regarded as the business's proprietor and is liable for all the enterprise's operations, including any losses and obligations.<sup>40</sup>

Legal definition of sole proprietorship by the US IRS refers to an individual-owned unincorporated business,<sup>41</sup> Under the UK Companies Act 2006, the term company typically refers to a corporation or a legal entity that has been incorporated under the Act. However, if we are referring to a business that is not incorporated as a company but is operated by an individual, it is most likely sole proprietorship.<sup>42</sup> The legal framework for sole proprietorships

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<sup>38</sup> "Sole proprietorship," *openstax*, available at <https://openstax.org/books/entrepreneurship/pages/13-5-sole-proprietorships>, last accessed Jan 7, 2023.

<sup>39</sup> "Sole proprietorship," *entrepreneur*, available at <https://www.entrepreneur.com/encyclopedia/sole-proprietorship>, last accessed Feb 11, 2023.

<sup>40</sup> "Individuals, Sole Traders and Partnerships," *LawTeachers*, UK, (August 20, 2019), available at <https://www.lawteacher.net/free-law-essays/company-law/individuals-sole-traders-and-partnerships-law-essays.php>, last accessed Sep, 4, 2023.

<sup>41</sup> U.S gov't, Department of the Treasury, Internal Revenue Service, Tax Guide for Small Business, Publication 334, Jan 11, 2023, available at <https://www.irs.gov/pub/irs-pdf/p334.pdf>, last accessed May 15, 2023.

<sup>42</sup> *Companies Act 2006*, available at <https://www.legislation.gov.uk/ukpga/2006/46/section/2>, last accessed May 15, 2023.

(often referred to as sole traders) is not defined by a single specific law but is governed by various legal principles, regulations, and statutes.<sup>43</sup>

### 1.1.2.2. Partnerships

When two or more people work together to run a business with a written contract, they form a partnership. The individuals involved in the partnership bear unlimited personal responsibility for the debts and commitments made by the firm, without any time limit on this liability.<sup>44</sup> Each partner contributes money to the firm, reaping the rewards of any gains and bearing some of the costs of any losses. In many cases, the partnership must file a business registration with each state in which it conducts business.<sup>45</sup> Each partner in a general partnership contributes equally to the workload, liabilities, and earnings that are created and distributed to the partners, and every partner actively participates in running the company. Depending on their contributions, limited partnerships enable outside investors to invest in a company while maintaining only limited responsibility and engagement.<sup>46</sup>

Under the Uniform Partnership Act (hereinafter referred to as UPA) of the US, a partnership is an agreement between two or more people to operate a business jointly for profit. This definition is based on the UPA, which serves as a model act adopted, with variations, by many states in the United States.<sup>47</sup> In the Partnership Act 1890 of UK, the relationship that

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<sup>43</sup> Sole Proprietorships Under the Law.” *JUSTIA*, (Oct, 22), available at <https://www.justia.com/business-operations/starting-your-own-business/business-ownership-structures/sole-proprietorships/>, last accessed Sep 5, 2023.

<sup>44</sup> Gabriel Lip, “Partnership,” *CFI*, (Dec 6, 2022), available at <https://corporatefinanceinstitute.com/resources/management/partnership/>, last accessed Jan 7, 2023

<sup>45</sup> Jean Murray, “What Is A Business Partnership,” *the balance*, (Oct 15, 2022), available at <https://www.thebalance.com/what-is-a-business-partnership-398402#toc-what-is-a-business-partnership>, last accessed Feb 11, 2023.

<sup>46</sup> “What is a Partnership,” *shopify*, available at <https://www.shopify.com/blog/what-is-a-partnership#:~:text=A%20partnership%20is%20a%20form,or%20losses%20the%20business%20generates>, last accessed Feb 24, 2023.

<sup>47</sup> *Uniform Partnership Act*, available at <https://www.uniformlaws.org/committees/community-home?communitykey=9e0a7f3f-c0f9-4141-bfc9-dcd8e001e811&tab=groupdetails>, last accessed May 15, 2023.

exists when two or more people operate a business together with the intention of making a profit is known as a partnership.<sup>48</sup>

Pursuant to the Partnership Act 1932 of Pakistan, partnership refers to the connection between individuals, individually known as partners while collectively known as a firm, who have mutually agreed to collaborate and jointly operate a business with the intention of sharing the business's profits. This firm allows any or all the partners to act on behalf of the partnership as a collective unit.<sup>49</sup> The same definition has been adopted by the Income Tax Ordinance 2001 under section 80(2c) a firm is an association among individuals who have mutually consented to distribute the earnings generated by a business managed by any or all of them, and they operate collectively. The Income Tax Ordinance 2001 section 80(2b) has introduced a new category known as Association of Persons in which firm is one of the kinds of associations.<sup>50</sup>

### **1.1.2.3. Limited liability Partnership (LLP)**

A limited liability corporation or partnership (hereinafter referred to as LLC or LLP) is relatively a new international legal concept which has now been adopted by national legislations as well. It is a sort of legal arrangement for an organization where the concept of unlimited liability and joint and several liability has been confined to the capital invested in such entities, if the organization fails to fulfil the obligations of business, the liability of business is not extended towards partners/members and the personal assets of the owners and

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<sup>48</sup> *The Partnership Act 1890 of UK*, STUDOCU, available at <https://www.studocu.com/en-gb/document/university-of-law/business-law-and-practice/partnership-act-1890-a-full-pdf-version-of-the-partnership-act/29464918>, last accessed August 1, 2023.

<sup>49</sup> *Partnership Act 1932*, available at <https://www.sja.gos.pk/assets/BareActs/PARTNERSHIP%20ACT.1932.pdf>, last accessed May 15, 2023.

<sup>50</sup> *Income Tax Ordinance 2001*, government of Pakistan federal board of revenue, available at <https://download1.fbr.gov.pk/Docs/20217141672549772IncomeTaxOrdinanceAmendedupto30.06.2021.pdf>, last accessed Sep 5, 2023.

investors are not at risk.<sup>51</sup> These are a type of legal business entities that combine several beneficial elements of corporations and partnerships and offers personal legal protection, specific tax advantages, and other benefits.<sup>52</sup> In an LLP, partners have the flexibility to manage the business directly and are not typically held personally responsible for the actions or debts of other partners. The specific rules and regulations governing LLPs can vary by jurisdiction,<sup>53</sup>

Under the legal definition, the Limited Liability Partnership Act 2000 of the UK defines an organization created and established in accordance with this Act that is (a) a distinct legal person, (b) has an unrestricted financial capacity, and (c) has members with restricted responsibilities, whether they are corporations or individuals. This definition emphasizes that an LLP is a distinct legal entity with its own capacity to enter contracts, own property, and carry out business activities. Members of an LLP enjoy limited liability, which means they are generally not personally liable for the debts and obligations of the LLP beyond their capital contributions.<sup>54</sup> In US, UPA was revised in 1997 to create the Revised Uniform Partnership Act (hereinafter referred to as RUPA). Under RUPA, a Limited Liability Partnership (LLP) is defined as An LLP is a partnership having one or more general partners and one or more limited partners. The name of an LLP must contain the words Registered Limited Liability Partnership.<sup>55</sup> The Limited Liability Partnership Act, 2017 of Pakistan defines LLP means a partnership formed and registered under this Act. This definition is quite concise and indicates that an LLP in Pakistan is a partnership that is

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<sup>51</sup> Adam Hayes, “Limited Liability Definition: How It Works in Corporations and Businesses,” *Investopedia*, (July 14, 2022), available at <https://www.investopedia.com/terms/l/limitedliability.asp>, last accessed Sep 5, 2022.

<sup>52</sup> Wilson Fraser & P.C Bryan, “A Brief Introduction To Limited Liability Companies,” *FWB*, (Jun 26, 2017), available at <https://fwblawtx.com/brief-introduction-limited-liability-companies/>, last accessed Feb 11, 2023.

<sup>53</sup> “limited liability partnership (LLP),” *Legal Information Institute*, available at [https://www.law.cornell.edu/wex/limited\\_liability\\_partnership\\_\(llp\)](https://www.law.cornell.edu/wex/limited_liability_partnership_(llp)), last accessed Sep 5, 2023.

<sup>54</sup> *Limited Liability Partnership Act 2000*, UK Public General Acts, available at <https://www.legislation.gov.uk/ukpga/2000/12/contents>, last accessed Sep 5, 2023.

<sup>55</sup> *Uniform Partnership Act 1997*, National Conference Of Commissioners On Uniform State Laws, last amended 2015, available at [https://www.thebusinessdivorcelawyer.com/wp-content/uploads/sites/452/2019/01/UPA\\_Final\\_2014\\_2015aug195.pdf](https://www.thebusinessdivorcelawyer.com/wp-content/uploads/sites/452/2019/01/UPA_Final_2014_2015aug195.pdf), last accessed Sep 5, 2023

established and registered in accordance with the provisions of the Limited Liability Partnership Act, 2017. The Act provides more detailed provisions regarding the formation, registration, and operation of LLPs in Pakistan. Regrettably, the Limited Liability Partnership Act lacks a comprehensive definition of the term LLP that fully encapsulates its essence.<sup>56</sup>

#### **1.1.2.4. Companies**

Company forms large-scale business Organizations. These organizations are also association of persons, yet the nature of business, legislations and regulation is different. These were developed to achieve corporate objectives, the capital being divided into transferable shares, debt and equity. The members of the company have specific privileges and enjoy a separate legal personality; shareholders are a company's legal owners. These members invest money and have a key role in business-related decisions, yet their decisions need to be taken in a specific manner prescribed by the legislation. Last but not the least, the company has a common seal.<sup>57</sup> Like people, businesses may hire and dismiss employees, purchase stock in other businesses, file lawsuits, and be the object of lawsuits. Aside from owning property, businesses may also borrow and lend money. Companies are accountable for human rights breaches because they are entities recognized by law and possess the same level of rights and responsibilities as individuals.<sup>58</sup>

As per the Companies Act 2006 section 2 of the United Kingdom, a company refers to a corporation that has been incorporated under the Companies Act 2006 or any previous Companies Acts. This definition encompasses companies that have been established and

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<sup>56</sup> *Limited Liability Partnership Act, 2017*, legislation of PK, available at [https://legislation.gov.uk/cms/images/LEGISLATION/PRINCIPAL/2017/20170013/LimitedLiabilityPartnershipAct\\_Act%2013%20of%202017.pdf](https://legislation.gov.uk/cms/images/LEGISLATION/PRINCIPAL/2017/20170013/LimitedLiabilityPartnershipAct_Act%2013%20of%202017.pdf), last accessed Sep 5, 2023.

<sup>57</sup> "Private Sector," *Wallstreetmojo*, available at <https://www.wallstreetmojo.com/private-sector/#types-of-private-sector>, last accessed Oct 11, 2022.

<sup>58</sup> "Company Definition And Meaning," *MBN*, available at <https://marketbusinessnews.com/financial-glossary/company-definition-meaning/>, last accessed Feb 12, 2023

registered under the current legislation as well as those incorporated under earlier versions of the Companies Acts. The Companies Act 2006 serves as the primary legislation governing the formation and functioning of companies in the United Kingdom.<sup>59</sup> The Companies Act, 2017 section 2, defines a company in Pakistan as an entity that is incorporated under this specific act or any previous company law. Like other legislations of Pakistan, this legislation also does not define the term, Company. This is a lacuna of legislations in Pakistan that majority of the legislations does not define the subject in which legislation is dealing with, for example, Transfer of Property Act 1882 does not define the terms property, immovable property, and movable property (rather the term immovable property has been defined through exclusion which is not comprehensive). Similarly, Companies Act 2017, previously Companies Ordinance 1984 and Companies Act 1913 does not define the term, Company. For that purpose, the jurisprudential concept of Company is looked into to make the concept clear. Rather it prescribes that companies which were previously registered as companies under the previous legislations and those companies which will be registered under the present legislation. Yet it regulates various types of companies, such as private companies, public companies, single-member companies, and foreign companies, which are further categorised as limited liability companies and unlimited companies, that conduct business within the country.<sup>60</sup>

### **1.1.3. Private Sector**

In the classification of business organizations, the primary divisions are represented by the public and private sectors. However, the focus of this research pertains exclusively to the private business sector, specifically emphasizing private business corporations.

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<sup>59</sup> *Companies Act 2006*, available at <https://www.legislation.gov.uk/ukpga/2006/46/section/2>, last accessed May 15, 2023.

<sup>60</sup> *Companies Act 2017*, laws of Pakistan, available at [http://www.lawsopakistan.com/companies-act-2017/#google\\_vignette](http://www.lawsopakistan.com/companies-act-2017/#google_vignette), last accessed August 2, 2023.

Both developed and developing nations understand that the living and efficient private sector that generates money and employment is essential for economic progress. Typically, the economic activity that is not held by the government is referred to as the private business sector. Generally, it describes formal or unofficial economic entities or businesses that are directly or indirectly held by private individuals.<sup>61</sup> The private sector refers to the part of the economy that is managed, owned, and operated by people and businesses. Private-sector businesses often do not have state ownership or control. The government and the private sector might work together in a public-private partnership to offer a service or commercial endeavor collectively.<sup>62</sup>

The private sector contributes significantly to the economy through job creation, the supply of goods and services, the promotion of economic growth, and the generation of tax revenues for governments. Taxes paid by the private sector help finance public services and allow governments to construct infrastructure and other significant projects. A major force behind innovation is the private sector, which invests in research and development to produce new goods and services that benefit society and the economy. A prime example of this is the advent of the iPhone, which completely changed the way in which people interact and do their daily activities.<sup>63</sup>

The private sector is frequently represented by profitable commercial entities.<sup>64</sup> In the US the idea of minimal government is connected to the idea of the private sector. There is an

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<sup>61</sup> Robert Hood, "Measuring Performance In Private Sector Development," *DBA*, (2007), available at <https://www.adb.org/sites/default/files/publication/27982/private-sector-dev.pdf>, last accessed Feb 12, 2023.

<sup>62</sup> Jamie Birt, "What Is the Private Sector? Definition And Examples," *indeed*, (Feb 25, 2020), available at <https://www.indeed.com/Career-Advice/Career-Development/Private-Sector>, n.d. last accessed Sep 1, 2022

<sup>63</sup> Ben Lutkevich, "Private Sector," *Techtarget*, available at <https://www.techtarget.com/whatis/definition/privatesector#:~:text=The%20private%20sector%20is%20the.know%20as%20the%20public%20sector>, last accessed Feb 13, 2023.

<sup>64</sup> Ran Lachman, "Public and Private Sector Differences: Ceos' Perceptions of Their Role Environments," *Academy of Management Journal*, vol. 28, No. 3 (1985): 671-680 available at <https://www.jstor.org/stable/256122>, last accessed Oct 10, 2022.

area of individual liberty and self-expression that is shielded from governmental invasion.<sup>65</sup> In UK, the segment of the economy known as the private sector, which is not under governmental control, is run by numerous people and enterprises, whose primary goal is to make a profit to exist.<sup>66</sup> The private business sector in Pakistan refers to the segment of the economy composed of privately-owned enterprises and corporations. These entities are operated and owned by individuals or groups within the private sector. They play a vital role in the country's economic landscape by contributing to employment, investment, and overall economic growth.<sup>67</sup>

Within the private sector, there are a wide range of distinct companies, organizational forms, and industries. These firms come in a variety of sizes, from sole proprietorships to multi-national conglomerates. The private sector encapsulates the innovative work of every employee or company owner who is seeking to make money.<sup>68</sup>

#### **1.1.4. State Responsibility**

A fundamental element of international law known as state responsibility. It was established to protect the rights of nationals and non-nationals.<sup>69</sup> International law imposes duties on all states, and the violation of international law by a specific subject result in that subject having an international responsibility. The legal responsibility of the state deals with the circumstances in which the obligation or duty may be said to have been broken by the subject. It also specifies

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<sup>65</sup> Bruce L.R. Smith, "Changing Public-Private Sector Relations: A Look at the United States," *The Annals of the American Academy of Political and Social Science*, vol. 466 (March 1983): 149–64, available at <https://www.jstor.org/stable/1044744>, last accessed Oct 10, 2022.

<sup>66</sup> "Main types of business organizations in the UK private sector", *CRAM*, available at [https://www.cram.com/essay/Main-Types-Of-Business-Organisation-InThe/F3TYVU9URE45#google\\_vignette](https://www.cram.com/essay/Main-Types-Of-Business-Organisation-InThe/F3TYVU9URE45#google_vignette), last accessed Feb 13, 2023.

<sup>67</sup> *Pakistan Economic Survey 20-21*, ministry of finance, government of Pakistan, available at [https://www.pc.gov.pk/uploads/cpec/PES\\_2020\\_21.pdf](https://www.pc.gov.pk/uploads/cpec/PES_2020_21.pdf), last accessed August 30, 2023.

<sup>68</sup> "What Are the Major Types of Businesses in the Private Sector?," *Investopedia*, available at <https://www.investopedia.com/ask/answers/040615/what-are-major-types-business-privatesector-and-how-do-they-differ-one-another.asp>, last accessed Oct 11, 2022.

<sup>69</sup> Danwood Mzikenge Chirwa, "The Doctrine Of State Responsibility As A Potential Means of Holding Private Actors Accountable For Human Rights," *Melbourne Journal of International Law*, vol. 5 (2004), available at <https://search.informit.org/doi/10.3316/agispt.20044710>, last accessed Sep 6, 2022.



how other subjects or states may respond to the obligation breach.<sup>70</sup> The moral responsibility of a government is to safeguard the fundamental entitlements of its people, such as the right to life, freedom, and safety, as well as the right to own property, move freely and express oneself, gather peacefully, associate with others, and practice religion.<sup>71</sup> The state also protects human rights by providing a legal framework, policies, and laws to prevent businesses from violating these rights, and the government also enforces the laws that are intended to defend human rights.<sup>72</sup> The state should also protect the rights of workers who are employed by businesses. These include the right to just and favorable conditions of work; freedom from discrimination; protection against anti-union discrimination; and fair wages etc.<sup>73</sup>

Additionally, corporations have a liability to protect the worker rights of their employees—a responsibility that extends beyond corporate policies and procedures. If an employee report being harassed by another employee, for instance, the corporation must investigate and take appropriate action if necessary.<sup>74</sup> According to international law, it is the obligation of nations to safeguard human rights. However, corporations also bear the responsibility to adhere to international human rights standards by avoiding violations of

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<sup>70</sup> Harshitha Ulphas, "State Responsibility In International Law," *Indian review of advance legal research*, (May 28, 2021), available at <https://www.iralr.in/post/state-responsibility-in-international-law>, last accessed Sep 8, 2022.

<sup>71</sup> United Nation, Human Rights Office of The High Commission, *International Human Rights Law*, available at <https://www.ohchr.org/en/instruments-and-mechanisms/international-humanrightslaw#:~:text=By%20becoming%20parties%20to%20international,the%20enjoyment%20of%20human%20rights>, last accessed Feb 14, 2023.

<sup>72</sup> "Legal Protection of Human Rights," *Council of Europe*, available at <https://www.coe.int/en/web/compass/legal-protection-of-human-rights>, last accessed Feb 14, 2023.

<sup>73</sup> "Right to work and rights in work," *Act human rights commission*, available at <https://hrc.act.gov.au/humanrights/guides-and-publications/detailed-information-enshrined-rights/right-to-work-and-rights-in-work/>, last accessed Feb 14, 2023.

<sup>74</sup> Steven R. Ratner, "Corporations and Human Rights: A Theory of Legal Responsibility," *The Yale Law Journal*, vol 111, No. 3 (Dec 2001), 44-545, available at <https://www.jstor.org/stable/pdf/797542.pdf>, last accessed Feb 14, 2023.

individuals' rights and addressing any negative impacts on human rights resulting from their operations, products, or relationships with other businesses.<sup>75</sup>

The state protects human rights from the violations in private business corporations by taking actions such as: enforcing laws and regulations, conducting inspections, investigating, and prosecuting cases that violate the law, providing legal assistance to individuals who have suffered human rights abuses and collaborating with various organizations to proactively prevent such violations from occurring.<sup>76</sup>

Furthermore, it is the duty of states to safeguard their citizens from human rights abuses committed by third parties, which also include corporations. It emphasizes that nations must take the lead in stopping and resolving abuses of corporate human rights. In the reports of the Council in 2008 and 2009, the Special Representative provided details on the duties' legal justifications and policy justifications.<sup>77</sup> It is the duty of the state to safeguard human rights from violations by external entities, which necessitates adhering to due diligence criteria for conduct.<sup>78</sup>

### **1.1.5. Human Rights in Businesses**

Human rights are a collection of obligations and rights essential to upholding the inherent worth of every person, regardless of one's race, gender, country, or place of residence; or one's color; one's religion; one's language; or any other status. Without exception, everyone has a claim to

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<sup>75</sup> Lucy Amis, *How To Develop A Human Rights Policy*, United Nations Global Impact, (2015) , available at <https://www.ohchr.org/sites/default/files/Documents/Issues/Business/guide-business-hr-policy.pdf>, last accessed Feb 14, 2023.

<sup>76</sup> *Corporate Accountability For Human Rights Abuses*, FIDH, (May: 2016), available at [https://www.fidh.org/IMG/pdf/corporate\\_accountability\\_guide\\_version\\_web.pdf](https://www.fidh.org/IMG/pdf/corporate_accountability_guide_version_web.pdf), last accessed Feb 12, 2023.

<sup>77</sup> *The UN Protect, Respect and Remedy*, "Framework for Business and Human Rights," available at <https://media.business-humanrights.org/media/documents/files/reports-and-materials/Ruggie-protect-respect-remedy-framework.pdf>, last accessed Sep 8, 2022.

<sup>78</sup> Jonathan Bonnitcha and Robert McCorquodale, "The Concept of 'Due Diligence' in the UN Guiding Principles on Business and Human Rights," *European Journal of International Law*, vol. 28. no 3 (August 2017): 899–919, available at <https://doi.org/10.1093/ejil/chx042>, last accessed Sep 8, 2022.

basic human rights. Therefore, human rights are fundamental and connected, and the principles of peace, security, and growth are interconnected and inseparable.<sup>79</sup>

It is the duty of businesses to prevent any human rights violations perpetrated by third parties within their jurisdiction or under their control. This obligation requires the implementation of appropriate measures to prevent, investigate, penalize, and redress such wrongdoing, utilizing effective laws, regulations, policies, and legal processes.<sup>80</sup>

Above, thirty specialists gathered in Maastricht from January 22–26, 1997, to commemorate the 10th anniversary of the Limburg Principles on the Application of the International Covenant on Economic, Social, and Cultural Rights (hereinafter referred to as ICESCR). The International Commission of Jurists based in Geneva, Switzerland, the Urban Morgan Institute on Human Rights in Ohio, USA, and the Centre for Human Rights at the Faculty of Law of the University of Maastricht, Netherlands, extended invitations to them. This meeting's goal was to further discuss the Limburg Principles in relation to the types of infringement of social, cultural, and economic rights as well as suitable reactions and remedies.<sup>81</sup>

The 2003 Norms reaffirms the established principle of human rights, which places the primary obligation of safeguarding human rights on states. They also emphasize the importance of protecting human rights from private corporations, even though such entities usually prioritize the direct human rights responsibilities of business enterprises. Its guidelines are

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<sup>79</sup> *Promotion And Protection Of Human Rights*, UNODC Guidance Note – Human Rights, (2011), available at [https://www.ohchr.org/sites/default/files/Documents/HRBodies/SP/AMeetings/20thsession/UNODCGuidance\\_Item6.pdf](https://www.ohchr.org/sites/default/files/Documents/HRBodies/SP/AMeetings/20thsession/UNODCGuidance_Item6.pdf), last accessed Sep 17, 2022.

<sup>80</sup> *Guiding Principles on Business and Human Rights*, (New York and Geneva: United Nations Office of the High Commissioner, 2011), available at [https://www.ohchr.org/sites/default/files/documents/publications/guidingprinciplesbusinesshr\\_en.pdf](https://www.ohchr.org/sites/default/files/documents/publications/guidingprinciplesbusinesshr_en.pdf), last accessed Sep 18, 2022.

<sup>81</sup> *Masstricht Guidelines on Violations of Economic, Social and Cultural Rights*, (Maastricht: January 22-26, 1997), available at [http://hrlibrary.umn.edu/instree/Maastrichtguidelines\\_.html](http://hrlibrary.umn.edu/instree/Maastrichtguidelines_.html), last accessed Sep 18, 2022

intended to be helpful to everyone who is interested in appreciating and identifying violations of economic, social, and cultural rights as well as offering appropriate remedies, especially those who can monitor and settle disputes before bodies at the regional, national, and international levels.<sup>82</sup>

The Maastricht Principles of 2011 place a distinct emphasis on either extraterritorial jurisdiction or home state responsibility. This encompasses the exercise of governmental power by commercial entities authorized by the state. The principles make a clear distinction between the responsibilities of the host and home states in preventing violations by non-state actors, like multinational corporations and other businesses, and their duties to regulate, influence or collaborate with them.<sup>83</sup>

The Committee on Economic, Social, and Cultural Rights asserted in its 2011 Statement on States Parties' Responsibilities Regarding Corporate Business and Cultural Social, and Economic Rights that it is the foremost responsibility of States Parties to uphold, safeguard, and achieve the Treaty rights of all workers within their jurisdiction in relation to the business practices carried out by both privately owned and state-owned enterprises.<sup>84</sup>

The Guiding Principles on Business and Human Rights were accepted by the UNHRC in June 2011.<sup>85</sup> The UN has put forward a policy and conceptual structure aimed at managing

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<sup>82</sup> David Weissbrodt 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*, vol. 97, no. 4 (2003): 901–22, available at <https://www.jstor.org/stable/3133689>, last accessed Sep 19, 2022.

<sup>83</sup> Sara L. Seck, *Conceptualizing the Home State Duty to Protect Human Rights*, in K. Buhmann, L. Roseberry and M. Morsing (eds), *Corporate Social and Human Rights Responsibilities*, Pallgrave Macmillan, Basingstoke, (2011): 25- 51, available at [https://link.springer.com/chapter/10.1057/9780230294615\\_2#citeas](https://link.springer.com/chapter/10.1057/9780230294615_2#citeas), last accessed Sep 20, 2022.

<sup>84</sup> Wouter Vandenhoe, "Contextualising the state duty to protect human rights as defined in the un guiding principles on business and human rights," *ISSN*, (2012), available at <https://revistaselectronicas.ujaen.es/index.php/rej/article/view/825>, last accessed Sep 19, 2022.

<sup>85</sup> "United Nation Guiding Principles On Business And Human Rights," *Privacyinternational*, (June 7), 2022, available at <https://privacyinternational.org/key-resources/4895/united-nations-guiding-principles-business-and-human-rights#:~:text=The%20Guiding%20Principles%20contain%20three,if%20such%20abuses%20take%20place>, last accessed Jan 7, 2023.

the connection between human rights and business. The UN Guiding Principles on Business and Human Rights provide an internationally recognized benchmark for handling and preventing human rights violations that result from economic practices. These principles were developed to carry out the Protect, Respect, and Remedy agenda that was introduced by the Special Representative to the United Nations in 2008. This agenda's three pillars are:

- I. State obligation to defend human rights.
- II. Human rights must be respected by corporations.
- III. There is a need to make it easier for those who have suffered from abuse related to business activities to seek and obtain redress.<sup>86</sup>

The Ministry of Human Rights is pleased to present Pakistan's first National Action Plan 21-26 on Business and Human Rights, with support from the United Nations Development Program (hereinafter referred to as UNDP).<sup>87</sup> The strategy aims to uphold Pakistan's commitment to safeguarding against harmful human rights consequences stemming from economic activity and to promote an environment supportive of corporate protection of human rights. When developing the National Action Plan, Pakistan also declares its dedication to fulfilling its responsibilities to guarantee adequate remedies are available for instances of human rights violations that occur during business operations.<sup>88</sup>

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<sup>86</sup> *The corporate responsibility to respect human right*, UNHRC, available at [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), last accessed Sep 20, 2022.

<sup>87</sup> *Ministry Of Human Rights and UNDP Launch Pakistan's First National Action Plan On Business And Human Rights (NAP)*,(UNDP, Pakistan: Dec 16, 2021), available at <https://www.undp.org/pakistan/press-releases/ministry-human-rights-and-undp-launch-pakistan%E2%80%99s-first-national-action-plan-business-and-human-rights-nap>, last accessed Jan 7, 2023.

<sup>88</sup> "First five year national action plan on business and human rights," *Ministry of Human Rights Government of Pakistan*, (2021-2026), available at <https://www.ohchr.org/sites/default/files/Documents/Issues/Business/NationalPlans/National-Action-Plan-BHR-Draft-03-03-21.pdf>, last accessed Sep 20, 2022.

## 1.2. Development

- 1) **1970 - 1980:** Powerful economic interests have long raised concerns about how their actions may affect both human lives and the environment. Global corporate regulation was demanded in the beginning of the 1970s. In 1977, the International Labour Organization (hereinafter referred to as ILO) adopted the Tripartite Declaration of Principles on Multinational Enterprises and Social Policy. Civil society initiatives during the 1980s revealed the World Bank's negative involvement in financing massive development projects in low-income nations.<sup>89</sup>
- 2) **1992 - 1999:** At the Rio de Janeiro Earth Summit in 1992, corporations actively participated in the creation of the worldwide Action Plan of Agenda 21. Transnational firms are today seen as participants in development and growth. But the goal of creating a global legal framework to control them is no longer the same. Before the UN norms were established in 1998, the UN Sub-Commission on the Promotion and Protection of Human Rights requested an investigation into how human rights were impacted by multinational corporations. A working group was then formed in 1999 to create a code of conduct specifically for transnational corporations.<sup>90</sup>

In 1999, the UN Secretary-General launched the UN Global Compact, which is described as a voluntary initiative designed to encourage corporations to integrate 10 principles related to human rights, the environment, labor, and anti-corruption into their operations. Its primary aim is to promote corporate responsibility and sustainable development through

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<sup>89</sup> Patricia Feeney, "Business and Human Rights: The Struggle for Accountability in the UN and the Future Direction of the Advocacy Agenda," *International Journal on Human Rights*, vol. 6, no. 11 (December 2009): 161–92, available at <https://sur.conectas.org/wp-content/uploads/2017/11/sur11-eng-patricia-feeney.pdf>, last accessed Oct 16, 2022.

<sup>90</sup> "A Brief History of the Development of Human Rights & Business at the UN," available at [https://www.escribnet.org/sites/default/files/a\\_history\\_of\\_un\\_progress\\_towards\\_developing\\_human\\_rights\\_business\\_standards.pdf](https://www.escribnet.org/sites/default/files/a_history_of_un_progress_towards_developing_human_rights_business_standards.pdf), last accessed Oct 18, 2022.

education and collaboration. The Global Compact, however, lacked the resources to put its ideals into practice, making it, like many other Corporate Social Responsibility (hereinafter referred to as CSR) projects, insufficient in the eyes of many in civil society to put a stop to the stunning degrees of impunity granted by transnational corporations (hereinafter referred to as TNCs).<sup>91</sup>

- 3) **2003:** In 2003, the United Nations Sub-Commission on Human Rights formed a sessional working group that developed a set of suggested guidelines for corporate entities regarding human rights. These guidelines, known as the UN norms, were more comprehensive and had broader objectives compared to previous actions to establish standards for business conduct.<sup>92</sup>
- 4) **2005:** After the norms were rejected, there was a great deal of disagreement, so the UN's former secretary-general, who selected a professor as the primary author of the Global Compact, continued researching the matter for three years under the direction of the Human Rights Council. As the Special Representative of the Secretary-General (hereinafter referred to as SRSG) on human rights and multinational corporations, the SRSG reported to the Human Rights Council in 2006 that previous discussions had reached a deadlock. While most businesses were against it, many human rights groups were in favor of it, and governments adopted the SRSG's obligation to overcome the impasse. This sums up the sentiment surrounding this division.<sup>93</sup>

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<sup>91</sup> Patricia Feeney, "Business and Human Rights: The Struggle for Accountability in the UN and the Future Direction of the Advocacy Agenda," *International Journal on Human Rights*, vol. 6, no. 11 (December 2009): 161–92, available at <https://sur.conectas.org/wp-content/uploads/2017/11/sur11-eng-patricia-feeney.pdf>, last accessed Oct 18, 2022.

<sup>92</sup> "A Brief History of the Development of Human Rights & Business at the UN," available at [https://www.esrnet.org/sites/default/files/a\\_history\\_of\\_un\\_progress\\_towards\\_developing\\_human\\_rights\\_business\\_standards.pdf](https://www.esrnet.org/sites/default/files/a_history_of_un_progress_towards_developing_human_rights_business_standards.pdf), last accessed Oct 19, 2022.

<sup>93</sup> SRSG, "Interim Report of the Special Representative of the Secretary General on the Issue of Human Rights and Transnational Corporations and Other Business Enterprises," *U.N. Doc. E/CN.4/2006/97*, available at <http://www1.umn.edu/humanrts/business/RuggieReport2006.html>, last accessed Oct 19, 2022.

- 5) **2011:** During his two mandates, the SRSG was able to write the Guiding Principles on Business and Human Rights, a new set of voluntary obligations for firms. In June 2011, the Guiding Principles were authorized by the Human Rights Council. While the Guiding Principles declare that businesses must honor human rights, there is no established structure to enforce consequences for corporations that fail to comply, other than reiterating the government's responsibility to provide a remedy. The political impact of this document is still substantial, even if it lacks any legally enforceable implications, since it has significantly expanded the idea of corporate accountability by furthering the notion that businesses must respect human rights.<sup>94</sup>
- 6) **2013 – 2014:** In September 2013, approximately 80 nations, led by Ecuador and South Africa, issued a statement to the Human Rights Council. They highlighted significant civil society initiatives taken during that year to voice discontent with the UN Guiding Principles' effectiveness in preventing and addressing corporate human rights violations. Additionally, these initiatives urged progress in legal frameworks that go beyond the UN Guiding Principles. They reaffirmed their determination to develop a legally binding document based on a thorough analysis and assessment of the options available within the Human Rights Council's framework, as stated in the declaration.<sup>95</sup>
- 7) **2014 – 2017:** Non-Financial Reporting Directive (2014/95/EU) of the European Union Introduced in 2014 and effective in 2017, this order mandates certain large corporations

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<sup>94</sup> Office of the High Commissioner for Human Rights, *Guiding Principles for Business and Human Rights: Implementing the United Nations "Protect, Respect and Remedy" Framework*, United Nation Global Compact, (2011), available at [https://www.ohchr.org/sites/default/files/Documents/Publications/GuidingPrinciplesBusinessHR\\_EN.pdf](https://www.ohchr.org/sites/default/files/Documents/Publications/GuidingPrinciplesBusinessHR_EN.pdf) ; see also Resolution adopted by the Human Council, *Human rights and transnational corporations and other business enterprises*, Resolution 17/4, (June 16, 2011), last accessed Oct 18, 2022.

<sup>95</sup> *Statement on behalf of a Group of Countries at the 24<sup>th</sup> Session of the Human Rights Council*, (Geneva:2013), available at <https://media.businesshumanrights.org/media/documents/files/media/documents/statement-unhrc-legally-binding.pdf>, last accessed Oct 18, 2022.



to provide non-financial information in their annual reports, including protection of human rights. Its goal is to increase corporate transparency and accountability.<sup>96</sup>

The Global Reporting Initiative (hereinafter referred to as GRI) Standards provide a framework for companies to report on their sustainability performance, including their efforts to respect human rights throughout their operations and supply chains. The Global Sustainability Standards Board (hereinafter referred to as GSSB) began a project in 2017 to ensure that GRI reporting is in line with business obligations and best practices for human rights reporting.<sup>97</sup>

The ILO Tripartite Declaration of Principles Concerning Multinational Enterprises and Social Policy provides guidance to multinational enterprises on social policy and responsible business practices, including respect for human rights.<sup>98</sup>

**8) 2018:** The United Nations Global Compact (hereinafter referred to as UNGC) is a voluntary initiative encouraging businesses to adopt sustainable and socially responsible policies. It includes human rights protection and other related principles. Principles 1 and 2 of the UNGC discuss that businesses must promote and uphold globally recognized human rights and ensure they are not implicated in human rights violations.<sup>99</sup>

**9) 2019:** Human rights protection in the private sector remained a top priority in 2019, with an increased emphasis on company responsibility and transparency. Several

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<sup>96</sup> M. SCHULZ and B. DELLA VEDOVA, “Directive (2014/95/EU) of the European Parliament and of the Council,” *Official Journal of the European Union*, Vol, 330. (Oct 2014), available at <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32014L0095>, last accessed August 4, 2023.

<sup>97</sup> *Topic standard project of human rights*, GRI, 2017, available at <https://www.globalreporting.org/standards/standards-development/topic-standard-project-for-human-rights/>, last accessed August 4, 2023.

<sup>98</sup> *ILO Declaration of Fundamental Principles and Rights at Work*, ilo, available at <https://www.ilo.org/declaration/lang--en/index.htm>, last accessed August 4, 2023.

<sup>99</sup> “The ten principles of the UN global impact”, *UNGC*, available at <https://unglobalcompact.org/what-is-gc/mission/principles>, last accessed August 4, 2023.

businesses have implemented more extensive human rights policies, including them in their main business strategies. Furthermore, a growing number of stakeholders, including investors and customers, were demanding more responsible and ethical corporate practices. This resulted in an increase CSR reporting and environmental, social, and governance (hereinafter referred to as ESG) investing.<sup>100</sup>

**10) 2020:** The COVID-19 epidemic brought to light the importance of human rights safeguards in the private sector since it resulted in job losses, discrimination, labor exploitation, and health difficulties. Businesses must increase their safeguards to prevent the long-term deterioration of human rights. Stronger laws, more transparency, and corporate accountability were sought by companies, governments, and advocacy groups.<sup>101</sup>

**11) 2021- 2022:** The Corporate Human Rights Benchmark was launched in 2017 to help promote change and make firms more responsible for their commitment to protecting human rights. However, the rate of improvement is modest, and legislation is required to speed matters up.<sup>102</sup> The Corporate Human Rights Benchmark has been essential in driving change and holding firms more accountable for their commitment to protecting

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<sup>100</sup> Hao Liang and Luc Renneboog, “Corporate Social Responsibility and Sustainable Finance: A Review of the Literature”, *ECGI*, (2020), available at [https://www.ecgi.global/sites/default/files/working\\_papers/documents/liangrenneboogfinal.pdf](https://www.ecgi.global/sites/default/files/working_papers/documents/liangrenneboogfinal.pdf), last accessed August 4, 2023.

<sup>101</sup> “A human rights-based approach to COVID-19 economic response and recovery,” *ENNHR*, UN Human Rights Office of the Human commissioner, (March 2022), available at <https://www.ohchr.org/sites/default/files/2022-03/ENHRI%20OCHR%20Checklist%20on%20protecting%20jobs%2C%20workers%20and%20SMEs.pdf>, last accessed August 8, 2023.

<sup>102</sup> “The World Benchmarking Alliance,” *World Benchmarking Alliance*, available at <https://www.worldbenchmarkingalliance.org/publication/chr/about/#:~:text=The%20Corporate%20Human%20Rights%20Benchmark,The%20Corporate%20Human&text=It%20assesses%20what%20companies%20are,based%20on%20publicly%20available%20information>, last accessed August 8, 2023.

human rights. However, the rate of improvement is modest, and legislation is required to speed things up.<sup>103</sup>

These laws, conventions, and initiatives represent significant steps towards promoting human rights protections in private business corporations. They encourage businesses to assess and address their impact on human rights and work towards sustainable and ethical practices. However, it's important to note that the effectiveness of these measures depends on the level of implementation, enforcement, and continuous improvement by businesses and regulatory bodies.

### **1.3. National Policy Measures Aimed at Regulating Corporate Accountability and Protecting Human Rights**

The corporations that employ these workers should be held accountable for failing to comply with this law. If an employer does not protect workers' rights, then they should be fined or prosecuted for violating international law. It is the duty of national governments to protect the human rights of every individual within their jurisdiction, and this obligation extends to private enterprises as well.

To protect the rights of all people within their countries, governments should take several initiatives. These include:

1. Ensuring that companies do not discriminate against employees based on their gender, religion, or sexual orientation.
2. Ensuring that employers do not harass or abuse workers verbally or physically.

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<sup>103</sup> “2022 Corporate Human Rights Benchmark,” *World Benchmark Alliance*, Nov 21, 2022, available at <https://www.worldbenchmarkingalliance.org/publication/chr/b/>, last accessed August 8, 2023.

3. Ensuring that businesses do not discriminate against people with disabilities by making it difficult for them to find jobs or by refusing to hire them due to their disabilities.
4. Ensuring that businesses do not deny service based on race or ethnicity, age, gender identity and expression or other characteristics protected under international law (such as ethnicity).
5. It is important that corporations pay fair wages so that all employees can live decently without having to rely on public assistance programs like welfare or food stamps.<sup>104</sup>

The UN and governments could work together to pass legislation that makes it illegal for employers to discriminate against workers based on their nationality or ethnicity.

#### **1.4. Business Obligation to Protect Human Rights**

Whether we are working for them, buying their products, or simply sharing our towns and cities with them, businesses have a big effect on how we live our lives and exercise our fundamental and human rights, which safeguard each of us. They are founded on respect, equality, justice, and decency.<sup>105</sup> A key point in the defense of human rights is how economic actions affect such rights. Concerns have long been voiced regarding violations of workers' rights, workplace health and safety, and the abuse of child workers by some commercial corporations. Later, concerns regarding the maintenance of human rights obligations and accountability emerged because of the outsourcing and privatization of crucial services that were formerly provided by

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<sup>104</sup> Erika George, "Global Policy Initiatives to Regulate Business Responsibility and Human Rights," *Incorporating Rights: Strategies to Advance Corporate Accountability*, (New York: Oxford Academic, 2021), available at <https://doi.org/10.1093/oso/9780199941483.003.0003>, last accessed Jan 5, 2023.

<sup>105</sup> "Human rights and business," *Equality and Human Rights Commission*, available at <https://www.equalityhumanrights.com/en/advice-and-guidance/human-rights-and-business>, last accessed Oct 20, 2022.

public authorities and included everything from defense to education and children's protection. There is now widespread agreement that corporations should respect human rights, even if states still have the primary responsibility for upholding them. Some multinational corporations have developed to the point where they can outspend medium-sized governments in terms of financial resources.<sup>106</sup>

According to a recent survey conducted by The Economist online, numerous companies have started to perceive themselves as important contributors to safeguarding human rights. This shift in perspective can be largely attributed to noteworthy domestic and international efforts aimed at outlining the responsibilities of businesses with regards to human rights.<sup>107</sup>

## **1.5. International Laws and The Responsibilities of Businesses to Respect Human Rights**

Conventions, other legal instruments, and other aspects of human rights law have historically been presented as generating obligations and responsibilities for states under recognized international human rights.<sup>108</sup> For a very long time, corporations' obligations to support the respect of human rights received very little, if any, attention. Many hold to the position that enterprises should only be responsible for adhering to the rules and regulations that states have issued regarding workplace behavior, the utilization of resources, and other issues related to

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<sup>106</sup> “Business enterprises begin to recognize their human rights responsibilities,” *Council of Europe*, (April 4, 2016), available at <https://www.coe.int/en/web/commissioner/-/business-enterprises-begin-to-recognise-their-human-rights-responsibilities>, last accessed Oct 20, 2022.

<sup>107</sup> “The Road From Principles To Practice Today’s Challenges For Business In Respecting Human Rights,” *The Economist Intelligence Unit*, (2015), available at [file:///C:/Users/Haier/Downloads/Challenges\\_for\\_business\\_in\\_respecting\\_human\\_rights.pdf](file:///C:/Users/Haier/Downloads/Challenges_for_business_in_respecting_human_rights.pdf), last accessed Oct 20, 2022.

<sup>108</sup> Alan S. Gutterman, “Now More Than Ever: Businesses’ Duties to Respect Human Rights,” *Corporations, LLCs & Partnerships, Business law today*, (Dec 16, 2020), available at [https://businesslawtoday.org/2020/12/now-ever-businesses-duties-respect-human-rights/#\\_ftn1](https://businesslawtoday.org/2020/12/now-ever-businesses-duties-respect-human-rights/#_ftn1), last accessed Oct 23, 2022.

human rights.<sup>109</sup> However, in recent years, the criticism of companies that followed the globalization that dominated the 20th century's final decades has moved more and more toward holding firms and states both accountable for their duties and commitments with regard to human rights.<sup>110</sup>

The sources cited provide guidance at the global level regarding the obligation of businesses to uphold human rights.

## **1.6. Human Rights Treaties**

There are also some treaties that discuss human rights protection in businesses. These treaties are legally binding on those states that ratify them.

### **1.6.2. International Covenant on Civil and Political Rights (ICCPR)**

The International Covenant on Civil and Political Rights (hereinafter referred to as ICCPR) affirms the inherent worth of every person and commits to working to improve the political and civil rights of citizens within their respective governments. Nations that have become parties to the Covenant have an obligation to safeguard and uphold fundamental human rights. This includes taking necessary legal, administrative, and legislative steps to acknowledge and safeguard the rights enshrined in the treaty and provide suitable redress to victims.<sup>111</sup> At present, the number of parties who have signed the ICCPR is 168, out of which 74 have already signed it. The ICCPR safeguards human rights in the private business corporations by affirming

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<sup>109</sup> George G Brenkert, "Business Ethics and Human Rights: An Overview," *Business and Human Rights Journal*, vol. 1, no. 2 (July 2016): 277–306, available at <https://doi.org/10.1017/bhj.2016.1>, last accessed Oct 23, 2022.

<sup>110</sup> Colin Mayer, *Prosperity: Better Business Makes the Greater Good*, (Oxford: Oxford University Press, 2019), available at <https://www.sbs.ox.ac.uk/oxford-answers/prosperity-better-business-makes-greater-good>, last accessed Oct 23, 2022.

<sup>111</sup> "Summary: International Covenant On Civil And Political Rights (ICCPR)," *Canadian Civil Liberty Association*, (Oct 27, 2015), available at <https://ccla.org/privacy/surveillance-and-privacy/summary-international-covenant-on-civil-and-political-rights-iccpr/>, last accessed Oct 23, 2022.

that every person has the right to freedom of religion, thought, and conscience, as well as the right to express their opinions freely, peacefully assemble and associate with others, and participate in their country's governance.<sup>112</sup>

### **1.6.3. International Covenant on Economic, Social, and Cultural Rights (ICESCR)**

The United Nations General Assembly passed Resolution 2200 A (XXI) on December 16, 1966, adopting the International Covenant on Economic, Social, and Cultural Rights (hereinafter referred to as ICESCR). It's an international agreement that establishes a legal framework to safeguard the most fundamental economic, social, and cultural rights, including the right to work in fair and favorable conditions, the right to social protection, the right to an adequate standard of living, the right to the best possible physical and mental health, the right to education, and the right to take advantage of advances in science and culture. This covenant also provides for women's enjoyment of their human rights on a basis equal to that of men's.<sup>113</sup>

1) **Economic Right:** According to the ICESCR, every person has the right to work.

Fair salaries, the freedom to select one's job, the ability to form a union, the ability to set suitable work hours, and the ability to take time off for vacations and other special occasions are all part of this right to work. Additionally, it states that women ought to be paid equally for equivalent labor and treated equally to men in the workplace. Even though the ICESCR does not specifically prohibit children from working, it does specify that countries must establish an age minimum for employment and that children

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<sup>112</sup> "Summary: International Covenant On Civil And Political Rights (ICCPR)," *Canadian Civil Liberty Association*, (Oct 27, 2015), available at <https://ccla.org/privacy/surveillance-and-privacy/summary-international-covenant-on-civil-and-political-rights-iccpr/>, last accessed Jan 7, 2023.

<sup>113</sup> "International Covenant on Economic, Social and Cultural Rights," *tackling violence against women*, available at <https://blogs.lse.ac.uk/vaw/int/treaty-bodies/international-covenant-on-economic-social-and-cultural-rights/>, last accessed Oct 23, 2022.

shouldn't be given tasks that are risky or that may impair their physical or moral development. As of 2016, 193 United Nations member states had ratified this treaty, and by committing to this agreement, countries admit that they are accountable for ensuring that their citizens' human rights are upheld.<sup>114</sup>

The ICESCR and ICCPR do not specifically address the protection of human rights in businesses. However, several articles of both set the standard to the protection of human rights in the context of business sector.

#### **1.6.4. Optional Protocol to The International Covenant on Economic, Social, and Cultural Rights (OP-ICESCR)**

An international agreement known as the Optional Protocol to the International Covenant on Economic, Social, and Cultural Rights (hereinafter referred to as OP-ICESCR) enables those who have had their economic, social, and cultural rights violated to file complaints with the UN. People can file a complaint with the United Nations Committee on Economic, Social, and Cultural Rights (hereinafter referred to as CESCR) when they are unable to obtain justice for violations of their economic, social, and cultural rights in national courts. However, their nation must first ratify or accede to the OP-ICESCR pact to join. The OP-ICESCR is an effective instrument for lobbying as well. The commitment to respect, preserve, and uphold the ESCR is shared by all states that have ratified the ICESCR. The OP-ICESCR affirms that all human rights abuses must have a remedy, first and foremost in their own nation, but also, if necessary, at the international level. Advocacy now has a vehicle in the OP-ICESCR to campaign for changes in their own legal system as well as for legislation and policies that protect and enhance

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<sup>114</sup> “ICESCR (International Covenant on Economic, Social & Cultural Rights): Summary & Human Rights”, Study.com ,available at <https://study.com/academy/lesson/icescr-international-covenant-on-economic-social-cultural-rights-summary-human-rights.html>, last accessed Oct 23, 2022.



ESCR. It is possible to use the Committee on ESCR's suggestions in new cases to aid in the interpretation of human rights duties.<sup>115</sup>

## **1.7. Non- Binding International Human Rights Sources**

Although they don't immediately produce legal responsibilities, these can affect how other laws are applied. There are some non-binding international human rights instruments or sources. Such like,

### **1.7.2. The Universal Declaration of Human Rights (UDHR)**

On December 10, 1948, the newly formed United Nations approved the Universal Declaration of Human Rights in reaction to the barbarous deeds that offended the conscience of mankind committed during World War II. Its acceptance acknowledges that human rights are the cornerstones of liberty, justice, and peace.<sup>116</sup> The UDHR, which serves as the foundational standard for human rights, defines norms for topics including nondiscrimination, freedom of association, equal pay for equal labor, and equal legal protection. International human rights groups base their activities on the UDHR. A few of the UDHR's enumerated rights are especially related to business.<sup>117</sup>

Thereafter, UDHR postulates that every person has the right to work, the freedom to choose their employer, fair and benevolent working conditions, and protection against

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<sup>115</sup> Tara J. Melish, "The Optional Protocol to the International Covenant on Economic, Social and Cultural Rights," *International Legal Materials*, vol. 48, no. 2 (2009): 256–67, available at <https://doi.org/10.1017/S0020782900000176> ; see also "What is the OP-ICESCR?," *ESCR-Net*, <https://www.escr-net.org/ngo-coalition-op-icescr/what-op-icescr>, last accessed Oct 24, 2022.

<sup>116</sup> "What Is The Universal Declaration Of Human Rights And Why Was It Created?," *Amnesty International*, available at <https://www.amnesty.org/en/what-we-do/universal-declaration-of-human-rights/>, last accessed Oct 24, 2022.

<sup>117</sup> "Global Business Responsibility Resource Center: Human Rights," *Human Rights Library*, university of Minnesota, available at <http://hrlibrary.umn.edu/links/gbrhumanrts.html>, last accessed Oct 24, 2022.

unemployment. Everyone's right to remuneration for equal labor is one that should not be subject to any kind of discrimination. Every person who works has a right to equitable and beneficial compensation that ensures for his family and himself a life worthy of human dignity and is supported, when needed, by various forms of social assistance. Everyone has the freedom to establish and join trade unions to further their own interests.<sup>118</sup>

The Universal Declaration does not confer any formal legal responsibilities on nations because it is not a treaty. It does, however, represent the underlying principles that all people in the world share. The evolution of world human rights legislation has also been significantly impacted by it. Some claim that the Declaration has become enforceable as a component of international customary law since nations have constantly cited it for more than 60 years.<sup>119</sup>

### **1.7.3. UN Guiding Principle on Business and Human Rights**

At the international level, the UNGPs provide the most comprehensive framework for how businesses should respect human rights. The UNGPs establish that businesses have a responsibility to respect human rights, which means that they should avoid causing or contributing to adverse human rights impacts through their activities and take steps to address such impacts when they occur. The UNGPs also outline the responsibilities of states to provide an enabling environment for businesses to respect human rights and to protect against human rights abuses by businesses.<sup>120</sup>

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<sup>118</sup> “Universal Declaration of Human Rights,” *OCHR*, available at [https://www.ohchr.org/sites/default/files/UDHR/Documents/UDHR\\_Translations/eng.pdf](https://www.ohchr.org/sites/default/files/UDHR/Documents/UDHR_Translations/eng.pdf), last accessed Oct 24, 2022.

<sup>119</sup> “What is the Universal Declaration of Human Rights?,” *Australian Human Rights Commission*, available at <https://humanrights.gov.au/our-work/what-universal-declaration-human-right>, last accessed Oct 24, 2022.

<sup>120</sup> *United Nation Guiding Principles On Business And Human Rights*, Privacyinternational, (June 7, 2022), available at <https://privacyinternational.org/key-resources/4895/united-nations-guiding-principles-businessandhuman%20rights#:~:text=The%20Guiding%20Principles%20contain%20three.if%20such%20abuse%20take%20place>, last accessed Jan 7, 2023.

In June 2011, the UN Human Rights Council approved them after the UN Special Representative on Business and Human Rights recommended them. The United Nations' Working Group on Business and Human Rights was founded by the same decision of the UN Human Rights Council. The UN Guiding Principle on Business and Human Rights is based on the three pillars of protection, respect, and remedy.<sup>121</sup>

Here, the author of this research is discussing the second pillar, or the corporate responsibility to respect human rights under the UN Guiding Principle on Business.

### **1) Corporate Responsibility to Respect Human Rights**

Human rights should be respected by business corporations. This implies that they must refrain from violating others' human rights and deal with any negative effects on those rights that they are a part of. Business corporations have a duty to protect human rights, which are understood to include those enshrined in the International Bill of Human Rights and the fundamental rights outlined in the ILO Declaration on Fundamental Principles and Rights at Work, at the very least.<sup>122</sup> All businesses, regardless of size, industry, operating setting, ownership, or organizational structure, have a duty to respect human rights. However, depending on these elements, as well as the degree of the enterprise's detrimental effects on human rights, the complexity and scale of the methods by which businesses fulfill this obligation may differ.<sup>123</sup>

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<sup>121</sup> *UN Guiding Principles*, Business & Human Rights Resource Centre, available at <https://www.business-humanrights.org/en/big-issues/un-guiding-principles-on-business-human-rights/>, last accessed Oct 24, 2022.

<sup>122</sup> *ILO Declaration on Fundamental Principles and Rights at Work*, ilo, available at <https://www.ilo.org/declaration/lang--en/index.htm>, last accessed Jan 7, 2023.

<sup>123</sup> *Guiding Principles on Business and Human Rights: Implementing the United Nations "Protect, Respect and Remedy" Framework*, (New York and Geneva: United Nations Office of the High Commissioner, 2011), available at [https://www.ohchr.org/sites/default/files/documents/publications/guidingprinciplesbusinesshr\\_en.pdf](https://www.ohchr.org/sites/default/files/documents/publications/guidingprinciplesbusinesshr_en.pdf), last accessed Oct 24, 2022.

#### **1.7.4. Office of the High Commissioner for Human Rights (OHCHR)**

Following the 1993 World Conference on Human Rights, the United Nations Secretariat created the Office of the High Commissioner for Human Rights (hereinafter referred to as OHCHR). By fostering global collaboration and managing the United Nations' human rights initiatives, it effectively prevents human rights breaches and ensures that they are respected. From its headquarters in Geneva, the OHCHR carries out an extremely wide variety of operations. Additionally, it employs field offices and participates in UN peace missions to work directly in regions where there are serious human rights violations.<sup>124</sup>

The failure to ensure the proper safeguarding of human rights, including the right of everyone in society to participate in judgment and the right to basic goods and services like health care, education, and a decent standard of living, is one of the most pressing issues currently being discussed. The way the global economy operates and its inability to share prosperity and security for all are other very serious issues. The business role is crucial to addressing these contemporary difficulties and will be crucial to our capacity to do so. A stable economy depends on strong institutions, an efficient judicial system, sustainable growth, and public trust in the possibilities for individual safety in a peaceful society. Only when basic human rights are maintained can these interconnected components be created. Although there is a compelling argument for upholding human rights, it is difficult to put widespread commitment into practice across the corporate sector. In March of 2015, the Economist Intelligence Unit discovered that 83% of senior executives said business had a significant role in upholding human rights. Less than half of their enterprises really have a human rights policy document, despite this being a crucial requirement of the UN Guiding Principles for all

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<sup>124</sup> *Human Rights Explained: Fact sheet 8: Promoting and Protecting Human Rights in the UN System*, Australian Human Rights Commission, available at <https://humanrights.gov.au/our-work/education/human-rights-explained-fact-sheet-8promoting-and-protecting-human-rights-un>, last accessed Oct 25, 2022.

businesses. Most of the world's work is in the private business sector, and ending abuses would have a hugely positive effect on millions of people. Therefore, we need to persuade more business players that respecting human rights is beneficial for their bottom line.<sup>125</sup>

## **1.8. Sustainable Development Goals (SDGs)**

The United Nations' 2030 Sustainable Development Goals (SDGs) are a resolute monument to our shared commitment to solving the most pressing issues involving people, the environment, and prosperity. Due to its cohesion and indomitability, this global plan is compelled to be adopted by every country and sector. It skillfully creates equilibrium between sustainable development's environmental, social, and economic facets. These painstakingly prepared objectives and their accompanying targets will work as catalysts over the coming 15 years, sparking proactive initiatives in areas with exceptional relevance for the future of civilization, extending across economic and environmental areas.

Notably, the 8.3 goal of the SDGs emphasizes a compelling imperative: to support policies that create a favorable environment for development through enterprising initiatives, job creation, creative power, innovation, and the expansion of small to medium-sized businesses. This lofty goal includes offering unrestricted access to financial services and actively promoting the formalization of such organizations.<sup>126</sup>

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<sup>125</sup> United Nation, *Dollars and Sense: How – and why – the private sector needs to stand up for human rights*, available at <https://www.un.org/youthenvoy/2017/01/dollars-sense-private-sector-needs-stand-human-rights/>, last accessed Oct 24, 2022.

<sup>126</sup> United Nations, *The 17 Sustainable Development Goals*, Department of Economic and Social Affairs Disability, available at <https://www.un.org/development/desa/disabilities/envision2030.html>, last accessed August 29, 2023.

## **1.9. National Laws and The Responsibilities of Businesses to Respect Human Rights**

At the national level, governments are taking various steps to implement the UNGPs and hold businesses accountable for respecting human rights. Many countries have adopted laws and regulations that require businesses to report on their human rights practices or to take certain steps to prevent human rights abuses. For example, some countries have laws specifically related to human rights in businesses. In the United States, Title VII of the Civil Rights Act of 1964 prohibits employment discrimination based on race, color, religion, sex, and national origin,<sup>127</sup> while the Americans with Disabilities Act (hereinafter referred to as ADA) and the Age Discrimination in Employment Act (hereinafter referred to as ADEA) also protect employee rights.<sup>128</sup> Additionally, some countries have laws specifically related to human rights in business, like the UK Modern Slavery Act, which requires certain businesses to disclose information about the steps they have taken to ensure that slavery and human trafficking are not taking place in their supply chains. Furthermore, many countries have established National Action Plans on Business and Human Rights, which set out government policies and strategies for implementing the UNGPs.<sup>129</sup>

### **1.9.2. National Action Plan (NAPs)**

A NAP is described as a developing policy plan adopted by a state to protect against adverse human rights effects by business enterprises in compliance with the UN Guiding Principles on

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<sup>127</sup> *Title VII of the Civil Rights Act*, U.S. Equal Employment Opportunity Commission, (1964), available at <https://www.eeoc.gov/statutes/title-vii-civil-rights-act-1964#:~:text=>, Last accessed Feb 7, 2023.

<sup>128</sup> “What is the Americans with Disabilities Act (ADA)?,” *ADA National Network Information, Guidance, and Training on the Americans with Disabilities Act*, (1990), available at <https://adata.org/learn-about-ada#:~:text=>, Last accessed Jan 13, 2023.

<sup>129</sup> *Civil Rights Requirements- E. Federal Employment Discrimination Laws*, (U.S. Department of Health and Human Service), available at <https://www.hhs.gov/civil-rights/filing-a-complaint/index.html>, last accessed Oct 27, 2022.

Business and Human Rights around business and human rights UNGPs.<sup>130</sup> All UN member states were urged to create a NAP in 2014 by the UN Human Rights Council to help with the UNGPs' implementation. Thereafter, other international and regional calls were made, including those from the Organization of USA, the European Union, the African Union, and the G20 leaders.<sup>131</sup> As part of the state obligation to safeguard human rights in commercial activities, the UN Working Group on Business and Human Rights actively encourages all states to establish, adopt, and update a NAP on business and human rights. The UN Working Group released the final draft of its Guidelines on National Action Plans to assist states in this process.<sup>132</sup>

### **1.9.2.1. States That Have a National Action Plan (NAPS)**

Launched in September 2013 in the United Kingdom, updated in May 2016, and launched in the Netherlands in December 2013. launched in April 2014 in Denmark and Finland. In October 2014, the service was launched in Lithuania, followed by Sweden in August 2015 and Norway in October 2015. launched in December 2015 in Colombia and in December 2016 in French and English in Switzerland. The UNGPS was launched in Italy and the United States in December 2016; recommendations for action plans in French were introduced in April 2017, and Poland's second-edition Polish National Action Plan for the Implementation of the UNGPS

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<sup>130</sup> *Guidance on National Action Plans on Business and Human Rights*, UN Working Group, (2016), available at [https://www.ohchr.org/sites/default/files/Documents/Issues/Business/UNWG\\_NAPGuidance.pdf](https://www.ohchr.org/sites/default/files/Documents/Issues/Business/UNWG_NAPGuidance.pdf) ;See also the *NAPs Toolkit developed by The Danish Institute for Human Rights and the International Corporate Accountability Roundtable*, <https://globalnaps.org/resources/>, last accessed Oct 27, 2022.

<sup>131</sup> *The linkages between international labour standards, the United Nations Guiding Principles on Business and Human Rights, and National Action Plans on Business and Human Rights*, International Labour Organization, (June 17, 2021), available at [https://www.ilo.org/empent/areas/mne-declaration/WCMS\\_800261/lang--en/index.htm](https://www.ilo.org/empent/areas/mne-declaration/WCMS_800261/lang--en/index.htm), last accessed Oct 27, 2022.

<sup>132</sup> *Guidance on National Action Plans on Business and Human Rights*, UN Working Group, (2016), available at [https://www.ohchr.org/sites/default/files/Documents/Issues/Business/UNWG\\_NAPGuidance.pdf](https://www.ohchr.org/sites/default/files/Documents/Issues/Business/UNWG_NAPGuidance.pdf) ; see also Sara Blackwell and Katie Shay, "The role of National Action Plans on Business and Human Rights in protecting human rights defenders," *International Service for Human Rights*, (November 15, 2014), available at <https://ishr.ch/latest-updates/role-national-action-plans-business-and-human-rights-protecting-human-rights-defenders/>, last accessed Oct 27, 2022.

2021–2024 was released in May 2017. It was launched in Spain in July 2017, France in July 2017, Chile in July 2017, and the Czech Republic in July 2017. launched in October 2017, Ireland in November 2017, and Luxembourg in December 2017. They will be available in English and French in 2020 (only in French) and in the Republic of Slovenia (English and Slovenian) in November 2018. launched in June 2019: Kenya's Thai language website started on October 29, 2019, launched in Japan in October 2020, launched in August 2021 in Uganda, and launched in October 2021 in Pakistan.<sup>133</sup>

## 1.10. 8 Core Conventions of ILO

ILO Convention No. 87, Freedom of Association and Protection of the Right to Organize Convention, 1948, is a significant ILO treaty that bears on workplace human rights. The primary focus of this convention is on the freedom of employers and employees to create and join associations of their choice without intervention from the government or other employers. Additionally, it guarantees these groups' anti-discrimination protection, enabling them to freely carry out their operations.<sup>134</sup> The Convention Right to Organize and Collective Bargaining Convention, 1949 (No. 98) emphasizes the right to collective bargaining between employers and workers' organizations.<sup>135</sup> The Forced Labour Convention, 1930 (No. 29) aims to eliminate all forms of forced or compulsory labor, including human trafficking and modern slavery.<sup>136</sup> The Abolition of Forced Labour Convention, 1957 (No. 105) is an updated version of

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<sup>133</sup> “National action plans on business and human rights: Working Group on Business and Human Rights,” *United Nations*, available at <https://www.ohchr.org/en/special-procedures/wg-business/national-action-plans-business-and-human-rights>, last accessed Oct 29, 2022.

<sup>134</sup> *C087 - Freedom of Association and Protection of the Right to Organize Convention, 1948 (No. 87)*, ilo, available at [https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100\\_ILO\\_CODE:C087](https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100_ILO_CODE:C087), last accessed August 11, 2023.

<sup>135</sup> *C098 - Right to Organize and Collective Bargaining Convention, 1949 (No. 98)*, ilo, available at [https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100\\_ILO\\_CODE:C098](https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100_ILO_CODE:C098), last accessed Sep 26, 2023.

<sup>136</sup> *C029 - Forced Labour Convention, 1930 (No. 29)*, ilo, available at [https://www.ilo.org/dyn/normlex/en/f?p=1000:12100:0::NO::P12100\\_ILO\\_CODE:C029](https://www.ilo.org/dyn/normlex/en/f?p=1000:12100:0::NO::P12100_ILO_CODE:C029), last accessed Sep 26, 2023.



Convention No. 29 and reaffirms the goal of eliminating forced labor.<sup>137</sup> The Minimum Age Convention, 1973 (No. 138) sets standards for the minimum age at which children can be employed and aims to protect children from exploitation in the workplace.<sup>138</sup> The Worst Forms of Child Labour Convention, 1999 (No. 182) seeks to eliminate the worst forms of child labor, including hazardous work that poses a threat to children's health and safety.<sup>139</sup> The Equal Remuneration Convention, 1951 (No. 100) promotes equal pay for men and women for work of equal value and aims to eliminate gender-based wage discrimination.<sup>140</sup> The Discrimination (Employment and Occupation) Convention, 1958 (No. 111) aims to eliminate discrimination in employment and occupation based on race, color, sex, religion, political opinion, national extraction, or other arbitrary criteria.<sup>141</sup>

These core conventions embody fundamental principles and rights that the ILO member states are expected to embrace and integrate into their domestic labor laws and practices.

### **1.10.1. ILO Tripartite Convention on Multinational Enterprises (MNE)**

The ILO Declaration on Fundamental Principles and Rights at Work, established in 1998 and updated in 2022, is a statement of the commitment made by governments, employer organizations, and worker organizations to maintain fundamental human values, which are essential to our social and economic existence. It affirms the responsibilities and commitments

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<sup>137</sup> *Abolition of Forced Labour Convention*, ilo, (1957), available at [https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:55:0::NO::P55\\_TYPE,P55\\_LANG,P55\\_DOCUMENT,T,P55\\_NODE:CON,en,C105,/Document](https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:55:0::NO::P55_TYPE,P55_LANG,P55_DOCUMENT,T,P55_NODE:CON,en,C105,/Document), last accessed Feb 24, 2023.

<sup>138</sup> *C138 - Minimum Age Convention, 1973 (No. 138)*, ilo, available at [https://www.ilo.org/dyn/normlex/en/f?p=normlexpub:12100:0::no::P12100\\_ilo\\_code:C138#:~:text=Article%203-1,2,](https://www.ilo.org/dyn/normlex/en/f?p=normlexpub:12100:0::no::P12100_ilo_code:C138#:~:text=Article%203-1,2,) last accessed Sep 25, 2023.

<sup>139</sup> *Worst Forms of Child Labour Convention*, ilo, (1999), available at [https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100\\_ILO\\_CODE:C182](https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100_ILO_CODE:C182), last accessed Feb 24, 2023.

<sup>140</sup> *C100 - Equal Remuneration Convention, 1951 (No. 100)*, ilo, available at [https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100\\_Ilo\\_Code:C100](https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100_Ilo_Code:C100), last accessed Sep 25, 2023.

<sup>141</sup> *C111 - Discrimination (Employment and Occupation) Convention, 1958 (No. 111)*, ilo, available at [https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100\\_Ilo\\_Code:C111](https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100_Ilo_Code:C111), last accessed Sep 26, 2023.

that come with being an ILO member, including freedom of association, the effective acceptance of the right to organized labor, the abolition of all aspects of forced or obligatory labor, the abolition of child labor, the eradication of discrimination regarding employment and occupation, and a safe and healthy work environment.<sup>142</sup>

The only ILO document that offers direct advice to businesses (both national and multinational) on social policy and comprehensive, accountable, and sustainable workplace practices is the MNE Declaration. The only worldwide instrument in this field that has been developed and embraced by governments, businesses, and employees everywhere is this one. The most recent amendment, which was made in March 2017, was adopted forty years ago. Its guiding principles offer direction in areas including employment, training, working conditions, quality of life, and industrial relations, along with general policies for national and international businesses, governments of the host and home countries, and employers' and workers' groups. The recommendations are mostly based on the concepts found in international labor standards.<sup>143</sup>

ILO Convention No. 87, Freedom of Association and Protection of the Right to Organize Convention, 1948, is a significant ILO treaty that bears on workplace human rights. The primary focus of this convention is on the freedom of employers and employees to create and join associations of their choice without intervention from the government or other employers. Additionally, it guarantees these groups' anti-discrimination protection, enabling them to freely carry out their operations.<sup>144</sup>

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<sup>142</sup> *ILO Declaration of Fundamental Principles and Rights at Work*, ilo, available at <https://www.ilo.org/declaration/lang--en/index.htm>, last accessed Feb 7, 2023.

<sup>143</sup> *Tripartite Declaration of Principles concerning Multinational Enterprises and Social Policy (MNE Declaration)*, International Labour Organization, available at <https://www.ilo.org/empent/areas/mne-declaration/lang--en/index.htm>, last accessed Oct 27, 2022.

<sup>144</sup> *C087 - Freedom of Association and Protection of the Right to Organize Convention, 1948 (No. 87)*, ilo, available at

This briefing note illustrates how national action plans on business and human rights, the UN Guiding Principles for Business and Human Rights, and international labor standards are all connected. It was created collaboratively by the ILO and the UN Working Group on Business and Human Rights (NAPs). It is targeted at governmental bodies as well as employers' and workers' groups, as each plays a crucial role in the creation, acceptance, and application of such NAPs. It helps ILO members find ways to strengthen the government's protection of workers' rights, companies' respect for those rights in their operations, and access to justice for those who have been harmed by corporate violations of human rights.<sup>145</sup>

### **1.10.1. ILO and UN Guiding Principle Protect, Respect, and Remedy Framework on Business and Human Rights**

First, the ILO Tripartite Declaration of Principles concerning Multinational Enterprises and Social Policy (ILO MNE Declaration) is cited as a noteworthy example of a special instrument enshrining corporate responsibility to respect human rights in the 2008 UN Protect, Respect, and Remedy Framework. Governments and businesses can find direction from the ILO (MNE) Declaration on issues including labor-related human rights as well as some facets of comprehensive economic development and growth.<sup>146</sup> Secondly, also according to the 2011

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[https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100\\_ILO\\_CODE:C087](https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100_ILO_CODE:C087), last accessed August 11, 2023.

<sup>145</sup> “The linkages between international labour standards, the United Nations Guiding Principles on Business and Human Rights, and National Action Plans on Business and Human Rights,” *International Labour Organization*, (June 17, 2021), available at [https://www.ilo.org/empent/areas/mne-declaration/WCMS\\_800261/lang--en/index.htm](https://www.ilo.org/empent/areas/mne-declaration/WCMS_800261/lang--en/index.htm), last accessed Oct 28, 2022.

<sup>146</sup> *The ILO MNE Declaration: What's in it for Workers?*, International Labour Organization, (2017), available at [https://www.ilo.org/wcmsp5/groups/public/---ed\\_dialogue/---actrav/documents/publication/wcms\\_627351.pdf](https://www.ilo.org/wcmsp5/groups/public/---ed_dialogue/---actrav/documents/publication/wcms_627351.pdf), last accessed Oct 28, 2022.

Guiding Principles on Business and Human Rights: Implementing the United Nations Protect, Respect, and Remedy Framework.<sup>147</sup>

The ILO primarily focuses on labor-related issues, including workers' rights. Human rights in the private sector of business are not specifically covered in any article. However, the ILO conventions, rules, and agreements include topics relevant to human rights in the workplace.

### **1.11. Impact of Covid- 19 on Private Business Sector and Human Rights:**

The World Health Organization (hereinafter referred to as WHO) announced on March 11, 2020, that an epidemic of the viral illness COVID-19, which was discovered for the first time in Wuhan, China, in December 2019, has acquired the status of a worldwide pandemic.

The WHO demanded that nations take immediate and decisive measures to curb the virus's spread, citing worries about the alarming levels of dissemination and severity.<sup>148</sup>

Due to COVID-19's global expansion, businesses are experiencing unprecedented levels of insolvency, which will cause millions of jobs to be lost. In this situation, people's faith in the resilience of the global economy and, consequently, the institutions and norms that sustain it is being put to the test more than ever. Public perceptions of the private sector will be shaped for years to come by how businesses react to the crisis, particularly those companies

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<sup>147</sup> *Guiding Principles on Business and Human Rights: Implementing the United Nations "Protect, Respect and Remedy" Framework*, (New York and Geneva: United Nations Office of the High Commissioner, 2011), available at [https://www.ohchr.org/sites/default/files/documents/publications/guidingprinciplesbusinesshr\\_en.pdf](https://www.ohchr.org/sites/default/files/documents/publications/guidingprinciplesbusinesshr_en.pdf) , last accessed Oct 28, 2022.

<sup>148</sup> "Human Rights Dimensions of COVID-19 Response," *Human Rights Watch*, (March 19, 2020), available at <https://www.hrw.org/news/2020/03/19/human-rights-dimensions-covid-19-response>, last accessed Oct 28, 2022.

that require governmental assistance to continue operating.<sup>149</sup> Businesses and individuals in unstable and conflict-affected settings are among those most severely impacted by the coronavirus (COVID-19) pandemic, which is having a large detrimental impact on the private business corporations in emerging nations.<sup>150</sup>

An unprecedented call to action for the private sector has been issued by the World Health Organization and the International Chamber of Commerce to address the COVID-19 pandemic threat. This call to action emphasizes the crucial role that businesses must play in halting the spread of this infectious disease and reducing its negative effects on society. One of the biggest impacts on the private sector is likely to be the cost of labor, schools, and hospitals. This means that they are more likely to be negatively impacted by COVID-19 than those who work for government agencies or large corporations. Many private businesses rely on third-party suppliers for their products, which can mean that if those suppliers were shut down due to COVID-19 restrictions or a lack of resources, then these businesses would suffer as well. In addition to preserving the human rights of employees, those involved in supply chains, consumers, and society at large, the private sector also has the dual responsibility of guaranteeing company continuity (and employment continuity). The right to economic and social rights, as well as to good health.<sup>151</sup>

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<sup>149</sup> “Human Rights Due Diligence and COVID-19: Rapid Self-Assessment for Business,” *UNDP*, (Mar 1, 2021), available at <https://www.undp.org/publications/human-rights-due-diligence-and-covid-19-rapid-self-assessment-business> , last accessed Oct 28, 2022.

<sup>150</sup> “Impacts of COVID-19 on the Private Sector in Fragile and Conflict-Affected Situations,” *Open Knowledge Repository*, available at <https://openknowledge.worldbank.org/handle/10986/34857>, last accessed Oct 28, 2022.

<sup>151</sup> “COVID-19: Business And Human Rights,” *Business and Human Rights*, available at [https://media.businesshumanrights.org/media/documents/files/documents/COVID\\_19\\_business\\_and\\_human\\_rights.pdf](https://media.businesshumanrights.org/media/documents/files/documents/COVID_19_business_and_human_rights.pdf), last accessed Oct 28, 2022.

### **1.11.1. The Application of Three Pillars of The UN Guiding Principles Work during Pandemic**

Business reactions to the epidemic might be evaluated using the UNGPs. Three pillars make it up:

1. It is the responsibility of governments to prevent violations of human rights committed by third parties, such as corporations.
2. Corporations have an obligation to uphold human rights, and
3. When violations occur, more effective legal and extralegal remedies are required.<sup>152</sup>

#### **Conclusion:**

The author of this study argues that the private sector is a powerful force in the world, not just an economic engine but also a tool to promote human rights and national development. The United Nations has recognized the role of businesses in international human rights, and businesses can shape national and international policy by promoting governments and influencing public opinion. When working with governments or international organizations on human rights policy development or implementation efforts, it is important to recognize that there will always be challenges. In short, businesses can help achieve positive change on human rights issues. This research also discussed that COVID-19's global expansion has caused millions of jobs to be lost and businesses to experience insolvency. Other factors affecting the private sector include the cost of labor, schools, and hospitals, and the need for a third-party supplier.

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<sup>152</sup> Joss Saunders, "States 'obligations and businesses' responsibilities in responding to the pandemic," *Oxfam Discussion Paper*, available at <https://oxfamlibrary.openrepository.com/bitstream/handle/10546/621037/dp-covid-19-human-rights-principles-070820.last> accessed Oct 29, 2022.

## **2. CHAPTER: PROTECTION AWARDED AT INTERNATIONAL LEVEL: US & UK**

### **2.1. Introduction**

In this chapter, the researcher will explore how both international and national legislation in the US and the UK safeguard human rights within the corporate sector. Various international laws and regulations play a crucial role in outlining requirements for upholding human rights in private business corporations. For instance, the UNGPs offer guidelines for businesses to identify, prevent, and address adverse human rights impacts stemming from their operations and supply chains. Furthermore, the ILO safeguards rights such as associational freedom, unionization, and the prohibition of forced labor. Additionally, the ICCPR and the ICESCR ensure that all individuals have an equal opportunity to exercise their economic, social, and fundamental freedoms. This chapter has conducted a comprehensive analysis of the second research issue.

### **2.2. Overview**

In both the United States and the United Kingdom, it is crucial to talk about how to defend human rights in the private business corporations. In the US, the government has taken a few measures to ensure that human rights are protected in the private business corporations, including Title VII of the Civil Rights Act of 1964, which forbids employment discrimination,<sup>153</sup> the Americans with Disabilities Act, the Age Discrimination in Employment

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<sup>153</sup> *Title VII of the Civil Rights Act*, USA, vol. 42 (1964), available at [https://www.justice.gov/sites/default/files/crt/legacy/2010/12/15/Title\\_VII\\_Statute.pdf](https://www.justice.gov/sites/default/files/crt/legacy/2010/12/15/Title_VII_Statute.pdf), last accessed Feb 23, 2023.

Act 1967, etc.,<sup>154</sup> which include provisions aimed at promoting human rights and corporate social responsibility.<sup>155</sup> The ILO Declaration on Fundamental Principles and Rights at Work and the UN Guiding Principles on Business and Human Rights both offer recommendations on how businesses can uphold human rights.<sup>156</sup> The Human Rights Act of 1998,<sup>157</sup> which transposes the European Convention on Human Rights into domestic legislation, serves as the primary regulatory framework for the protection of human rights in the business sector in the United Kingdom. The Equality Act of 2010<sup>158</sup> forbids discrimination in the workplace based on several protected characteristics. International human rights rules and standards, such as the United Nations Global Compact and the United Nations Guiding Principles on Business and Human Rights, also apply to private corporations. The UK government also passed the Modern Slavery Act,<sup>159</sup> which mandates that businesses take efforts to guarantee that human trafficking and modern slavery are not taking place anywhere in their supply chains.<sup>160</sup> Additionally, the UK and the US have also received recognition at the international level for their work advancing human rights in the business sector through a variety of prizes and projects.

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<sup>154</sup> *Age Discrimination Act*, U.S. Department of Labor (1975), available at <https://www.dol.gov/agencies/oasam/regulatory/statutes/age-discrimination-act>, last accessed Feb 23, 2023.

<sup>155</sup> *Civil Rights Requirements- E. Federal Employment Discrimination Laws*, (U.S. Department of Health and Human Service), available at <https://www.hhs.gov/civil-rights/filing-a-complaint/index.html>, last accessed Jan 10, 2023.

<sup>156</sup> *Guiding Principles on Business and Human Rights: Implementing the United Nations “Protect, Respect and Remedy” Framework*, (New York and Geneva: United Nations Office of the High Commissioner, 2011), available at

[https://www.ohchr.org/sites/default/files/documents/publications/guidingprinciplesbusinessshr\\_en.pdf](https://www.ohchr.org/sites/default/files/documents/publications/guidingprinciplesbusinessshr_en.pdf), last accessed Oct 28, 2022.

<sup>157</sup> *Human Rights Act*, Legislation.gov.uk, (1998), available at <https://www.legislation.gov.uk/ukpga/1998/42/contents>, last accessed Feb 23, 2023.

<sup>158</sup> *Equality Act*, Legislation.gov.uk, (2010), available at <https://www.legislation.gov.uk/ukpga/2010/15/contents>, last accessed Feb 23, 2023.

<sup>159</sup> *Modern slavery Act*, Legislation.gov.uk, (2015), available at <https://www.legislation.gov.uk/ukpga/2015/30/contents/enacted>, last accessed Feb 24, 2023.

<sup>160</sup> *Human Rights Law*, (university of MELBOURNE: last update Jan 31, 2023), available at <https://unimelb.libguides.com/c.php?g=928011&p=6704329>, last accessed Feb 4, 2023.



### **2.3. United States and Private Business Corporations**

In the United States, human rights protection is a key part of private business corporations. Such corporations have a legal responsibility to be an advocate for human rights and to actively promote policies that protect employees from discrimination and abusive behavior. This means that corporations must have policies in place that prohibit discrimination based on race, gender, age, religion, sexual orientation, or other grounds. They also must ensure that all employees are treated with dignity and respect, both on the job and when they're off it. If a corporation fails to abide by these principles, it could face legal consequences—and even criminal charges if the harm caused by unfair treatment is extreme enough. It's also important for private corporations to monitor their own conduct closely so they know what they can do to prevent discrimination in the first place. For example: if you see an employee being treated unfairly because of their gender or ethnicity, you can report this behavior immediately so management can act before it becomes a bigger problem down the line.<sup>161</sup>

### **2.4. Protecting Human Rights in The Business Sector Under International Law in The United States**

The United States is a party to several international human rights treaties that obligate the country to protect the human rights of individuals within its jurisdiction, including within the private business corporations. These treaties include the ICESCR,<sup>162</sup> and the ICCPR.<sup>163</sup> The

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<sup>161</sup> “U.S. Government efforts to advance business and human rights in 2020,” US department of state, “(Jan 11, 2021), available at <https://2017-2021.state.gov/u-s-government-efforts-to-advance-business-and-human-rights-in-2020/index.html>, last accessed Jan 13, 2023.

<sup>162</sup> UN General Assembly, *International Covenant on Economic, Social and Cultural Rights*, United Nations, Treaty Series, vol. 993 (Dec 16, 1966): 3, available at: <https://www.refworld.org/docid/3ae6b36c0.html>, last accessed Feb 24, 2023.

<sup>163</sup> UN General Assembly, *International Covenant on Civil and Political Rights*, United Nations, Treaty Series, vol. 999 (Dec 16, 1966): 171, available at: <https://www.refworld.org/docid/3ae6b3aa0.html>, last accessed Feb 24, 2023.

United States has also ratified the ILO<sup>164</sup> core labor standards, which include conventions on child labor, forced labor, and nondiscrimination in employment. Under these agreements, the United States is obligated to respect, protect, and fulfill the human rights of all individuals within its jurisdiction, including those in the private corporations. The US government has a responsibility to prevent human rights abuses by private corporations and to provide remedies for victims of such abuses.<sup>165</sup>

### **2.4.1. The United States Protects Its Human Rights in The Business Under UDHR**

The United States played a significant role in the drafting and adoption of UDHR in 1948. The UDHR was adopted by the United Nations General Assembly on December 10, 1948. The US was a member of the United Nations at the time and voted in favor of the declaration. However, it's important to note that the UDHR is not a legally binding treaty; it is a non-binding declaration of principles. As such, countries do not ratify the UDHR in the same way they do treaties. Instead, countries, including the US, have expressed their support for the principles of the UDHR by voting in favor of its adoption and by incorporating its principles into their domestic laws and policies.<sup>166</sup>

UDHR serves as a foundational document outlining fundamental human rights principles. While the UDHR itself is not legally binding, the US protects human rights within private business corporations through its domestic laws and regulations. Here's how the US

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<sup>164</sup> International Labour Organization (ILO), *Constitution of the International Labour organization (ILO)*, (April 1, 1919), available at: <https://www.refworld.org/docid/3ddb5391a.html>, last accessed Feb 24, 2023.

<sup>165</sup> "United State – ILO Corporation," *international labour organization*, available at <https://www.ilo.org/pardev/donors/united-states/lang--en/index.htm>, last accessed Jan 14, 2023.

<sup>166</sup> *What Is the Universal Declaration Of Human Rights And Why Was It Created?*, Amnesty International, The United States played a significant role in the drafting and adoption of the Universal Declaration of Human Rights (UDHR) in 1948, available at <https://www.amnesty.org/en/what-we-do/universal-declarationofhumanrights/#:~:text=The%20UDHR%20was%20adopted%20by,for%20freedom%2C%20justice%20and%20peace.>, last accessed Sep 11, 2023.

protects human rights in private business corporations in alignment with the principles of the UDHR. Equal Employment Opportunity Laws, labor rights, fair labor standards, Occupational Safety and Health Regulations, Environmental and Consumer Protection Laws, Corporate Social Responsibility, Business and Human Rights Initiatives etc.<sup>167</sup>

The UDHR primarily focuses on the protection of human rights in a general context, and it does not specifically address the private business sector. However, there are several articles in the UDHR that indirectly relate to human rights in the context of business and commerce. These articles highlight principles that can be applied to ensure that human rights are respected and protected in the private business corporations:

Article 2: According to this article, everyone is entitled to the freedoms and rights outlined in the UDHR without exception due to any factor, including race, color, sex, language, religion, political viewpoint, national origin, or socioeconomic position. For companies to avoid discriminating against people based on these qualities, they must adhere to the non-discrimination principle.

Article 4: This article prohibits slavery and forced labor, which is relevant in the context of labor rights and the treatment of workers in the private sector.

Article 23: This article emphasizes the right to work, just and favorable conditions of work, and the right to protection against unemployment. It indirectly relates to labor rights and the role of businesses in providing decent working conditions.

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<sup>167</sup> John Douglas Bishop, "The Limits of Corporate Human Rights Obligations and the Rights of For-Profit Corporations," *Business Ethics Quarterly*, vol. 22, no. 1, Human Rights and Business (January 2012): p. 119-144, available at <https://www.jstor.org/stable/f46eeab9-b28f-374f-865f-eb3d348b7ef0?seq=2>, last accessed Sep 11, 2023.

Article 24: This article underscores the right to rest and leisure and the reasonable limitation of working hours. It indirectly addresses issues related to working hours and work-life balance, which can be relevant to private businesses.

Article 25: This article recognizes the right to a standard of living adequate for health and well-being, including food, clothing, housing, and medical care. It indirectly relates to the responsibility of businesses in providing fair wages and benefits to employees.

Article 26: This article includes the right to education, which is significant in the context of businesses' contributions to education and skills development.<sup>168</sup>

While these articles do not explicitly address the private business corporations, they establish important principles and rights that should guide businesses in their operations and relationships with employees, customers, and the wider community. Additionally, there are other international instruments and conventions, such as the UN Guiding Principles on Business and Human Rights, that provide more specific guidance on human rights in the context of business activities.

#### **2.4.1. The United States Protects Its Human Rights in The Business Under ICESCR**

The US signed the ICESCR on October 5, 1977, but did not ratify it; signing a treaty is not the same as ratifying it. Ratification involves a formal process within a country's legal system to make the treaty legally binding. The US has historically taken a different approach to economic, social, and cultural rights compared to civil and political rights. The reasons for this difference are complex and related to domestic political and legal considerations.<sup>169</sup>

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<sup>168</sup> “Universal Declaration of Human Rights,” *OCHR*, available at [https://www.ohchr.org/sites/default/files/UDHR/Documents/UDHR\\_Translations/eng.pdf](https://www.ohchr.org/sites/default/files/UDHR/Documents/UDHR_Translations/eng.pdf), last accessed Sep 24, 2023.

<sup>169</sup> United Nations, *International Covenant on Economic, Social and Cultural Rights*, Treaty Series, New York, vol. 993, (December 16, 1966), p.3, (The ICESCR was ratified by the US on October 5, 1977) available at

The United States has several mechanisms in place to protect human rights in private business corporations under the ICESCR. The treaty sets out certain rights related to work, labor conditions, education, and standards of living, among others. ICESCR does not specifically mention Such like labour laws, Occupational Safety and Health Act<sup>170</sup>(herein after referred to as OSHA), Equal Employment Opportunity Commission<sup>171</sup> (herein after referred to as EEOC), Consumer Protection Laws (laws that protect consumers from deceptive or fraudulent business practices in the private corporations), Environmental Protection Laws (laws that regulate the environmental impact of private corporations, such as the Clean Air Act and the Clean Water Act), Human Rights Commission (a National Human Rights Commission that oversees human rights protection in the private sector) but these mechanisms are in place to ensure that private corporations in the US adhere to human rights standards as relates or outlined in the ICESCR.<sup>172</sup>

The International Covenant on Economic, Social, and Cultural Rights (ICESCR) has several articles that protect human rights in the business sector and private business corporations. These include:

Article 6: The Right to Work- This article says that everyone has the right to work under conditions that are just and favorable, with the opportunity to form and join trade unions. workers in the business and ensures that they are protected from discrimination and exploitation in the workplace.

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[https://treaties.un.org/Pages/ViewDetails.aspx?src=IND&mtdsg\\_no=IV-3&chapter=4](https://treaties.un.org/Pages/ViewDetails.aspx?src=IND&mtdsg_no=IV-3&chapter=4), last accessed Sep 10, 2023.

<sup>170</sup> United State Department Of Labour, *Occupational Safety and Health Administration*, 91st Congress, S.2193, ( 1970): available at <https://www.osha.gov/laws-regs/oshact/completeoshact>, last accessed 24 Feb, 2023.

<sup>171</sup> *Equal Employment Opportunity Commission*, USA Government, available at <https://www.usa.gov/federal-agencies/equal-employment-opportunity-commission>, last accessed Feb 23, 2023.

<sup>172</sup> Tara Van Ho, “General Comment No .24 (2017) on State Obligations Under the International Covenant on Economic, Social and Cultural Rights in the Context of Business Activities (ICESCR).” *International legal material*, vol. 58, no.4 (Sep 12, 2019): 872–89. available at Doi: <https://doi.org/10.1017/ilm.2019.33>, last accessed Jan 14, 2023.

Article 7: The Right to Just and Favorable Remuneration- This article states that workers have the right to receive fair and just compensation for their work. This includes fair wages and benefits and protection against wage discrimination. circumstances for employment that are secure and healthy. All employees should have an equal chance to advance in their jobs to a higher level suited for them, with the only factors considering their seniority and skill. Rest, recreation, and a sensible cap on the number of paid vacations taken each year are all important. Public holidays are also compensated for.

Article 8: The Right to Form and Join Trade Unions- This article guarantees the right of workers to form and join trade unions, which can help protect their rights and negotiate better working conditions.

Article 11: The Right to an Adequate Standard of Living- According to this article, everyone has the right to an adequate standard of living, which includes adequate food, clothing, and housing, as well as the right to be free of poverty and other forms of economic deprivation.

Article 12: The Right to the Enjoyment of the Highest Attainable Standard of Physical and Mental Health- This article states that everyone has the right to the highest attainable standard of physical and mental health. This applies to workers to ensure that they have access to safe and healthy working conditions.

Article 15: The Right to Take Part in Cultural Life- According to this article, everyone possesses the right to take part in cultural life and ensure that they are not discriminated against based on their culture or ethnicity.<sup>173</sup>

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<sup>173</sup> ICESCR, Art. 6,7,8,11,12,15, available at, <https://www.ohchr.org/sites/default/files/ceschr.pdf>, last accessed Jan 14, 2023.

## 2.4.2. The United States Protects Its Human Rights in The Business Under ICCPR

The US ratified ICCPR on June 8, 1992. Ratification signifies a country's formal commitment to abide by the treaty's provisions and to uphold the rights and obligations outlined in the treaty. After ratification, the ICCPR became legally binding on the US, and the US government is expected to take measures to ensure compliance with the treaty's provisions.<sup>174</sup> Through a mix of domestic laws and regulations, the US safeguards human rights in private businesses. Although the US is a party to the ICCPR, it's vital to remember that unlike other international treaties, the ICCPR does not directly apply in US courts. The US instead uses its internal legal system to carry out its commitments regarding human rights.<sup>175</sup>

Here are some key points of ICCPR regarding human rights protection in private business corporations that relate to domestic laws in the US. Labor Rights and Antidiscrimination Laws, Freedom of Association and Collective Bargaining, CSR and Business and Human Rights. ICCPR, as an international treaty, does not create direct legal obligations for private businesses within the US. Instead, US laws, regulations, and legal mechanisms provide the framework for protecting human rights in the context of private business corporations. Domestic laws and regulations are implemented and enforced by various government agencies.<sup>176</sup>

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<sup>174</sup> Kristina Ash, "U.S. Reservations to the International Covenant on Civil and Political Rights: Credibility Maximization and Global Influence," *Northwestern Journal of International Human Rights*, vol. 3, no.1 (Spring 2005), (ICCPR was ratified by the US on June 8, 1992) available at [https://scholarlycommons.law.northwestern.edu/cgi/viewcontent.cgi?referer=&httpsredir=1&article=1018&context=njihr#:~:text=In%201992%2C%20the%20United%20States,President%20Carter%20signed%20the%20covenant](https://scholarlycommons.law.northwestern.edu/cgi/viewcontent.cgi?referer=&httpsredir=1&article=1018&context=njihr#:~:text=In%201992%2C%20the%20United%20States,President%20Carter%20signed%20the%20covenant,), last accessed Sep 11, 2023.

<sup>175</sup> Jack Goldsmith, "Should International Human Rights Law Trump US Domestic Law?," *Chicago Journal of International Law*, vol. 1, no.2(2000): 327-339, available at <https://chicagounbound.uchicago.edu/cgi/viewcontent.cgi?referer=&httpsredir=1&article=1100&context=cjil>, last accessed Sep 11, 2023.

<sup>176</sup> "U.S. Equal Employment Opportunity Commission," *EEOC*, available at <https://www.eeoc.gov/>, last accessed Sep 11, 2023.

The US government is responsible for protecting human rights within its jurisdiction, including in the private business corporations. This is mainly done through various laws and regulations under international and national laws.

The International Covenant on Civil and Political Rights (ICCPR) outlines several articles that protect human rights in the businesses, including:

Article 2(1): To respect and ensure the rights- This means that states have a responsibility to regulate the actions of businesses operating within their borders to ensure that they do not violate the human rights of others.

Article 6(1): Right to life - protecting individuals from arbitrary or unnecessary harm in the workplace.

Article 7: Prohibition of torture, cruel or inhumane treatment or punishment - protecting workers from abuse or mistreatment by employers.

Article 8: Prohibition of slavery and forced labor - protecting workers from being forced to work against their will, including forced labor or debt bondage.

Article 9: Right to liberty and security of person – protection of workers from arbitrary arrest or detention in the workplace.

Article 10: Right to fair trial – protects workers from being denied access to justice when their rights have been violated in the workplace.

Article 12: Freedom of movement – worker’s protection from being restricted in their ability to move within the country or internationally in connection with their employment.



Article 17(1): Protection of privacy – protection of privacy by employers or other parties in the workplace for workers.

Article 25: Right to participate in public affairs – safeguarding employees’ rights to participate in union activities and collective bargaining, and to engage in political activities without fear of retaliation from employers.<sup>177</sup>

All These articles provide a framework for protecting human rights in the businesses, and countries that have ratified and signed the treaties are obligated to ensure that these rights are protected.

### **2.4.3. United State and ILO**

The International Labour Organization (ILO) is a specialized agency of the United Nations that promotes social justice and promotes decent working conditions. The United States is a member of the ILO and has ratified several of its conventions, which set international standards for labor rights and protections.

In the business sector, the ILO's conventions that the United States has ratified include.

- 1) Abolition of Forced Labour Convention, 1957 (No. 105),** is an important international standard established by the ILO, which requires that measures be taken to suppress the use of forced or compulsory labor in all its forms. Under the convention, countries that ratify it commit to implementing a range of measures to combat forced labor, including enacting legislation, establishing enforcement mechanisms, and providing appropriate penalties for those who engage in or facilitate forced labor

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<sup>177</sup> “State Responsibility to Regulate and Adjudicate Corporate Activities under the United Nations’ core Human Rights Treaties,” *NATION UNIES*, available at <https://media.businesshumanrights.org/media/documents/files/reports-and-materials/Ruggie-ICCPR-Jun-2007.pdf>, See also “ ICCPR,” Article 2(1), 6(1), 7,8,9,10,12,17(1),25 available at, <https://www.ohchr.org/sites/default/files/Documents/ProfessionalInterest/ccpr.pdf>, last accessed Jan 14, 2023.

practices. The convention also emphasizes the need to protect the rights and welfare of victims of forced labor, ensuring their access to remedies and compensation. In September 2021, the Abolition of Forced Labour Convention, 1957 (No. 105) has been ratified by 180 member states of the ILO, including the United Kingdom. The UK's commitment to this convention demonstrates its dedication to combating forced labor and promoting decent work conditions.<sup>178</sup>

2) **Worst Forms of Child Labour Convention, 1999 (No. 182)** is a crucial international standard established by the ILO, to combat the worst forms of child labor. The convention recognizes that certain types of child labor are particularly harmful and must be eliminated, including forced labor, slavery, human trafficking, and other hazardous or exploitative work that deprives children of their rights, health, and education.<sup>179</sup> By ratifying the convention, member countries commit to taking effective measures to eradicate the worst forms of child labor. These measures include implementing and enforcing laws and regulations, providing access to education and social services, identifying, and rehabilitating child labor victims, and promoting awareness and cooperation among various stakeholders. The Worst Forms of Child Labour Convention, 1999 (No. 182) has been ratified by 187 member states of the ILO, including the United Kingdom. The UK's ratification of this convention demonstrates its dedication to combating the worst forms of child labor and ensuring the well-being and development of children.<sup>180</sup>

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<sup>178</sup> *Abolition of Forced Labour Convention*, ilo, (1957), available at [https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:55:0::NO::P55\\_TYPE,P55\\_LANG,P55\\_DOCUMENT,P55\\_NODE:CON,en,C105,/Document](https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:55:0::NO::P55_TYPE,P55_LANG,P55_DOCUMENT,P55_NODE:CON,en,C105,/Document), last accessed Feb 24, 2023.

<sup>179</sup> *Worst Forms of Child Labour Convention*, ilo, (1999), available at [https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100\\_ILO\\_CODE:C182](https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100_ILO_CODE:C182), last accessed Feb 24, 2023.

<sup>180</sup> *U.S. Ratification of ILO core Labour Standard*, USCIB, (April 2007), available at [https://www.uscib.org/docs/US\\_Ratification\\_of\\_ILO\\_Core\\_Conventions.pdf](https://www.uscib.org/docs/US_Ratification_of_ILO_Core_Conventions.pdf) ; See also, “United State – ILO Corporation”, *international labour organization*, available at <https://www.ilo.org/pardev/donors/united-states/lang--en/index.htm>, last accessed Jan 14, 2023.

## **2.5. United States Legal Framework for Business-Level HR Protection**

The United States is a country that believes in the rights of its citizens. It is also a country that has strong laws in place to protect those rights. These laws are put into place to ensure that no American citizen is subjected to discrimination, or denied any opportunity because of their race, religion, gender, or sexual orientation.<sup>181</sup>

Here is a list of some of the main federal laws that protect the human rights of workers in the private business corporations in the United States:

### **2.5.1. Title VII of the Civil Rights Act of 1964**

This Act protects all workers who work for private employers who have 15 or more employees at least 50% female. Title VII of the Civil Rights Act prohibits government employers, private employers, and unions from discriminating against persons because of their religion.<sup>182</sup> Title VII states that an employer cannot refuse employment to an individual or limit their opportunities based on their race or gender. However, they can limit an employee's opportunities if they believe that the employee will not add value to the company through their skills or abilities. If an employer does this, they may be subject to a lawsuit for discrimination under Title VII.<sup>183</sup>

### **2.5.2. Americans with Disabilities Act of 1990 (ADA)**

A civil rights statute known as ADA forbids discrimination against people with disabilities in all spheres of public life, including employment, education, transportation, and all public and private locations that are accessible to the public. Making sure that persons with disabilities

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<sup>181</sup> Thomas Jefferson, U.S. Congress, *United State Declaration Of Independence*, United For Human Rights, (1776), available at <https://www.humanrights.com/what-are-human-rights/brief-history/declarationofindependence.html#:~:text=The%20Bill%20of%20Rights%20protects,punishment%20and%20compelled%20self%20discrimination>, last accessed Feb 16, 2023.

<sup>182</sup> "Laws We Enforce," *United State Department of Justice*, available at <https://www.justice.gov/crt/laws-we-enforce>, last accessed Feb 16, 2023.

<sup>183</sup> *Title VII of the Civil Rights Act*, U.S. Equal Employment Opportunity Commission, (1964) available at <https://www.eeoc.gov/statutes/title-vii-civil-rights-act-1964#:~:text=>, last accessed Jan 13, 2023.

have the same opportunities and rights as everyone else is the goal of the legislation.<sup>184</sup> According to the ADA, people with disabilities have the same civil rights protections as those who are discriminated against because of their race, color, sex, national origin, age, or religion. It ensures that people with disabilities have access to public facilities, employment opportunities, transportation, state and local government services, and telecommunications. Five titles (or parts) that correspond to various facets of public life make up the ADA.<sup>185</sup>

### **2.5.3. Age Discrimination in Employment Act of 1967 (ADEA)**

Certain jobs, candidates, and workers 40 years of age and older are protected under ADEA when it comes to remuneration, terms, conditions, and privileges of employment. The Equal Employment Opportunity Commission (hereinafter referred to as EEOC) carries out ADEA enforcement.<sup>186</sup> The EEOC is responsible for enforcing the ADEA. The EEOC investigates complaints of age discrimination and takes legal action against employers who violate the law. The ADEA applies to employers with 20 or more employees, including state and local governments. It also applies to employment agencies and labor organizations. The ADEA prohibits discrimination in all aspects of employment, including hiring, firing, promotions, pay, and job assignments. It is important to note that the ADEA does not protect younger workers from age discrimination.<sup>187</sup>

### **2.5.4. The Equal Pay Act of 1963 (EPA)**

Requires that men and women be paid the same wage for equal work. The Fair Labor Standards Act was amended in 1963 to provide protections against sex-based wage discrimination and

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<sup>184</sup> U.S. Department of Labor, *Americans with Disabilities Act*, available at <https://www.dol.gov/general/topic/disability/ada>, last accessed Feb 16, 2023.

<sup>185</sup> “What is the Americans with Disabilities Act (ADA)?,” *ADA National Network Information, Guidance, and Training on the Americans with Disabilities Act*, available at <https://adata.org/learn-about-ada#:~:text=>, Last accessed Jan 13, 2023.

<sup>186</sup> “Age Discrimination,” *U.S. Department of Labor*, available at <https://www.dol.gov/general/topic/discrimination/agedisc#>. Last accessed Jan 13, 2023.

<sup>187</sup> “Equal Employment Opportunity Commission”, *US govt*, available at <https://www.usa.gov/agencies/equal-employment-opportunity-commission>, last accessed May 7, 2023

people are safeguarded under the Equal Pay Act (hereinafter referred to as EPA).<sup>188</sup> Wages, bonuses, overtime pay, life insurance, paid time off, holiday pay, housekeeping or gas allowances, hotel stays, cost of travel reimbursement, and other kinds of remuneration are all included. Employers must raise salaries to equal pay if there is a salary gap between employees of various sexes who do basically equivalent occupations, but they may not lower the earnings of other employees.<sup>189</sup>

### **2.5.5. The Family and Medical Leave of 1993 (FMLA)**

The Family and Medical Leave Act (hereinafter referred to as FMLA) Covered employers to provide unpaid, job-protected leave for certain family and medical reasons. Employees who qualify may receive:

- I. Twelve workweeks off in a calendar year are granted for the following reasons: childbirth and caring for the infant within the first year of life.
- II. the selection of a child's worker for adaptation or foster care as well as the care of the newly placed child within a year of selection.
- III. to start caring for the employee's spouse, child, or parent who suffers from a serious health issue; a severe health condition that prevents the employee from performing the essential duties of his or her job.
- IV. any qualifying emergency caused by the fact that the employee's son, daughter, parent, or spouse is a covered service member doing covered active duty.

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<sup>188</sup> U.S. Equal Employment Opportunity Commission, *The Equal Pay Act*, (1963), available at <https://www.eeoc.gov/statutes/equal-pay-act-1963>, last accessed Feb 16, 2023.

<sup>189</sup> "Equal Pay for Equal Work," *Office of the Assistant Secretary for Administration & Management US*, available at <https://www.dol.gov/agencies/oasam/centers-offices/civil-rights-center/internal/policies/equal-pay-for-equal-work#:~:text=>. last accessed Jan 13, 2023.

- V. or 26 workweeks off in a single period of 12 months if the qualified employee is the covered servicemember's spouse, child, parents, or next of kin (military career leave).<sup>190</sup>

### **2.5.6. The Occupational Safety and Health Act 1970 (OSHA)**

By the Occupational Safety and Health Act of 1970, the Occupational Safety and Health Administration, or OSHA, was created. President of US approved the measure on December 29, 1970.<sup>191</sup> On April 28, 1971, OSHA was given the responsibility of ensuring safe and healthy working conditions for both men and women. In response to public uproar about escalating workplace injury and fatality rates, the organization was established. When the organization began operations in April 1971, 3.5 million workplaces and 56 million workers were all under OSHA's jurisdiction. Today, OSHA serves as a resource for businesses and employees in the private sector over 6.9 million locations and 105 million workers.<sup>192</sup>

Its primary purpose is to ensure that employers provide a safe and healthy workplace for their employees by setting and enforcing standards and regulations. OSHA applies to most private sector employers and their employees, as well as some public sector employers, a federal organization that is housed inside the US Department of Labor.<sup>193</sup> According to OSHA regulations, businesses are required to keep their workplaces secure for their workers. Personal safety equipment may be offered, possible workplace dangers might be removed, workers might receive proper training, education, aiding employer and workers or workers might

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<sup>190</sup> *Family and Medical Leave Act*, Wage and Hour Division: US department of labour, available at <https://www.dol.gov/agencies/whd/fmla#:~:text=>, last accessed Jan 13, 2023.

<sup>191</sup> Judson MacLaury, "The Job Safety Law of 1970: Its Passage Was Perilous," *Monthly Labor Review*, (March: 1981), available at <https://www.dol.gov/general/aboutdol/history/osha>, last accessed Sep 26, 2023.

<sup>192</sup> U.S. Department of Labor, *Occupational Safety and Health Administration*, 200 Constitution Ave NW Washington, DC 20210, available at <https://www.osha.gov/osha50/>; see also, *OSHA's 30th Anniversary*, available at <https://www.osha.gov/aboutosha/30-years>, last accessed Sep 26, 2023.

<sup>193</sup> United States Department of Labour, *Occupational Safety and Health Administration*, available at <https://www.osha.gov/aboutosha>, last accessed Feb 16, 2023.

receive free medical exams these standards cover a wide range of industries and hazards, including construction, manufacturing, agriculture, and more.<sup>194</sup>

### **2.5.7. Equal Employment Opportunity Commission (EEOC)**

EEOC is a federal agency that investigates claims of discrimination in the workplace and works to resolve them. The EEOC also provides guidance to employers on how to comply with anti-discrimination laws and prevent human rights violations.<sup>195</sup> If the aggrieved believes that he or she has been discriminated against based on age, they can file a complaint with the EEOC. The EEOC will investigate the complaint and may take legal action on the behalf of his or her if it finds evidence of discrimination.<sup>196</sup>

## **2.6. Due Diligence and UN Guiding Principles**

A due diligence study is a thorough investigation of the firm's or person's economic, legal, fiscal, and financial affairs. This includes information on ownership structure, sales data, and probable connections to economic crime, including tax fraud and corruption.<sup>197</sup>

Due diligence is defined by the Cambridge Dictionary as the thorough review of a corporation and its financial information and commercial transactions done before entering into a business partnership with it.<sup>198</sup>

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<sup>194</sup> “What is OSHA and What Does OSHA Stand For?,” *Indeed for employer*, available at, <https://www.indeed.com/hire/c/info/what-is-osha?gclid=>, last accessed Jan 13, 2023.

<sup>195</sup> Will Kenton, “Equal Employment opportunity commission,” *Investopedia*, updated (July, 2022), available at <https://www.investopedia.com/terms/e/equal-employment-opportunity-commission-eec.asp> , last accessed Jan 13, 2023.

<sup>196</sup> *Equal Employment Opportunity Commission, US govt*, available at <https://www.usa.gov/agencies/equal-employment-opportunity-commission>, last accessed 7 May, 2023.

<sup>197</sup> “Due Diligence,” *CFI*, (Nov 29, 2022), available at <https://corporatefinanceinstitute.com/resources/valuation/due-diligence-overview/>, last accessed Feb 16, 2023.

<sup>198</sup> “Due Diligence: what you need to know?,” *LexisNexis*, available at <https://internationalsales.lexisnexis.com/glossary/compliance/what-is-due-diligence>, last accessed Jan 15, 2023.

Furthermore, Due diligence is a practice that ensures a company or entity complies with their human rights responsibilities and obligations. Due diligence can be achieved through training, policy and procedures, monitoring, reporting and feedback mechanisms, and more.<sup>199</sup>

UNGPs is the primary international document on business and human rights and includes the idea of Human Rights Due Diligence (herein after referred to as HRDD) in its framework. Despite not having legal force, it is regarded as the global authoritative norm on business and human rights and has impacted other international standards as well as being considered in national courts.<sup>200</sup>

The Guiding Principles on Business and workers' Rights of the United Nations, which set the key criteria for evaluating business accountability for abuses of human rights globally, are based on the idea of due diligence.<sup>201</sup> The first Guiding Principle a state adopts outlines its duties under international law with respect to commercial activities: States have a responsibility to prevent violations of human rights committed by third parties, especially commercial businesses, on their territory or under their authority. This calls for taking the proper precautions to stop, investigate, punish, and address such abuse through efficient laws, rules, policies, and adjudication.<sup>202</sup>

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<sup>199</sup> "Due Diligence," *CFI*, (Nov 29, 2022), available at <https://corporatefinanceinstitute.com/resources/valuation/due-diligence-overview/>, last accessed Feb 16, 2023

<sup>200</sup> Robert McCorquodale & Justine Nolan, "the Effectiveness of Human Rights Due Diligence For Preventing Business Human Rights Abuses," *Neth Int Law Rev*, vol. 68 (Nov 25, 2021): 455-478, available at <https://link.springer.com/article/10.1007/s40802-021-00201-x#citeas>, last accessed Jan 15, 2023.

<sup>201</sup> Jonathan Bonnitcha and Robert McCorquodale, "The Concept of "Due Diligence" in the UN Guiding Principles on Business and Human Rights," *European Journal of International Law*, vol 28, no 3 (2017): 899-919, available at <https://doi.org/10.1093/ejil/chx042>, last accessed Feb 16, 2023.

<sup>202</sup> Robert McCorquodale & Justine Nolan, "The Effectiveness of Human Rights Due Diligence For Preventing Business Human Rights Abuses," *Neth Int Law Rev*, vol, 68 (Nov 25, 2021): 455-478, available at <https://link.springer.com/article/10.1007/s40802-021-00201-x#citeas>, last accessed Jan 15, 2023.



## **2.6.1. Incorporation of US in the UNGP'S Concept of Human Rights Due Diligence**

Currently, the UNGP's idea of HRDD is being adopted in the United States. The US was one of the first countries to get it right when it comes to human rights due diligence, and now other countries are following suit. In the US, there is currently an incorporation of the UNGP's concept of human rights due diligence into state and federal laws. It's important for the United States because it ensures that all companies that are incorporated in America are aware of their responsibilities as corporate citizens. This means that a lot of people are being held accountable for their actions and their impact on others. Incorporation is not just about business; rather, it is about being a good citizen and acting responsibly towards others. It is about doing what is right for our communities, our employees, and our customers. Incorporating this concept into American business culture will ensure that all companies incorporate human rights due diligence into their business practices. This will help create an environment where workers feel safe reporting any issues, they encounter due to discrimination or abuse in the workplace.<sup>203</sup>

The state obligation to defend human rights outlined in the first pillar of the GPs is one that the US government takes very seriously. This is demonstrated, in part, by the inclusion of human rights considerations in American laws, rules, and regulations, some of which are included in the US Government Policy on Business and HRs report.<sup>204</sup>

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<sup>203</sup> Rashid Dumbuya, "Corporate responsibility to respect human rights: Is the UN Guiding principles on Business and Human Rights up to the task or is there a need for a treaty on Business and Human rights," *DUNDEE*, available at <https://deliverypdf.ssrn.com/delivery.php?ID=>, last accessed Jan 15, 2023.

<sup>204</sup> John Kerry, *U.S. Government Approach on Business and Human Rights*, US Department of State Bureau of Democracy, Human Rights, and Labour( April: 2013), available at [https://www.law.ou.edu/sites/default/files/tab-ftr-a/image/us\\_approach\\_2013.pdf](https://www.law.ou.edu/sites/default/files/tab-ftr-a/image/us_approach_2013.pdf), last accessed Jan 15, 2023.

## **2.7. The United States National Action Plan for Human Rights Protection in the Business Sector**

Individuals are on the protection of human rights in the business sector, by ensuring that all individuals have access to fair and equal treatment in employment and labor relations. The NAP also ensures that employees have the right to organize and bargain collectively with their employers, as well as participate in self-management programs. The NAP also guarantees that employers shall not discriminate against employees or job applicants on grounds of race, color, religion, sex, national origin or ancestry, age (40 and over), disability or genetic information.<sup>205</sup>

## **2.8. Case Study: Bostock v. Clayton County (2020)**

In this landmark case, the U.S. Supreme Court ruled that Title VII of the Civil Rights Act of 1964, which prohibits employment discrimination based on sex, also protects employees from discrimination based on sexual orientation and gender identity. While this case focuses on individual rights, it has implications for private businesses in terms of their obligations to ensure a non-discriminatory workplace environment.

It's important to note that discussions around corporate social responsibility, ethical business practices, and considerations of human rights in the business context often involve a broader framework of laws and principles. Monitoring legal developments, especially in areas like employment and anti-discrimination law, can provide insights into the evolving landscape of human rights in relation to private businesses in the US.<sup>206</sup>

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<sup>205</sup> *Responsible Business Conduct: First National Action Plan For The United States Of America*, ( 16 Dec, 2016), available at <https://2009-2017.state.gov/documents/organization/265918.pdf>, last accessed Jan 15, 2023.

<sup>206</sup> Tracy Barnett, "Bostock v. Clayton County," *New Georgia Encyclopedia*, last modified (August 10, 2023), available at <https://www.georgiaencyclopedia.org/articles/government-politics/bostock-v-clayton-county/>, last accessed Jan 15, 2023.

## 2.9. United Kingdom and Private Business Corporations:

The United Kingdom protects human rights in the private business corporations primarily through the implementation of laws and regulations, as well as through government oversight and enforcement. It is well-known that the private corporation has been responsible for many of the world's most important advances in business. But it's also true that governments have played a major role in protecting human rights in this sector.<sup>207</sup> The UK has made clear that it expects businesses to act in accordance with the UN Guiding Principles on Business and Human Rights (UNGPs), which defines the corporate obligation to respect human rights. Companies should practice human rights due diligence to fulfill this obligation, which includes discussing and reporting on human rights problems.<sup>208</sup>

## 2.10. United Kingdom Protects Human Rights in Private Business Corporations Under International Law

The United Kingdom protects human rights in the private business corporations under international laws through a combination of legal instruments, government oversight, and voluntary initiatives.<sup>209</sup>

**UDHR:** The UDHR was ratified by the UK on December 10, 1948, the same day the UDHR was approved by the UN General Assembly. The UK was among the first states to publicly endorse this fundamental treaty on human rights. It was one of the nations that had a vital part

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<sup>207</sup> *Any of our Business? Human Rights and the UK Privat Sector*, Vol. 1 ( Nov: 2009), available at <https://publications.parliament.uk/pa/jt200910/jtselect/jtrights/5/5i.pdf>, last accessed Jan 15, 2023.

<sup>208</sup> Roger Leese, "In brief: human rights compliance for businesses in United Kingdom," *LEXOLOGY*, United Kingdom, (February 28, 2020), available at <https://www.lexology.com/library/detail.aspx?g=6d19d52e-fd11-454b-8276-fe5b7aff3d7c>, last accessed Sep 26, 2023.

<sup>209</sup> *Any of Our Business? Human Rights And The UK Private Sector*, House of Lords House of Commons Joint Committee on Human Rights, vol. 1 (Nov 24, 2009), available at <https://publications.parliament.uk/pa/jt200910/jtselect/jtrights/5/5i.pdf>, last accessed Feb 16, 2023.

in the formulation and molding of the UDHR. Since then, the UDHR has established itself as a pillar of international human rights law and norms.<sup>210</sup>

**ICCPR:** The United Kingdom ratified the ICCPR on May 20, 1976. The UK is a party to various international human rights treaties, such as the International Covenant on Civil and Political Rights and the Convention on the Rights of the Child, which obligate the government to respect and protect the human rights of Workers and to take steps to prevent violations. Article 8 of the ICCPR covers all aspects of the private business sector, including companies, corporations, and other entities. The treaty ensures that human rights are protected by ensuring that all states abide by certain principles that no discrimination against any person on grounds of race, color, sex, language, religion, political or other opinion, national or social origin, property, birth, or other status. And other protections, like those mentioned in previous passages.<sup>211</sup>

**ICESCR:** The UK ratified ICESCR the same year it entered into force on January 3rd of that year.<sup>212</sup> The ICESCR itself does not specifically address human rights in the private business corporations. Instead, it primarily focuses on the economic, social, and cultural rights of individuals, such as the right to work, the right to education, the right to an adequate standard of living, and the right to health. However, there are indirect reasons why ratifying the ICESCR can help protect human rights in the private business corporations like labor rights, right to an adequate standard of living, healthcare, education, or non-discrimination etc.<sup>213</sup>

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<sup>210</sup> “A history of human rights in Britain,” *Equality and Human Rights Commission*, available at <https://www.equalityhumanrights.com/en/whatarehumanrights/historyhumanrightsbritain#:~:text=Members%20of%20the%20Council%20of,came%20into%20force%20in%201953>, last accessed Sep 28, 2023.

<sup>211</sup> *ICCPR*, Article 2(1), 6(1), 7,8,9,10,12,17(1),25, available at, <https://www.ohchr.org/sites/default/files/Documents/ProfessionalInterest/ccpr.pdf>, last accessed Jan 15, 2023.

<sup>212</sup> “United Nations treaties ratified by the UK,” *Scottish Government*, (May 3, 2016), available at <https://www.gov.scot/publications/unitednationstreatiesratifiedbytheuk/#:~:text=The%20International%20Covenant%20on%20Economic,UK%20in%20the%20same%20year>, last accessed Sep 25, 2023.

<sup>213</sup> *Frequently Asked Questions on Economic, Social and Cultural Rights*, Office of the United Nations High Commissioner for Human Rights, available at <https://www.ohchr.org/sites/default/files/documents/publications/factsheet33en.pdf>, last accessed Sep 28, 2023.

## **2.10.1. The United Kingdom Protects Human Rights in The Private Business Corporations**

The United Kingdom protects human rights in the private business corporations primarily through the implementation of laws and regulations, as well as through government oversight and enforcement.

### **2.10.1.1.Human Rights Act 1998**

This Act incorporates the European Convention on Human Rights into domestic law, requiring all public authorities, including private corporations, to carry out public functions, to respect and protect the human rights of workers.

In the United Kingdom, the Human Rights Act 1998 has been a major force for change in the way that business operates. The act is designed to protect people from discrimination based on their religion, gender, race, and sexual orientation. It also provides protection against harassment when working in the workplace and protects those who are found guilty of such harassment from being fired or demoted. It also seeks to protect children from abuse by making it illegal for anyone under the age of 18 years old to work alone after dark.<sup>214</sup>

### **2.10.1.2.Equality Act 2010**

Equality Act 2010 provides protection against discrimination in the workplace for workers on the grounds of age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex, and sexual orientation. The Act requires employers to make reasonable adjustments for disabled employees, prohibits direct and indirect discrimination, harassment, and victimization in the workplace.<sup>215</sup>

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<sup>214</sup> *Human Rights Act*, (1998), available at <https://www.legislation.gov.uk/ukpga/1998/42/data.pdf>, last accessed Jan 16, 2023.

<sup>215</sup> *Equality Act*, (2010), available at [https://www.legislation.gov.uk/ukpga/2010/15/pdfs/ukpga\\_20100015\\_en.pdf](https://www.legislation.gov.uk/ukpga/2010/15/pdfs/ukpga_20100015_en.pdf), last accessed Jan 17, 2023.

### **2.10.1.3. International Human Rights and Global Standards**

Private corporations are also subject to international human rights laws and standards, such as the United Nations Global Compact and the United Nations Guiding Principles on Business and Human Rights.<sup>216</sup>

Private corporations indeed have responsibilities and are subject to international human rights laws and standards. These frameworks serve as important guidelines for businesses to uphold human rights principles in their operations and interactions with employees, customers, and stakeholders. One prominent initiative that private corporations can voluntarily participate in is the United Nations Global Compact. The Global Compact is a voluntary initiative that encourages businesses to align their operations and strategies with ten universally accepted principles in the areas of human rights, labor, environment, and anti-corruption. By joining the Global Compact, corporations commit to upholding these principles and incorporating them into their business practices.<sup>217</sup>

Another crucial framework is the United Nations Guiding Principles on Business and Human Rights. These principles provide a global standard for preventing and addressing human rights abuses by businesses. They outline the responsibilities of businesses to respect human rights, conduct due diligence to identify and prevent human rights impacts, and provide remedies for any adverse impacts they cause or contribute to. Private corporations' adherence to these international human rights laws and standards demonstrates their commitment to responsible business practices and contributes to the promotion and protection of human rights

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<sup>216</sup> “International Human Rights,” *Equality and Human Rights Commission*, (Aug 2, 2021), available at <https://www.equalityhumanrights.com/en/what-are-human-rights/international-human-rights>, last accessed Jan 17, 2023.

<sup>217</sup> United Nation Global Impact, available at <https://unglobalcompact.org/>, last accessed 17 May, 2023.

on a global scale. It helps foster a culture of respect, fairness, and accountability within the business community.<sup>218</sup>

#### **2.10.1.4. The Equality and Human Rights Commission**

The government also plays a role in protecting human rights in the private business corporations through its oversight and enforcement of these laws and regulations. The Equality and Human Rights Commission (hereinafter referred to as EHRC), for example, is responsible for enforcing anti-discrimination laws and promoting equality and human rights.<sup>219</sup> As the UK's national equality body, the EHRC has the authority to investigate and take enforcement action against private corporations found to be in breach of anti-discrimination laws. They can provide guidance and support to businesses, raise awareness about equality and human rights issues, and take legal action in cases where discrimination or human rights abuses occur. The EHRC's work extends beyond worker cases of discrimination. They also play a vital role in promoting equality and human rights across various sectors, conducting research, providing recommendations to the government, and working with businesses and organizations to develop policies and practices that ensure equal treatment and protect human rights.<sup>220</sup>

#### **2.10.1.5. Corporate Social Responsibility (CSR)**

A management concept called CSR explains how a firm may improve communities and society via its economic activities and relationships with stakeholders. CSR is a type of self-policing that demonstrates a company's responsibility and dedication to improving society and the environment. Donations and sponsorships, environmental awareness, advancing equality, diversity, and inclusion at work, and stakeholder involvement are a few examples of CSR

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<sup>218</sup> United Nation Human Rights, available at <https://www.ohchr.org/en/professionalinterest/pages/businessandhumanrights.aspx>, last accessed May 5, 2023.

<sup>219</sup> *Equality and Human Rights Commission*, Govt. UK, available at <https://www.gov.uk/government/organisations/equality-and-human-rights-commission>, last accessed Jan 18, 2023.

<sup>220</sup> *Equality and Human Rights Commission*, available at <https://www.equalityhumanrights.com/>, last accessed 6 May, 2023.

activities.<sup>221</sup> CSR is a business strategy that enables an organization to fulfill its social obligations to the public, its stakeholders, and itself. Companies may be aware of the sort of influence they are having on all facts of society, including the economic, social, and environmental ones, by engaging in CSR.<sup>222</sup> CSR activities can include everything from donations to operational adjustments and even changing a company's whole business model or strategy. A favorable company image, increased community support, increased employee productivity, engagement, talent acquisition, and retention are a few frequent advantages of CSR.<sup>223</sup>

Many companies adopt CSR policies to ensure that they conduct business in an ethical and socially responsible manner, which includes protecting human rights. The UK is one of the nations with the highest levels of corporate responsibility. In the UK, a number of projects were started with the intention of spreading and promoting activities that linked business growth with environmental and social issues. The UK government has been key in encouraging social responsibility in the workplace over the past 40 years.<sup>224</sup> One such initiative is the UK Modern Slavery Act 2015, which requires large businesses to disclose the steps they have taken to ensure that modern slavery and human trafficking are not present in their operations and supply chains.<sup>225</sup>

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<sup>221</sup> Nadia Reckmann, "What Is Corporate Social Responsibility?," *Business news daily*, (Sep 25, 2023), available at <https://www.businessnewsdaily.com/4679-corporate-social-responsibility.html>, last accessed Sep 26, 2023.

<sup>222</sup> Jason Fernando, "Corporate Social Responsibility (CSR) Explained With Examples," *Investopedia*, (July 18, 2023), available at <https://www.investopedia.com/terms/c/corp-social-responsibility.asp>, last accessed Sep 26, 2023.

<sup>223</sup> "What is corporate social responsibility (CSR)?," *bdc*, available at <https://www.bdc.ca/en/articles-tools/entrepreneur-toolkit/templates-business-guides/glossary/corporate-social-responsibility>, last accessed Sep 26, 2023.

<sup>224</sup> "CRC in United Kingdom," *SOFIDEL*, (Jan 26, 2018), available at <https://www.sofidel.com/en/softandgreen/circular-economy-and-industry/csr-in-the-united-kingdom/>, last accessed Jan 19, 2023.

<sup>225</sup> *Modern Slavery Act 2015*, available at <https://www.legislation.gov.uk/ukpga/2015/30/contents/enacted>, last accessed May 5, 2023.



### **2.10.1.6. National Minimum Wage Act of 1999**

National Minimum Wages Act sets a minimum wage for all employees in the United Kingdom, is an important law for businesses. It benefits both employers and employees by requiring that all workers be paid a fair wage regardless of age, gender, race, or national origin. The law also regulates hours worked and breaks taken by employees. The National Minimum Wage Act of 1999 was passed after years of lobbying from labor unions who wanted to ensure that all workers were paid fairly for their work. The act has been amended several times since its passage, including amendments to increase the minimum wage,<sup>226</sup> the UK is currently among the nations with high minimum wages since the rate of growth has exceeded most all comparable.<sup>227</sup>

## **2.11. United Nations Guiding Principles on Business and Human Rights National Action Plan for The United Kingdom**

The United Kingdom has a NAP on business and human rights. The National Action Plan is an important tool to set out the steps the UK government will take to implement the UN Guiding Principles on Business and Human Rights, which are non-binding but provide a framework for companies to respect human rights in their operations and supply chains.

1. Government guidance and support: The UK government provides guidance and support to private businesses on how to respect human rights and implement the UN Guiding Principles through its National Action Plan. This includes providing training

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<sup>226</sup> *National Minimum Wage Act*, (1998), available at [https://www.legislation.gov.uk/ukpga/1998/39/pdfs/ukpga\\_19980039\\_en.pdf](https://www.legislation.gov.uk/ukpga/1998/39/pdfs/ukpga_19980039_en.pdf), last accessed Jan 20, 2023.

<sup>227</sup> “20 Year of the National Minimum Wage A history of the UK minimum wage and its effects,” *low pay commission*, (April 2019), available at [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/790910/20\\_years\\_of\\_the\\_National\\_Minimum\\_Wage\\_a\\_history\\_of\\_the\\_UK\\_minimum\\_wage\\_and\\_its\\_effects.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/790910/20_years_of_the_National_Minimum_Wage_a_history_of_the_UK_minimum_wage_and_its_effects.pdf), last accessed Jan 20, 2023.

and resources to help companies understand their human rights responsibilities and identify and address risks in their operations and supply chains.<sup>228</sup>

2. Voluntary initiatives: The government also encourages private businesses to adopt voluntary initiatives, such as the UN Global Compact, which is a framework for companies to adopt sustainable and socially responsible policies, including respecting human rights.<sup>229</sup>
3. Monitoring and reporting: The UK government monitors the implementation of its National Action Plan by private businesses and calls on them to report on their human rights performance, including their efforts to respect human rights in their operations and supply chains.<sup>230</sup>
4. Civil society engagement: The UK government engages with civil society organizations and trade unions, to gather input and feedback on the implementation of its National Action Plan and to collaborate on initiatives to promote responsible business conduct.<sup>231</sup>
5. Legal and policy framework: The British government works to ensure that its legal and policy framework supports the implementation of the National Action Plan, including by enforcing laws and regulations related to human rights, such as the Equality Act 2010 and the Human Rights Act 1998.

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<sup>228</sup> *National Action Plans On Business And Human Rights To Enable Policy Coherence For Responsible Business Conduct*, OECD, (June 2017), available at <https://mneguidelines.oecd.org/NAP-to-enable-policy-coherence-for-RBC.pdf>, last accessed Feb 16, 2023.

<sup>229</sup> Lise Kingo, “The UN Global Compact: Finding Solutions to Global Challenges,” *United Nations*, available at <https://www.un.org/en/un-chronicle/un-global-compact-finding-solutions-global-challenges>, last accessed Feb 16, 2023.

<sup>230</sup> “National action plans on business and human rights to enable policy coherence for responsible business conduct,” *OECD*, (June 2017), available at <https://mneguidelines.oecd.org/NAP-to-enable-policy-coherence-for-RBC.pdf>, last accessed Feb 16, 2023.

<sup>231</sup> *Good Business Implementing the UN Guiding Principles on Business and Human Rights*, HM Government, (Sep, 2013), available at <https://globalnaps.org/wp-content/uploads/2017/11/uk-2013-nap-bhr.pdf>, last accessed Feb 17, 2023.

The UK is active with other governments, international organizations, and stakeholders to encourage responsible business conduct and promote respect for human rights in the global economy.<sup>232</sup>

## **2.12. Case Study: Chandler v. Cape plc**

In the case of Chandler v. Cape plc, the issue revolved around the duty of care owed by a parent company to employees of its subsidiary concerning exposure to asbestos. The claimants argued that the parent company (Cape plc) owed them a duty of care, and its negligence had resulted in the employees' exposure to asbestos, leading to health issues.

The court ruled in favor of the claimants, establishing that under certain circumstances, a parent company may owe a duty of care to the employees of its subsidiaries. The judgment highlighted the importance of examining the level of control and supervision exerted by the parent company over the operations of its subsidiaries.<sup>233</sup>

### **Conclusion:**

In this chapter, the author of the research covered how international and national laws provide protection for human rights in the business sector. At the international level, there are a few instruments and guidelines that set out standards for the protection of human rights within business, like the ILO Declaration on Fundamental Principles and Rights at Work, which sets out international standards on labour rights. the UNGPs, the ICCPR, and the ICESCR ensuring

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<sup>232</sup> “Implementing the UN Guiding Principle on Business and Human Rights: May 2020 update,” *GOV.UK*, available at <https://www.gov.uk/government/publications/implementing-the-un-guiding-principles-on-business-and-human-rights-may-2020-update>; see also, RT Hon Dr Vince Cable, and The RT Hon William Hague, “UK first to launch action plan on business and human rights,” *Foreign & Commonwealth Office*, (Sep 4. 2013), available at <https://www.gov.uk/government/news/uk-first-to-launch-action-plan-on-business-and-human-rights>, Last accessed Jan 21 , 2023.

<sup>233</sup> Martin Petrin, “Assumption of Responsibility in Corporate Groups: Chandler v Cape Plc,” *The Modern Law Review* 76, no. 3 (2013): 603–19, available at <http://www.jstor.org/stable/41857488>, last accesses Jan 15, 2023.

that men and women have an equal opportunity to enjoy all economic, social, and cultural rights. On a national level in the US, Title VII of the Civil Rights Act of 1964, the ADA, ADEA, etc. prohibit employment discrimination based on race, color, religion, sex, and national origin. and in the UK, The Human Rights Act of 1998 and the Equality Act 2010 have significantly altered how business is done in the UK, as well as the National Action Plan.

### **3. CHAPTER: PAKISTAN'S STATE RESPONSIBILITY TOWARDS THE PROTECTION OF HUMAN RIGHTS IN PRIVATE BUSINESS CORPORATION**

#### **3.1. Introduction**

In many nations, including Pakistan, enforcing human rights accords and conventions is extremely difficult. The author will evaluate the in-depth assertion that individual rights are not adequately maintained in practice for a variety of reasons, including a lack of accountability mechanisms, a lack of funding, and a lack of political will. A mix of legal frameworks, sufficient funding, and obligations is necessary for the effective enforcement and implementation of human rights, even in the private sector. This chapter has undertaken an extensive examination of the third research issue.

#### **3.2. Overview**

Because the business activities may violate human rights, states are required by international law to regulate how private corporations act.<sup>234</sup> The study's author highlighted the international treaties and conventions to which Pakistan is a signatory while also discussing Pakistan's efforts in the private sector in this chapter. Additionally, it involves both governmental and

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<sup>234</sup> John H. Kennedy, "State Responsibility to Regulate and Adjudicate Corporate Activities Under the United Nations' core Human Rights Treaties," *School of Government and Harvard University*, (Feb 12, 2007), available at [https://www.banktrack.org/download/state\\_responsibilities\\_to\\_regulate\\_and\\_adjudicate\\_corporate\\_activities/07\\_0219\\_stateresponsibilitiestoregulatecorporateactivitiesunderuncoretreaties12feb2007.pdf](https://www.banktrack.org/download/state_responsibilities_to_regulate_and_adjudicate_corporate_activities/07_0219_stateresponsibilitiestoregulatecorporateactivitiesunderuncoretreaties12feb2007.pdf), last accessed Feb 4, 2023.

corporate duties under UNGP. Additionally, it addresses the shortcomings in national legislation dealing with business human rights protection.<sup>235</sup>

### **3.3. International Law's Application to Pakistan's Private Business Corporations for Human Rights Protection**

Pakistan is a signatory to various international human rights treaties and conventions, which obligate it to protect the human rights of its citizens, including in the private business corporations. Some of the ways that Pakistan can protect human rights in the business sector under international laws include:

- 1. UDHR:** In 1948, Pakistan adopted the Universal Declaration of Human Rights. The UDHR is a foundational document in the field of human rights, and Pakistan's early ratification reflects its commitment to upholding international human rights standards shortly after gaining independence from British rule. Pakistan's ratification of the UDHR was a significant step in recognizing and promoting human rights within the country and on the global stage.<sup>236</sup>
- 2. ICCPR:** Pakistan signed the ICCPR on April 17, 2008, and ratified it on June 23, 2010.<sup>237</sup> The ICCPR contains several articles that pertain to the protection of human rights in Pakistan. freedom to live, restriction on cruel, inhumane, or humiliating

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<sup>235</sup> M Naveed Iftikhar, *State-owned Enterprises in Pakistan: The Need for Corporate Governance and Private Investment*, ISBN, (Lahore: University, 2015), available at [https://www.researchgate.net/publication/283331051\\_State-owned\\_Enterprises\\_in\\_Pakistan\\_The\\_Need\\_for\\_Corporate\\_Governance\\_and\\_Private\\_Investment](https://www.researchgate.net/publication/283331051_State-owned_Enterprises_in_Pakistan_The_Need_for_Corporate_Governance_and_Private_Investment), last accessed Feb 4, 2023.

<sup>236</sup> *Information and Learning Material on Core Human Rights Conventions Ratified by Pakistan*, Government of Pakistan Ministry of Human Rights: (2022), available at <https://mohr.gov.pk/SiteImage/Misc/files/Information%20and%20Learning%20Material%20on%20Core%20Human%20Rights%20Convention.pdf>, last accessed Sep 25, 2023.

<sup>237</sup> "Ratification Status for Pakistan," *ohchr*, United Nations Human Rights treaties bodies, available at [https://tbinternet.ohchr.org/\\_layouts/15/TreatyBodyExternal/Treaty.aspx?CountryID=131&Lang=en](https://tbinternet.ohchr.org/_layouts/15/TreatyBodyExternal/Treaty.aspx?CountryID=131&Lang=en), last accessed Sep 26, 2023.

treatment or punishment, right to personal safety and liberty Fair trial rights, right to express oneself freely, right to liberty of association, right to peaceable assembly the rights of children, discrimination is forbidden.<sup>238</sup>

It is important to note that laws and regulations alone may not be sufficient to ensure the protection of human rights in Pakistan and that effective implementation and enforcement are crucial.

**3. ICESCR:** Pakistan signature the ICESCR on Nov 3, 2004, and ratified on April 17, 2008.<sup>239</sup> ICESCR provides Equal rights for all citizens, access to education, protection from workplace discrimination, preservation of language, script, and culture, and protection for the family these are only a few examples. promotion of social justice, eradication of social ills, and enhancement of human social and economic well-being can be protected.<sup>240</sup>

However, the implementation and enforcement of these treaties and conventions in practice are not sufficient to ensure the protection of human rights in Pakistan, and effective implementation and enforcement are crucial, including in the private business corporations.

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<sup>238</sup> “Pakistan: ensure effective implementation of Human Rights Committee recommendations,” *icj*, (July 27, 2017) , Available at <https://www.icj.org/pakistan-ensure-effective-implementation-of-human-rights-committee-recommendations/>, last accessed Feb 4, 2023.

<sup>239</sup> “Ratification Status for Pakistan,” *ohchr*, United Nations Human Rights treaties bodies, available at [https://tbinternet.ohchr.org/\\_layouts/15/TreatyBodyExternal/Treaty.aspx?CountryID=131&Lang=en](https://tbinternet.ohchr.org/_layouts/15/TreatyBodyExternal/Treaty.aspx?CountryID=131&Lang=en), last accessed Sep 26, 2023.

<sup>240</sup> *Information and Learning Material on Core Human Rights Convention Ratified by Pakistan*, Government of Pakistan Ministry of Human Rights (2022), available at <https://mohr.gov.pk/SiteImage/Misc/files/Information%20and%20Learning%20Material%20on%20Core%20Human%20Rights%20Convention.pdf>, last accessed Feb 5, 2023.

### **3.4. Important Human Rights Concerns in The Business Sector of Pakistan**

Pakistan faces significant labor and human rights issues that are of utmost importance to businesses operating within the country. With a labor force consisting of approximately sixty million people, numerous challenges persist in ensuring their rights and well-being. One of the prevalent issues is the low wages that often fall below the minimum wage standards. Many workers in Pakistan struggle to earn a decent living due to inadequate remuneration, which can lead to poor living conditions and a cycle of poverty. This poses challenges for businesses in terms of fair compensation practices and ensuring a sustainable livelihood for their workforce.

Another issue is the barriers to unionization, which impede workers from organizing and collectively bargaining for their rights. Freedom of association and the right to form and join trade unions is vital for protecting workers' interests and ensuring fair working conditions. However, in Pakistan, there have been instances of restrictions and limitations placed on union activities, hindering workers from exercising their rights effectively.<sup>241</sup>

Unsafe working conditions also pose significant challenges. Many workers in Pakistan are exposed to hazardous environments without adequate safety measures in place, which can lead to accidents, injuries, and even loss of life. Businesses operating in Pakistan should prioritize the safety and well-being of their employees by implementing stringent safety protocols and ensuring compliance with occupational health and safety standards. Child labor remains a pressing concern in Pakistan, with an estimated 2.3 million children engaged in various forms of work. This issue not only deprives children of their right to education and a proper childhood but also perpetuates intergenerational poverty. Businesses have a

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<sup>241</sup> Dr. Jochen Hippler and Abdullah Dayo, *Mapping Labour Unions In Pakistan*, (Dec: 2021), available at <https://library.fes.de/pdf-files/bueros/pakistan/19148.pdf>, last accessed May 8, 2023.



responsibility to ensure that their supply chains are free from child labor and to support initiatives that promote child rights and education.

Gender-based wage discrimination is another significant challenge. Women in Pakistan often face unequal pay for the same job compared to their male counterparts. This inequality undermines the principles of fairness and equal opportunity and hampers the overall development and empowerment of women in the workforce. Businesses should prioritize gender equality by implementing fair remuneration policies and promoting equal opportunities for women.<sup>242</sup>

### **3.5. Pakistan's Obligation Under UNGPs**

The UNGPs reaffirm that states have a responsibility to defend their citizens from violations of human rights that are carried out on their property and under their control by other parties, including commercial businesses. Additionally, it demands that states make it plain that all companies based in their territory and/or jurisdictions must uphold human rights in all facets of corporate conduct. According to the UNGPs, nations have a responsibility to preserve rights and should: Enforce human rights legislation, regularly evaluate their efficacy, and fix any deficiencies; Ensure that other laws regulating corporate organizations do not impede but rather promote business respect for human rights; educate business on how to uphold human rights; Encourage and compel companies, as needed, to communicate how they handle human rights implications; Give victims of business-related human rights violations access to court and non-judicial grievance methods.<sup>243</sup>

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<sup>242</sup> *Recognizing The Impact Of Business On Human Rights: Challenges And Opportunities For Pakistan*, Democracy Reporting International, Paper 75, (Dec 2016), available at [https://democracyreporting.s3.eu-central-1.amazonaws.com/images/3232DRI-PK\\_GSP\\_Briefing-Paper\\_Business\\_and\\_Human-Rights\\_EN.pdf](https://democracyreporting.s3.eu-central-1.amazonaws.com/images/3232DRI-PK_GSP_Briefing-Paper_Business_and_Human-Rights_EN.pdf), last accessed Feb 5, 2023.

<sup>243</sup> M Naveed Iftikhar, *State-owned Enterprises in Pakistan: The Need for Corporate Governance and Private Investment*, ISBN, (Lahore: University, 2015), available at

### 3.5.1. Business Sector Responsibilities Under the UNGPs

The need to uphold human rights exists independently of the state. Businesses must uphold international human rights standards to the greatest extent practicable in the circumstances. Human rights respect goes beyond a company's internal operations to all its commercial interactions with suppliers, service providers, and subcontractors. Activities that might result in severe human rights violations or contribute to them ought to be handled in the same way as other issues of legal compliance. Businesses are responsible for a variety of important tasks. They ought to: minimize any negative impact on human rights, make laws that promise to uphold human rights. Senior leadership must ratify human rights policy. Determine whether there are any current or future violations of human rights. contribute to or offer grievance procedures.<sup>244</sup>

This summary makes it clear that neither the Pakistani government nor the businesses that do business there are conforming to the UNGPs. Businesses should thoroughly comprehend and address the effects of their actions on human rights, according to one of the UNGPs' main tenets. Businesses are encouraged to pay close attention to those areas where there is the highest possibility of having a negative influence on human rights. There is no excuse for business sector to fail to recognize, prevent, minimize, and correct any negative

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[https://www.researchgate.net/publication/283331051\\_Stateowned\\_Enterprises\\_in\\_Pakistan\\_The\\_Need\\_for\\_Corporate\\_Governance\\_and\\_Private\\_Investment](https://www.researchgate.net/publication/283331051_Stateowned_Enterprises_in_Pakistan_The_Need_for_Corporate_Governance_and_Private_Investment), also See *The Un Guiding Principles On Business And Human Rights* An Introduction, available at [https://www.ohchr.org/sites/default/files/Documents/Issues/Business/Intro\\_Guiding\\_PrinciplesBusinessHR.pdf](https://www.ohchr.org/sites/default/files/Documents/Issues/Business/Intro_Guiding_PrinciplesBusinessHR.pdf), last accessed Feb 6, 2023.

<sup>244</sup> *Guiding Principle on Business and Human Rights*, (New York and Geneva, UN: 2011), available at [https://www.ohchr.org/sites/default/files/documents/publications/guidingprinciplesbusinesshr\\_en.pdf](https://www.ohchr.org/sites/default/files/documents/publications/guidingprinciplesbusinesshr_en.pdf), last accessed Jan 29, 2023.

effects generated by their operations, given that many of the most important labour and human rights concerns relevant to Pakistani businesses have been thoroughly documented.<sup>245</sup>

Of course, the business sector cannot guarantee that rights are upheld during commercial operations on its own. The government, civil society, and the larger community all have a part to play in defending human rights and spotting, stopping, and redressing violations related to commercial activity. The best results may be achieved when all parties involved cooperate to avoid abuses or offer solutions when abuses have already occurred.

### **3.6. Pakistan's compliance with the SDGs**

Pakistan, like many other countries, is expected to align its policies and practices with the United Nation SDGs, including those related to human rights and business. Here are some key points:

Pakistan has developed a National Action Plan for Human Rights, which includes a focus on ensuring that businesses respect human rights. This plan aims to align the country's legal and regulatory framework with international human rights standards. Pakistan has laws and regulations in place to address labor rights and social issues in the private sector, including the Minimum Wage Act and the Factories Act, which set standards for working conditions and wages.<sup>246</sup> Pakistan has been working on developing a National Action Plan on Business and Human Rights, which will provide guidelines for businesses to respect human rights in their

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<sup>245</sup> “Status of Business and Human Rights In Pakistan,” (29 Feb, 2020), available at <https://courtingthelaw.com/2020/02/29/commentary/status-of-business-and-human-rights-in-pakistan/>, last accessed April 2, 2023.

<sup>246</sup> “National Action Plan on Business and Human Rights,” *globalnaps*, (April 11, 2023) available at <https://globalnaps.org/country/pakistan/>, last accessed Sep 30, 2023.

operations. This is part of the country's commitment to the United Nations Guiding Principles on Business and Human Rights.<sup>247</sup>

Despite Pakistan faces several challenges in complying with the SDGs related to human rights protection in the private business sector. These challenges include labor rights violations, child labor, gender inequality, lack of business accountability, limited access to justice, environmental sustainability, and transparency and anti-corruption issues.<sup>248</sup> Pakistan has faced criticism for labor rights violations in various industries, including the textile and agriculture sectors, and child labor remains a concern despite legal frameworks to combat it.<sup>249</sup>

Achieving gender equality in the workplace is also a challenge, with underrepresentation of women in leadership positions and unequal pay for equal work. Holding companies responsible for their social and environmental repercussions by implementing CSR strategies has not made much progress. Pakistan has faced criticism for labor rights violations in various industries, including the textile and agriculture sectors. Issues such as low wages, poor working conditions, and inadequate labor protections have been reported. Ensuring fair wages, safe working conditions, and the right to unionize are crucial for SDG compliance.<sup>250</sup>

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<sup>247</sup> Ministry of Human Rights and UNDP launch Pakistan's first National Action Plan on Business and Human Rights (NAP), UNDP, (Dec 16, 2021), available at <https://www.undp.org/pakistan/press-releases/ministry-human-rights-and-undp-launch-pakistan%E2%80%99s-first-national-action-plan-businessand-human-rights-nap>, last accessed Sep 30, 2023.

<sup>248</sup> 2022 Country Reports on Human Rights Practices: Pakistan, US department of state, Bureau Of Democracy, Human Rights, And Labor, available at <https://www.state.gov/reports/2022-country-reports-on-human-rights-practices/pakistan/>, last accessed Sep 30, 2023.

<sup>249</sup> "No Room to Bargain" Unfair and Abusive Labor Practices in Pakistan, available at [https://www.hrw.org/sites/default/files/report\\_pdf/pakistan0119.pdf](https://www.hrw.org/sites/default/files/report_pdf/pakistan0119.pdf), human rights watch January, 23 2019 last accessed May 8, 2023.

<sup>250</sup> 2022 Country Reports on Human Rights Practices: Pakistan, US department of state, Bureau Of Democracy, Human Rights, And Labor, available at <https://www.state.gov/reports/2022-country-reports-on-human-rights-practices/pakistan/>, last accessed Sep 30, 2023.

### 3.7. National Action Plan 21-26 of Pakistan

The UN Working Group on Business and Human Rights (hereinafter referred to as UNWG) was created by the UNHRC in 2011 with the goal of promoting the comprehensive and effective implementation and dissemination of the GP on BHR. The UNWG has recommended States to create NAP on BHR, which serve as a solid foundation for putting the UNGPs into practice. The national action plans outline the policies and measures they aim to take to assist in the fulfilment of their domestic and international commitments in relation to policy areas. A NAP is a developing policy plan adopted by a state to prevent adverse human rights effects by business organizations, according to the UN Guiding Principles on Economic and Human Rights.<sup>251</sup>

Pakistan faces several issues, including financial transparency and corruption in public contracting, gender-based discrimination and equal opportunity at work, due diligence procedures, workplace health and safety, working conditions and wages, unregistered workers, the informal economy, trade unions, due diligence mechanisms, and child bonded labor. As a result, a National Baseline Assessment (hereinafter referred to as NBA) was carried out to create a thorough and focused NAP on BHR, demonstrating Pakistan's commitment to overcoming these and other challenges and to upholding its domestic and international responsibilities related to the safeguarding of human rights.

1. Pakistan aims to enact the UNGPs through the NAP and make sure that its citizens' basic rights are safeguarded from any negative effects brought on by commercial activities.

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<sup>251</sup> Dr. Shireen Mazari, *Guidance on National Action Plans on Business and Human Rights (21-26)*, UN Working Group on Business and Human Rights, available at [https://www.ohchr.org/sites/default/files/Documents/Issues/Business/UNWG\\_NAPGuidance.pdf](https://www.ohchr.org/sites/default/files/Documents/Issues/Business/UNWG_NAPGuidance.pdf), last accessed Jan 29, 2023.

2. The State of Pakistan seeks to develop its grievance redressal processes in addition to protecting human rights to make sure that victims are given appropriate remedies when commercial activity obstructs or breaches human rights.
3. The NAP outlines the state's expectations from commercial companies while primarily focusing on the state's responsibilities for human rights protection.
4. This relates to both the upholding of HRs through business functions and the providing of suitable remedies in the event of negative effects.

### **3.7.1. Implementation**

The NAP contains performance metrics for each suggested action, key institutions, and stakeholders accountable for execution, and a schedule for implementation. The competent institutions must utilize both quantitative and qualitative indicators to monitor and assess the results of the NAP's implementation within the allotted time frame.<sup>252</sup>

### **3.7.2. Research Society of International Law and Development of National Action Plan**

The Federal Ministry of Human Rights and the United Nations Development Fund have hired Research Society of International Law (hereinafter referred to as RSIL) to conduct a nationwide review of the human rights laws now in effect in the corporate world. The initiative was built on the idea that business activity has a disproportionate influence on the exercise of human rights, a topic that has gained international attention in recent decades. RSIL created a

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<sup>252</sup> *National Action Plan on Business and Human Rights: Pakistan*, (Ministry of Human Rights: Government of Pakistan), available at <https://www.ohchr.org/sites/default/files/Documents/Issues/Business/NationalPlans/National-Action-Plan-BHR-Draft-03-03-21.pdf>, last accessed Jan 30, 2023.

comprehensive national baseline assessment through this project that addressed Pakistan's responsibility to protect human rights, corporate duties to respect human rights, and the responsibility to offer an effective remedy in situations of human rights violations by corporations. The first draft was developed by RSIL, and final draft was presented by Ministry of Human Rights in 2021.<sup>253</sup>

The implementation of this action plan is essential for Pakistan to meet its obligations under international human rights laws and to ensure that the business sector operates in a responsible and ethical manner.

### **3.8. National Laws and lack of Enforcement in Pakistan**

Pakistan, like many countries, faces challenges related to the enforcement of its national laws. Several factors contribute to this issue, and it's essential to understand the broader context.

#### **3.8.1. Constitution of Pakistan 1973**

The Constitution of Pakistan provides for certain fundamental rights, including equality before the law, protection against discrimination on the grounds of religion, race, caste, sex, or place of birth, and the right to protection of property, which are applicable in the business sector.<sup>254</sup>

The protection of human rights in the private business sector in Pakistan is primarily covered by various articles and provisions in the Constitution of Pakistan, 1973. While there isn't a specific article that exclusively deals with human rights protection in the private business

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<sup>253</sup> *Developing National Action Plan For Business & Human Rights in Pakistan*, (RSIL, Ministry of Human Rights: July, 2019), available at <https://rsilpak.org/project/developing-a-national-action-plan-for-business-human-rights-in-pakistan/>, last accessed Jan 30, 2023

<sup>254</sup> Jazib Mumtaz, "Fundamental rights and 50 years of Constitution," *The Express Tribune*, (May 30, 2023), available at <https://tribune.com.pk/story/2419210/fundamental-rights-and-50-years-of-constitution>, last accessed Sep 29, 2023.

corporations, several articles collectively address these rights. Some of the relevant articles include:

Article 3: This article emphasizes the eradication of all forms of exploitation and states that there shall be no discrimination based on sex, religion, race, caste, or place of birth. It sets a general tone of promoting equality and human rights.

Article 4: Article 4 ensures the protection of individuals' rights to be treated in accordance with the law, including their right to life and liberty.

Article 11: This article doesn't explicitly address human rights protection in private business corporations or sectors, it indirectly safeguards the rights of individuals working in these sectors by prohibiting any form of forced or bonded labor, ensuring that individuals cannot be compelled to work against their will. This protection is fundamental in upholding the dignity and rights of workers within private business corporations and sectors, as it prevents any type of exploitation in employment relationships, contributing to the broader framework of human rights protection in the labor force.

Article 18: This article guarantees the freedom of trade, business, and profession subject to certain restrictions imposed by law. While it primarily deals with economic rights, it indirectly touches on human rights within the business sector.

Article 25: Provides for equality of citizens before the law and prohibits discrimination on various grounds, including sex. This is relevant to ensuring that individuals are treated fairly in the private business sector.



Article 37: Discusses the promotion of social justice and provides for special measures to protect the rights of women and children, which can be relevant in the context of the business sector.

Article 38: Addresses the protection of human rights within the private business sector by emphasizing the state's responsibility to ensure social and economic justice. It calls for the promotion of social and economic well-being among the people, including equitable distribution of wealth and resources, and preventing the concentration of economic power and resources to the detriment of the public.<sup>255</sup>

However, the implementation of these rights in the business sector can be inadequate at times due to a lack of enforcement mechanisms and weak governance. There have been instances of labor rights violations, including the exploitation of workers and denial of fair wages, as well as discrimination based on gender and religion in the workplace.

### **3.8.2. Bonded Labour System (Abolition) Act 1992**

Bonded labor, also known as debt bondage or bonded labor system, is a form of modern-day slavery in which individuals are forced to work under exploitative conditions to repay a debt or loan. This system typically involves an employer or creditor providing a loan to a worker or a worker's family, and in return, the worker is required to work to repay the debt. However, the terms of repayment are often unfair and exploitative, and the worker may find it nearly impossible to ever repay the debt fully.<sup>256</sup>

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<sup>255</sup> *The Constitution Of The Islamic Republic Of Pakistan*, national assembly of Pakistan, (Pakistan, May: 2018), available at [https://na.gov.pk/uploads/documents/1549886415\\_632.pdf](https://na.gov.pk/uploads/documents/1549886415_632.pdf), last accessed Sep 30, 2023.

<sup>256</sup> Munira Abbas and Humayon Dar, "Modern slavery: How bad is bonded labour," *The Express Tribune*, (Aug 25, 2013), available at <https://tribune.com.pk/story/595072/modern-slavery-how-bad-is-bonded-labour>, last accessed Sep 28, 2023.

Article 4, of the Bonded Labor System (Abolition) 1992, discussed that every bound laborer will be released from any obligations to do any bonded labor, and the system of bonded labor will be terminated. No one may demand bonded labor or other forms of forced labor from another person or make any advances under or in accordance with the bonded labor system.

Article 11, discussed about the punishment that Anyone who, following the initiation of this Act, forces an individual into performing bonded labor can face penalties, including imprisonment ranging from a minimum of two years to a maximum of five years, a fine of no less than fifty thousand rupees, or a combination of both.<sup>257</sup>

The Bonded Labor System of 1992 also provided the punishment, but despite this, bonded and child labor are Over two million bonded workers and 2.4–3.2 million youngsters are thought to make up Pakistan's labor force. Despite policies and initiatives to end child labour and bonded labour, these practices persist in many areas of Pakistan. These tactics are especially common in the agricultural industry (42.1%)<sup>258</sup> and in more modest cottage industries, such as those that produce bricks and medical equipment.<sup>259</sup> According to the report of Aljazeera employing someone under the age of 16 is prohibited in Pakistan. However, it is claimed that over 70% of Pakistan's bonded laborers are youngsters.<sup>260</sup>

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<sup>257</sup> *Bonded Labour System (Abolition) Act 1992*, reworld, available at <https://www.refworld.org/pdfid/4e2d81c02.pdf>, last accessed Sep 29, 2023.

<sup>258</sup> *Decent work is the converging focus of ILO's four strategic objective: the promotion of rights at work; employment; social protection; and social dialogue*, ILO, (Islamabad: Pakistan, 87<sup>th</sup> session), available at [https://www.ilo.org/wcmsp5/groups/public/---asia/---ro-bangkok/---ilo/Islamabad/documents/policy/wcms\\_100054.pdf](https://www.ilo.org/wcmsp5/groups/public/---asia/---ro-bangkok/---ilo/Islamabad/documents/policy/wcms_100054.pdf), last accessed Jan 30, 2023.

<sup>259</sup> *2021 Finding on the Worst Forms of Child Labor: Pakistan*, Modern Advancement, available [https://www.dol.gov/sites/dolgov/files/ILAB/child\\_labor\\_reports/tda2021/Pakistan.pdf](https://www.dol.gov/sites/dolgov/files/ILAB/child_labor_reports/tda2021/Pakistan.pdf), last accessed Jan 30, 2023.

<sup>260</sup> "Bonded Labour," *Aljazeera*, available at <https://interactive.aljazeera.com/aje/2019/pakistan-bonded-labour/index.html>, last accessed Sep 29, 2023.

On a global scale, Pakistan has ratified the International Labor Organization's Forced Labor Convention, which has been in effect since December 23, 1957 and C182 Worst Forms of Child Labour Convention, 1999.<sup>261</sup> But still, there is still less implementation.

### **3.8.3. The Industrial Relations Act 2012 (IRA)**

The Industrial Relation Act 2012 (hereinafter referred to as IRA) is amid in Pakistan to regulating the relationship between employers and employees in industrial establishments. The Act provides for the recognition of trade unions, the settlement of disputes through conciliation and arbitration, and protection of the rights of workers.<sup>262</sup>

The Act is often not properly enforced, leading to violations of workers' rights. Trade unions in Pakistan are often dominated by political parties, leading to a lack of genuine representation for workers. The Act only applies to industrial establishments, excluding many workers in the informal sector who need protection. The conciliation and arbitration procedures outlined in the Act are often complex and difficult for workers to navigate and silent about the protection of human rights. The penalties for violations of the Act are often not sufficient to deter employers from violating workers' rights.

### **3.8.4. Employees' Social Security Ordinance 1965**

The Social Security Ordinance in Pakistan refers to the Employees' Social Security Ordinance, 1965. This Ordinance is a significant piece of legislation aimed at providing social security benefits and protections to workers in Pakistan. It establishes the Employees' Social Security

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<sup>261</sup> "Bonded Labour in Pakistan," *PayCheck.pk*, available at <https://paycheck.pk/labour-laws/fair-treatment/forced-labor/bonded-labour>, last accessed Sep 29, 2023.

<sup>262</sup> *Industrial Relation Act 2012*, (Islamabad, Pakistan: March, 2012), available at [https://na.gov.pk/uploads/documents/1335934287\\_218.pdf](https://na.gov.pk/uploads/documents/1335934287_218.pdf), last accessed Jan 30, 2023

Institution (hereinafter referred to as ESSI) responsible for implementing the provisions of the Ordinance.<sup>263</sup>

The protection of human rights in private business corporations is not typically addressed under this Ordinance. This ordinance primarily focuses on providing social security benefits to workers in various industrial and commercial establishments. In this Ordinance there is no specific provision which discusses or protects human rights.

### **3.8.5. Companies Act 2017**

The Companies Act 2017 was passed to modernize company law with the goals of promoting corporate development and facilitating corporations. It also encourages the use of electronics and technology, in business conduct and their regulation. It also regulates corporate entities to protect the interests of creditors, shareholders, other stakeholders, and the public. It also instills the fundamentals of good governance and protects minority interests in business organizations.<sup>264</sup>

The Companies Act 2017 does not contain specific provisions that address human rights protection in the business sector.

### **3.8.6. Workers' Compensation Act 1923**

The Workers' Compensation Act, 1923, is adopted by Pakistan which is a crucial law that mandates employers to provide fair compensation to workers and their dependents in cases of work-related injuries, disabilities, or fatalities. Compensation is based on the injury's severity and covers medical expenses, lost wages, and benefits for surviving dependents in fatal

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<sup>263</sup> *The Provincial Employees' Social Security Ordinance, 1965*, Punjab Employees Social Security Institution, available at [https://pessi.punjab.gov.pk/overview#:~:text=The%20Provincial%20Employees%20Social%20Security%20Ordinance%20C%201965%20requires%20the%20employers,Punjab%20Employees%20Social%20Security%20Institution.](https://pessi.punjab.gov.pk/overview#:~:text=The%20Provincial%20Employees%20Social%20Security%20Ordinance%20C%201965%20requires%20the%20employers,Punjab%20Employees%20Social%20Security%20Institution.,), last accessed Sep 29, 2023.

<sup>264</sup> Khalid Zafar & Associates, *Companies Act, 2017*, Laws of Pakistan, available at <https://khalidzafar.com/laws-of-pakistan/companies-act-2017/>, last accessed Sep 29, 2023.

incidents. Claim submission requires detailed accident information and medical reports within a specified timeframe. Employers failing to comply with the Act's provisions may face penalties and legal action. Procedures may vary by province, so claimants should consult provincial labor departments or legal experts. Overall, this Act safeguards the rights and well-being of workers in Pakistan.<sup>265</sup>

The National Industrial Relations Commission (hereinafter referred to as NIRC) or National Industrial Relations Commission, in Pakistan is a quasi-judicial body responsible for dealing with industrial and labor disputes. Its jurisdiction primarily covers matters related to labor and industrial relations, including disputes between employers and employees, trade unions, and other industrial disputes.<sup>266</sup>

But unfortunately, it does not handle the registration or administration of workers' compensation schemes, such as workmen's compensation.

### **3.9. Problems Faced by Employees in Private Business Corporations**

Employees in private business corporations often face a range of challenges and issues, which can vary depending on the specific industry, company culture, and economic conditions. Here are some common problems faced by employees in private business corporations.

#### **3.9.1. Racial and gender discrimination**

Due to significant levels of discrimination, women and members of religious and racial minorities have difficulty accessing the legal system, receiving medical care, and finding

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<sup>265</sup> *The Workmen's Compensation Act 1923*, Josh and Mak International, available at <https://joshandmakinternational.com/the-workmens-compensation-act-1923-daily-legal-advice-series-5/>, last accessed Sep 29, 2023.

<sup>266</sup> *National Industrial Relations Commission*, Ministry of Overseas Pakistanis & Human Resource Development, Government of Pakistan, (Nov 9 ,2016), available at <https://www.nirc.gov.pk/>, last accessed Sep 29, 2023.

employment.<sup>267</sup> In Pakistan, pay discrimination because of sex or gender is not yet completely prohibited. Women still earn far less money than men as a result. The variation amounts to almost 58%, as reported by the Pakistani Bureau of Statistics.<sup>268</sup>

### 3.9.2. Wage Problems

Even though Pakistani legislation established a minimum wage; many workers still get lesser pay. For instance, it is estimated that 37% of employees in Pakistan's largest industry—the textile industry—continue to make less than the minimum salary.<sup>269</sup> There are 67 nations with higher minimum wages than Pakistan.<sup>270</sup>

### 3.9.3. Inadequate working conditions

Six out of ten Pakistani workers, or around 34 million people, are unemployed or at risk of being unemployed, with many working in hazardous and unregulated circumstances.<sup>271</sup>

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<sup>267</sup> S Shameem Ejaz and A Anjum, “Gender Discrimination and The Role of Women in Pakistan,” *Journals of Social Sciences and Humanities*, vol 50, no.1 (June 2011): 95-105, available at <https://www.jsshuok.com/oj/index.php/jssh/article/view/304>; see also, H Iqbal, S Afzal and M Inayat, “Gender Discrimination: Implications for Pakistan Security,” *ISSN*, vol 1, no.4 (Sep-Oct, 2012): 16-25, available at [https://www.researchgate.net/publication/314567728\\_Gender\\_Discrimination\\_Implications\\_for\\_Pakistan\\_Security](https://www.researchgate.net/publication/314567728_Gender_Discrimination_Implications_for_Pakistan_Security), last accessed Jan 30, 2023.

<sup>268</sup> *Percentage Distribution Or Employees By Wage Group, Major Industry Division And Sex 2014-15*, Pakistan Bureau and Statistics, available at [https://www.pbs.gov.pk/sites/default/files/labour\\_force/publications/lfs2014\\_15/t42-pak.pdf](https://www.pbs.gov.pk/sites/default/files/labour_force/publications/lfs2014_15/t42-pak.pdf), last accessed Feb 26, 2023.

<sup>269</sup> “The Islamabad Pakistan, How should minimum wages be determined?,” *ilo*, (Dec 10, 2023) available at [https://www.ilo.org/islamabad/info/public/pr/WCMS\\_654171/langen/index.htm#:~:text=Pakistan's%20provinces%20are%20currently%20reviewing,US%24%20121.12%20per%20month](https://www.ilo.org/islamabad/info/public/pr/WCMS_654171/langen/index.htm#:~:text=Pakistan's%20provinces%20are%20currently%20reviewing,US%24%20121.12%20per%20month), last accessed Jan 31, 2023.

<sup>270</sup> *Pakistan Minimum Wages, Labor Law, and Employment Data Sheet Pakistan Minimum Wages Rate 2023*, Minimum Wage, available at <https://www.minimum-wage.org/international/pakistan>, last accessed Jan 31, 2023.

<sup>271</sup> *Decent Work Country Program 2010-2015*, ILO, Pakistan, 9, available at <http://www.ilo.org/public/english/bureau/program/spf/spf1015.htm>; see also, *The Islamic Republic Of Pakistan Decent Work Country Programme (2016-2020)*, ILO, Islamabad: Pakistan, available at [https://www.ilo.org/wcmsp5/groups/public/---ed\\_mas/-program/documents/genericdocument/wcms\\_562091.pdf](https://www.ilo.org/wcmsp5/groups/public/---ed_mas/-program/documents/genericdocument/wcms_562091.pdf), last accessed Jan 31, 2023.

All these laws and regulations in Pakistan still face several challenges in their implementation and need to be strengthened to better protect the rights of workers in the country.

### **3.9.4. Harassment on Workplaces**

UDHR, CEDAW, ILO, the Protection Against Harassment of Women at Workplace Act 2010, the Pakistan Penal Code, etc. Despite all these measures, between 2018 and 2019, there were 8,500 reports of internet harassment of women. As it makes it a crime to send defamatory material, Prevention of Electronic Crime Act (hereinafter referred to as PECA) is problematic considering Pakistan's commitments under international human rights law. This limits the freedom of expression for those who have experienced sexual harassment. The statute is only useful as a paper document and has implementation problems; cases sometimes drag on in court for years without prompt relief being given. Women are discouraged by this, and many would rather not make complaints.<sup>272</sup>

On the day of Feb 4, 2023 an 18-year-old private bus hostess is accused of being raped at gunpoint by the security of that private bus heading from Karachi to Lahore. It has been claimed that the guard and the bus driver were both there throughout the occurrence. According to the victim, the personnel were replaced when the bus arrived in Rahim Yar Khan, and she was then taken on this bus to Lahore. All the passengers got off the bus at Melsi, and it then drove off to Vehari without a single passenger. She was allegedly forced into the back seat by the guard, who then raped her while holding a revolver to her head.<sup>273</sup> Police arrested the two

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<sup>272</sup> Ashba Nawaz, "Harassment of Women's Rights in Pakistan," *Human Rights Pulse*, (Apr 1, 2022), available at <https://www.humanrightspulse.com/mastercontentblog/harassment-of-womens-rights-in-pakistan>, last accessed Jan 4, 2023.

<sup>273</sup> Shahid Mehmood, "Buss hostess allegedly raped by the guard," *the express*, (Feb 5, 2023), available at <https://tribune.com.pk/story/2399426/bus-hostess-allegedly-raped-by-guard>, last accessed Feb 8, 2023.

suspect in the meanwhile and filed a rape complaint (FIR) against him.<sup>274</sup> In accordance with Section 164 of the Criminal Code, the plaintiff also made an appearance in court for the recording of pleas and statements. For a period of fourteen days, police station Daniwal asked the court to hold the accused in physical custody. However, the judge authorized the four-day remand and turned the suspects over to the police. The victim's father, though, expressed his dissatisfaction with the police's lack of cooperation. He asserted that the police independently filed the FIR without notifying them.<sup>275</sup>

### **3.10. National And International Publications and Reports Regarding Human Rights Abuses in Business Sector in Pakistan**

There were several national and international publications and reports addressing human rights abuses in the business sector in Pakistan. Human rights abuses in the business sector can encompass issues such as labor rights violations, environmental concerns, discrimination, and more.

#### **3.10.1. Labour Force Survey Pakistan 2020-2021**

Reports and publications from international organizations like the ILO and human rights organizations like Human Rights Watch provide valuable insights into the labor and human rights issues in Pakistan. These organizations conduct extensive research, document violations, and make recommendations for improvement. Here are a few relevant reports and publications.

The Labour Force Survey Pakistan 2020-2021 is a report conducted by the Pakistan Bureau of Statistics (hereinafter referred to as PBS) to gather comprehensive data on the labor

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<sup>274</sup> "Multiple rape cases reported in Okara, Vehari," *MM News*, (Feb 5, 2023), available at <https://mmnews.tv/rape-cases-reported-in-okara-vehari/>, last accessed Sep 29, 2023.

<sup>275</sup> "Vehari bus hostess rape: Suspects remanded in police custody," *Bol News*, (Feb 5, 2023), available at <https://www.bolnews.com/pakistan/2023/02/vehari-bus-hostess-rape-suspects-remanded-in-police-custody/>, last accessed Sep 29, 2023.



force in Pakistan. This latest survey provides detailed information on various aspects of employment, including employment trends, wages, working conditions, unemployment rates, and other relevant indicators. The report sheds light on the challenges faced by workers in Pakistan, such as low wages and inadequate working conditions. It helps identify areas where improvements are needed to ensure decent work and promote the well-being of workers across different sectors of the economy.<sup>276</sup>

### **3.10.2. Child Labour Connected to Global Supply Chains**

In Pakistan, child labour is a continuing issue, especially in industries affected by global supply networks. Stronger regulation and oversight are required to eradicate child labour from supply networks, according to the research, Pakistan: Child Labour Connected to Global Supply Chains. Pakistan is said to have up to 10 million children working under the harshest conditions possible, including forced domestic work, forced labour in brick manufacture, and forced labour in agriculture. The Pakistani government is dedicated to ending child labour, but the rules are generally disregarded, and some industries, including brick and carpet manufacturing, cannot function without child labour.<sup>277</sup>

### **3.10.3. No Room to Bargain Unfair and Abusive Labor Practices in Pakistan, 23 January 2019**

According to a report based on interviews with over 141 individuals, including garment workers, union leaders, government representatives, and labor rights advocates, it has been found that millions of workers in Pakistan's garment industry are subjected to exploitation and

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<sup>276</sup> *Labour Force Survey 20-21*, Government of Pakistan Ministry of Planning, Development & Special Initiatives, Pakistan Bureau of Statistics, ILO Pakistan Publication, available at [https://www.pbs.gov.pk/sites/default/files/labour\\_force/publications/lfs2020\\_21/LFS\\_2020-21\\_Report.pdf](https://www.pbs.gov.pk/sites/default/files/labour_force/publications/lfs2020_21/LFS_2020-21_Report.pdf), last access April 6, 2023.

<sup>277</sup> *Ending child labour, forced labour and human trafficking in global supply chains*, UNICEF, ILO, available at <https://mneguidelines.oecd.org/Ending-child-labour-forced-labour-and-human-trafficking-in-global-supply-chains.pdf>, last accessed May 8, 2023.

abuse. The report highlights the failure of the Pakistani government to address labor rights protection and safety, leading to ongoing labor abuses in garment factories.

The lack of accountability for poor working conditions is a significant factor contributing to strained industrial relations in Pakistan. Almost all the factories surveyed were found to be violating workers' rights, including practices that contravene both Pakistani law and the codes of conduct imposed by Western retailers on their suppliers.

The report reveals that workers, many of whom are women, endure physical and verbal abuse, including sexual harassment. They also face forced overtime, denial of paid maternity and medical leave, failure to receive the statutory minimum wages, restrictions on toilet breaks, and a lack of clean drinking water. Moreover, smaller factories sometimes employ underage children, as young as 13, to circumvent paying minimum wages and overtime. The report includes accounts from nine child workers, all involved in garment production for the domestic market. Labor rights activists have also raised concerns about union-busting practices by several large factories. Furthermore, Pakistan's labor inspection mechanism has been criticized for its ineffectiveness, with numerous allegations of corruption.<sup>278</sup>

### 3.11. Comparative Analysis of United States, United Kingdom, and Pakistan

	United States	United Kingdom	Pakistan
<b>Corporate Social Responsibility</b>	The US government encourages companies to adopt responsible business practices through various	CSR in the United Kingdom has evolved significantly over the years, becoming a crucial	CSR in Pakistan is underdeveloped and not fully realized. Although some large corporations

<sup>278</sup> "No Room to Bargain" *Unfair and Abusive Labor Practices in Pakistan*, available at [https://www.hrw.org/sites/default/files/report\\_pdf/pakistan0119.pdf](https://www.hrw.org/sites/default/files/report_pdf/pakistan0119.pdf), human rights watch January, 23 2019 last accessed May 8, 2023.

	means, such as the U.S. National Action Plan on Responsible Business Conduct, which promotes responsible business conduct and provides guidance on how to implement it.	aspect of business operations. It has become integral to the corporate landscape, reflecting a commitment to sustainability and responsible business practices.	engage in CSR, there's a general lack of commitment to social and environmental responsibility in the business community, often prioritizing profits over societal and environmental well-being. Limited regulations and reporting requirements further hinder CSR adoption.
<b>Human Rights Due Diligence</b>	The US, has laws and regulations that require companies to conduct human rights due diligence to identify, prevent, and mitigate human rights risks in their operations and supply chains.	The UK, has introduced legislation that requires companies to conduct human rights due diligence to identify, prevent, mitigate, and account for how they address their human rights impacts.	Due diligence practices in business in Pakistan are often lacking, leading to potential risks and inefficiencies in various sectors. Greater emphasis on thorough due diligence is necessary to ensure transparency and better

			decision-making in the business landscape.
<b>Human rights reporting</b>	The US, government requires companies to disclose information about their human rights impacts through various means, such as the Modern Slavery Rules, which require companies to disclose the conflict-affected and high-risk areas and if they have policies in place to address forced labour or other human rights abuses in their supply chains.	Human rights reporting within the business sector in the UK has gained significant traction, with many companies increasingly acknowledging their social responsibilities and disclosing their human rights impacts. This trend reflects a growing recognition of the importance of accountability in promoting ethical business practices and safeguarding human rights.	The business sector in Pakistan often lacks robust human rights reporting mechanisms, resulting in limited transparency regarding companies' impact on human rights. This deficiency can lead to violations going unnoticed and unaddressed, potentially causing harm to workers, communities, and stakeholders.
<b>Access to remedies</b>	The US, is generally facilitated through a well-established legal framework that allows individuals and	The UK, has established several mechanisms to provide remedies for human rights abuses in the private sector, such	Access to remedies in the business sector in Pakistan is notably deficient, with limited avenues for individuals

	<p>organizations to seek recourse through the courts for various grievances, including contractual disputes, employment issues, and consumer complaints. Additionally, alternative dispute resolution methods, such as arbitration and mediation, are commonly used to address conflicts within the business sector, providing additional avenues for resolution outside of the formal legal system.</p>	<p>as the UK National Contact Point (hereinafter referred to as the NCP) for the Organization for Economic Co-operation and Development (hereinafter referred to as OECD) Guidelines for Multinational Enterprises, which provides a means for resolving disputes between companies and civil society organizations.</p>	<p>or communities to seek redress for grievances related to corporate misconduct or harm caused by businesses. This inadequacy in access to remedies poses significant challenges to holding businesses accountable for their actions and ensuring justice for affected parties.</p>
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<p><b>Corporate liability for human rights abuses</b></p>	<p>In the US, corporate liability for human rights abuses primarily relies on a framework of civil litigation and regulatory enforcement, with limited avenues for holding corporations criminally liable for such abuses.</p>	<p>The UK, is working on legislation that would create a corporate offence of failure to prevent human rights abuses, which would hold companies liable for human rights abuses committed by their employees or associated with their business activities.</p>	<p>Corporate liability for human rights abuses remains inadequately addressed in Pakistan, raising concerns about accountability and justice in cases where businesses are implicated in such violations.</p>
<p><b>Transparency</b></p>	<p>The US is encouraged through various regulations and corporate governance practices, promoting openness and accountability in financial reporting and operations.</p>	<p>The UK has introduced legislation, the Modern Slavery Act 2015, that requires certain companies to disclose information about their efforts to address human rights risks, such as slavery and human trafficking, in their supply chains.</p>	<p>Transparency in the business sector in Pakistan is often lacking, hindering accountability, and fostering an environment where corruption and unethical practices can persist.</p>

<b>Human rights protection in procurement</b>	In the US, human rights protection in procurement within the business sector is typically enforced through a combination of federal and state laws, as well as corporate social responsibility initiatives	The UK, has introduced human rights protection clauses in its procurement regulations, which require suppliers to meet certain standards in relation to human rights and labor rights.	In the Pakistan the lack of comprehensive monitoring mechanisms often leads to human rights violations within supply chains, including issues like child labor, poor working conditions, and discrimination. etc
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It's worth noting that Pakistan has some laws in place to protect human rights in the private sector, but their implementation and effectiveness are challenges, and there is a need for further reforms to improve human rights protection in the private sector, particularly in terms of corporate governance, human rights due diligence, transparency, access to remedies, and human rights protection in procurement.

**Conclusion:**

The enforcement of human rights treaties and conventions is a major challenge in many countries, including Pakistan. Lack of enforcement mechanisms, limited resources, and political will are some of the reasons why human rights are not effectively protected in practice. Effective implementation and enforcement of human rights, including in the private business sector, requires a combination of legal frameworks, adequate resources, and political commitment. The government has taken some steps to address these issues, such as the passage of labour laws and the creation of specialized tribunals to address labour disputes. However,

much more needs to be done to ensure the effective protection and promotion of human rights in the business sector in Pakistan. Human rights are frequently not upheld, which has had serious negative effects on Pakistan's businesses and economy. Due to lax safety regulations and abuses of labour rights, US-based Walt Disney withdrew Pakistan from its list of permitting sourcing countries in 2013.



## **4. CHAPTER: CONCLUSION AND RECOMMENDATION**

### **4.1. Conclusion**

The author of this study concludes that private business corporations are a significant global force. It serves as a potent weapon for advancing national development and human rights all over the world in addition to being an economic powerhouse. The author also thinks that private corporations and human rights are inseparably connected. We need to be aware that there will constantly be difficulties of any type when collaborating with government agencies or international organizations on attempts to design or implement human rights policies. Private corporations serve as both an economic development driver and a champion of human rights. The United Nations has acknowledged several conventions, reports, and treaties (both binding and non-binding) regarding the contribution of businesses to international human rights. It also states that businesses can influence both national and global policy by supporting governments and swaying public sentiment, which can result in positive change. There are several methods for corporations to support global efforts to improve human rights.

Furthermore, the worldwide growth of COVID-19, which resulted in the loss of millions of jobs, is also driving firms to undergo previously unheard-of levels of bankruptcy. The cost of labour, the price of hospitals and schools, and the requirement for third-party sources for their goods are a few more aspects that will significantly affect the private corporations.

Human rights are safeguarded in the business sector in several ways by international and national regulations. There are several international laws and regulations that specify requirements for the defense of individual rights in the corporate world. UNGPs provide

guidelines for how companies should detect, avoid, and deal with unfavorable human rights consequences related to their activities and supply chains. International criteria for labour rights, such as the liberty of association, the right to collective bargaining, and the outlawing of forced labour, are outlined in the ILO Declaration.

The ICCPR forbids discrimination in the workplace based on national identity, gender, race, or religion, and the ICESCR guarantees that women and men have an equal chance to exercise their economic, social, and fundamental freedoms. Countries' own laws and rules that safeguard human rights are in place on a national level. In the United States, for instance, the ADA and the ADEA both safeguard the rights of employees, while Title VII of the 1964 Civil Rights Act outlaws' discrimination in employment based on race, color, religion, sex, and national origin. Additionally, some nations have legislation specifically addressing how to uphold human rights in the workplace. For example, in the UK, The Human Rights Act of 1998 has drastically changed how work is done.

The Equality Act of 2010 protects people from discrimination at work based on age, gender, relationship or civil union, pregnancy or motherhood, race, belief or faith, sex, or sexual orientation. The law aims to protect people from prejudice based on sexual orientation, sex, ethnicity, or religion. Additionally, the UNGPs describe how companies should protect human rights while considering NAP.

Many nations, including Pakistan, have significant difficulties enforcing human rights accords and conventions. Human rights are not adequately safeguarded in practice for a variety of reasons, including a lack of enforcement power, scarce resources, and political will. A mix of legal frameworks, enough resources, and political support is necessary for the effective enforcement and implementation of human rights, even in private corporations.

The government took some actions to solve these problems, such as passing labour legislation and establishing specialized tribunals to handle labour disputes. To effectively preserve and promote human rights in Pakistan's business community, however, there is still considerable work to be done. Frequently, human rights are not protected, which has had a detrimental impact on Pakistan's industries and economy. 2013 saw the removal of Pakistan from Walt Disney's listing of permitting sourcing nations due to low safety measures and violations of labour rights.

The reason why the author chose to work on this topic is because in many countries, businesses are required to respect and protect human rights in accordance with national and international laws. Private businesses that respect and protect human rights are more likely to have a positive impact on their bottom line, as they are likely to attract investment, customers, and employees. The state also has a responsibility to protect human rights in the business sector.

Overall, businesses that work on protecting human rights are contributing to a more sustainable and responsible business environment, which benefits not only their company but society.

To sum up, the responsibility of the state in protecting human rights within the private business sector is critical, and Pakistan needs to take significant steps to address areas of deficiency. By enforcing labor laws, promoting transparency, and strengthening judicial capacity, the government can create an environment that promotes responsible corporate behavior and protects the human rights of all Pakistanis.

## **4.2. Recommendations**

The recommendations made at the conclusion of this study are addressed to the national Pakistani government as well as the business community. They concern important policy decisions and practical measures that the government could take on its own to guarantee the protection and respect for human rights in the private sector.

### **4.2.1. To the National Authorities of Pakistan**

1. To fulfil Pakistan's obligations under fundamental international standards for human and labour rights, it is necessary to close any gaps in law, policy, and practice. This can be done, for example, by strengthening and trying to implement the current federal and provincial laws, policies, and practices that aim to protect human rights.
2. The NAP on Human Rights should include businesses and human rights standards that are in line with the UNGPs.
3. The government of Pakistan has currently raised the minimum salary for workers from 25000 to 32000, under notification no F-17(2)/Pub/80. Although it is recommended that it be increased by around 15 to 20% based on their workload and continued inflation.
4. Create laws that require all businesses to adopt policies that prohibit discrimination based on gender, race, religion or sexual orientation.
5. Make laws that call for all businesses to adopt policies that prohibit harassment and intimidation of their employees and customers. And as per the reports people refused to file the lawsuits because of the delay of justice.
6. Pakistani authorities might enhance, develop, and expand discussions, trainings, and other programs conducted within the business sector to educate the larger business

sector more about the fact that all commercial firms are responsible for respecting human and labour rights.

#### **4.2.2. To the Business Group of Pakistan**

1. Make a public commitment to protecting human and labour rights and put in place effective and open systems to detect and prevent abuses caused by economic activity.
2. Seek professional advice, including from the Business sector, on how to incorporate the UNGPs and other related global standards into company operations.
3. Ensure that employees could associate, organize, bargain collectively and with collective representation, and to express themselves freely.
4. Develop and promote industry organizations that work to enhance and implement international business and human rights standards in Pakistan.
5. Implement corporate liability frameworks to address human rights abuses and encourage transparent reporting, fostering a culture of accountability and respect for human rights in the corporate sector.

#### **4.2.3. Suggestion for Further Research**

1. Further research can be on gender rights is possible, or it may focus specifically on a single right like the protection of women or workplace harassment.
2. Provincial research on human rights protection in the business sector is also an option.

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