

Would Workers Benefit?

Harnessing Business and Human Rights to Advance Labour Standards



Written by



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Acknowledgments

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Cividep is an Indian non-profit organisation that focuses on advancing worker rights and corporate accountability in global supply chains. Based in Bengaluru, it partners with workers, collectives, and brands to undertake in-depth research, awareness creation, and stakeholder engagement to achieve these goals.



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Glossary

AFWA	Asia Floor Wage Alliance
BRR	Business Responsibility Report
BHR	Business and Human Rights
BRSR	Business Responsibility and Sustainability Reporting
CSDDD	Corporate Sustainability Due Diligence Directive
CSR	Corporate Social Responsibility
CSO	Civil Society Organisation
EBA	Enforceable Brand Agreement
EU	European Union
FOA	Freedom of Association
GBVH	Gender-based Violence and Harassment
GFA	Global Framework Agreement
GLJ - ILRF	Global Labor Justice – International Labor Rights Forum
GRM	Grievance Redressal Mechanism
GUF	Global Union Federation
HRDD	Human Rights Due Diligence
mHRDD	Mandatory Human Rights Due Diligence
ICESCR	International Covenant on Economic, Social and Cultural Rights
ICCPR	International Covenant on Civil and Political Rights
ILO	International Labour Organization
ISDS	Investor-State Dispute Settlement
LBI	Legally Binding Instrument
LRO	Labour Rights Organisation
MCA	Ministry of Corporate Affairs, India
MNC	Multinational Corporation
MNE	Multinational Enterprise
MNE Declaration	Tripartite Declaration of Principles concerning Multinational Enterprises and Social Policy
NAP	National Action Plan on Business and Human Rights
NGO	Non-governmental Organisation
NGRBC	National Guidelines on Responsible Business Conduct
OECD	Organisation for Economic Cooperation and Development

OECD Guidelines	OECD Guidelines for Multinational Enterprises
OEIWG	Open-ended Intergovernmental Working Group
RBC	Responsible Business Conduct
SDGs	Sustainable Development Goals
SEBI	Securities and Exchange Board of India
TNC	Transnational Corporation
TTCU	Tamil Nadu Textile and Common Labour Union
UNGC	United Nations Global Compact
UNGPs	United Nations Guiding Principles on Business and Human Rights
UNHRC	United Nations Human Rights Council
WSR	Worker-driven Social Responsibility
WRC	Worker Rights Consortium

What is this handbook about?

- Perhaps you're leading initiatives to improve workplace safety for women employed in a textile factory in your village.
- Maybe you're advocating for fairer wages in tanneries that supply leather to renowned European shoe labels.
- Or perhaps you are simply a dedicated worker striving to cultivate a better work environment for yourself and your peers.

This handbook serves as a tool to address these concerns by leveraging Business and Human Rights standards.

This handbook introduces some of the major Business and Human Rights (BHR) standards and how they can be utilised to improve working conditions in global supply chains.

It explains the interconnectivity between international labour standards, the UN Guiding Principles on Business and Human Rights (UNGPs), and other BHR standards.

The handbook can assist trade unions and civil society organisations (CSOs) working on labour and human rights in identifying synergies and opportunities for promoting government protection of and business respect for labour rights in supply chains.

It can also serve as a reference document that provides basic and practical information, including key concepts, definitions, and additional resources with respect to BHR standards.



What is covered

This handbook provides an overview of key global BHR standards:

- **The Tripartite Declaration of Principles concerning Multinational Enterprises and Social Policy (ILO MNE Declaration)**
- **The UN Guiding Principles on Business and Human Rights (UNGPs)**
- **The OECD Guidelines for Multinational Enterprises (OECD Guidelines)**

It introduces key standards in India on responsible business conduct and India's own non-financial disclosure framework, including:

- **National Guidelines on Responsible Business Conduct (NGRBC)**
- **Business Responsibility and Sustainability Reporting framework (BRSR)**

The handbook elaborates how international labour standards, as enshrined in the ILO Declaration on Fundamental Principles and Rights at Work, are an integral part of BHR standards and guidelines, both in the national and global contexts.

It includes case studies of organisations and campaigns that have used BHR standards, which can assist labour rights non-governmental organisations (NGOs) and trade unions in their own efforts to strengthen corporate accountability.

It also provides information on the various guidance materials that have been developed on BHR standards by various organisations and agencies, and aims to further awareness of the existence of these materials.

Key terminology is explained throughout the handbook. An element called "Through the Worker's Lens" has been used to

address questions frequently asked by trade unions.

Objectives

This handbook is intended to familiarise **Indian trade unions, community-led organisations, labour rights NGOs, and other CSOs** with the BHR standards and encourage their engagement with these standards by:

- Building awareness of the UNGPs and other BHR standards
- Explaining the linkages between international labour standards and BHR standards
- Helping them understand how BHR standards can be utilised to improve working conditions in global supply chains
- Supporting their engagement with governments and businesses to improve labour and human rights in supply chains

Structure

This handbook is divided into four parts:

- **Part I** is an introduction to BHR.
- **Part II** provides an overview of the most important international BHR standards and their linkages to international labour standards.
- **Part III** briefly introduces the trajectory of BHR in India and explains two recent developments with respect to BHR in the country.
- **Part IV** discusses attempts – successful and ongoing – to develop legally binding agreements at the industry, national, and international levels to hold businesses accountable for labour and human rights violations in global supply chains.

A group of women in traditional Indian attire, including sarees and blouses, walking in a line. The image is overlaid with a semi-transparent purple filter. The women are walking from left to right across the frame. The background is a bright, open outdoor space.

Part I

Understanding BHR

This section covers:

- What is BHR?
- Why engage with BHR standards
- The evolution of BHR
- The difference between BHR and CSR

All human beings are born free and equal in dignity and rights.

- Universal Declaration of Human Rights, Article 1

What is BHR?

This idea of human rights is as simple as it is powerful: that people everywhere have the right to be treated with dignity and respect.

In a globalised world, businesses significantly influence labour and human rights. They can have a positive impact by providing jobs and supporting public services, but they can also have negative impacts on working conditions, various local communities, and the environment through their business model and actions.

BHR standards address the adverse impact of business activities on labour and human rights and ensure that businesses contribute positively to societal and environmental well-being through internationally accepted guidelines, standards, and laws.

In the context of labour rights, BHR standards assert that:

- **States are responsible for enacting and enforcing laws safeguarding workers' rights.**
- **Businesses must respect these rights throughout their supply chains.**
- **Workers must have accessible mechanisms from States and businesses to seek remedies for any violations they may endure.**

Terminology

State¹

The United Nations regards an entity as a State if it possesses

- A permanent population
- A defined territory
- Institutions of government
- A capacity to enter relations with other States

At present, there are 193 States that are members of the United Nations.

Terminology

Globalisation²

Globalisation refers to the flow and exchange of goods, technology, information, financial products, and jobs across national borders and cultures. In economic terms, it describes an interdependence of nations around the globe fostered through free trade.

Businesses gain a competitive advantage on multiple fronts through globalisation. They can reduce operating costs by manufacturing abroad, benefit from cheaper labour costs, buy raw materials more cheaply because of the reduction or removal of trade barriers, and gain access to millions of new consumers.

Globalisation has sped up rapidly from the 1970s, with the two main driving factors being public policy changes and innovations in communications technology.

Terminology

Global Supply Chains³

A supply chain is a network of entities and activities that work together to move a product or service from supplier to customer. Global supply chains are those in which the activities and entities span multiple countries.

In a global supply chain, raw materials may be sourced from one country, manufactured into products in another, and then sold and distributed in yet another country. Or, a product may be designed in one country, assembled from parts made in several countries, and then sold and distributed globally.

In either case, multiple companies and suppliers are involved in moving the product along the supply chain from supplier to customer.



Companies linked through global supply chains are related through various legal forms, with exchanges between firms structured so that multinational corporations (MNCs) generally do not legally own overseas suppliers, subsidiaries, or franchisees but only outsource production to them.⁴

Why should you engage with BHR standards?

In today's globalised world, supply chains have become the main worldwide system for production of goods and services. Under this system, the production of goods is highly fragmented and is carried out wherever the necessary skills and raw materials are available at the cheapest cost. This style of production is seen across industries – from agriculture to garments to electronics.

This has led to societal benefits, but also to challenges in balancing economic growth with social and environmental wellbeing. **In many countries, policy and legal frameworks to ensure social and environmental protections have not kept pace with the expansion and complexity of cross-border supply chains.**

In the quest to lower the cost of production, many MNCs through global supply chains, have promoted a race to the bottom with regard to wages and pricing models. Governments in the Global South in turn have diluted labour protective frameworks and repressed wages to attract businesses. Additionally, while MNCs are able to drive coordinated production of goods through supply chains, many suppliers have had to absorb the risks of production or volatile global markets. The suppliers respond by operating on razor-thin margins and pushing costs associated with competition and risk onto workers, resulting in poor wages, compromised health and safety standards, and precarious working conditions.

Thus, **countries have not been able to adequately address the adverse impacts** businesses have generated, especially when the businesses are not

headquartered in their countries, as seen in the case of many MNCs.

For example, Indian law has not evolved to hold American and European fashion brands liable for gender-based violence and other labour violations in their supplier factories in India.

Additionally, developing countries, in particular, are frequently unwilling to hold companies accountable for their labour and human rights and environmental violations as well as in terms of providing adequate remedies for victims. This is because a government's ability to regulate companies can sometimes be constrained by international investment agreements.

For example, through Investor-State Dispute Settlement (ISDS) provisions, companies can sue States for lost earnings caused by the introduction of laws intended to improve protection of environmental and labour and human rights.

There has also been **extensive reporting of labour and human rights violations** in global supply chains, with victims finding it extremely difficult to hold companies to account and get justice.

It is in this context that BHR standards and resolutions adopted by international bodies can help trade unions, labour rights NGOs, and other CSOs.

All major international BHR standards – like the UNGPs, OECD Guidelines, and the ILO MNE Declaration – address actual and potential harm in supply chains as a core expectation of responsible business conduct. All governments can follow these

standards and many G20 countries are already putting them into action by aligning their national regulations with these standards, including developing National Action Plans (NAP) on BHR, as stipulated by the UNGPs.

All BHR standards address actual and potential harm in supply chains as a core expectation of responsible business conduct.

Terminology

Multinational Corporation (MNC)⁵

An MNC is a company that has business operations in at least one country other than its home country. By some definitions, it also generates at least 25% of its revenue outside of its home country. Generally, an MNC has offices, factories, or other facilities in different countries as well as a centralised headquarters which coordinates global management.

MNCs generally have no legal obligations under international labour and human rights treaties to respect or protect labour and human rights. However, like other non-state actors such as armed resistance groups, MNCs can hinder access to labour and human rights.



Through the Worker's Lens

Q: I work in a garment factory in India that makes t-shirts for a few international fashion brands. How do BHR standards help me have a safer workplace?

To answer this, let us first understand how global garment supply chains work.

Even though global fashion brands engage in high-value market research, design, sales, and marketing, only few own and operate garment production units. Instead, the brands contract out the production of garments to a supplier factory, usually in Asia, which then often sub-contracts this out further.

This production structure allows fashion brands to drive coordinated production of goods by capitalising upon a supply of low-wage labour in developing countries, while evading legal liability for labour and human rights violations in their supply chains.

Multiple studies⁶ have shown that it is the brands that determine the working conditions in these factories through their pricing models and purchasing practices. Low wages, gender-based violence, and union busting in garment factories have all been linked to the pressures garment suppliers face from global fashion brands. However, global fashion brands can

evade legal liability under national laws in garment production countries for labour violations as they portray themselves as mere “buyers” of garments⁷, rather than “employers” of garment workers in their supply chain.

It is in circumstances like this that international BHR standards like the UNGPs and others can help. **These standards state that all businesses everywhere have a responsibility to protect and promote international labour standards across their supply chains, including providing for safe workplaces, minimum wages, and freedom of association (FoA).**

Trade unions have utilised BHR standards like the UNGPs and the OECD Guidelines to win collective bargaining agreements and other binding agreements to improve labour standards in their factories, as seen in the Bangladesh Accord for Fire and Safety and the Dindigul Agreement to Eliminate Gender-based Violence and Harassment. *(More on this in the coming pages)*



How can you engage with BHR standards?

BHR standards focus on providing safe, equitable workplaces and providing workers and trade unions a legitimate role in addressing workplace injustices without the fear of retaliation.

Trade unions and labour rights NGOs can leverage the various BHR standards in several strategic ways:

1. Monitoring and Reporting

They can use BHR standards as benchmarks for assessing the labour and human rights performance of corporations. They can monitor business activities, identify violations, and report them through various mechanisms, including through national human rights protection agencies, labour bureaus/departments, and the complaint mechanisms under some of these BHR standards, like the OECD National Contact Point, and the ILO Committee on Freedom of Association.

2. Dialogue and Engagement

They can engage in constructive dialogue with businesses, governments, and other stakeholders, advocating for the adoption and implementation of policies and practices aligned with global and national BHR standards. This involves participating in multi-stakeholder initiatives, consultations, or engaging directly with companies through negotiations or collective bargaining.

3. Litigation and Legal Advocacy

In cases of severe labour and human rights violations where other avenues fail, trade unions and labour rights NGOs can use BHR standards to support legal action against companies to seek

remedies for affected individuals and communities.

4. Awareness and Advocacy

Both trade unions and labour rights NGOs can raise awareness among their members and the public about the BHR instruments, emphasising their significance in promoting corporate accountability and protecting labour and human rights. Most BHR standards recognise the importance of trade unions and collective bargaining agreements at the workplace, and can be important tools to push for greater social dialogue in the industrial and national levels.

We will learn more on all of this in the coming pages.

Terminology

Responsible Business Conduct (RBC)⁸

Responsible Business Conduct is a term introduced by the OECD. It states that all businesses – regardless of their legal status, size, ownership or sector – must avoid and address negative impacts of their operations, while contributing to sustainable development in the countries where they operate.

This includes promoting workers' rights and safe working conditions, preventing human trafficking, and addressing other human rights-related risks in their supply chains.



The evolution of BHR

BHR is the institutionalisation of corporate responsibility for labour and human rights in global policy and governance. It is an outcome of various efforts since the 1960s to address the rising power and influence of MNCs on the one hand and the decreasing State control over this process on the other. We look at the evolution of BHR next.

Recognising that human rights are for all

The large-scale atrocities committed during World War II were an inflexion point for the human rights movement. It led to the adoption of the Universal Declaration of Human Rights by the UN General Assembly in 1948. This was the first time a common standard was established for the protection of human rights of all people. **This Declaration became the foundation upon which the human rights dialogue expanded into other facets of everyday life, including in businesses and supply chains.**

Rising power and influence of MNCs

One of the other primary drivers for the evolution of BHR standards is the fact that businesses, especially MNCs, wield a phenomenal amount of power, often even influencing State actions and policies. As a result of an accelerated globalisation process, these entities oversee huge supply chains, sell products all over the world, and help shape international politics to their interests. Some of the largest MNCs have revenues significantly higher than the Gross Domestic Product (GDP) of many countries. Armed with economic, financial, and legal power and backed by political power, they are often considered to be 'too

big to fail!' In fact, public money has been used to save some of these entities during major economic crises.

Terminology

Binding versus Non-binding Agreements/Contracts

Binding agreements/contracts are legally enforceable and can lead to legal consequences if breached.

*For example, the **Bangladesh Accord on Fire and Safety** is a binding agreement between global brands, retailers, and trade unions designed to create safer garment factories in Bangladesh.*

Non-binding agreements are not legally enforceable and are just recommendations.

Terminology

Soft Law versus Hard Law⁹

The term soft law is used to denote agreements, principles, and declarations that are not legally binding. Soft law instruments are predominantly found in the international sphere. UN General Assembly resolutions are an example of a soft law.

Hard law refers generally to legal obligations that are binding on the parties involved and which can be legally enforced before a court.

Key differences between States and Businesses






The table below provides a simplified overview of the key differences between States and Businesses

	Territory	Interest	Governance
State	Has defined political boundaries	Primarily concerned with its own security and prosperity, as well as the welfare of its population	Governed by an established government
Business	Has the freedom to expand beyond State boundaries	Primarily concerned with maximizing profits for its investors and shareholders	Generally governed by privately elected bodies



Top 10 MNCs (market capitalisation) vs. 10 countries (GDP) in the world

The tables shows a crude comparison of the top 10 MNCs in the world, based on market capitalisation, and the top 10 countries in the world, as of March 2024

Rank	MNC Name (listed)	Market Capitalisation (US\$ billion)	Rank	Country	GDP 2024 estimates (US\$ billion)
1	 Microsoft	3,126.0	1	United States	26,949.6
2	Apple	2,647.0	2	China	17,700.9
3	NVIDIA	2,258.0	3	Germany	4,429.8
4	Saudi Aramco	1,991.0	4	Japan	4,230.9
5	Alphabet (Google)	1,885.0	5	India	3,732.2
6	Amazon	1,873.0	6	United Kingdom	3,332.1
7	Meta Platforms (Facebook)	1,237.0	7	 France	3,049.0
8	Berkshire Hathaway	909.3	8	 Italy	2,186.1
9	Eli Lilly	739.7	9	 Brazil	2,126.8
10	TSMC	705.7	10	 Canada	2,117.8

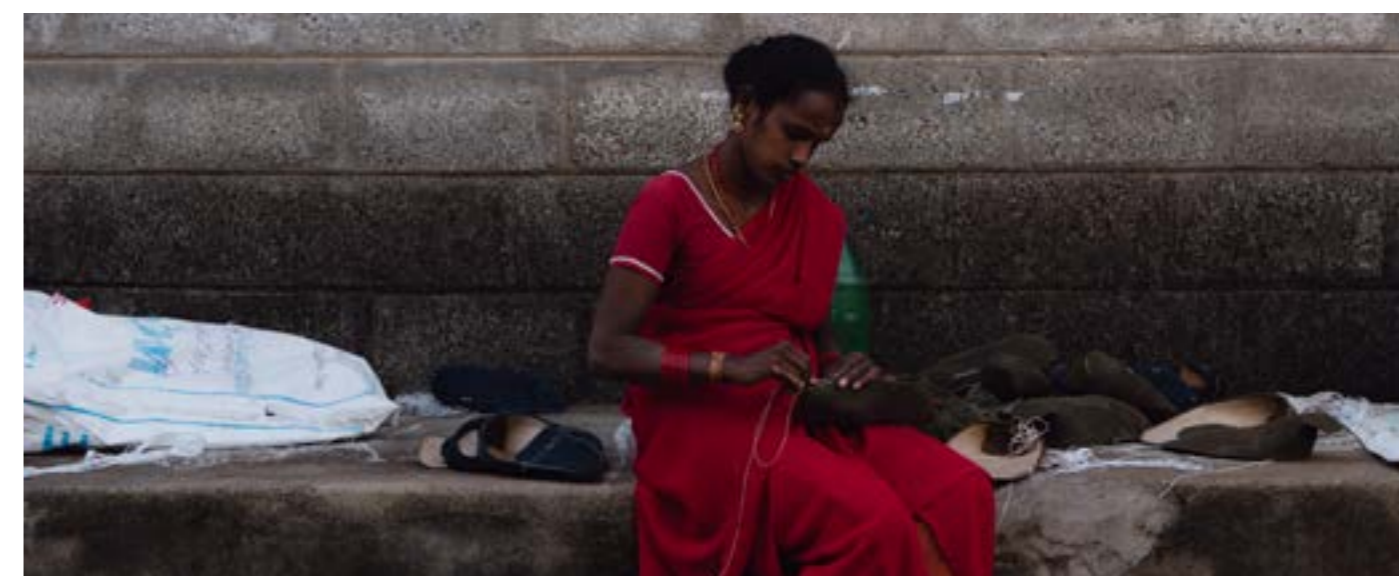
Source: CompaniesMarketCap¹⁰; CEO World¹¹

A crude comparison of the top 10 MNCs in the world, based on market capitalisation, and the top 10 countries in the world, based on GDP, just underscores how powerful some of these businesses are. **The leading MNC as of March 2024 was Microsoft, and it is worth more than the GDP of every country except the top six.**

The growing power of MNCs has been a matter of concern since the late 1960s and has attracted the call for creating systems that ensure they do not take advantage of their power.

Trade unions started being concerned about MNCs' interference with workers' organising rights and their practice of threatening to leave their countries to force down wages and working conditions in collective bargaining contexts. Developing countries in this context also started sharing proposals with the UN to put new conditions on foreign investments with respect to human rights, the environment, and industrial relations.

These efforts had varying impacts, with successes and failures running in tandem. The next page provides a few major examples of global BHR standards that developed as a result of these efforts, and the major incidents that shaped them.



Terminology

Corporate Accountability¹²

Corporate accountability refers to the responsibility of companies to answer for their actions, ensuring transparency, adherence to laws and ethical standards, and accepting consequences for any harm caused to stakeholders or the environment.

Terminology

Stakeholder¹³

An individual or a group concerned with or impacted by the activities of a business, now or in the future. Typically, stakeholders of a business include, but are not limited to, its investors/shareholders, employees (and their families), customers, communities, other business partners, regulators, civil society actors, and the media.

Timeline on major global developments on BHR (1970s - 2023)

Principles on responsible business conduct originate

1976

OECD Guidelines for Multinational Enterprises were introduced as non-binding guidelines on responsible business conduct. One of the main triggers for the development of the guidelines was the involvement of an American MNC in the coup against the democratically elected government in Chile. This put pressure on the United States and other "home country" OECD governments to halt abuses by their multinational firms in "host country" nations.

*The OECD Guidelines were **updated in 2011** to endorse and incorporate important elements of the UNGPs and were again revised in 2023.*

1977

The **Tripartite Declaration of Principles Concerning Multinational Enterprises and Social Policy (MNE Declaration)** was adopted by the ILO Governing Body, due to the same triggers as for the OECD Guidelines. *It was substantially amended in 2017, to address issues brought in by proliferation of global supply chains.*

1977

The **Sullivan Principles**, a set of voluntary principles, were developed with the aim of applying economic pressure on South Africa in protest of the Apartheid. It focused on changing the way MNCs operated in South Africa so that they no longer enabled the Apartheid regime.

1984

The **MacBride Principles** were launched as a corporate code of conduct for companies doing business in Northern Ireland to curb religious tensions at the workplace.

Increasing globalisation sees a rise in corporate abuse

1984

The **Bhopal Gas Tragedy** at the Union Carbide India Limited pesticide plant in Bhopal, India, killed more than 3,000 people through corporate negligence.

1991

Multiple reports exposed **rampant child labour in Nike's factories** in Cambodia and Pakistan.

1995

The **Nigerian military hanged Ken Saro-Wiwa** and eight others for protesting Shell's oil exploration operations in Nigeria, highlighting the risks to labour and human rights defenders.

1998

Massive protests were organised by trade unions, CSOs, and student unions during the **World Trade Organization (WTO) Ministerial Meeting in Seattle**. These protests were against the negative effects of globalisation, especially on poorer countries, and called for new ways of organising global trade.

International bodies recognise and make efforts to address corporate abuse

1998

The **ILO Declaration on Fundamental Principles and Rights at Work** was adopted. It provided internationally recognised standards for labour rights across sectors, covering areas such as freedom of association, forced labour, child labour, and discrimination in employment.

1998

The **UN issued the legally binding 'Draft Norms'** obligating businesses to respect, protect, and fulfil labour and human rights. It was ultimately not adopted due to pressure from employer lobbies.

1999

In place of the UN's Draft Norms, a non-binding initiative called the **UN Global Compact** was adopted. This initiative focused only on encouraging businesses to align their operations and strategies with human, labour, and environmental rights.

2011

The UN Global Compact had certain limitations that led the UN Human Rights Council to unanimously endorse the **United Nations Guiding Principles on Business and Human Rights (UNGPs)** after a decade of global negotiations.

Today, the UNGPs are universally recognized as the most authoritative global framework for preventing, addressing, and remedying corporate human and labor rights abuses. However, the UNGPs are "soft laws", as they are not legally binding on States and businesses.

Legally binding instruments start to emerge

2013

The collapse of the **Rana Plaza garment factory in Bangladesh** in 2013 claimed over 1,100 lives. It exposed, once again, the failure of voluntary guidelines to address corporate abuse and renewed calls for more binding regulations. Within a month of this tragedy, the **Bangladesh Accord on Fire and Safety became the first legally binding agreement signed by global fashion brands, retailers, and garment workers' unions in the Global South to create safer workplaces.**

2013-Present

During this time, countries in the Global North started to put in place laws mandating disclosures and human rights due diligence processes that extend through a company's operations and supply chain.

2023

Most recently, the European Parliament passed the **Corporate Sustainability Due Diligence Directive (CSDDD)**. This directive will set legal obligations for large EU and non-EU companies regarding their actual and potential adverse impacts on labour and human rights and the environment connected with their own operations, those of their subsidiaries, and those of their business partners.



Are BHR and CSR the same?

Corporate social responsibility (CSR) and BHR standards are both focused on companies engaging in a responsible manner with respect to human rights, communities, and the environment.

However, both concepts have key differences and distinct identities based on their origins. The table below shows some of the key differences between CSR and BHR.

Corporate Social Responsibility	Business and Human Rights
<p>CSR is a concept rooted in management and business scholarship, developed by business schools to contribute to societal well-being.</p>	<p>BHR is, by and large, rooted in legal scholarship focused on the notions of "rights" and "remedies" in the context of rising corporate abuses.</p>
<p>CSR is essentially voluntary in nature, coming from the belief that businesses, being a part of society, have certain responsibilities.</p>	<p>BHR has grown out of a quest for corporate accountability to mitigate or prevent the adverse impacts of business activity on individuals and communities. BHR is grounded in a core set of labour and human rights obligations for all actors, in particular for businesses and States.</p>
<p>CSR is based on self-guided decision-making by companies, rather than State-sponsored regulations.</p>	<p>BHR focuses on vulnerable stakeholders, including victims or impacted communities. It demands that their concerns be addressed through legally binding instruments, with the involvement of States.</p>
<p>CSR encourages companies to participate in wide-ranging activities – from corporate philanthropy to providing aid when States are unable to or fail to act – because this is seen as "good for business."</p>	<p>BHR focuses not only on the role of the private sector but also on the duty of States in enforcing respect for human and labour rights.</p>
<p>CSR can have varied meanings for different companies, and does not always refer to implementation of the ILO Core Conventions. Research has also shown that CSR in some cases has even led to the weakening of freedom of association and social dialogue in certain sectors.</p>	<p>Most global and Indian BHR standards recognise and recommend the implementation of the ILO Core Conventions, as an integral pathway for realisation of better working conditions. They also recognise the critical role of trade unions and social dialogue at the workplace.</p>

Through the Worker's Lens

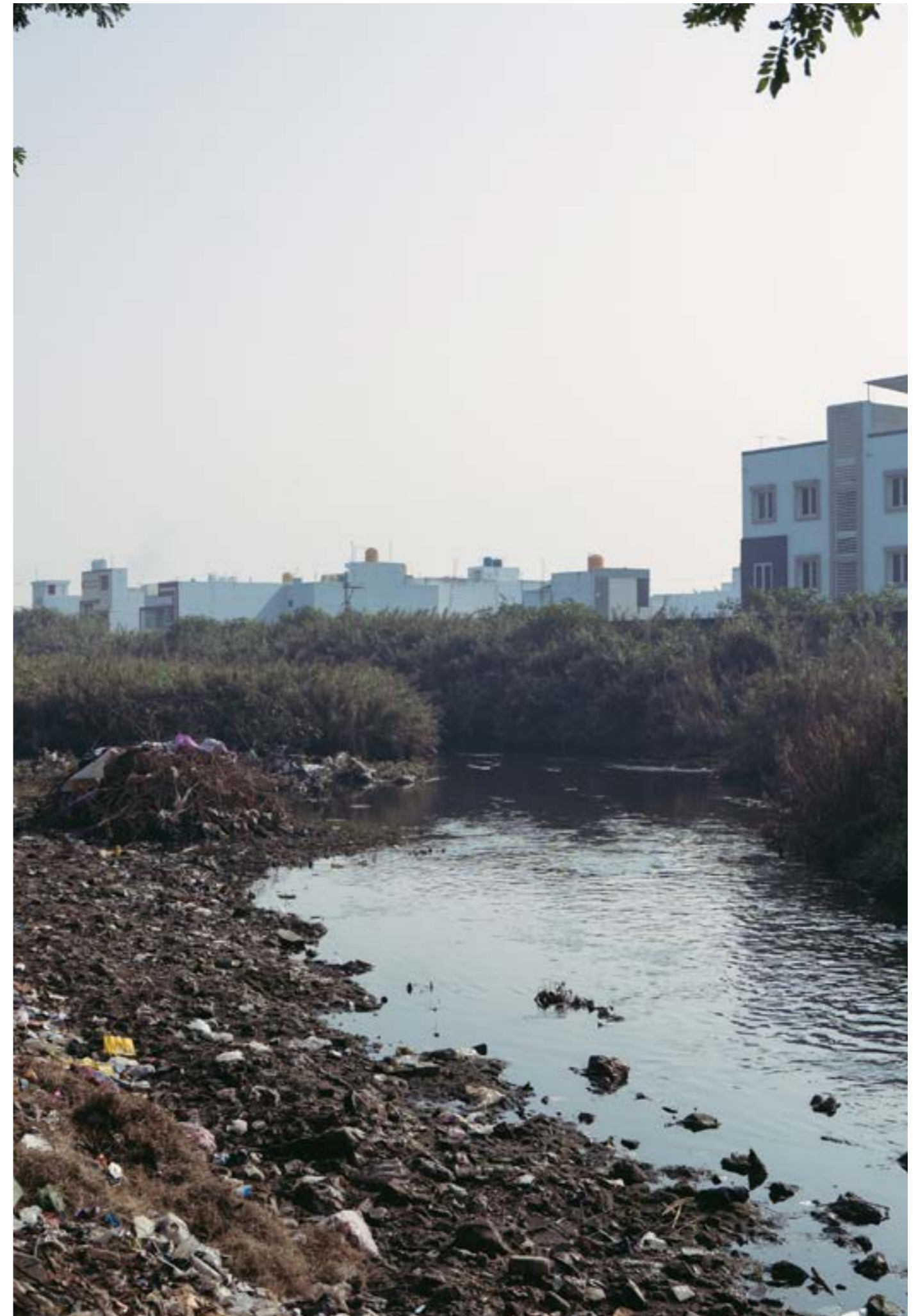
CSR versus BHR

Q: Children who swim in the local river next to a textile dyeing factory start getting sick from the factory's effluents polluting the water. The factory addresses the pollution problem and provides medical treatment. Is this CSR or BHR?

A: This is **BHR**. Here, the factory is responsible for the problem as the pollution stems from its own activities. Moreover, the factory is likely to be breaching the pollution prevention laws and policies of the State.

Q: COVID-19 is rapidly spreading in the region where your factory is situated. The factory decides to provide PPEs, food kits, and masks to people in all surrounding villages. Is this CSR or BHR?

A: This is **CSR**. Here, the factory is demonstrating it cares for the well-being of the community around it. Unless the factory has caused, contributed, or is linked to the infection, the provision of food and PPEs is a voluntary action and is thus an example of CSR work.



Global BHR Standards are Derived from the ILO Core Conventions

This section covers internationally recognised BHR standards like:

- ILO Tripartite Declaration of Principles Concerning Multinational Enterprises and Social Policy (MNE Declaration)
- UN Global Compact
- UN Guiding Principles on Business and Human Rights (UNGPs)
- OECD Guidelines for Multinational Enterprises on Responsible Business Conduct (OECD Guideline for MNEs)

It also elaborates how international labour standards, as enshrined in the ILO Declaration on Fundamental Principles and Rights at Work, are an integral part of these global BHR standards.

Where the global labour standards come from

The International Labour Organization (ILO) is the United Nations agency that was established for the purpose of setting international labour standards. The ILO has a tripartite structure and is governed by representatives of governments, employers, and workers.

Increasing concerns about the social impact of globalisation led the members of the ILO to recognise in 1995 that there were **four categories of labour principles and rights, expressed in eight conventions (the so-called "core conventions")**, that should be considered as fundamental because they protect basic workers' rights.

These were adopted in 1998 as the ILO Declaration on Fundamental Principles and Rights at Work¹⁴. **In 2022, it was amended to include one more category.**

These five categories of labour principles and rights are:

- **Freedom of association and the effective recognition of the right to collective bargaining**
- **The elimination of all forms of forced or compulsory labour**
- **The effective abolition of child labour**
- **The elimination of discrimination in respect of employment and occupation**
- **A safe and healthy working environment**

The ILO Declaration on Fundamental Principles and Rights at Work affirms that all ILO member States, even if they have not ratified the Conventions in question, have an obligation arising from the very fact of membership to respect, to promote, and to realise the principles concerning the fundamental rights that are the subject of those Conventions.

Global BHR standards derive their labour principles from ILO Conventions and Recommendations, which set international labour standards on a broad range of subjects related to the world of work, including human rights at work, occupational safety and health, employment policy, and human resources development.

Terminology

Ratification¹⁵

Ratification is the act of a Member State of the ILO expressing their intention to enforce the standards specified in a particular international labour Convention adopted by the ILO. Ratified standards must be applied in law and in practice.

Terminology

Social Dialogue

Social dialogue is a process of clear communications, open consultation, and/or fair negotiations between employers and workers (and government, where relevant). The ILO defines social dialogue as "all types of negotiation, consultation or simply exchange of information between, or among, representatives of governments, employers and workers, on issues of common interest relating to economic and social policy."

The ILO Declaration expresses the five basic rights through the 11 Conventions¹⁷, as indicated in the table below:

Basic Right	Relevant Core Convention
Freedom of association or FOA	<ul style="list-style-type: none"> • Freedom of Association and Protection of the Right to Organise Convention, 1948 (C087) • Right to Organise and Collective Bargaining Convention, 1949 (C098)
Elimination of forced labour	<ul style="list-style-type: none"> • Forced Labour Convention, 1930 (C029) • Protocol of 2014 to the Forced Labour Convention, 1930 (P029) • Abolition of Forced Labour Convention, 1957 (C105)
Abolition of child labour	<ul style="list-style-type: none"> • Minimum Age Convention, 1973 (C138) • Worst Forms of Child Labour Convention, 1999 (C182)
Elimination of discrimination	<ul style="list-style-type: none"> • Equal Remuneration Convention, 1951 (C100) • Discrimination (Employment and Occupation) Convention, 1958 (C111)
Occupational safety and health	<ul style="list-style-type: none"> • Occupational Safety and Health Convention, 1981 (C155) • Promotional Framework for Occupational Safety and Health Convention, 2006 (C187)

ILO Conventions are international treaties which, upon ratification by a member State, become an obligation that are transposed into national legislation which ultimately binds companies' operations. Companies must respect national law in their efforts to advance the labour principles. Although only member States ratify conventions, the conventions and recommendations contain principles and valuable guidance that may also be relevant to trade unions

and labour rights NGOs seeking to improve workplace practices.

Even though India has not ratified C087, C098, C155, and C187¹⁶ (see table above), the State is still bound to implement these Conventions just by being a member of the ILO because these are core Conventions. The seven other Conventions in the ILO Declaration have been ratified by India.

Through the Worker's Lens

Q: Can complaints be filed with the ILO by trade unions for violations of Freedom of Association (FOA) at the workplace?

A: Yes.

The Committee on Freedom of Association (CFA) under the ILO accepts complaints alleging violation of FOA and collective bargaining against a government, whether the country concerned has ratified the relevant Conventions or not. The complaints must be from legally recognised trade unions or worker organisations. They generally take nine or more months to be addressed. However, complaints cannot be raised against business entities.



The ILO Tripartite Declaration of Principles Concerning Multinational Enterprises and Social Policy (MNE Declaration)

The MNE Declaration is the only authoritative global BHR standard that was elaborated and adopted in a tripartite way: by governments, representatives of workers' organisations, and representatives of employers' organisations at the ILO. It was adopted by the ILO Governing Body in 1977.

The MNE Declaration is also the only ILO instrument that provides direct guidance on how companies can contribute to the realisation of decent work for all and highlights the central role of FOA and collective bargaining as well as industrial relations and social dialogue.

For example, Paragraph 52 of the MNE Declaration¹⁸ establishes that *"where governments of host countries offer special incentives to attract foreign investment, these incentives should not include any limitation of the workers' freedom of association or the right to organise and bargain collectively."*

The MNE Declaration is a summary of how the principles contained in the ILO Conventions and Recommendations apply to the operations of enterprises. It clarifies that although ILO standards are intended to apply to governments, the principles underlying these instruments apply to businesses as well. Businesses have the responsibility to respect labour and human rights within their own operations and within their global supply chains.

Although the MNE Declaration is "non-binding," it is universally applicable to all member States of the ILO and all

businesses. The MNE Declaration also defines the roles and responsibilities of governments in achieving inclusive growth and decent work for all.

Terminology

Global Union Federation (GUF)

A GUF is an international federation of national trade unions organising in a specific industry or sector or occupational group.

Terminology

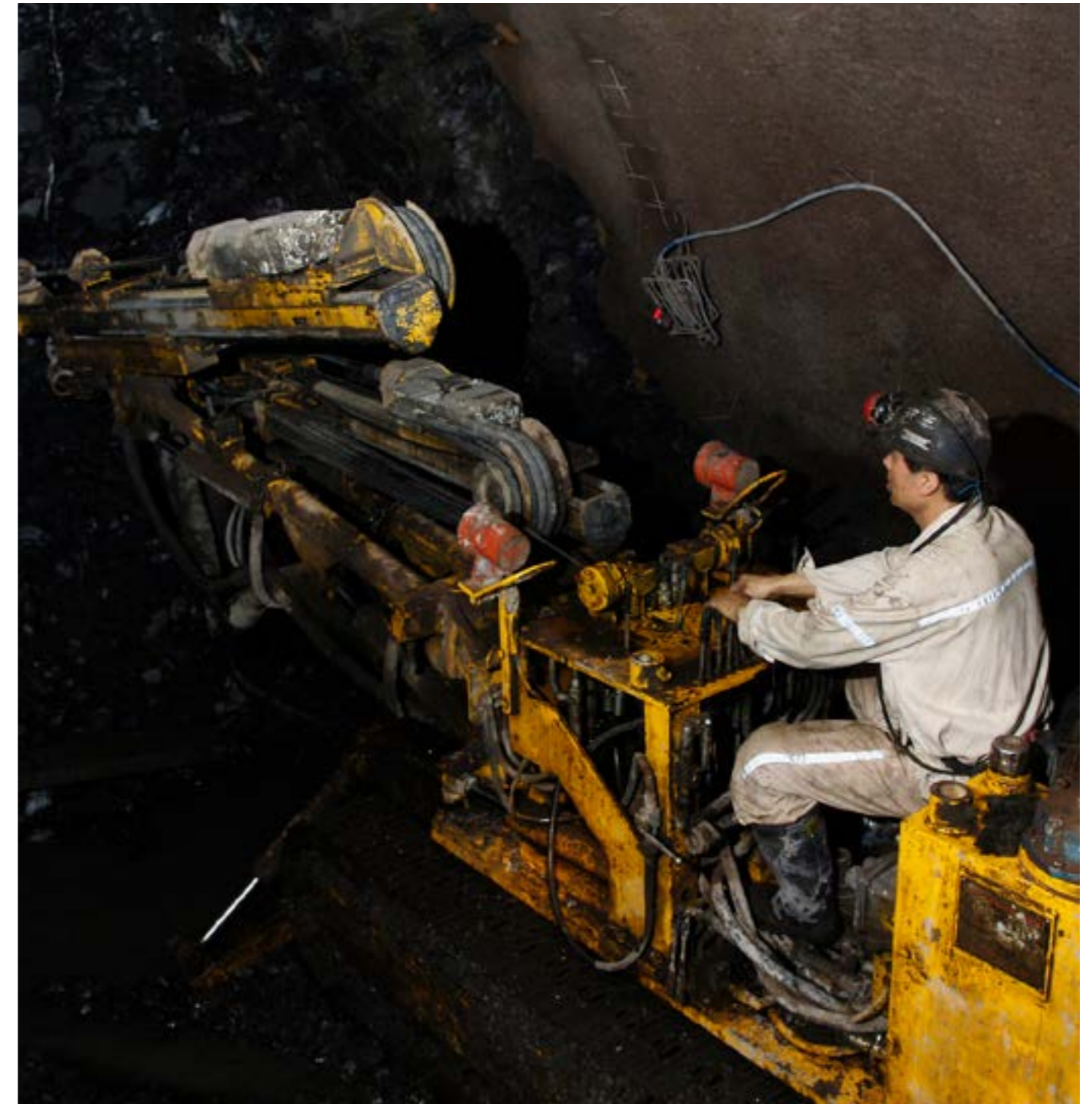
Decent Work²⁰

The ILO recognises four core pillars as part of "decent work", i.e., employment that respects the fundamental rights of a human being and a worker. The four pillars are:

1. Full and productive employment
2. Rights at work
3. Social protection
4. Promotion of social dialogue

Many of the Global Framework Agreements (GFAs) signed between MNCs and Global Union Federations (GUFs) refer to the MNE Declaration for guidance and MNCs affirm in the agreements their commitment to the principles of the Declaration.

For example, in a fight for permanent employment contracts at a Unilever factory in Pakistan, the GUF, International Union of Food, Agricultural, Hotel, Restaurant, Catering, Tobacco and Allied Workers' Associations (IUFA), used several instruments, including a reference to the MNE Declaration.¹⁹ After a successful campaign, comprehensive agreements were reached with the company. Hundreds of casual workers at the Khanewal and Rahim Yar Khan factories received permanent employment contracts.



The UN Global Compact

The **United Nations Global Compact** is a non-binding UN pact launched in 2000 to get businesses worldwide to voluntarily adopt sustainable and socially responsible policies, and to report on their implementation.

The UN Global Compact is the world's largest corporate sustainability and corporate social responsibility initiative. It has more than 20,000 business participants across sectors of varying size, from MNCs to small companies in the Global South. Participants include H&M, Inditex, Nike, Ikea, Samsung India, IBS Software, and many others.

All businesses that are part of the UN Global Compact are expected to adopt the Ten Principles of the UN Global Compact into their strategies, policies, and operational procedures. The Ten Principles are on the next page.

Endorsing companies pledge to:

- Publicly advocate the Compact in their mission statements, annual reports, and other public statements

- Post, at least once a year, specific examples of progress they have made or lessons they have learned in putting the principles into practice
- Work with the UN in partnership projects, either at the policy or at the operational level

The Ten Principles of the United Nations Global Compact are derived from:

- The Universal Declaration of Human Rights²¹
- The International Labour Organization's Declaration on Fundamental Principles and Rights at Work²²
- The Rio Declaration on Environment and Development
- The United Nations Convention Against Corruption²³



Ten Principles of the UN Global Compact

Human Rights Principles

- Principle 01** Businesses should support and respect the protection of internationally proclaimed human rights.
- Principle 02** Businesses should ensure that their own operations are not complicit in human rights abuses.

Labour Principles

- Principle 03** Businesses should uphold the freedom of association and the effective recognition of the right to collective bargaining.
- Principle 04** Businesses should uphold the elimination of forced or compulsory labour.
- Principle 05** Businesses should uphold the effective abolition of child labour.
- Principle 06** Businesses should uphold the elimination of discrimination in respect of employment and occupation.

Environment Principles

- Principle 07** Businesses should support a precautionary approach to environmental challenges.
- Principle 08** Businesses should undertake initiatives to promote greater environmental responsibility.
- Principle 09** Businesses should encourage the development and diffusion of environmentally friendly technologies.

Anti-Corruption Principle

- Principle 10** Businesses should work against all forms of corruption, including extortion and bribery.

Labor Principles of the Global Compact are derived from the ILO Core Conventions

The table below highlights how the labour principles of the Global Compact incorporate the ILO Declaration on Fundamental Principles and Rights at Work.

ILO Declaration on Fundamental Principles and Rights at Work	Global Compact
Freedom of association and the effective recognition of the right to collective bargaining	Businesses should uphold the freedom of association and the effective recognition of the right to collective bargaining.
The elimination of all forms of forced or compulsory labour	Businesses should uphold the elimination of forced or compulsory labour.
The effective abolition of child labour	Businesses should uphold the effective abolition of child labour.
The elimination of discrimination in respect of employment and occupation	Businesses should uphold the elimination of discrimination in respect of employment and occupation.

The signatories of the UN Global Compact can be found in their official website.

For companies that are signatories of the UN Global Compact, trade unions and labour rights NGOs can refer to the four labour principles of the Compact and utilise them as tools to engage in social dialogue on responsible business practices.



United Nations Guiding Principles on Business and Human Rights (UNGPs)

Unanimously endorsed by the United Nations Human Rights Council in 2011, the UNGPs are widely recognised as the **world's most authoritative normative framework for addressing the adverse impacts of business operations.**

The UNGPs outline the shared but distinct responsibility on States and businesses for addressing labour and human rights concerns. The 31 UNGPs are divided into the following three "Pillars":

Pillar 1 : Protect

Pillar 2 : Respect

Pillar 3 : Remedy

(More about these on the next page)

Many experts cite the emergence of the UNGPs as the most important development driving responsible business practices over the last two decades. However, the UNGPs do not introduce new laws or regulations. Instead, the UNGPs provide minimum standards, inclusive approaches, and a well-structured approach towards the assessment and management of labour and human rights risks and abuses.

In 2014, the United Nations Human Rights Council called on all member States to develop a National Action Plan (NAP) to support implementation of the UNGPs. The NAP is defined as an "evolving policy strategy developed by a State to protect against adverse human rights impacts by business enterprises in conformity with the UNGPs."²⁴ India is currently in the process of developing its own NAP and the Government of India released a zero draft in 2019.²⁵



Understanding the Pillars of the UNGPs

Source: UNDP²⁶

Pillar 1: Protect

Principles 1 to 10

The State's Duty to Protect

Pillar 1 specifies the State's duty to protect human rights in the context of business operations. This requires States to set clear expectations for companies by enacting effective policies, legislation, and regulations. In doing so, States establish that appropriate steps are in place to prevent, investigate, punish, and redress adverse human rights impacts.

Pillar 2: Respect

Principles 11 to 24

The Corporate Responsibility to Respect

Pillar 2 outlines how businesses can identify their negative human rights impact and demonstrate that they have adequate policies and procedures to address them. Businesses should institute a policy commitment to meet this responsibility. Businesses should also undertake ongoing human rights due diligence to identify, prevent, and mitigate human rights abuses. Finally, businesses should enable remediation mechanisms for the negative impacts they have caused or contributed to.

Pillar 3: Remedy

Principles 25 to 31

Access to Remedy

Pillar 3 stipulates that when a right is violated, victims must have access to effective remedies which are legitimate, accessible, predictable, equitable, transparent, and rights compatible. Pillar 3 sets out criteria for effectiveness of judicial and non-judicial grievance mechanisms implemented by both States and businesses. Further, Pillar 3 underlines the expectation that operational-level mechanisms should be based on genuine engagement and dialogue with the stakeholder groups whose rights they seek to remedy.



UNGPs reference ILO Core Conventions and the MNE Declaration

1. **The UNGPs in Principle No 12 explicitly refer to the ILO Fundamental Conventions,** "...internationally recognized human rights – understood, at a minimum, as those expressed in the International Bill of Human Rights and the principles concerning fundamental rights set out in the International Labour Organization's Declaration on Fundamental Principles and Rights at Work..."
2. The UNGPs cite the ILO MNE Declaration as a prominent example of a unique instrument enshrining the corporate responsibility to respect labour and human rights.
3. Many of the existing NAPs identify the ratification and effective application of international labour standards in national law. They also identify access to judicial remedy as a key means to provide sufficient protections for labour rights, as part of the State's duty to protect against labour and human rights abuses in business. Additionally, a number of NAPs specifically highlight the role of the MNE Declaration in guiding the achievement of their objectives.

Examples are given below:

"The Government will implement its labour policy in order to respect, promote, and realise the fundamental principles and rights at work as envisaged in the ILO 1998 Declaration [ILO Declaration on Fundamental Principles and Rights at Work], and will make continuous efforts to achieving decent work including work-life balance that

contributes to the promotion of women's participation and advancement. [...] The Government will make continued and sustained effort towards the ratification of the fundamental ILO Conventions and other ILO Conventions which it considers appropriate to ratify."

- National Action Plan on Business and Human Rights (2020-2025). Japan, 2020.

"Denmark works to ensure that companies involved in Danish development cooperation respect human rights and act responsibly within the areas of worker's rights, human rights, environment, and anti-corruption within the framework of ILO Conventions..."

- Danish National Action Plan. Implementation of the UN Guiding Principles on Business and Human Rights. Denmark, 2014.

Through the Worker's Lens

Q: How can trade unions utilise the UNGPs?

A: Although the UNGPs are "non-binding," it is universally applicable to all member States of the UN and all enterprises. This means that it is not necessary for a company to "sign" the UNGPs before it can be used.

The UNGPs reaffirm the importance of the implementation of the ILO Core Conventions. It establishes the key elements of responsible business conduct that are expected from companies to fulfil their responsibility to respect the rights of workers under national and international law.

Additionally, under the UNGPs, governments are also encouraged to create National Action Plans in consultation with rights-holders and businesses. Trade unions can be part of these discussions and advocate for the UNGPs to be reflected in national laws and company policies.

Trade unions and workers can also use the UNGPs and their authority as a reference point in discussions and disputes with governments and businesses as well as in public campaigns.



Sustainable Development Goals and Labour Rights

The 2030 Agenda for Sustainable Development²⁷ was launched at the 2015 UN Sustainable Development Summit held in New York. This agenda, with its 17 Sustainable Development Goals (SDGs), envisages *“a world of universal respect for human rights and human dignity, the rule of law, justice, equality, and non-discrimination.”*

A significant driver to achieving the SDG goals is sustained and inclusive economic growth. This is possible only through the creation of decent jobs for all and improved living standards, as stated in the ILO’s Decent Work Agenda and explicitly highlighted in SDG 8.

The strategic objectives of decent work – employment, social protection, rights and standards, and social dialogue – are also reflected in SDGs 1, 3, 4, 5, 8, 10, 12, and 16.

Under SDG 8, the specific targets for countries include promoting decent work creation, eradicating forced labour and child labour, and achieving full and productive employment for all people, everywhere. These targets also reflect the ILO Core Conventions.

India has played an important part in the development of the SDGs and is seen as a critical player in achieving the global SDG targets. **The implementation of the UNGPs and the ILO Core Conventions are integral if India wants to achieve its SDG targets by 2030.** NITI Aayog, the Government of India’s apex think tank, is the nodal institution for achieving SDGs in India. It monitors India’s progress at national and sub-national levels through various mechanisms like the **SDG India Index and Dashboard²⁸** and **National Multidimensional Poverty Index²⁹**.



OECD Guidelines for MNEs on Responsible Business Conduct

The OECD Guidelines provide principles and standards for responsible business conduct for MNCs operating in or from countries adhering to the OECD Declaration³⁰. The Guidelines are recommendations from governments to companies on how to act responsibly on matters that affect workers, local communities, and the environment.

The Guidelines are legally non-binding on businesses, and did not speak specifically about human rights issues until the launch of the UNGPs in 2011.

However, today, the OECD Guidelines cover:

- **Human rights**
- **Employment and industrial relations**
- **Environment**
- **Bribery and other forms of corruption**
- **Consumer interests**

- **Science, technology and innovation**
- **Competition**
- **Taxation**

OECD Guidelines reference ILO Core Conventions

The Employment and Industrial Relations Chapter of the Guidelines is fully aligned with the ILO Declaration on Fundamental Principles and Rights at Work.

The table on the following page highlights how the OECD Guidelines incorporate the ILO Declaration on Fundamental Principles and Rights at Work.



ILO Declaration on Fundamental Principles and Rights at Work in OECD Guidelines

ILO Declaration on Fundamental Principles and Rights at Work	OECD Guidelines
Freedom of association and the effective recognition of the right to collective bargaining	Enterprises should respect the right of workers to establish or join trade unions and organisations of their own choosing, including for the purpose of collective bargaining and negotiations.
The elimination of all forms of forced or compulsory labour	Enterprises should contribute to the elimination of all forms of forced or compulsory labour.
The effective abolition of child labour	Enterprises should contribute to the effective abolition of child labour.
The elimination of discrimination in respect of employment and occupation	Enterprises should be guided by the principle of equality of opportunity and treatment.
A safe and healthy working environment	Enterprises should provide a safe and healthy working environment.

On matters related to human rights, the OECD Guidelines essentially mirror the UNGPs, though the OECD Guidelines provide less detailed prescriptions and instructions. Further, the OECD Guidelines provide for a State-based non-judicial mechanism to handle allegations of non-compliance. These mechanisms are called the **National Contact Points (NCPs)**; these too are aligned with the provisions of Pillar 3 of the UNGPs.

Workers, NGOs, and trade unions around the world have used the NCPs to seek compensation and other forms of remedy for harms from business activity, and to stop harmful corporate activities from going forward.

NCPs are not courts – participation in the process is voluntary for companies and the NCP does not have the authority to order any remedial measure. However, the **NCP will try to facilitate an agreement between the complaint submitter and the company through non-adversarial methods**, such as mediation or conciliation.

For example, UNI Global Union, a GUF, filed a complaint at the UK NCP stating that the global security firm Group4Securicor (G4S) was violating national laws and driving down standards in several different countries, including Mozambique, Israel, Uganda, Malawi, Germany, Panama, and Uruguay, as well as in the US through its Wackenhut subsidiary.³¹

The alleged failures included non-payment of entitlements, including overtime; harassment and firing of trade unionists; and a refusal to recognise trade unions. In December 2008, under the auspices of the mediation process launched by the UK NCP, G4S and UNI Global Union reached an agreement on the resolution

of this case. Through the agreement, G4S recognised the important role that unions play in representing employees' interests and recognised UNI Global Union as its global partner. The UK NCP also issued a statement citing G4S's reaffirmation of its ongoing commitment to honour and respect national law and to respect the ILO core labour conventions, including the rights to FOA and collective bargaining.

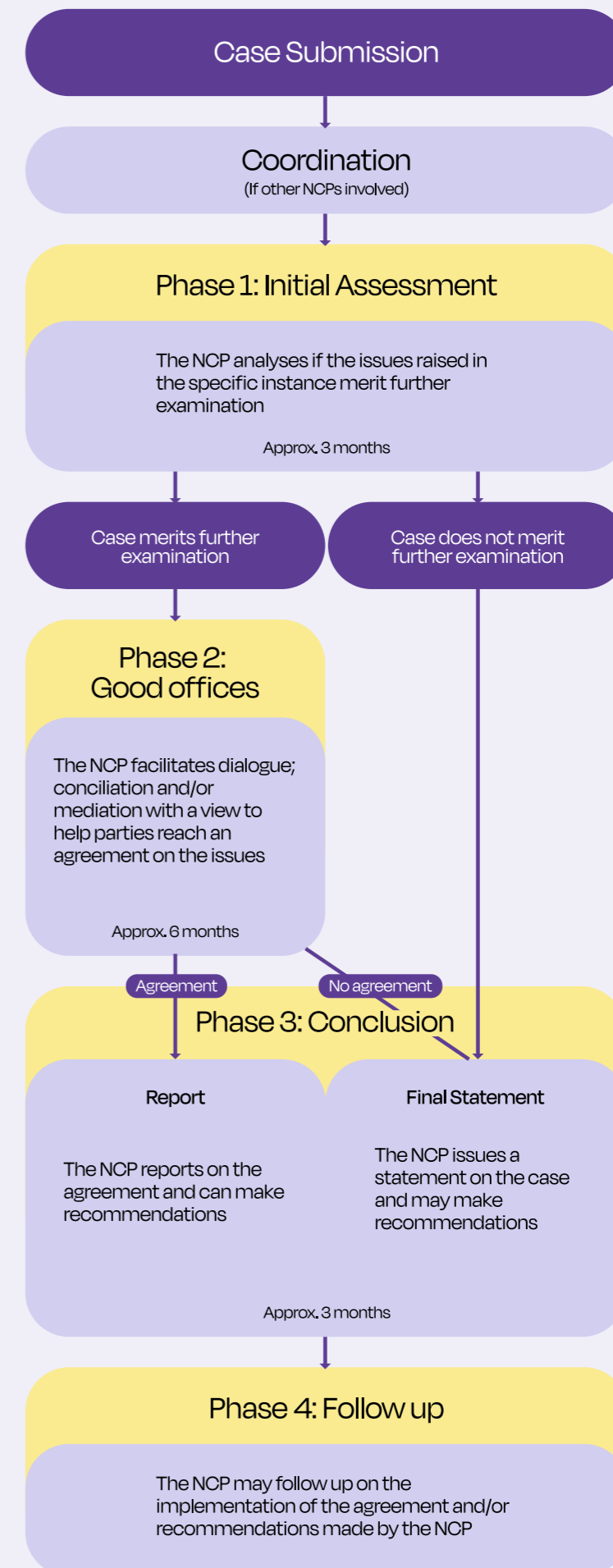
However, it is important to note that NCPs across OECD countries have not shown the same consistent performance in other cases with regard to case handlings, procedures, and other communications with stakeholders.³² This has led to varied levels of confidence among CSOs and trade unions with regard to the NCPs in different OECD countries.

Companies with headquarters in OECD countries but with operations in India, which is not an OECD country, can be held liable for labour and human rights violations through the NCP mechanism.

Further Resources

You can find more about complaints filed by Indian organisations with the OECD on the OECD Watch: <https://www.oecdwatch.org/country/india/>

Representation of the stages of the NCP Complaint Process



Through the Worker's Lens

Q: How can I file a complaint under the OECD Guidelines?

A: To file a complaint, you can visit the **OECD Watch website** (<https://www.oecdwatch.org/how-to-file-a-complaint/>). There, you'll find guidance on the complaint process and information on previous complaints to help you understand how it works.

Q: What risks does a company face when a trade union files a complaint at the NCP?

A: Filing a complaint could lead to legal risks, especially if it's used to gather information for future legal actions. It can also harm the company's reputation and might affect their financing, as some financial institutions and government trade assistance shy away from projects with complaints.



OECD Human Rights Due Diligence Guidance per Sector

Human rights due diligence (HRDD) is an essential element of international responsible business conduct and is a key theme of the UNGPs and the OECD Guidelines.

According to the OECD, HRDD is the continuous process through which enterprises identify risks relating to human rights, labour rights, and the environment with a view to ending, preventing, or mitigating those risks.³³

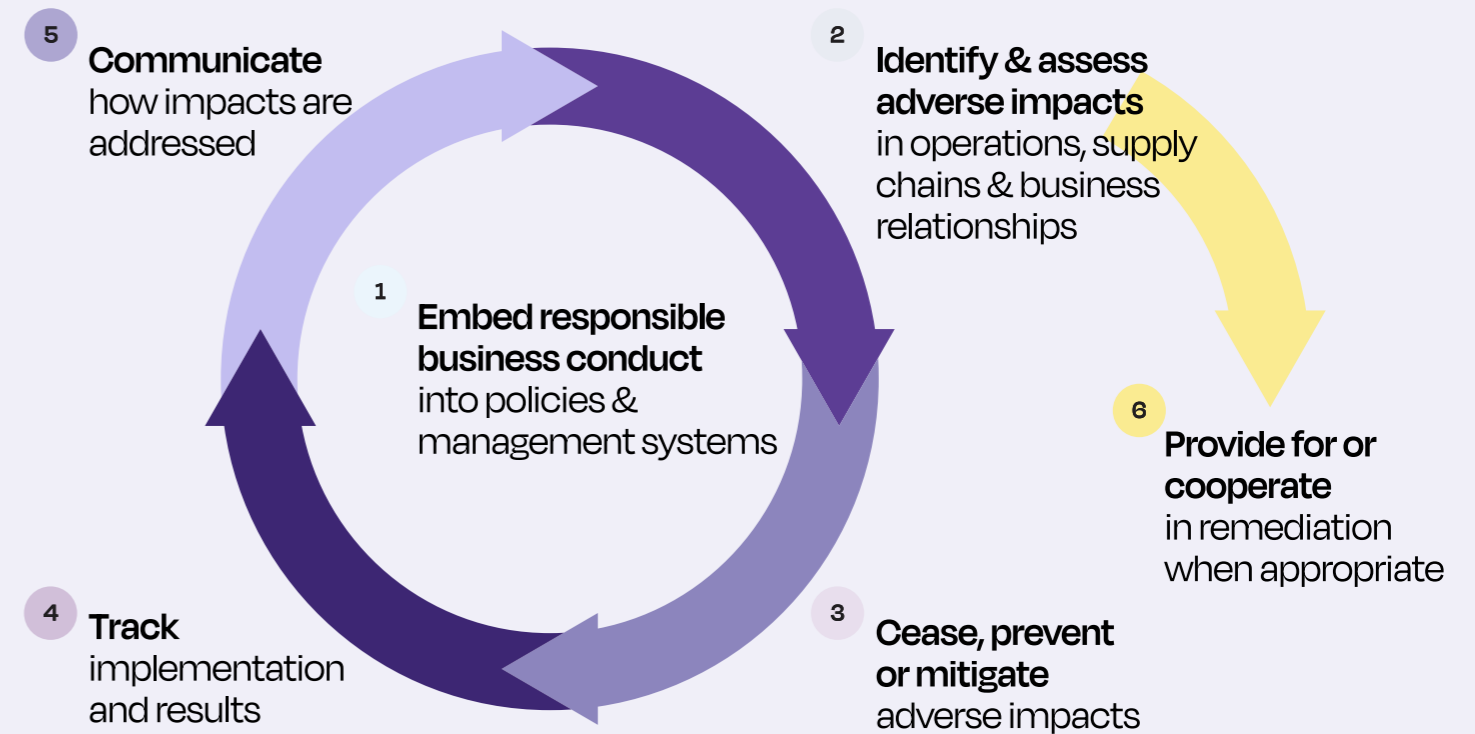
Mandatory human rights due diligence (mHRDD) refers to the worldwide effort to legally require companies to undertake HRDD across their supply chain.

For example, the Corporate Sustainability Due Diligence Directive (CSDDD), passed by the EU in 2023, is a form of mHRDD. This is because it legally requires companies to conduct HRDD not just on their own operations, but also on the activities of their subsidiaries and other entities in their value chains they have direct and indirect business relationships with.



<p>Corporate due diligence focuses on reducing and managing risks to the company by factors in society (for example, in the context of corporate mergers or acquisitions).</p> <p>Key areas of focus in corporate due diligence may include financial records, contracts, intellectual property, regulatory compliance, and overall business performance.</p>	<p>HRDD is concerned with reducing and managing risks caused by a company to society.</p> <p>HRDD was introduced by the UN 'Protect, Respect and Remedy' Framework and elaborated by the UNGPs.</p> <p>Key areas of focus in HRDD may include labor practices, working conditions, community relations, and the impacts of products or services on human rights.</p>
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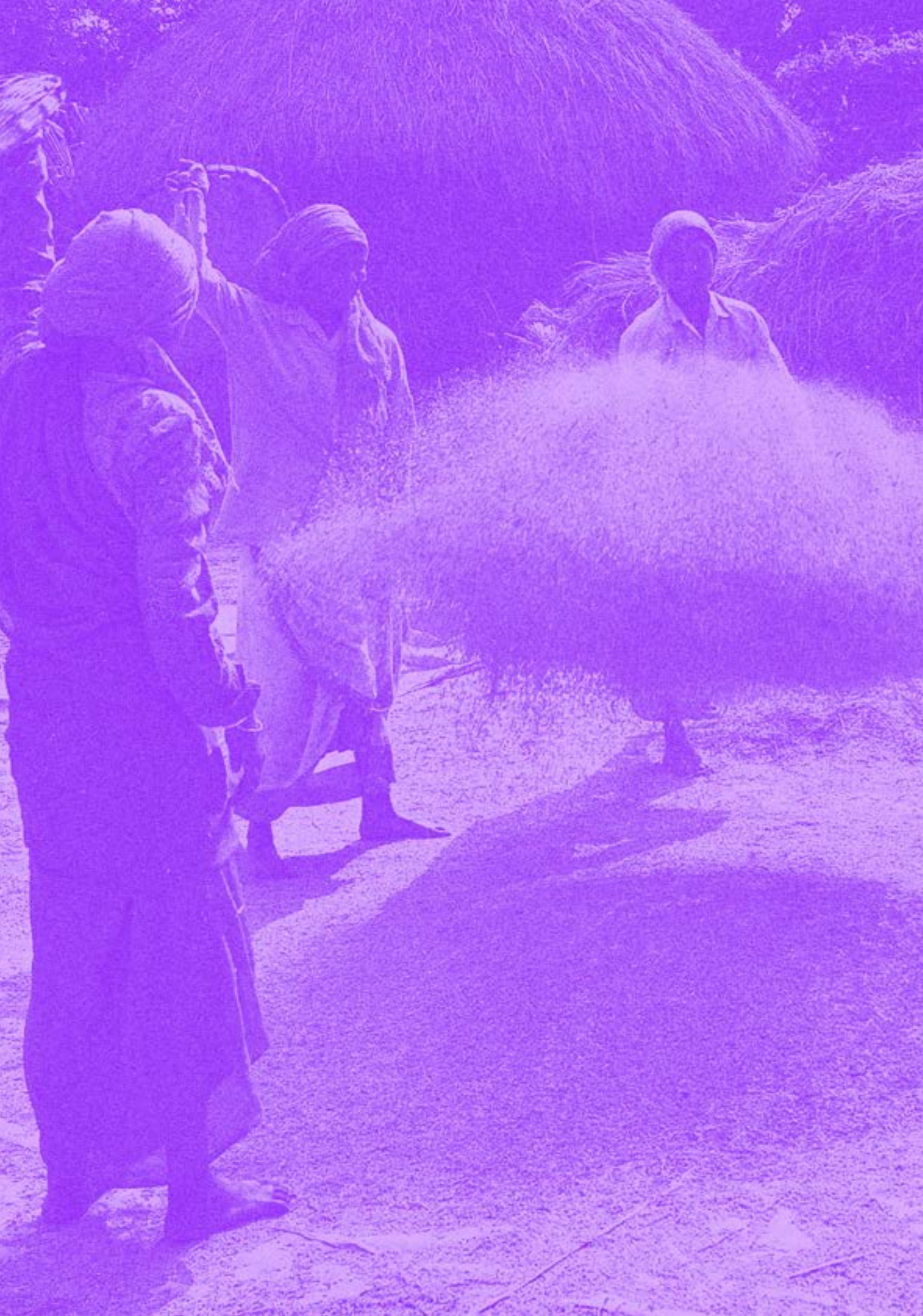
According to the OECD Guidelines, due diligence by companies has six stages



In addition to the OECD Due Diligence Guidance, the OECD has also developed the following sectoral Guidance. These documents can help trade unions and labour rights CSOs to develop common understandings with businesses and other stakeholders on HRDD for responsible business conduct in their specific sectors:

Who this is for	Guidance document
Institutional investors	Responsible Business Conduct for Institutional Investors (https://mneguidelines.oecd.org/RBC-for-Institutional-Investors.pdf)
Extractive industries like mining, oil & gas, forestry	OECD Due Diligence Guidance for Meaningful Stakeholder Engagement in the Extractive Sector (https://mneguidelines.oecd.org/OECD-Guidance-Extractives-Sector-Stakeholder-Engagement.pdf)
Garment and footwear	OECD Due Diligence Guidance for Responsible Supply Chains in the Garment and Footwear Sector (https://mneguidelines.oecd.org/oecd-due-diligence-guidance-garment-footwear.pdf)
Agriculture	OECD-FAO Guidance for Responsible Agricultural Supply Chains (https://mneguidelines.oecd.org/oecd-due-diligence-guidance-garment-footwear.pdf)
Minerals sector; any company sourcing minerals or metals	OECD Due Diligence Guidance for Responsible Supply Chains of Minerals from Conflict-Affected and High-Risk Areas (https://www.oecd.org/daf/inv/mne/OECD-Due-Diligence-Guidance-Minerals-Edition3.pdf)
	Practical Actions for Companies to Identify and Address the Worst Forms of Child Labour in Mineral Supply Chains (https://mneguidelines.oecd.org/Practical-actions-for-worst-forms-of-child-labour-mining-sector.pdf)





Part III

India and BHR

This section covers:

- India's journey in responsible business conduct
- National Guidelines on Responsible Business Conduct (NGRBC) and its key principles
- Business Responsibility and Sustainability Reporting (BRSR) framework

India has ratified several international human rights instruments that impose explicit or implicit obligations on the government to ensure that businesses operating within its territory or jurisdiction do not violate human and labour rights.

The Indian government has ratified the two conventions that are part of the International Bill of Rights – the **International Covenant on Civil and Political Rights (ICCPR)** and the **International Convention on Economic, Social and Cultural Rights (ICESCR)**. It also has ratified several other core international human rights instruments, including:

- The International Convention on the Elimination of All Forms of Racial Discrimination, 1965
- The Convention on the Elimination of All Forms of Discrimination against Women, 1979 (CEDAW)
- The Convention on the Rights of the Child, 1989
- The Convention on the Rights of Persons with Disabilities, 2006 (CRPD)

India is also a founder member of the International Labour Organization, and has ratified 47 ILO Conventions and 1 Protocol, of which 38 ILO Conventions are currently in force.³⁴ However, it is important to note that India has not ratified four ILO Core Conventions (C087, C098, C155, and C187). Nevertheless, the State is still bound to implement these Conventions just by being a member of the ILO because these are core Conventions.

Additionally, developing a national BHR framework and policies has been consistent with the mandate flowing from Article 51 of the Constitution, which says that the State “shall endeavour to ... foster respect for international law.”

Further Resources

In February 2019, India published a zero draft National Action Plan (NAP) on Business and Human Rights. The zero draft can be accessed here : <https://globalnaps.org/country/india/>

Terminology

Non-financial Reporting and Sustainability Reporting³⁵

Non-financial reporting is a form of transparency reporting wherein businesses formally disclose certain information not related to their finances, which gives stakeholders an understanding of the value creation by the company beyond its financial statements.³⁶

Sustainability reporting is a form of non-financial reporting wherein companies convey their progress toward goals on a variety of sustainability parameters, including environmental, social, and governance metrics, as well as risks and impacts they may face, at the moment or in the future.

Some of the more widely used frameworks for sustainability reporting globally are the Global Reporting Initiative (GRI), Sustainability Accounting Standards Board (SASB), Task Force on Climate-related Financial Disclosures (TCFD), and Carbon Disclosure Project (CDP).

India's BHR journey started with a tragedy

The evolution of laws and policies on BHR in India have not been a straightforward process. They came into existence as the direct and indirect reactions to the tremendous struggles by individuals, CSOs, trade unions, and other movements against horrific human rights violations by corporations. India's foreign policy and international relations also influenced BHR standards and disclosures at the national level.

The Bhopal Gas Tragedy, which happened in December 1984, was one of worst industrial disasters of the 20th century. It was also the first major case in India involving a corporation in violation of labour and human rights and environmental pollution on a large scale. It became a catalyst for many of the people's movements for corporate accountability as well as for governments to enact or amend laws concerning environmental, labour, and human rights around the world.

Unfortunately, the Bhopal tragedy wasn't the only such incident in India:

- In the late 1990s, there were allegations of corruption and infringement of labour and human rights in **Enron's Dabhol power plant project in Maharashtra**. Violations of freedom of speech and expression, freedom of peaceful assembly, and arbitrary detention along with excessive use of force were reported by CSOs.
- **Coca-Cola's bottling plant in Plachimada, Kerala**, has faced criticism and protests for not only extracting too much groundwater (and thus causing a water shortage) but also polluting the environment by discharging effluents.

- The proposed integrated plant of the **Pohang Steel Company (POSCO) in Odisha** raised many labour and human rights issues since the state government signed a memorandum of understanding (MoU) with this South Korean MNC in 2005. Apart from displacement of the affected community (including tribal people), the project also raised concerns about environmental pollution and ecological sustainability.

- Extensive prevalence of child labour, gender-based violence, and forced labour practices in the **Tamil Nadu textile industry**, including through the state-supported Sumangali scheme in factories.

- The **refinery-cum-mining project run by Vedanta's Indian subsidiaries** – in collaboration with the state-owned Odisha Mining Corporation – has become very controversial, primarily because the mining site included the Niyamgiri Hills, which are regarded as sacred by tribal communities for religious and cultural reasons.

It took all these violations and more, among other factors, to create national standards to set the groundwork for responsible business conduct.

The strengthening of responsible business conduct in India

UNGPs are the global authoritative guidelines on responsible business. India has taken several steps over the last couple of decades towards ensuring responsible business conduct as recommended in the UNGPs, culminating in the National Guidelines on Responsible Business Conduct (NGRBC) and the mandatory non-financial reporting format Business Responsibility and Sustainability Reporting (BRSR) framework.

Here is a timeline of some of the main policy developments with respect to BHR:

2009

The Ministry of Corporate Affairs (MCA) released the **Voluntary Guidelines on CSR**, focusing mainly on community development around business operations as the first step towards mainstreaming the concept of CSR.

2011

The MCA released a second set of guidelines called **the National Voluntary Guidelines on the Social, Environmental, and Economic Responsibilities of Business (NVGs)**. These provided broader guidance on what constitutes responsible business conduct.

This is also the same year the UNGPs were introduced.

2012

As investors started increasing pressure on companies for greater transparency and non-financial reporting, SEBI in 2012 mandated the **Business Responsibility Report (BRR)** for the top 100 listed companies in India annually.

Around this time, **non-financial reporting had also started gaining traction globally** as more companies and governments started becoming conscious about the adverse effects of business operations on the environment as well as on labour and human rights.

2013

The Government of India **introduced Section 135 of the Companies Act**, which provided clear mandates for companies to undertake CSR initiatives with rules concerning the governance, budgeting, and expenditure of CSR initiatives.

2019

To align with the SDGs and the UNGPs, the NVGs were revised, upgraded, and released as **National Guidelines on Responsible Business Conduct (NGRBC)**.

2021

As the NVGs were modified to NGRBC, SEBI also modified the BRR non-financial reporting format to align with the NGRBC. This new reporting format is the **Business Responsibility and Sustainability Reporting (BRSR) framework**.

2022

It became **mandatory for the top 1,000 listed companies** (by market capitalisation) on the Indian stock exchange **to report their sustainability performance** through the BRSR format.

Terminology

SEBI³⁷

The Securities and Exchange Board of India (SEBI) is the regulatory body established by the Indian Government in 1988 to regulate the country's securities market. Securities are tradeable financial instruments that hold some type of monetary value.

Terminology

Shares

A company's capital – the money a company needs to function and to expand – is divided into small equal units of a finite number. Each unit is known as a share, and it is a percentage of ownership in a company.

Terminology

Shareholders

Investors who hold shares of any company are known as shareholders.

For example, if you buy 10 shares of a company and each share represents 1% of ownership, you own 10% of the company.

Terminology

Market Capitalisation

Market capitalisation or market cap refers to the total value of a company's shares.

For example, a company with 20 million shares selling at INR50 a share has a market cap of INR1 billion.

Market cap measures what a company is worth on the open financial market as well as the market's perception of the company's future prospects. The market cap reflects what investors are willing to pay for a company's shares.

Terminology

Listed Company

Listed Company is a public company whose shares are listed on a recognised stock exchange – like the Bombay Stock Exchange – for public trading. The listing of shares helps the investor determine the change in the value of their investment in the concerned company.

Examples of listed companies in India include Tata Motors, Aditya Birla Fashion, Godrej Industries, Bombay Dyeing, Raymond, Aravind Mills, etc.

In the context of implementing BHR standards and disclosure mechanisms in India, the main players include, but are not limited to:

<p>Ministry of Corporate Affairs, Government of India</p>	<p>Securities and Exchange Board of India</p>	<p>National and State Human Rights Commissions (and various special commissions, autonomous public bodies for human rights)</p>
<p>Oversees corporate regulations</p>	<p>Regulates the securities market in India</p>	<p>Investigate complaints of human rights violations reported by individuals or organisations</p>
<p>Implements BHR principles through legislation and guidelines</p>	<p>Requires corporates to report their performance on indicators related to environmental and social sustainability as well as responsible governance</p>	<p>Make recommendations, judicial or non-judicial, as required</p>



National Guidelines on Responsible Business Conduct (NGRBC)

The NGRBC has been designed by the Government of India to help businesses perform above and beyond the requirements of laws and regulatory compliance.³⁸

Articulated as a **set of nine principles and their related core elements, the NGRBC aligns the responsible business agenda for India with the SDGs, the UNGPs, and the ILO Core Conventions.**

The NGRBC urges businesses to conduct operations responsibly and sustainably, while also encouraging their suppliers, vendors, distributors, partners, and other stakeholders to adopt the guidelines.

The NGRBC captures key national and international developments linked to BHR, including:

- UNGPs
- UN SDGs
- ILO Core Conventions ratified by India
- Provisions on CSR under the Companies Act, 2013
- Indian labour laws



The nine principles of the NGRBC

<p>Principle 1</p> <p>Businesses should conduct and govern themselves with integrity and in a manner that is ethical, transparent and accountable.</p>	<p>Principle 2</p> <p>Businesses should provide goods and service in a manner that is sustainable and safe.</p>	<p>Principle 3</p> <p>Businesses should respect and promote the wellbeing of all employees, including those in their value chains.</p>
<p>Principle 4</p> <p>Businesses should respect the interests of and be responsive to all its stakeholders.</p>	<p>Principle 5</p> <p>Businesses should respect and promote human rights.</p>	<p>Principle 6</p> <p>Businesses should respect and make efforts to protect and restore the environment.</p>
<p>Principle 7</p> <p>Businesses, when engaging in influencing public and regulatory policy, should do so in a manner that is responsible and transparent.</p>	<p>Principle 8</p> <p>Businesses should promote inclusive growth and equitable development.</p>	<p>Principle 9</p> <p>Businesses should engage with and provide value to their consumers in a responsible manner.</p>

All the principles of the NGRBC support human rights in some way, but two principles are explicitly related to labour rights and BHR, namely Principles 3 & 5.

Principle 3: Businesses should respect and promote the well-being of all employees, including those in their value chains.

This principle covers all policies and practices related to the welfare of employees engaged with a business or in its value chain as indicated in SDG 8 (decent work and economic growth) and the ILO Core Conventions. Principle 3 promotes FOA, encourages businesses to pay living wages, and to look into the well-being of not just employees but also their families.

Principle 3 of the NGRBC is fully aligned, and goes beyond the scope of the ILO Declaration on Fundamental Principles and Rights at Work.

The table on the following page highlights how Principle 3 of the NGRBC incorporates the ILO Declaration on Fundamental Principles and Rights at Work.

Principle 5: Business should protect and promote human rights.

This principle states that businesses should promote the awareness and realisation of human rights across its supply chain; and that businesses should ensure that individuals and groups whose human rights are impacted by them have access to effective grievance redressal mechanisms. It defines human rights as inherent rights that every individual or collective is entitled to, without any sort of discrimination. The principle is based on human rights as

mentioned in the Constitution of India and international standards like the UNGPs and International Bill of Human Rights.

The NGRBC is voluntary but all businesses investing or operating in India, including foreign MNCs, are expected to follow the guidelines. This expectation also extends to the overseas operations of Indian MNEs.

The expectations are laid out as follows:

- **MNEs that invest or operate in India** are expected to adopt the NGRBC. If their subsidiary companies are listed in India and are among the top 1,000 companies, they need to disclose how they have aligned their business with the guidelines and report on mandatory disclosures like BRSR.
- **MNCs that do not operate in India** but source from India should ensure that their suppliers adopt the NGRBC. If the suppliers are among the top 1,000 listed companies in India, they must report on mandatory disclosure requirements like BRSR.
- **Indian MNCs with overseas operations** are expected to align their complete business operations with the guidelines and therefore are expected to operate in a responsible manner in foreign countries. Those among the top 1,000 listed companies in India have to report on mandatory disclosures requirements for their complete operations.



How NGRBC's Principle 3 is linked to the ILO Conventions

ILO Declaration on Fundamental Principles and Rights at Work

NGRBC (Principle 3)

Freedom of association and the effective recognition of the right to collective bargaining

Businesses should promote and respect the right to freedom of association, participation of workers, and collective bargaining of all employees including contract and casual labour, and provide access to appropriate grievance redressal mechanisms.

The elimination of all forms of forced or compulsory labour

The effective abolition of child labour

Businesses should not use child labour, coercive or forced labour, or any form of involuntary labour, paid or unpaid.

The elimination of discrimination in respect of employment and occupation

Businesses should ensure fair, timely, and transparent payment of statutory wages of all its employees, including contract and casual labour, without discrimination.

Businesses should ensure equal opportunities at the time of recruitment, during the course of employment, and at the time of separation without any discrimination.

A safe and healthy working environment

Businesses should provide a workplace "environment that is safe, hygienic, accessible to the differently abled" and which upholds the dignity of the employees. Businesses should engage and consult with their employees while developing these provisions.

Through the Worker's Lens

Q: Why is the NGRBC important for labour rights in India?

A: The NGRBCs, although voluntary in nature, are the most authoritative standards when it comes to BHR in India. The NGRBC outlines principles and practices that uphold workers' rights, safety, and fair treatment in the workplace, for Indian MNCs working within and outside India, and for foreign MNCs in India.

It also goes well beyond the scope of the ILO Conventions ratified by India to promote worker rights and well-being.

For example, Principle 3 of the NGRBC recognises that the well-being of an employee also includes the wellbeing of their family. It also states that businesses should aspire to pay fair living wages to meet basic needs and economic security of

all employees, including casual and contract labour.

Principle 3 and Principle 5 of the NGRBC are important tools for trade union to refer and utilise in social dialogue on responsible business conduct processes including in reference to human rights due diligence.



Business Responsibility and Sustainability Reporting (BRSR)

The BRSR is a sustainability reporting format that became mandatory for the top 1,000 listed companies in India from 2023. Filled by the companies themselves, it provides public information on key environmental and social indicators of these companies, such as representation of women in the company, CSR details, recognised trade unions, occupational health and safety (OSH) related cases and policies, greenhouse gas emissions, waste management, among others. It also collects data on the structures, policies, and processes put in place by these companies towards adopting the nine NGRBC Principles.

The Indian Government states that the BRSR was devised to serve as “a single comprehensive source of non-financial sustainability information relevant to all business stakeholders – investors, shareholders, regulators, and public at large.”³⁹

The BRSR data of all companies is available on the website of the National Stock Exchange of India.

Structure of BRSR

The reporting questionnaire is divided into three sections.

Section A: General disclosures

This section contains details of the company; products/services; operations; employees; subsidiary and associate companies (including joint ventures); CSR;

transparency; and disclosure compliances.

Section B: Management and process disclosures

In this section, the company is required to disclose information on the structures, policies, and processes they have put in place towards adopting the NGRBC Principles. They have to provide information on if the policies have been extended to the entire supply chain; the website links of the various policies in the company; if the policies have been translated into actual procedures; and if the company is complying with any national or international labels and certifications like Fair Trade, ISO, SA8000, etc.

Section C: Principle-wise performance disclosures

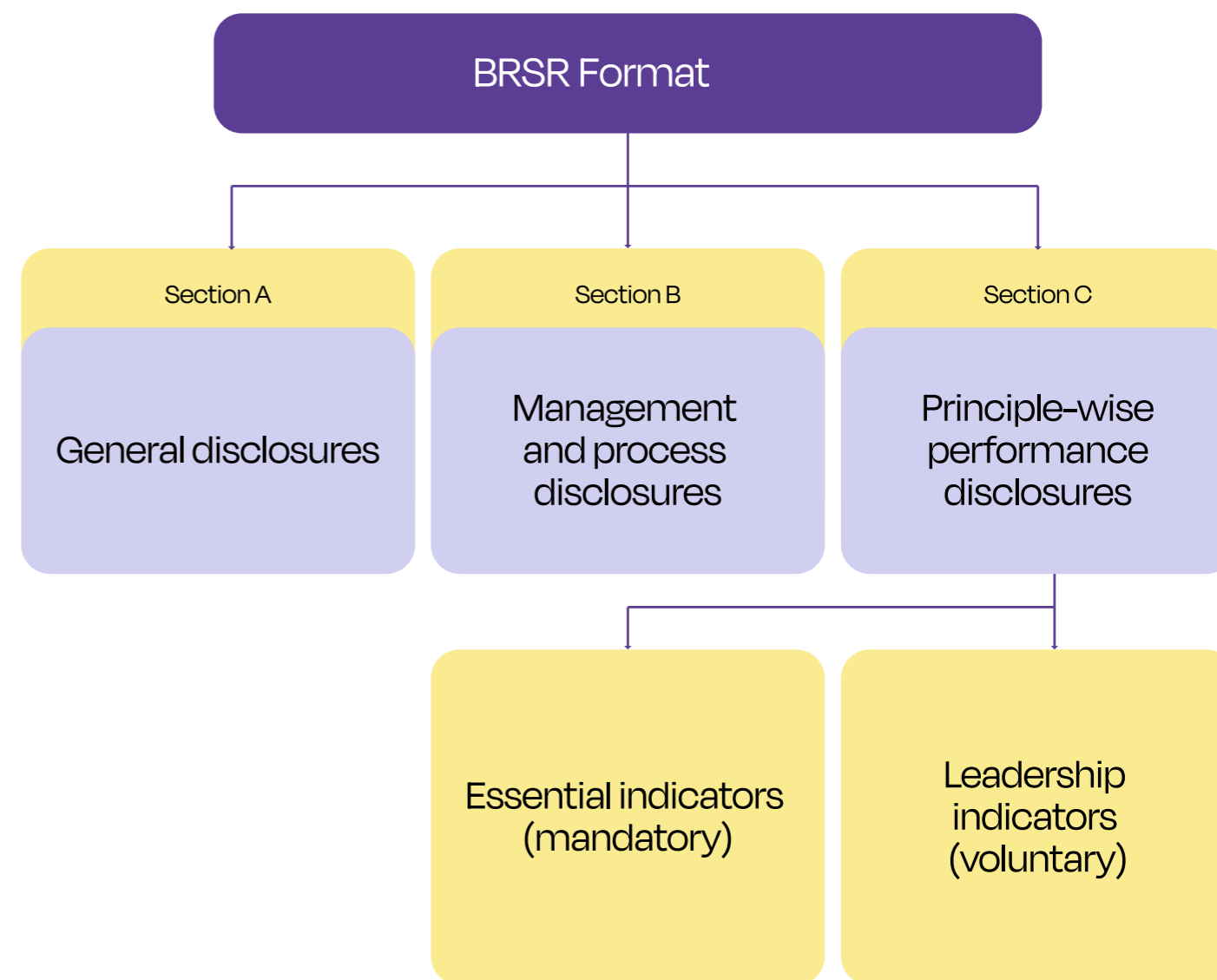
In this section, companies have to disclose their performance in integrating the nine NGRBC Principles within key processes and decisions in the company.

The information sought in this section is categorised as “Essential” and “Leadership”. While the essential indicators are expected to be disclosed by every company that is mandated to file this report, the leadership indicators may be voluntarily disclosed by companies which aspire to progress to a higher level in their quest to be socially, environmentally, and ethically responsible.

Relevant **essential indicators** include percentage of workers accessing social security provisions and retirement benefits through the company; memberships of

workers in trade unions; accessibility of workplace for disabled workers; details of OSH management systems; safety related incidents; complaints filed by workers on sexual harassment, wages, child labour and forced labour; mechanisms to address discrimination and harassment at the workplace, and others.

Leadership indicators include details on the scope and coverage of any HRDD conducted, conflict management policy, additional data on biodiversity, breakup of energy consumption, and others.



Relevance of BRSR for Indian trade unions and labour rights NGOs

The BRSR reporting format is relevant for Indian trade unions and labour rights NGOs because it provides data on how the top 1,000 listed companies are performing with respect to key labour rights indicators. Most of this data is also provided in a gender-disaggregated manner, and in some cases, is available across employment types. This data can be used by trade unions and labour rights NGOs for advocacy, campaigns, and social dialogue. BRSR has six categories of data that indicate a company's actions with regard to worker rights:

1. Wages:

Includes questions on minimum wages, gender parity in wages, and wage setting in the company.

2. Social security benefits, including parental benefits:

Provides information on accessibility of social security benefits and retirement benefits for permanent employees, gender parity in accessing benefits, and access to career development within the company.

3. Grievance redressal mechanism:

Provides information on whether the company has grievance redressal mechanisms for sexual harassment, discrimination at the workplace, child labour, forced labour, and wages. It also provides information on the functioning of the mechanisms and their usage among workers.

4. Collective bargaining:

Provides information on whether the company recognises trade unions, if FOA is extended to all workers, and

number of trade union members in a company.

5. Retention:

Includes questions covering company mechanisms to ensure labour retention, especially retention of workers after paternity and maternity leaves, and availability of creche facilities.

6. Occupational health and safety (OSH):

Includes information on whether the company has an OSH management system, a functional due diligence system with regard to OSH, and its performance with OSH measures like lost time, injury frequency rate, number of fatalities, etc.

The BRSR report provides data on how the top 1000 listed companies are performing with respect to key labor rights indicators.



Through the Worker's Lens

Q: Is BRSR applicable to all companies?

A: Currently, the BRSR is compulsory for the top 1,000 listed entities (by market cap) in India, irrespective of industry. Listed companies other than the top 1,000 may voluntarily submit a BRSR report (with effect from FY 2022-23).

Q: Where can I access the BRSR report filed by a company?

A: The NSE website provides the BRSR reports of the top 1,000 listed companies.



Binding Agreements: The Future of BHR

This section covers:

- Enforceable brand agreements
- The Dindigul Agreement to Eliminate GBVH and its impact
- How the Global North is legislating to protect human rights in supply chains
- Corporate Sustainability Due Diligence Directive (CSDDD)
- The Global South's fight for a legally binding international BHR treaty and the role of CSOs

Enforceable Brand Agreements (EBA)

The 2013 Rana Plaza factory collapse in Bangladesh as well as numerous other industrial tragedies and labour rights abuses have intensified the need for brand and supplier accountability when it comes to ensuring labour rights, FOA, and collective bargaining in supply chains.

Trade unions and labour rights NGOs have worked with global brands and suppliers to establish meaningful corporate accountability for workers' rights in international fashion supply chains. One important mechanism that is increasingly sought after to establish such accountability is legally binding, enforceable agreements between brands, trade unions, and labour rights NGOs that cover labour rights in the operations of brands' third-party suppliers.

Building from different forms of collective bargaining and community-labour partnerships, these agreements, referred to as "**enforceable brand agreements**"⁴⁰ or "EBAs", are an avenue to raise the bar for the protection of labour rights in supply chains. They replace brands' voluntary CSR programmes, whose private factory audits have consistently failed⁴¹ to end abuses in supply chains, with legally enforceable obligations that may include ensuring that suppliers cooperate with independent factory monitoring and respect workers' rights.

EBAs recognise the crucial role of worker representatives and advocates – trade unions and labour rights NGOs – as equal and active counterparts to brands and suppliers in establishing mechanisms for protecting the rights and welfare of workers in brands' supply chains. **This**

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enforceable and co-governed approach to addressing labour abuses in supply chains is sometimes also framed as "Worker-driven Social Responsibility (WSR)" – in contrast to brands' own voluntary and largely unilateral CSR programmes.

Examples of supply chain labour rights initiatives established through EBAs include:

- **The Fair Food Program (2011)**, established by the Coalition of Immokalee Workers, which secured commitments from 14 major food retailers to purchase produce exclusively from growers who implement a human rights-based code of conduct covering 35,000 farmworkers in the southeastern United States. It successfully combatted widespread gender-based violence, sexual harassment, and forced labour on farms.
- **The International Accord (2021)** began as the Bangladesh Accord on Fire and Building Safety (2013) after the Rana Plaza disaster killed more than 1,000 workers. It was signed by Global Union Federations, Bangladeshi unions, labour rights NGOs, and more than 200 brands. Its independent factory inspections have identified fire, electrical, and structural hazards across 1,600 garment factories in Bangladesh, more than 90% of which have now been remediated. The programme is now being expanded to Pakistan.
- **Agreements on combatting gender-based violence and harassment (2019)** was negotiated by brands, labour unions, labour rights NGOs, women's rights

organisations, and apparel suppliers in Lesotho to establish a comprehensive training programme and complaints mechanism to prevent and address GBVH that covers 10,000 workers across five factories. The agreement was the result of an investigation by the Workers Rights Consortium (WRC), in 2018 and 2019 exposing severe sexual violence and coercion at Nien Hing's garment factories in Lesotho.

- **The Dindigul Agreement to End Gender-Based Violence and Harassment**, signed by brands, suppliers, labour unions, and labour rights NGOs, after the murder of a woman worker by her supervisor in a textile factory in Dindigul, Tamil Nadu. The agreement, which covers 5,000 workers, has enabled collective action on GBVH, resolving 98% of the 182 grievances raised by workers in the first year of implementation.



EBAs like the Accord on Fire and Building Safety in Bangladesh have achieved historic progress when compared to the dismal track record of traditional CSR programs.

Case Study: The Dindigul Agreement to End GBVH

In April 2022, the Tamil Nadu Textile and Common Labour Union (TTCU) signed a historic agreement with textile manufacturer Eastman Exports to end GBVH at Eastman factories in Dindigul, Tamil Nadu.

At the same time, labour stake holders – TTCU, Asia Floor Wage Alliance (AFWA), and Global Labor Justice - International Labor Rights Forum (GLJ-ILRF) – signed a legally binding agreement with the multinational fashion companies H&M, PVH Corp, and GAP Inc, all of which source garments from Eastman Exports.

These two interlocking contracts are an EBA known together as **The Dindigul Agreement to End Gender-Based Violence and Harassment.**

The Dindigul Agreement is the first EBA in India, where apparel manufacturing is the second largest employer of women after agriculture. The Agreement is also the first EBA in Asia with a specific focus on addressing gender and caste discrimination and violence. The Dindigul Agreement covers all workers at Eastman Exports' facility in Dindigul, which has a capacity of over 5,000 workers. Most workers at these units are women and come from the Dalit community, which has been historically marginalized in India.

The EBA is a result of the **Justice for Jeyasre campaign organised by TTCU, AFWA, and GLJ-ILRF in 2021.** Jeyasre Kathiravel, a 21-year-old Dalit garment worker at Eastman Exports' Dindigul facility, was murdered by her supervisor at the factory in January 2021. The Justice for Jeyasre campaign organised multiple actions globally over a year to put pressure on the brands and supplier to sign an EBA

to address GBVH at this facility. Actions included an online Global Vigil attended by more than 1,000 people from 33 countries as well as a Justice for Jeyasre speaking tour across the US to build global solidarity for the EBA.

The elements of the Dindigul Agreement

- **Enabling collective action on GBVH through AFWA Safe Circles:** The Dindigul Agreement implements AFWA's Safe Circles approach, a worker- and union-led training, monitoring, and remediation programme to end GBVH in fashion manufacturing supply chains.
- **Adopting global labour standards on GBVH:** The Dindigul Agreement requires Eastman to prohibit GBVH in the world of work at included factories as defined by the ILO Violence and Harassment Convention, 2019 (known as C190).
- **Protections against discrimination based on caste and migration status:** It specifically prohibits GBVH at the intersection of caste or migration status. These critical protections will allow caste-oppressed and migrant workers to monitor, remediate, and eliminate these forms of discrimination at the workplace.
- **Protecting the right to form and join unions:** It recognises that GBVH can only be prevented when workers have the right to speak out with a collective voice and prohibits any violation of workers' rights to form and join unions and engage in collective bargaining as under ILO standards on FOA.

Impact of the Dindigul Agreement

The Dindigul Agreement sets a precedent in Asia for brands using their leverage to create violence-free workplaces and fulfil their obligations to HRDD in their supply chains.

Key Achievements

Over 2,000 workers and management trained, including senior management, support staff, and contract bus drivers, and 58 worker shop floor monitors undergoing additional training

Over 30 union-management meetings to resolve grievances held at the worksite

Reduced fear of retaliation for reporting grievances and increased management accountability for GBVH, and caste-based discrimination

Impact

98%

(182 of 185) total grievances resolved

100%

23 of 23 GBVH grievances resolved, 22 of which were raised to TTCU

96%

177 of 185 grievances raised by women

88%

163 cases resolved within a week and 178 (96%) resolved within two weeks

Note

Even though India has not ratified ILO C190 (Violence at Work), ILO C87 (FOA and Right to Organise), and ILO C98 (Right to Organise and Collective Bargaining), the Dindigul Agreement makes it legally binding for the garment supplier Eastman Exports to abide by these through this private agreement.

*From the Year 1 Report published by the Dindigul Agreement's Oversight Committee⁴²
Time period: April to December 2022*

Through the Worker's Lens

Q: How is the Dindigul Agreement enforced legally?

A: The Dindigul Agreement includes a legally binding agreement between the labour stakeholders and brands that creates support and accountability for the supplier's compliance with the terms of its agreement with the trade union. Brands are required to take steps to impose business consequences on the suppliers if they violate their agreement with the trade union.

This agreement is enforceable through binding arbitration in Sweden and the US, the home countries of the three brand signatories. If the brands break their contract with TTCU – for

example by failing to impose business consequences on Eastman Exports as required – AFWA, GLJ-ILRF, and TTCU can enforce the contract against the fashion brands through arbitration.

Further Resources

To know more about model dispute resolution systems for handling disputes among parties in EBAs, refer: <https://www.workersrights.org/wp-content/uploads/2020/07/Model-Arbitration-Clauses-for-the-Resolution-of-Disputes-under-Enforceable-Brand-Agreements.pdf>



Countries in the Global North legislate to protect human rights in supply chains

As seen in earlier sections, supply chains are the main pathways through which MNCs conduct their operations. Given the rise in human and labour rights violations across supply chains, there has been a significant increase in human rights-based legislation and regulation to address this in the last decade. This includes laws mandating disclosures of human rights processes that extend through a company's operations and supply chain, such as:

- US – California Transparency in Supply Chains Act (2010)
- UK – Modern Slavery Act (2015)
- Australia – Modern Slavery Act (2018)

In addition to disclosure legislation, there are a host of new mandatory due diligence laws, creating a “duty to know and show” and to report on labour and human rights risks throughout operations and supply chains. These include:

- France – Duty of Vigilance Law (2017)
- The Netherlands – Child Labour Due Diligence Law (2019)
- Germany – Supply Chain Law (2021)

These legislative developments mean that businesses headquartered in one country will be required to ask their business partners and suppliers elsewhere to show that they are mitigating risks and addressing negative impacts through HRDD.

The increased attention to labour and human rights also comes in the form of criminal laws and sanctions regimes. These laws punish businesses that cause,

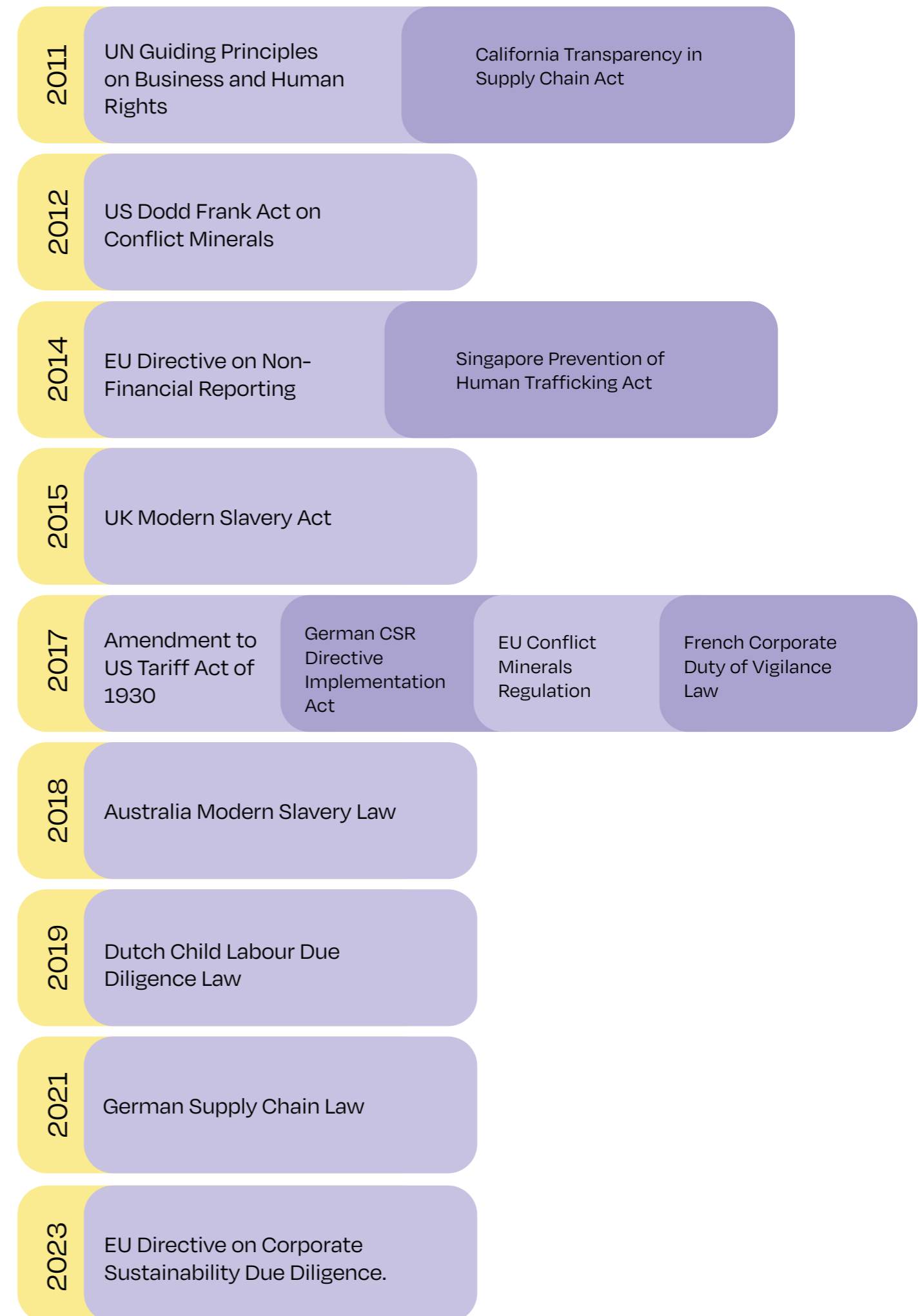
facilitate, or benefit from labour and human rights abuses. Some examples include:

- US Trafficking Victims Protection Reauthorization Act (2005)
- UK Criminal Finances Act (2017)
- US Global Magnitsky Act (2012)

An increasing number of laws also ban products from being imported from or exported to specific countries for their poor human and labour rights performance.

For example, the US Customs and Border Protection (CBP) prevents the entry of goods produced with forced labour into the US. The US CBP has an online mechanism through which any person who has reason to believe that merchandise produced by forced labour is being, or is likely to be transported to the US, can report the same to them. Indian companies like Mangalore Ganesh Beedi Works have lost access to the US market after the CBP found evidence of forced labour in their units.

The US CBP borrows its definition of forced labour from the ILO. Physical and sexual violence at the workplace; withholding of wages; excessive overtime; restrictions in movement are a few of the indicators of forced labour by the ILO and recognised by the CBP.⁴³



Corporate Sustainability Due Diligence Directive (CSDDD) becomes mandatory in the EU

On April 2024, the European Parliament voted to adopt the Corporate Sustainability Due Diligence Directive (CSDDD). For the first time, it will introduce comprehensive mandatory human rights and environmental due diligence obligations, with significant financial penalties and civil liability for EU and non-EU companies that do not fully comply.

The new rules will apply to EU companies with over 1,000 employees and over €450 million in turnover worldwide, as well as non-EU companies with over €450 million in turnover in the EU.

They will have to do this using a risk-based approach, prioritising their most severe harms. Under the law, a large mining company would now be required to first look at their supply chain and identify the most serious impacts, such as how communities living nearby to mining sites they operate are affected, or how the local environment could be damaged.

Large companies will now also be required to implement climate transition plans to align their business strategies with the goals of the Paris Agreement.

If companies do not meet the requirements set out in the law, workers and communities will have the power to take legal action against them in the EU. They can also seek redress or compensation directly from the company, but this would not prevent them from pursuing legal

action if necessary.

The implementation of the law will be staggered. The biggest companies in the EU – with over 5,000 employees and €1.5 billion in turnover – will need to be compliant by 2027, followed by companies with 3,000 employees and €900 million in turnover in 2028 and finally companies with at least 1,000 employees and €450 million in turnover in 2029.

The CSDDD obliges the biggest companies operating in the EU to prevent and address harm they may be causing or contributing to along their supply chains anywhere in the world.



The Global South's fight for a legally binding international treaty on BHR

Trade unions and labour rights NGOs continue to make the case for a legally binding instrument to regulate, in international human rights law, the activities of MNCs and other business enterprises across all supply chains.

Recent history contains numerous examples of labour and human rights abuses caused by businesses. **Companies are known to take advantage of loose regulatory frameworks** in developing countries, corruption, or lack of accountability resulting from legal rules shielding corporate interests.

This situation has **created a pressing need to establish international norms regulating business operations in relation to labour and human rights**. So far, the preferred approach has been “soft”, consisting of the adoption of voluntary guidelines for businesses, like the UNGPs and the NGRBCs.

While such voluntary commitments are clearly useful, they cannot entirely stop gross human rights violations (such as labour rights violations and land grabbing) committed by MNCs, their subsidiaries, or suppliers.

To address the shortcomings of the soft approach, at the United Nations Human Rights Council (UNHRC) in September 2013, **Ecuador proposed the creation of an Open-Ended Intergovernmental Working Group (OEIGWG) to elaborate a legally binding instrument (LBI) on transnational corporations (TNCs) and other business enterprises with respect to labour and human rights**. At the 26th session of the UNHRC in June 2014, Ecuador's resolution

was adopted and co-sponsored by Bolivia, Cuba, South Africa, and Venezuela.

However, EU Member States all voted against the resolution and, together with other Global North States, argued that the process for a binding treaty would pose a threat to the implementation of the UNGPs. Despite this opposition, the OEIGWG held its first session in July 2015, with Ecuador elected as Chair. Subsequently, the working group completed eight further meetings in Geneva till 2023. **The Chair published the First (Zero) Treaty Draft before the negotiations were held in 2018 for textual proposals by States**. In the eighth session of the OEIGWG in October 2022, States debated the latest Third Revised Draft, a draft text for an LBI including various States' proposals for amendments.

A “Friends of the Chair Group” – a geographic, economic, and political representation of States tasked with the facilitation of compromises for the treaty across regions – was also consolidated in this same session.

The UN Binding Treaty has the potential to:

- Require States to protect labour and human rights by cooperating in the monitoring and regulation of business enterprises, including when those act outside States' territories
- Provide for an international monitoring and accountability mechanism for corporate abuses
- Provide for protection of victims, whistleblowers, and labour and human rights defenders as well as

guarantee their right to access relevant information.

The process has so far seen engagement from many Global South countries (especially from Latin America), but it lacks dynamic and broader global participation. This is slowly changing, however, as momentum around BHR is increasing globally and as more States join the

negotiations – including the United States, Japan, and the United Kingdom. Moreover, the EU's strong opposition to the process has also subsided.

Note

CSOs play a strong role in the demand for a binding BHR treaty

CSOs and trade unions have played a decisive role at every step in the fight for a legally binding global BHR treaty – from pushing for the process to begin to maintaining ambition as it progressed and to urging it to stay on schedule for completion.

Two major CSO coalitions that have been pushing for a legally binding BHR treaty are:

- 1. The International Network for Economic, Social, and Cultural Rights or ESCR-Net:** A collaborative initiative of more than 280 CSOs, social movements, and activists from 75 countries working to secure economic and social justice.

- 2. Global Campaign to Reclaim Peoples Sovereignty, Dismantle Corporate Power, and Stop Impunity, or Global Campaign:** A network of over 250 social movements, CSOs, trade unions, and local communities resisting land grabs, extractive mining, exploitative wages, and environmental destruction caused by MNEs.

CSOs are siding with the bulk of Global South States to demand higher standards and clear, enforceable obligations for MNCs. CSOs are also encouraging more consistent participation from African States, which have been much less involved than those from Latin America.

Conclusion

Across international and national BHR standards, there is a clear recognition that the protection of labour rights and promotion of decent work are integral to achieving all targets of sustainable development.

The UNGPs, the UN Global Compact, the ILO MNE Declaration, the OECD Guidelines, and the Indian NGRBC all directly or indirectly refer to the ILO Declaration on Fundamental Principles and Rights at Work.

More specifically, all these BHR standards recognise Freedom of Association as a core labour principle, given its vital role in the assertion and negotiation of all other labour rights.

Additionally, all these instruments also recognise that governments and businesses have clear and complementary roles in protecting workers' rights and human rights.

They define the roles and responsibilities of governments in achieving inclusive growth and decent work for all. Therefore, they provide a framework that trade unions can use when discussing the issues of workers with governments.

Global BHR standards like the OECD Guidelines and the ILO MNE Declaration also speak about the role of companies in avoiding and addressing potential labour rights risks in their work-related environment, and about the importance of including worker organisations as part of their human rights due diligence.

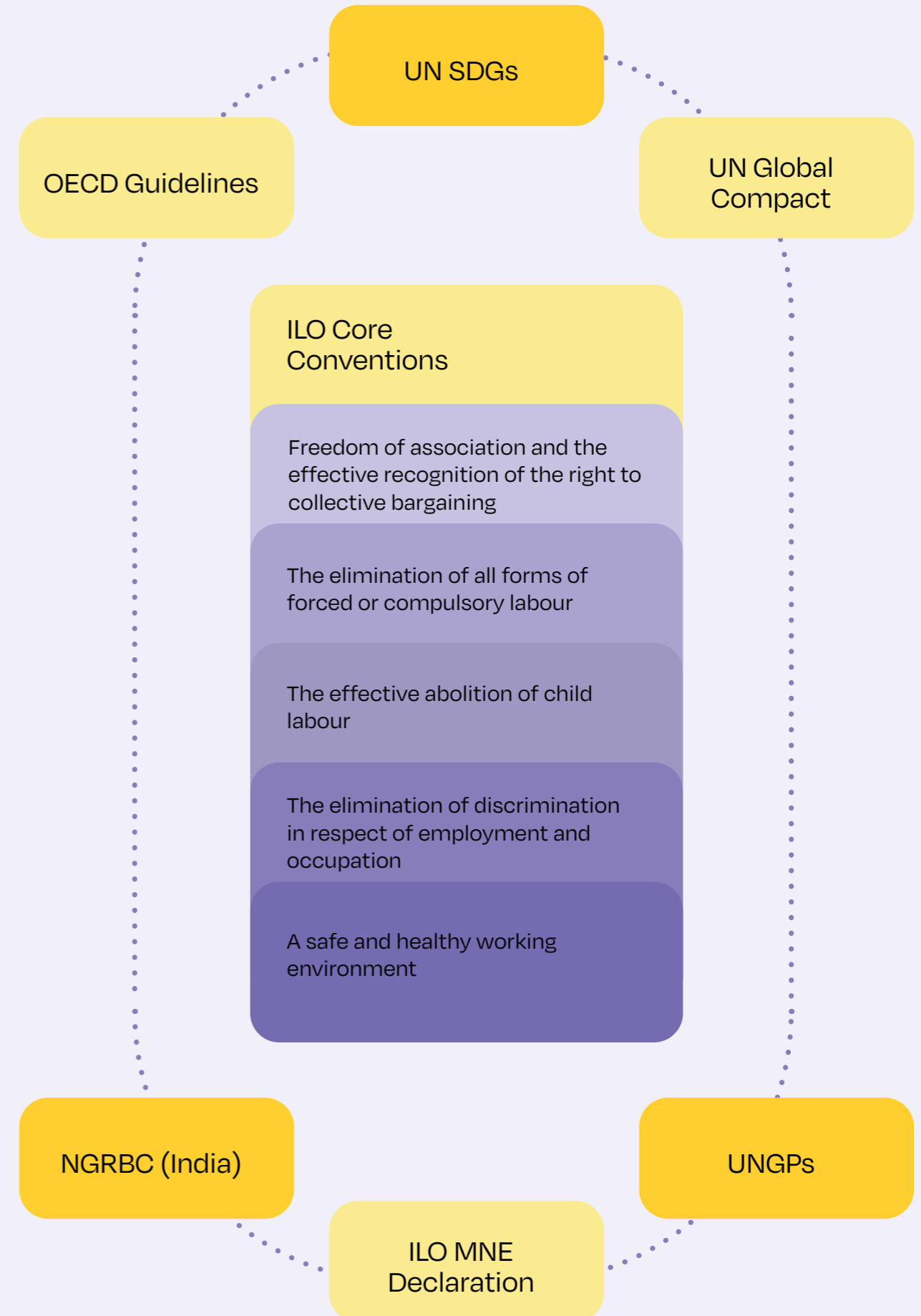
These factors make BHR standards important tools for trade unions to utilise while engaging in social dialogue and promoting better working conditions in supply chains.

While these standards may not be binding, they have a moral authority and provide a comprehensive checklist of the standards that governments should strive to provide and enterprises are expected to uphold throughout their operations.

For example, many recent Global Framework Agreements (GFAs), and Enforceable Binding Agreements (EBAs), signed by trade unions refer to the labour principles in these BHR standards.

Looking to the future, we hope these BHR standards and this handbook help in supporting, promoting, and implementing better labour standards across all supply chains, for all workers, everywhere.

The UNGPs, the UN Global Compact, the ILO MNE Declaration, the OECD Guidelines, and the Indian NGRBC all directly or indirectly refer to the ILO Declaration on Fundamental Principles and Rights at Work.



Annexure

Sr. No	Brief Description	Link	Resource Type
1	Rapid economic development in Asia has often come at the cost of human rights abuses related to forced labour, deforestation and environmental degradation, sexual harassment, and forced displacement. This video on UN Guiding Principles shows how the UNGPs serve as a means of implementation for the 2030 Agenda on Sustainable Development.	The UN Guiding Principles on Business and Human Rights and the 2030 Agenda - YouTube	Video
2	The UNGPs comprise 31 principles and are organized under 3 pillars— Protect, Respect and Remedy— which define the duty of States and responsibility of businesses to protect human rights and provide effective access to remedy for business related human rights abuses. Download this brochure to understand how each pillar provides guidance and tools to ensure the protection of human rights within the context of business operations.	United Nations Guiding Principles on Business and Human Rights United Nations Development Programme (undp.org)	Brochure
3	This publication contains the "Guiding Principles on Business and Human Rights: Implementing the United Nations 'Protect, Respect and Remedy' Framework", which were developed by the Special Representative of the Secretary-General on the issue of human rights and transnational corporations and other business enterprises.	guidingprinciplesbusinesshr_en.pdf https://www.undp.org/india/publications/united-nations-guiding-principles-business-and-human-rights-ungp-hindi (Hindi Translation)	UNGPs text
4	Environmental Laws: Application and efficacy in business & human rights This report explores how India's environmental legal framework might be strengthened and leveraged to advance implementation of the UN Guiding Principles on Business and Human Rights. It assesses the extent to which the regime of environmental laws in India is capable of implementing two of the three pillars of the United Nations Guiding Principles— the duty of States to protect human rights and the need for access to remedy when human rights are abused.	https://www.undp.org/india/publications/environmental-laws-application-and-efficacy-business-human-rights	Report

5	Responsible businesses take Environmental and Human Rights Due Diligence. In response, UNDP B+HR Asia in partnership with the European Union as well as other business associations, organises EHRDD training to support businesses in addressing and mitigating human rights risks. Watch this video to learn more.	https://www.youtube.com/watch?v=QAm-7wLh5f-0	Video
6	We have the right to clean air, water and natural habitat. How can we accommodate the right to a healthy environment with the need for economic growth? Watch the video to know more about India's environment law frameworks.	https://www.youtube.com/watch?v=JmBD-DD4R3ko (English) https://www.youtube.com/watch?v=YbK-g7U3tbGY (Hindi)	
7	Watch this video to learn more about how Human Rights Due Diligence can prevent, mitigate, and address human rights risks posed by businesses to stakeholders.	Human Rights Due Diligence - YouTube	Video
8	From constitutional mandates, National Voluntary Guidelines (NVGs) to Business Responsibility and Sustainability Reporting (BRSR), many policies and frameworks guide responsible business conduct in India. Watch this video to learn more about India's Business and Human Rights policy frameworks.	India's Business and Human Rights Policy Frameworks - YouTube	Video
9	India's National Guidelines on Responsible Business Conduct (NGRBC) seek to enhance business respect for human rights in their operations. NGRBC's 9 principles are aligned with the objectives of the United Nations Guiding Principles and Sustainable Development Goals (SDGs). These guidelines encourage both compliance with laws and conducting business operations in a manner that respects resources and societal expectations. Responsible business conduct can strengthen brand reputation and value, systematize operations, minimize risks, and attract investments.	Responsible Business in India United Nations Development Programme	Brochure

10	<p>India is one of the fastest growing market economies with a young population and a robust business ecosystem. And its labour force is crucial to making it a USD 5 trillion economy by 2025. However, a staggering imbalance of the workforce split into formal and informal sectors makes this a formidable challenge.</p> <p>Watch the video to know more about India's labour rights frameworks.</p>	<p>https://www.youtube.com/watch?v=cqFbK-MWpO9U (English)</p> <p>https://www.youtube.com/watch?v=1UJAgj-NuSOs (Hindi)</p>	Video
11	<p>This Training Facilitation Guide ('training guide') provides training modules which clarify what is required to conduct human rights due diligence by focusing on the basics and sticking to internationally agreed principles and widely understood terminology. Applying a step-by-step approach, this allows for businesses to embark on HRDD as a stand-alone effort or as part of a preexisting assessment process.</p>	<p>https://www.undp.org/publications/human-rights-due-diligence-training-facilitation-guide</p>	HRDD Training Guide
12	<p>UNDP B+HR Asia, in partnership with the EU, presents a short documentary tracing the Business and Human Rights (B+HR) journey in India. Watch how the government, civil society, and responsible business partners have furthered the B+HR agenda and what remains to be done.</p>	<p>https://youtube.com/watch?v=uifvsKFEKQ4</p>	Video

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