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A STUDY ON IMPACT OF BUSINESS RULES ON HUMAN RIGHTS

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Abstract:

The past three decades have heralded a new and particularly relevant research perspective for business and society scholars: business and human rights (BHR). BHR examines the human rights responsibilities of business, which include (a) the respect and protection of human rights along corporate value chains, (b) the avoidance of causing or contributing to human rights violations through business activities and conduct, and (c) the provision of remedy to those whose rights have been violated by business (Bernaz, 2017; Ramasastry, 2015; Santoro, 2015).

Thus, the purpose of this study was to review the Impact of business rules on Human Rights. The works of literature were a blend of published papers and articles on Google Scholar, Research Gate, books, and other journals. A number of papers were analyzed to bring out the Impact of Business Rules on Human Rights and the way it has impacted the Society. Overall, the paper assists in knowing the Impact of Business Rules on Human Rights.

Keywords: Business Rules, Human Rights.

INTRODUCTION

The Human Rights responsibilities of businesses have long attracted the attention of human rights scholars as well as scholars of business ethics and management. The Nordic Journal of Human Rights published one of the first special issues in the Business and Human Rights (BHR) field in 2008. Since then, BHR has undergone further evolution, bringing the interdisciplinary character of the field to the forefront. With the adoption and endorsement of the United Nations (UN) 'Protect, Respect and Remedy' Framework in 2008, followed by the 'Guiding Principles on Business and Human Rights' in 2011, a business enterprise has been defined to have responsibilities for human rights that not only include the (obvious) need to comply with national laws, but also to self-regulate to cover gaps between the letter and de facto application of national law, and the standards of international human rights law. As part of this, a business enterprise is expected to adopt adequate management processes. From this perspective, BHR's research methodologies would be too confined if they did not take into account managerial disciplines such as strategy, operations, risk management, corporate communication or, more generally, sustainability and business ethics.

OBJECTIVE

The primary objective of this paper is to analyze the impact of business rules on human rights. Along with, it also includes Remedy for Corporate Human Rights Violations comparing with completed cases.

METHODOLOGY

The current study is based on secondary data, i.e through the information collected from published journals, articles, and papers on websites, Google Scholar, Some Case which are been completed and Judgments given by courts and Research gate. And also from National Action Plan on Business and Human Rights. This paper examines Internationally Recognized Human Rights How Business Might Impact Them.

THE NEED FOR BHR RESEARCH METHODS

Human rights are an interdisciplinary academic field. This has been recognized by several authors who acknowledge the legal as well as philosophical, political, sociological, anthropological, economic and other aspects of human rights research. We may even argue that the legal and, in particular, the international law approach to human rights is among the newcomers. Of course,

international law has meanwhile become a very significant field in human rights research and practice, particularly since the International Labour Organisation's establishment in 1919, that places core labour rights at the centre of international labour law, and since the Universal Declaration of Human Rights defined the priorities for the work of the UN. As the UN 'Protect, Respect and Remedy' Framework define the International Bill of Rights and ILO's core labour standards as the minimum baseline for corporate responsibility to refer to, the role of international law as a source of BHR is obvious. Aside from benefiting more generally from interdisciplinary approaches, BHR should also be seen as a fundamentally socio-legal field of inquiry, thereby calling for a necessary engagement with legal concepts and practice on an interdisciplinary platform. Since the late twentieth century, global awareness of the impacts of business operations on human rights has grown. This awareness challenges the state-centrist approach to human rights in both national and international law. In the last decade we have seen the development of new approaches to soft law, extra-legal norms and human rights legislation that address the topic of business enterprises in various ways.

THE CORPORATE RESPONSIBILITY TO RESPECT HUMAN RIGHTS

This pillar deals with the responsibility of businesses to respect human rights in their operations. Given below is an overview of the Government's expectations of socially responsible conduct from businesses as set out in the 2018 NGRBC (National Guidelines on Responsible Business Conduct). It also sets out certain voluntary measures that have been adopted by Indian businesses over and above the statutory provisions discussed above.

THE PRINCIPLES ADOPTED UNDER THE 2018 NGRBC ARE AS FOLLOWS:

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

RESPONSIBILITY OF BUSINESS TO RESPECT AND PROMOTE HUMAN RIGHTS

Principle 5 of the 2018 NGRBC specifically recognizes that businesses must respect and promote human rights in their operations. It suggests that businesses should put in place policies, processes, and structures that demonstrate respect for human rights. Such processes must include the responsibility to conduct human rights due diligence in order "to identify, prevent, mitigate and account for how they address adverse human rights impacts". This principle also encompasses the need to ensure that the responsibility for addressing human rights impacts is assigned to the appropriate level and function within the business. Further, this Principle urges business to be especially responsive to those persons who are most vulnerable to, or at risk of, such adverse human rights impacts. Additionally, it requires businesses to promote the awareness and realization of human rights across its value chain.

INTERNATIONALLY RECOGNIZED HUMAN RIGHTS AND EXAMPLES OF HOW BUSINESS MIGHT IMPACT THEM

RIGHT OF SELF-DETERMINATION - Engaging in business activities on land that has traditional significance to the peoples that inhabit an area when that land was acquired by Government without due consultation with the local population. Any activity that might have impacts on indigenous peoples' lands, whether through acquisition, construction or operation, may give rise to impacts on their right to self-determination.

RIGHT TO LIFE - The lethal use of force by security forces (State or private) to protect company resources, facilities or personnel. Operations that pose life-threatening safety risks to workers or neighbouring communities through, for example, exposure to toxic chemicals. The manufacture and sale of products with lethal flaws.

RIGHT NOT TO BE SUBJECTED TO TORTURE, CRUEL, INHUMAN AND/OR DEGRADING TREATMENT OR PUNISHMENT - Conducting business in countries where State security or police forces protecting company assets do not respect this right. Failure to foster a workplace that is free from severe forms of harassment that cause serious mental distress. Manufacture and sale of equipment misused by third parties for torture or cruel treatment or for medical or scientific experimentation without their consent.

RIGHT NOT TO BE SUBJECTED TO SLAVERY, SERVITUDE OR FORCED LABOUR - Businesses may unknowingly benefit through their supply chains from the labour of workers who have been trafficked and are forced to work as slaves, for example, on agricultural plantations. Women and children may be subject to particularly severe impacts in such situations. A company may be involved in the transportation of people or goods that facilitates the trafficking of individuals. Forced labour can arise in any sector where an employer puts workers in a position of debt bondage through company loans or the payment of fees to secure a job and/or where the company withholds workers' identity documents. This is a particular risk in the case of migrant workers, a recognized vulnerable group.

RIGHTS TO LIBERTY AND SECURITY OF THE PERSON - Threatening staff with physical punishment or tolerating severe harassment of some employees, for example, of trade union members or members of a minority ethnic group. A company whose supplier routinely allows sexual abuse of female workers to go unaddressed in their workplace.

RIGHT OF DETAINED PERSONS TO HUMANE TREATMENT - Companies involved in the construction, operation or maintenance of detention facilities (such as a prison or immigration detention facility) where detainees are mistreated.

RIGHT NOT TO BE SUBJECTED TO IMPRISONMENT FOR INABILITY TO FULFIL A CONTRACT - Companies may be linked to such an impact where this right is not protected by the State, for example, where a small local supplier is genuinely unable to meet their contractual obligations and the company takes action against them.

RIGHT TO FREEDOM OF MOVEMENT - Relocation of communities because of company operations where that is conducted in an arbitrary or unreasonable manner, without adequate notice, consultation (and, at least in the case of indigenous peoples, consent), or compensation. Employers withholding workers' identification documents.

RIGHT OF ALIENS TO DUE PROCESS WHEN FACING EXPULSION - Where companies rely on migrant workers (either directly or through a third-party agency), there may be a risk of their operations being linked to such an impact.

RIGHT TO A FAIR TRIAL - A business tries to corrupt the judicial process by destroying relevant evidence or by seeking to bribe or otherwise influence judges or witnesses to take certain actions or make certain statements.

RIGHT TO BE FREE FROM RETROACTIVE CRIMINAL LAW - Companies may be linked to such an impact, for example, where political dissidents protest about some aspect of a company's operations and the State creates new, punitive measures to prosecute them.

RIGHT TO RECOGNITION AS A PERSON BEFORE THE LAW - Companies may be linked to such an impact, for example, where they benefit from a State-led land acquisition process that pays compensation only to male heads of households because the property of married women is treated as belonging to their husbands under domestic law.

RIGHT TO PRIVACY - Failing to protect the confidentiality of personal data held about employees or contract workers, customers or other individuals. Requiring pregnancy testing as part of job applications. Providing information about individuals to State authorities, without that individual's permission, in response to requests that are illegal under national law and/or not in line with international human rights standards. Selling equipment or technology that can be used to track or monitor individuals' communications and movements to a State with a poor human rights record.

RIGHTS TO FREEDOM OF THOUGHT, CONSCIENCE AND RELIGION - A company's policy prevent workers from wearing clothing or other symbols that express their faith, even though these do not interfere with legitimate safety or performance issues. A company does not allow its workers to seek reasonable time off for their religious holidays.

RIGHTS TO FREEDOM OF OPINION AND EXPRESSION - Operating in a country where workers are routinely prevented by law from expressing their opinions in the public domain. Censoring online or other content at the demand of the State where those requests are illegal under national law and/or not in line with international human rights standards. Engaging in litigation against individual workers, community members or other stakeholders who have spoken critically about the company where there is an extreme imbalance in the parties' means to fund a legal case.

RIGHTS TO FREEDOM FROM WAR PROPAGANDA, AND FREEDOM FROM INCITEMENT TO RACIAL, RELIGIOUS OR NATIONAL HATRED - Companies that provide the platform or technology for individuals to express hatred against a particular religious group and to incite others to take certain action against them.

RIGHT TO FREEDOM OF ASSEMBLY - Situations where public or private security services protecting company assets forcibly prevent or breakup peaceful demonstrations by the local community against a company's operations.

RIGHT TO FREEDOM OF ASSOCIATION - A company operates in an area where the State seeks to undermine a local political party that opposes the company's activities by bringing false accusations against its leaders.

RIGHTS OF PROTECTION OF THE FAMILY AND THE RIGHT TO MARRY - Company policy discriminates against women on the basis of their marital or reproductive status.

RIGHTS OF PROTECTION FOR THE CHILD - Business activities that involve hazardous work (such as cutting sugar cane or mining) performed by persons under the age of 18. Where child labour is discovered, a company can negatively impact other rights (such as the rights to an adequate standard of living, or security of the person) if they fail to take account of the best interests of the child in determining the appropriate response. For example, simply dismissing the child (or cutting the contract with the relevant supplier) may result in the child having to find alternative, more dangerous forms of work (such as prostitution).

RIGHT TO PARTICIPATE IN PUBLIC LIFE - Failing to give time off to workers for the purpose of voting. Bribery of political figures or other improper uses of company influence may distort the electoral process or otherwise impede free and fair elections.

RIGHT TO EQUALITY BEFORE THE LAW, EQUAL PROTECTION OF THE LAW, AND RIGHTS OF NON-DISCRIMINATION - Indirectly discriminating in the recruitment, remuneration or promotion of workers, for example, by offering a training programme that enhances an individual's chance of promotion at a time that is reserved for religious observance by a particular group. A company offers compensation to men and women in a situation where its operations or products have had negative impacts on their health in a way that discriminates against women (such as by failing to recognize the particular harm to their reproductive health).

RIGHTS OF MINORITIES - Failing to make reasonable adjustments for workers who wear a traditional form of headgear where that does not pose a legitimate safety or performance issue. Using land in a manner that undermines the traditional way of life of a minority group, for example, by preventing them from ceremonial activities.

RIGHT TO WORK - Arbitrarily or unfairly dismissing a worker, even if permissible under local law. Hindering or failing to provide for the reasonable career advancement aspirations of workers.

RIGHT TO ENJOY JUST AND FAVORABLE CONDITIONS OF WORK - Failing to address a pattern of accidents highlighting inadequate workplace health and safety. A company's purchasing practices repeatedly allow changes to the terms of product orders without any changes to price or delivery time, creating pressure on its suppliers, who then demand excessive overtime from their workers. Using cleaning staff that are employed by a third-party company and are paid extremely low wages with no or very limited entitlements to sick pay or leave.

RIGHT TO FORM AND JOIN TRADE UNIONS AND THE RIGHT TO STRIKE - Creating barriers to the formation of trade unions among employees or contract workers. Refusing or failing to recognize legitimate workers associations with which the company can enter into dialogue in countries that prohibit trade unions.

RIGHT TO SOCIAL SECURITY, INCLUDING SOCIAL INSURANCE - Denying workers their contractually agreed employment injury benefits. Offering a private social security scheme that has discriminatory eligibility criteria.

RIGHT TO A FAMILY LIFE - Company practices hinder the ability of workers to adopt a healthy work-life balance that enables them to adequately support their families (such as requiring workers to live on site in dormitories for extended periods of time without providing adequate periods of leave to enable them to spend time with their families).

RIGHT TO AN ADEQUATE STANDARD OF LIVING - Poor-quality housing or dormitories provided to workers. Failing to provide adequate sanitation facilities for workers in a company-owned factory. The expansion of a company's operations significantly reduces the amount of arable land in an area, affecting local community member's access to food. Business activities pollute or threaten existing water resources in a way that significantly interferes with local communities' ability to access clean drinking water. In such situations, there may be particular negative impacts on women and girls, who are responsible for water collection in many communities.

RIGHT TO HEALTH - Pollution from business operations can create negative impacts on the health of workers and/or surrounding communities. The sale of products that are hazardous to the health of end users or customers. Failure to implement appropriate health and safety standards leads to long-term negative impacts on workers' health.

RIGHT TO EDUCATION - The presence of child labour in a business or in its supply chain, where those children are unable to attend school. Limiting access to, or damaging, educational facilities through construction, infrastructure or other projects.

RIGHTS TO TAKE PART IN CULTURAL LIFE, TO BENEFIT FROM SCIENTIFIC PROGRESS, AND TO PROTECTION OF THE MATERIAL AND MORAL RIGHTS OF AUTHORS AND INVENTORS - Activities involving resource extraction or new construction (such as laying a pipeline or installing infrastructure networks) could impact this right by separating groups from areas of cultural importance and knowledge, or by damaging their cultural heritage.

REMEDY FOR CORPORATE HUMAN RIGHTS VIOLATIONS

Remedying past harm is not generally something with which a business can attract positive stakeholder attention or which bears inherent business risks if done badly. Thus, from the perspective of construing a business case for harm remediation, remedy seems to be a rather unattractive responsibility. This may be one reason for why remediation has been a relative blind spot in CSR (Corporate Social Responsibility) research and practice: the corporate-centric outlook of CSR has not designated remediation as a priority issue.

From a rightsholder-centered perspective, however, remediation turns into one of the most important, if not the most important element, of corporate responsibility because it addresses the plight of those who have already suffered harm. Whose claims, if not those, when human rights have been violated should be addressed with the utmost urgency? Thus, BHR-informed CSR can broaden the spectrum of taking responsibility to include and indeed prioritize remedy for harms experienced by rightsholders.

We suggest that CSR has addressed the nature of corporate responsibility in the present and the future at the cost of developing frameworks for remedying past wrongs that have concrete, negative, and ongoing effects on stakeholders. BHR offers an important retrospective perspective, useful to CSR research, on stakeholder harm and the ethical obligations of business to ameliorate those harms. However, it also seems that BHR-informed CSR scholarship would have much to offer when it comes to conceptualizing adequate remedy for human rights harms. BHR has put much of its attention on the conceptualization of judicial pathways to remediation. Non-judicial avenues, such as the conceptualization of operational-level grievance mechanisms, have remained relatively underdeveloped and often inadequate (Thompson, 2017).

BHR-informed CSR scholarship on remediation ought to create more robust conceptualizations of business-level remedy mechanisms as well as their implementation, including ongoing assessment. Furthermore, building on current managerial and business ethics research regarding the restoration of relationships in the aftermath of moral transgressions (Wenzel & Okimoto, 2015), such research could expand to include alternative forms of remedy provisions, such as apologies (Koehn, 2013) and other forms of symbolic remedies (Vives et al., 2019). Similarly, recent scholarship on historic CSR (Schrempf-Stirling et al., 2016) can provide a conceptual frame for a more holistic theorization of remedies owed in the context of past (historic) human rights violations. The interplay between access to judicial remedy and non-judicial—particularly business-level—remedy mechanisms has long needed further research.

Judicial remedy refers to how a right is enforced and victims receive remedy by a court, whereas non-judicial remedy refers to processes related to providing remedy to victims of human rights violations that do not involve legal institutions, such as court orders. Examples of non-judicial remedy mechanisms include OECD (Organization for Economic Co-operation and Development) National Contact Points or business-level grievance mechanisms. It is, for example, unclear to what degree business should be offering remedies for the most egregious human rights violations or if such transgressions should per se be adjudicated in courts. This point is intertwined with our previous discussion on the accountability for harm as well as the respective roles of and relationship between state and business when it comes to human rights violations. Future research on the role and relationship between state and business is not only needed with regard to harm avoidance in general, but also with regard to providing remedy. While we have discussed these research streams separately, there is considerable overlap between harm and remedy by the very nature of human rights.

Furthermore, the role of corporate lawyers in defending corporate interests against allegations of rights holders has frequently been problematic (Ruggie, 2013), which evokes further important questions: What does a rights holder-centered, responsible handling of lawsuits by businesses look like? That is, what if corporate interests cease to be the absolute benchmark for a corporate defense in court and the broader social responsibilities of business are taken into consideration (Ruggie, 2012)? It seems that BHR-informed CSR would have much to contribute to such a reconceptualization of legitimate corporate legal defense strategies and their relationship to access to remedy for those who have suffered rights violations.

CONCLUSION:

In conclusion, the market is hungry for new global businesses that are ready to enter its consumer base. However, a successful entry will look into a variety of factors such as the level political stability, the economic situation, the local needs of such a corporation as well as key success

factors that make or break the company. As with anything, everything needs to be considered and questioned as well as thoroughly planned, hypothesized, and considered before any action such as entry. This paper has contributed in understanding impact of business rules on human rights

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