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Human Rights in Business-A Review

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Abstract

In this paper an attempt has been made to provide an overview of human rights issues in business. In particular, it focuses on emerging global framework for business and human rights. The growing reach and impact of business enterprises have given rise to a debate about the roles and responsibilities of such actors with regard to human rights. Business is a part of society which provides goods and services for the overall welfare of the society. In doing so every business is to maintain the human rights so that, human and social welfare can properly take place and only by virtue of applying all necessary norms and conditions of human rights, the business community can survive in the society as an essential part in real sense. In this regard this paper will bring forth the responsiveness of business towards human welfare. Further it will also highlight why human rights is matter to business, position of business and human rights in India as well as international level and various regulatory provisions available in India for protection of human rights through business.

Key Words: *Human Rights, Business responsibility, Global framework, Indian context, Different acts.*

1. Introduction: Business is a part of society which provides goods and services for the overall welfare of the society. In doing so every business is to maintain the human rights so that, human and social welfare can properly take place and only by virtue of applying all necessary norms and Conditions of human rights, the business community can survive in the society as an essential part in real sense. As the retail or manufacturing company's operations can have positive or negative impact on the human rights of employees, customers, suppliers and their employees, business partners, and local communities wherever they operate, so there are hardly any human rights that are not relevant to the sector. Moreover integrating human rights into business practice is important for managing business risks and creating new opportunities in the manufacturing sectors. Keeping in view the above facts this paper aims to provide an overview of human rights issues in business and focuses on emerging global framework for business and human rights.

2. Human Rights and Business: Human rights are those fundamental moral rights of the person that are necessary for a life with human dignity. These rights are essential for the

adequate development of human personality and for human happiness. Human rights include all rights that should be enjoyed by every individual irrespective of class, gender, age, caste, religion, language, creed, status and beliefs. It includes right to life, right to adequate food, right to shelter, right to clothes, right to pollution free air, right to noise free surroundings, right to have safe drinking water, right to vote, right to participate in all social, economic and political activities, right to embrace any religion, right to speak and so on.

Section 2 (d) of the Protection of Human Rights Act, 1993 (“Human Rights Act”) defines “human rights” as “rights relating to life, liberty, equality and dignity of the individual guaranteed by the Constitution or embodied in the International Covenants and enforceable by courts in India.” “International Covenants” have been further defined as the International Covenant on Civil and Political Rights, 1966 and the International Covenant on Economic, Social and Cultural Rights, 1966 and such other Covenant or Convention adopted by the General Assembly of the United Nations as the Central Government may, by notification, specify.

On the other hand business is an economic activity, which is related with continuous and regular production and distribution of goods and services for satisfying human wants. Therefore it is the duty of every business enterprises to make respect for human rights and also needed to be aware of the harms that activities could create and take steps to deal with them.

3. Review of Literature: A number of research studies have been undertaken on human rights at the global level and in India. Some studies dealt on methodological issues and some on empirical analysis. The researcher has tried to review the following:

Ruggie (2007) has stated in his report that the issue of human rights and transnational corporations and other business enterprises and treaty body commentaries from the past decade show a trend towards increasing pressure on States to fulfil this duty in relation to corporate activities, regardless of whether the entities operate within a single country or transnational, and whether they are privately or publicly owned.

Robinson (2008) has discussed in his report about corporate due diligence requirements under Australian law. He argued that the regulation of project and infrastructure development and of the public sector decision making on corporate activity indirectly impose a corporate duty to respect human right.

Wouters & Chanet (2008) examined the effectiveness of Europe’s CSR policy with regard to human rights. According to them public authorities should create a framework which must include enabling measures for ensuring that corporations respect human rights and at the same time regulatory measures must be provided to address the worst cases of human rights violations. They further argued that European Union’s approach to corporate human rights responsibility has far largely failed for ensuring human rights compliance by all corporations.

Research conducted by the SRS (2008) shows that corporate conduct can impact on the full range of human rights, including civil and political rights, economic, social and cultural rights, and labour rights.

In this era of open global market economy, hazardous industries are playing a decisive role in the economic development and in the advancement of the economy, but simultaneously they are causing the problem of risk to human life and environment. The right to healthy environment is also recognized as 'third generation' human rights in recent years. In a world where global warming and climate change are becoming matters of daily concern in the life of a human being, the major environment hazards faced by the human being is because of industrial development (Boyle, 2008).

The study conducted by Cambodian Centre for Human Rights (CCHR, 2014)¹ reveals the current state of human rights in relation to the garment industry in Cambodia and found that despite a relatively protective legislative framework and several national-level policies for implementing this framework, labor rights, the garment industry in Cambodia, regularly fail to uphold basic human rights in their daily operations, which in turn resulting in human rights abuses and thereby creating an untenable situation for those employed in the industry. Corporations have an enormous capacity to create wealth, jobs and income, to finance public goods, and to generate innovation and development in many areas relevant to human rights and environmental protection. The study conducted by Augenstein (n.d) focused on the European legal framework in the areas of human rights and the environment applicable to EU-based companies when they operate outside the European Union. According to him a number of European businesses are leaders in terms of their recognition of labour rights, and rights relating to privacy and security of the person, as well as their inclusion of human rights standards in supply chain management. Further the study has also identified a number of opportunities for legal reforms that could be explored, with a view to better contributing to the further implementation of the UN Framework.

4. Objectives of the Study: Business involves various individuals at its different stages such as proprietors, shareholders, managers, sales executives and customers and being responsible to all these people is not a matter of civic sense or protocol rather they are the prerequisites which make business genuine. Therefore for smooth functioning of business quality control, safety of the products, trademark monopoly and up-keeping of business contract are very necessary. In this context the paper examines:

- The importance of human rights issues in business.
- The emerging global framework for business and human rights.
- Position of business and human rights in India as well as in international level.

¹ *The Cambodian Center for Human Rights (CCHR) is a non-aligned, independent, non-governmental organization (NGO) that works to promote and protect democracy and respect for human rights – primarily civil and political rights – throughout the Kingdom of Cambodia (Cambodia).*

5. Methodology of the Study:

Research design: The nature of the study is both exploratory and descriptive. It is exploratory as the study aims at identifying the importance of human rights issues in business.

Sources of data: The study is based on secondary data. The data are collected from the books, journals, published reports, and relevant websites.

6. Importance of Human Rights in Business: Human rights have entered the business agenda mainly through concepts and frameworks such as Sustainability, Corporate Social Responsibility (CSR) and Triple P (People, Planet, and Profit)². For the social component of these concepts and frameworks, the commonly used standards include: labor rights, employee engagement, and charitable contributions. Businesses increasingly need a stable international environment in which to operate, with sustainable markets and a “level playing field” of opportunities and these business opportunities often arise when new thinking and innovation is involved in the business model. As human rights are a relatively new field for business, companies can benefit from the early stages of development and also help in shaping the new business environment, including respect for human rights.

Although human rights treaties directly not address businesses, The Universal Declaration of Human Rights (UDHR) states in its Preamble that “every individual and every organ of society shall strive by teaching and education to promote respect for these rights and freedoms.” In recent years, many have stressed that companies are important “organs of society,” and have sought to clarify the role of business in relation to these human rights.

For business, human rights provide a universal benchmark for minimum standards of behavior. Many national laws and regulations have evolved as a result of a State’s obligation to implement human rights standards. Business must, of course, observe such laws in all countries and jurisdictions in which they operate.

Some of the reasons concern for human right is important to business includes:

- More sustainable business relationships with governments, business partners, trade unions, sub-contractors and suppliers.
- Improved employee recruitment, retention, and motivation.
- Reduced risk of consumer protests.
- Strengthened shareholder confidence
- A more secure license to operate

² *Business & Human Rights Initiative (2010), “How to Do Business with Respect for Human Rights: A Guidance Tool for Companies,” The Hague: Global Compact Network Netherlands.*

- Identifying new business opportunities.

7. Global Framework for Business and Human Rights: The United Nations (UN) first attempted to establish binding international rules to govern the activities of transnationals in 1970 (Cited in Reggie, 2007). That endeavor was initiated by developing countries as a part of a broader regulatory program with redistributive aims known as New International Economic Order. In 1976 the Organisation of Economic Co-Operation and Development (OECD) adopted a set of Guidelines for Multinational Enterprises and in 1977, the governing body of ILO (International Labour Organization) adopted Tripartite Declaration of Principles concerning Multinational Enterprises and social policy (ILO, 1978), which was subsequently amended, most recently in 2006 (ILO, 1978). Article 8 of this declaration states that governments, employers, and trade unions must respect the entire Universal Declaration of Human Rights and the International Covenants. It was a declaration not just about labor rights, but about all human rights³. In 1998, a subsidiary body of the UN Human Rights Commission⁴ set out to draft norms for human rights and business. The norms were approved by the UN Sub-Commission in 2003 under the formal title of “Norms on the Responsibilities of Transnational Corporations and Other Business Enterprises with Regard to Human Rights”⁵, and were considered but not adopted by the UN Human Rights Commission in 2004 though it did say that they had “useful elements and ideas for consideration.” The greatest shortcoming of the UN Norms was that they did not contain a workable enforcement mechanism (Bilchitz, 2009).

The UN Human Rights Commission proposed to ask the UN Secretary-General to appoint a Special Representative to look into new approaches. Then in July 2005, Secretary-General Kofi Annan appointed Harvard Professor John Ruggie as his “Special Representative of the UN Secretary-General on Human Rights and Transnational Corporations and Other Business Enterprises” for an initial two-year period. His Mandate was extended twice (in 2007 for one year and in 2008 for another three years) and is due to be concluded in June 2011⁶. The Human Rights Council of the United Nations, at its Eleventh Session (June 2008), unanimously welcomed the Special Representative Mr John

³ Christopher Avery (n.d), *The Development of Arguments for the Accountability of Corporations for Human Rights Abuse, Research Workshop on Human Rights: From Practice to Policy*, Gerald R. Ford School of Public Policy University of Michigan, Retrieved from <http://humanrightshistory.umich.edu/accountability/corporations/>

⁴ now called the Human Rights Council was until 2006 the Human Rights Commission.

⁵ UN Document: E/CN.4/Sub.2/2003/12 (2003). The text of the Draft Norms can be found at: www1.umn.edu/humanrts/links/NormsApril2003.html

⁶ The 2008-2011 mandate is available from <http://business-humanrights.org/en/mandate-of-the-un-special-representative>

Ruggie's proposal for establishing a policy framework which is based on three principles⁷ that is:

- The state duty to protect against human rights abuses, including those by business;
- The corporate responsibility to respect human rights; and
- The need for better access to remedy when corporate-related abuses have occurred.

In 2011, the UN Human Rights Council unanimously endorsed the UN Guiding Principles on Business and Human Rights, a set of guidelines that operationalize the UN Framework and further define the key duties and responsibilities of States and business enterprises with regard to business-related human rights abuses.

The state duty to protect: The Guiding Principles affirm that states have the duty under international human rights law to protect everyone within their territory and/or jurisdiction from human rights abuses committed by business enterprises. This duty means that States must have effective laws and regulations in place to prevent and address business-related human rights abuses and ensure access to effective remedy for those whose rights have been abused.

The corporate responsibility to respect human rights: The UN Guiding Principles also addresses the human rights responsibilities of businesses. Business enterprises have the responsibility to respect human rights wherever they operate and whatever their size or industry. This responsibility means companies must know their actual or potential impacts, prevent and mitigate abuses, and address adverse impacts with which they are involved. They must seek to prevent or mitigate any adverse impacts related to their operations, products or services, even if these impacts have been carried out by suppliers or business partners. To meet the responsibility to respect, business enterprises must have the necessary policies and processes in place. The Guiding Principles identify three components of this responsibility. First, companies must institute a policy commitment to meet the responsibility to respect human rights. Second, they must undertake ongoing human rights due diligence⁸ to identify, prevent, mitigate and account for their human rights impacts.

⁷ A/HRC/11/13 – “Business and Human Rights: Towards Operationalizing the ‘protect, respect and remedy’ Framework” – Report by Mr John Ruggie: Special Representative of the Secretary General on the issue of human rights and transnational corporations and other business enterprises” (United Nations, 22 April, 2009), available at <http://www2.ohchr.org/english/bodies/hrcouncil/docs/11session/A.HRC.11.13.pdf>

⁸ Human rights due diligence refers to the process of identifying and addressing the human rights impacts of a business enterprise across its operations and products, and throughout its supplier and business partner networks.

Finally, they must have processes in place to enable remediation for any adverse human rights impacts they cause or contribute to⁹.

Access to remedy: The state must take all the appropriate steps necessary to ensure that those affected by human rights abuses within their territory have access to effective remedies through judicial, administrative, legislative or other appropriate means.

The access to remedy principles does not only apply to States. They also stipulate that business enterprises should provide for, or participate in, effective mechanisms for fielding and addressing grievances from individuals and communities who may be adversely impacted by the company's operations.¹⁰

8. Business and Human Rights at International Level: Over the past decade increased attention has been focused on the role of business in global development and in helping to achieve the Millennium Development Goals. At the same time, the emerging norm of the corporate responsibility to respect human rights has gained momentum at the international level. There are growing numbers of international institutions which are dedicated to this subject. One of the central organisation is Business and Human Rights Resource Centre, an online resource that came into existence almost 13 years ago. The Resource Centre website was established to create a centralised resource for information on the issue of business and human rights. The website now contains information on more than 5100 companies, in 180 countries and covering over 150 issues.

The Global Business Initiative on Human Rights (GBI) is a global community of corporations from all sectors knowing and showing that they respect the dignity and rights of the people they impact and interact with.

In 2000, the United Nations had launched the Global Compact (GC) which is another international initiative to balance society and the corporate sector. The UN Global Compact is a strategic policy initiative for businesses that are committed to aligning G10 their operations and strategies with ten universally accepted principles in the areas of human rights, labour, environment and anti-corruption. These ten principles are derived from:

- The International Labour Organization's Declaration on Fundamental Principles and Rights at Work
- The Rio Declaration on Environment and Development
- The United Nations Convention against Corruption”¹¹

On May 28, 2010, the UN Global Compact reached an agreement with the Global Reporting Initiative (GRI)¹² to align their efforts. The UN Global Compact's agreement

⁹ Report of the UN working group on business and human rights, *The Un Guiding Principles on Business and Human rights : An Introduction*, p.3, available at

¹⁰ Report of the UN working group on business and human rights, *The Un Guiding Principles on Business and Human rights : An Introduction*, p.4, available at

¹¹ available at : <http://www.unglobalcompact.org/AboutTheGC/TheTenPrinciples/index.html>

with the GRI provides a framework for the development, implementation, and disclosure of environmental, social, and governance policies and practices by corporations¹³.

The Business Leaders Initiative¹⁴ on Human Rights has developed a Human Rights Matrix which follows the Universal Declaration of Human Rights and other international agreements. The categories in the Matrix are those developed in the Draft Norms; the content covers the following areas:

- A** General Obligations
- B** Right to equal opportunity and non-discriminatory treatment
- C** Right to security in persons
- D** Rights of workers
- E** Respect for national sovereignty and human rights
- F** Obligations with regard to consumer protection
- G** Obligations with regard to environmental protection
- H** General Provisions of implementation

The U.S. government's approach on business and human rights is intended to support the interests of U.S. companies, enhance the effectiveness of international institutions focused on this issue, and promote the human rights of people around the world. The United Nations (UN) Guiding Principles on Business and Human Rights (Guiding Principles), unanimously endorsed by the UN Human Rights Council on June 16, 2011 in a resolution cosponsored by the U.S. government, are the first broadly accepted global set of guidelines on business and human rights. The Guiding Principles provide an important framework for corporations,

¹² *21Global Reporting Initiative (GRI) is a network-based organization that has pioneered the development of the world's most widely used sustainability reporting framework and is committed to its continuous improvement and application worldwide. In order to ensure the highest degree of technical quality, credibility, and relevance, the reporting framework is developed through a consensus-seeking process with participants drawn globally from business, civil society, labour, and professional institutions. This framework sets out the principles and indicators that organizations can use to measure and report their economic, environmental, and social performance. The cornerstone of the framework is the Sustainability Reporting Guidelines. The third version of the Guidelines – known as the G3 Guidelines - was published in 2006. Other components of the framework include Sector Supplements (unique indicators for industry sectors) and National Annexes (unique country-level information), available at <http://www.globalreporting.org/AboutGRI/WhatIsGRI/>.*

¹³ *Global Governance Watch website, UN and OECD Press for Global Governance of Transnational Corporations, Economics, Corporate Citizenship, Human Rights, by Jim Kelly, July 28, 2010.*

¹⁴ *The Business Leaders Initiative on Human Rights (BLIHR) is a business-led program that is developing practical tools and methodologies for applying human rights principles and standards across a range of business sectors, issues, and geographical locations.*

states, civil society, and others as they work to strengthen their respective approaches to the issue of business and human rights.¹⁵ The UN Working Group on Business and Human Rights has encouraged States to develop National Action Plans ("NAPs")¹⁶ on business and human rights as part of their responsibility to disseminate and implement the Guiding Principles on Business and Human Rights. On December 15, 2014, the US Government held its first public consultation on the White House National Action Plan on Responsible Business Conduct in New York City at the NYU Stern School of Business. The event was the first of four national consultations announced by the Government to develop the US NAP.

In Australia, the Australian Human Rights Commission has created an online hub to assist Australian businesses and employers to support workplace diversity, meet their obligations under anti-discrimination law and integrate a human rights approach into their policies and practice. The online hub includes a range of practical resources including¹⁷:

- The Good Practice, Good Business factsheets to help promote diversity and prevent discrimination in the workplace.
- Business and human rights factsheets to assist Australian businesses embed human rights into their operations.
- Toolkits and guidelines on a range of issues including gender equality, sexual harassment, recruitment and retention of older workers, managing employees with family and career responsibilities, workplace cultural diversity and employment of people with disabilities.
- In 2010 the Global Compact Network Australia established a Human Rights Leadership Group for Business to focus on building capacity amongst Australian businesses to manage both human rights-related challenges and opportunities.

Recently in Qatar, The Peninsula reports that the National Human Rights Committee (NHRC) will be included in a monitoring mechanism to ensure that foreign workers have access to adequate accommodation, in line with international standards. This monitoring process will also ensure that the guidelines for labour camps are being upheld in practice. The Secretaries of State for Foreign Affairs and for Business Innovation and Skills announced a National Action Plan (the "UK NAP") to implement the United Nations Guiding Principles on Business and Human Rights. The UK NAP makes clear the Government's expectations that business enterprises domiciled in the United Kingdom

¹⁵ See the text of the U.S. statement at the endorsement of the Guiding Principles and the text of the resolution here: <http://www.humanrights.gov/2011/06/16/businesses-and-transnational-corporations-have-a-responsibility-to-respect-human-rights/>

¹⁶ A 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 UN Guiding Principles on Business and Human Rights."

¹⁷ <https://www.humanrights.gov.au/education/business-and-human-rights>.

should respect human rights and demonstrates the Government's intention to continue activities to implement the Guiding Principles on Business and Human Rights. In the UK, an amended law⁴ that requires the directors of listed companies to include information about human rights issues in their annual strategic report to shareholders.

In Germany, the Working Group on Human Rights and Business comprised of the Federal Government, industry, employers' associations, trade unions and civil society organisations has issued a joint declaration reaffirming the commitment of all signatories to respect and foster international human rights law.¹⁸

France is also working actively to improve and implement the body of human rights standards in an international context in which the concept of Corporate Social Responsibility (CSR) has recently been redefined.

9. Business and Human Rights in Indian Context: India is a party to major international human right treaties and declarations. It is one of the few countries that protect Human Rights through its Constitution. The civil and political rights guaranteed as Fundamental Rights are enforceable through the Courts of law. The fundamental rights of Indian constitution ensures various individually oriented rights: right to freedom, right to equality, right against exploitation, cultural and educational right, and right to constitutional remedies. Whereas, directive principles of the constitution is concerned with weaker sections of the society; directive principles work towards collective rights, as they focus on rights of the communities.

Although in India the relatively young liberal market economy has had profoundly positive effects on poverty and the realization of rights, yet the country continues to grapple with problems of poverty, unemployment, illiteracy and malnutrition. There is a lack of code for promoting ethical business practices. Therefore, there is a need to develop structures for facilitating adoption of code of ethics by Indian industry¹⁹.

India has a tradition of common law. Corporate law is regulated at a federal (Union) level through the Ministry of Corporate Affairs (MCA) and the Company Law Board (CLB). The MCA can investigate companies and penalize companies for any non-compliance of its regulations. On the other hand SEBI regulates businesses in the security markets and protects investor interests. FEMA and the RBI regulate all FDI in India. In the case of a violation of any of the provisions of FEMA, the RBI can impose a penalty of up to three times the amount of money involved. Moreover, the Competition Commission of India has the power to penalize companies that enter into anti-competitive agreements.

India has ratified the following international conventions:

¹⁸ See European Commission, 'Corporate Social Responsibility: National public policies in the European Union' (September 2007)

¹⁹ *Developing code of ethics for Indian Industry (2012), Report prepared by Institute for Corporate Sustainability Management Trust and National Human Rights Commission, p.11.*

- Universal Declaration of Human rights 1948
- International Convention on elimination of all forms of racial discrimination 1965
- International Covenant on Economic, Social and Cultural rights 1966, and
- Convention on the elimination of all forms of discrimination against women 1979

Apart from the Constitution, for the protection and observance of Human Rights, enactment of the protection of Human Rights Act, 1993 (herein after referred to as PHRA 1993), is an important milestone. The PHRA was enacted by the Govt. of India for a speedy and fair redressal to the victims of the violation of Human Rights and to discharge its Constitutional and international obligations²⁰. This Act was enacted in the context of International Covenant on Civil and Political Rights, 1966 and International Covenant on Economic, Social and Cultural Rights, 1966.

The following Acts and regulations are also relevant when looking at Business and Human Rights in India:

- 1. The Child Labour (Prohibition and Regulation) Act, 1986:** This legislation has been enacted with a view to prohibit the engagement of children in certain employments and to regulate the conditions of work of children in certain other employments. It prohibited the employment of children as domestic servants.
- 2. The Contract Labour (Regulation and Abolition) Act, 1970:** It was passed to prevent the exploitation of contract labour and also to introduce better conditions of work. This Act provides for abolition of contract labour where ever possible and practicable and regulation of their employment where it cannot be abolished altogether.
- 3. The Equal Remuneration Act, 1976:** It is the principal legislation providing for equal pay to men and women for equal work.
- 4. The Employees State Insurance Act, 1948:** This Act aims at bringing about social and economic justice to the poor labour class of the land. It promotes labour welfare. The main objective of the E.S.I Act, 1948 is to provide to the workers medical relief, sickness cash benefits, maternity benefits to women workers, pensions to the dependents of deceased workers and compensation for fatal and other employment injuries including occupational diseases in an integrated form through a contributory fund.
- 5. The Maternity Benefit Act, 1961:** This Act was enacted to regulate the employment of women in certain establishments for certain periods before and after child birth and to provide for maternity benefit and certain other benefits.
- 6. The Minimum Wages Act, 1948:** It is an Act providing for fixing minimum rates of wages in certain employments.

²⁰ Act No. 10 of 1994 – Received the assent of the President on January 8, 1994 and published in the official Gazette of India, extra part II, Section I, date 10th January 1994.

- 7. The Beedi and cigar workers (Conditions of Employment) Act, 1966:** The Act has been enacted to provide for the welfare of workers in Beedi and Cigar establishments and to regulate the conditions of their work and for matters connected therewith.
- 8. The Workmen Compensation Act, 1923:** This legislation provides for the payment of compensation by certain classes of employers to their workmen, who sustain personal injury by accidents arising out and in the course of their employment.
- 9. The Employees Provident Fund and Miscellaneous Provision Act, 1952:** It was enacted to providing for the institution of provident funds, family pension funds and deposit linked insurance fund for the employees in the factories and other establishments.
- 10. The Payment of Wages Act, 1936:** It is an Act to regulate the payment of wages of certain classes of employed persons.
- 11. The Trade Unions Act, 1926:** This legislation is enacted for the registration of Trade unions and in certain respects to define the law relating to Registered Trade unions.
- 12. The Factories Act, 1948:** It is enacted for occupational safety, health and welfare of workers at work places.
- 13. The Bonded Labour System (Abolition) Act, 1976:** It is the principal legislation which prohibits the practice of bonded labour in the light of spirit contained in Article 23 of the Indian Constitution. The main objective of this Act is to prevent the economic and political exploitation of the weaker sections of the people.
- 14. The Mines Act, 1952:** It is an Act to amend and consolidate the law relating to the regulation of labour and safety in mines.
- 15. The Environment (Protection) Act, 1986:** This is the principal green legislation providing for the protection and improvement of environment and for matters connected therewith.
- 16. The National Rural Employment Guarantee Act, 2004:** This is enacted to safeguard the Right to work by providing guaranteed employment at the statutory minimum wage at least one adult per household who volunteers to do causal manual labour in rural areas. The effective provision for safeguarding the Right to work is a duty of the State. Safeguarding the Right to work is also essential for the realization of other Constitutional rights such as the Right to life, the Right to food and the Right to education. This legislation was enacted in the light of Constitutional spirit under Article 41 of the Constitution of India.
- 17. The Right of Children to Free and Compulsory Education Act, 2009:** This legislation is enacted to provide for free and compulsory education to all children of the age of 6 to 14 years.

Now Indian Government has been a strong supporter of the Business and Human Rights agenda. India has signed and adopted a number of international guidelines with regard to corporate social responsibility. The United Nations Global Compact was launched in India

at a high level meeting of Business Leaders in Mumbai on 4 December, 2000 and over 100 leading organizations from India have joined the initiative to date. Moreover there are also some serious developments. The Ministry of Corporate Affairs has launched National Voluntary Guidelines for Responsible Business, in which Principle 5 (of 9) guides businesses to “respect and promote human rights” and makes explicit reference to the work of Prof. Ruggie and the UN “Protect, Respect, Remedy” Framework.

In November 2009 with a business roundtable, Global Business Initiative has been working closely with local partners in India, particularly the Global Compact Local Network, to catalyze business commitment to the corporate respect for human rights. Most recently, GBI has been supporting the launch of an India Chief Executive Officer (CEO) Forum on Business and Human Rights. The India CEO Forum on Business and Human Rights is a two- year global compact network India initiative that will exist to advance human rights in a business context among Indian industry at home and abroad, and so establish India as a global leader in this critical and valuable area of responsible business.

On February 13, 2012, the CEOs and senior leaders from 40 corporations including Public Sector Undertakings, Private Indian business and MNCs operating in India meet together to have a discussion on Human Rights Risks, Responsibilities and Opportunities facing Indian business leaders, and to build commitment to a two-year India CEO Forum on Business and Human Rights.

The Economic Times reported that The National Human Rights Commission of India plans to critically examine government policies framed for promoting business to ensure that they are not in conflict with human rights. The Commission's Secretary General Rajesh Kishore said “Human rights violations due to business would be our prime focus in the coming years and the Commission has already started studying the subject.” According to a report titled NHRC India on Business and Human Rights, submitted to the International Coordinating Committee for National Human Rights Institutions²¹, now commission will examine the impact of government policies on public health, business practices, industrial processes and products.²²

10. Business and Human Rights in North-East Context: In the Northeast states of India several peaceful protests took place over the past month to address concerns over the implications of the European Union (EU) Free Trade Agreement (FTA) with India. The aspect of the proposed FTA includes removing tariffs for 90 percent of agricultural products between the parties, allowing for EU companies to gain access to a market that has been largely controlled by local producers, inhibiting the ability of locals to earn a livelihood, and causing the local agriculture industry to be vulnerable to global volatilities. An additional concern of the proposed EU-FTA agreement is the clause for establishing mineral extraction industries in India. These extractive industries have the potential to inhibit the livelihood of

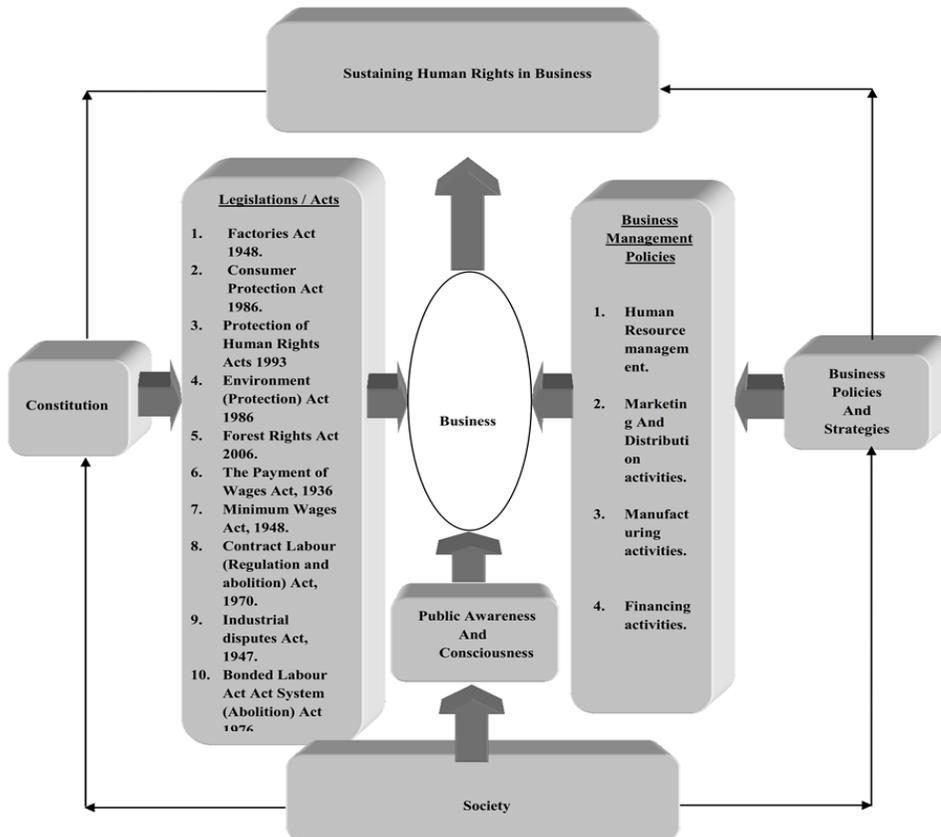
²¹ *An international association of national human rights institutions across the world.*

²² *The Economic Times, September, 2014*

indigenous people in the Northeast, and risk the displacement of the indigenous peoples from their traditionally owned land, as foreign companies are given contracts to the land. Petroleum exploration in Manipur has potential negative ramifications for the indigenous people of the area as well as negative environmental implications. Protestors are concerned over the lack of transparency in the Bill, violation of the rights of the indigenous people, and the threat increased imports would make to local businesses and livelihoods.

During the two-day consultation program “Indigenous Peoples Consultation on Dams and Natural Resources Protection in India’s North East” held at Agartala from 10 till 11 February 2013, organized by the Borok Peoples Human Rights Organization, environmentalists, social organizations and pressure groups have asserted that the land, forests, rivers and all natural resources in India’s North East belong to the indigenous people of the region. They asserted that mega dam constructions that had already been commissioned such as Loktak Project in Manipur, Dumber Dam in Tripura have already led to widespread dispossession, loss of lands, extinction of flora and fauna, demographic impacts on indigenous peoples in the region and other human rights violations.

A Model for sustaining human rights in business



In this model it is reflected that business is a part of society which is basically interrelated with the –

- Constitution of India and various legislations.
- Basic business policies and various departmental policies.
- Public awareness and consciousness.

Conclusion: The presence of several international instruments outlining human rights shows that the protection of human rights is important enough to occupy a significant part of the international agenda. Businesses, through their activities have an impact on virtually all internationally recognized human rights, and hence they have a responsibility to respect all the rights. In the presence of various international instruments, states that have ratified the instruments also have an obligation to adhere to them. States can be held directly responsible under international law if they do not adequately regulate the conduct of businesses to ensure compliance with the various international human rights treaties. Today an increasing number of countries around the world have launched national initiatives on corporate responsibility to encourage excellence among their own industries. In India also many serious developments have been taken place. India has also ratified the International Covenant on Civil and Political Rights (ICCPR) and the International Covenant on Economic, Social and Cultural Rights (ICESCR), and has definite human rights obligations. Since business operations affect human rights on a large scale, the state has a responsibility to ensure that corporate conduct is conducive towards creating an atmosphere of respect for the human rights of all. Moreover in order to meet the responsibility to respect human rights, business enterprises should also have adequate policies and strategies appropriate to their size and circumstances.

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