

Business and Human Rights: Key Trends, Debates, and the Sri Lankan Landscape

Centre for a Smart Future

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What is Business and Human Rights (BHR)?

- Refers to the intersection between **business activities and their impacts on human rights**, including workers, communities, and the environment (*United Nations, 2011*)
 - Establishes that **companies have a responsibility to respect human rights**, regardless of where they operate or the strength of national laws (*UN, 2011*)
 - Anchored in the **UN Guiding Principles on Business and Human Rights**, the global standard for managing business-related human rights risks (*UN, 2011*)
 - Covers impacts across **entire value chains** including suppliers, contractors, and business partners (*Organisation for Economic Co-operation and Development, 2018*)
- ❖ **Includes key concepts like:**
- a) Human rights due diligence (HRDD):** identifying, preventing, and mitigating risks
 - b) Access to remedy:** ensuring affected individuals can seek redress (*Office of the United Nations High Commissioner for Human Rights, 2011*)
 - c) Recognizes that while businesses can drive economic growth, they can also contribute to harm if risks are not properly managed**

BHR: What Did This Look Like in the Past?

For many years, business engagement with human rights was largely framed through:

- Corporate Social Responsibility (CSR) initiatives
- Voluntary sustainability commitments
- Philanthropy and community development programs
- Codes of conduct and supplier audits

Key characteristics:

- Primarily **voluntary and reputational**
- Often **separate from core business strategy**
- Focused on **reporting and commitments**, rather than risk management
- Limited expectations around **supply chains or business relationships**

Underlying assumption:

Human rights were seen as **primarily the responsibility of governments**, while companies focused on economic activity.

Why Did The Framing Begin to Change?

- During the 1990s and 2000s, several developments exposed the **limits of voluntary CSR approaches**:
 - Expansion of **global supply chains**
 - Increasing scrutiny of labour rights and environmental impacts
 - Corporate involvement in **conflict zones and weak governance contexts**
 - High-profile corporate scandals and human rights controversies
- Attempts to strengthen corporate accountability included the **2003 UN Draft Norms on the Responsibilities of Transnational Corporations**, which sought to impose direct obligations on companies but failed to gain political consensus.
- This created pressure for a **more practical framework clarifying responsibilities between states and businesses**.

Sources: UN Draft Norms (2003); Perera (2019)

Why This Conversation Matters Now

Over the past decade, expectations have shifted significantly

Business and Human Rights is increasingly shaped by:

- **The UN Guiding Principles on Business and Human Rights (2011)**
- **Human Rights Due Diligence (HRDD)** as a management process
- **Emerging mandatory due diligence regulations** (particularly in Europe)
- Growing scrutiny of **global supply chains**

Implications:

- Human rights risks are increasingly treated as **business risks**
- Expectations now extend **beyond direct operations to suppliers and partners**
- Export-oriented economies are increasingly affected through **trade relationships and buyer requirements**

The Evolution of Business & Human Rights



Sources: Ruggie (2008); OHCHR (2011)

How the BHR Agenda Spread Beyond the UN

Following the adoption of the UNGPs, the framework was integrated into several international governance systems:

- **OECD Guidelines for Multinational Enterprises** (updated 2011)
- **ILO Tripartite Declaration on Multinational Enterprises**
- **IFC Performance Standards** for project finance
- **National Action Plans on Business and Human Rights**

Business platforms also began incorporating BHR principles:

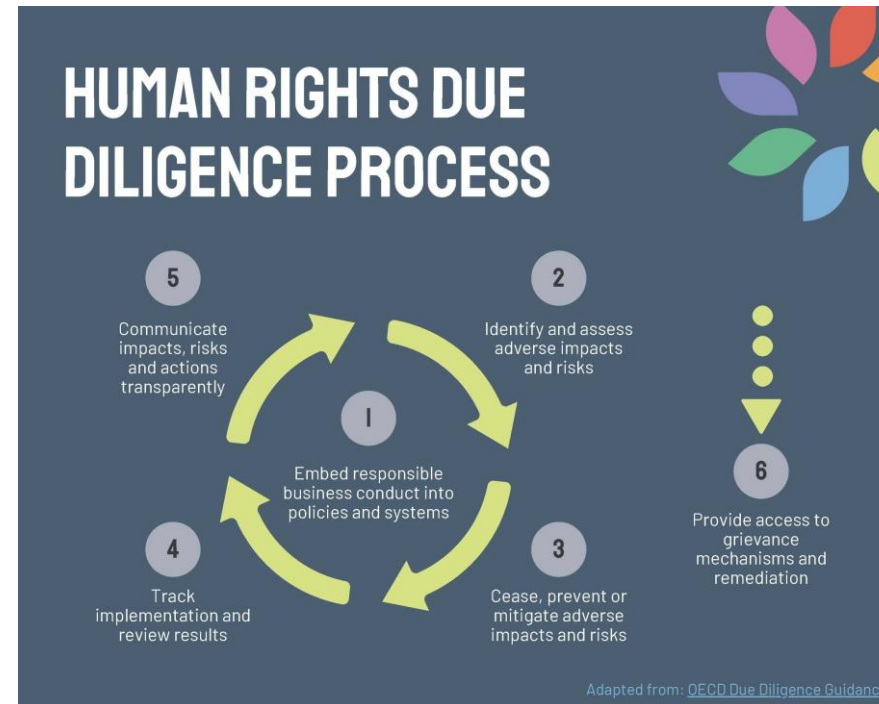
- **UN Global Compact**
- **Industry sustainability initiatives**
- **Investor ESG frameworks**

This diffusion helped move BHR from a **UN framework to a broader global governance agenda.**

Sources: OECD (2011; 2023); UN Global Compact; OHCHR.

What Does “Human Rights Due Diligence” Mean?

- Human Rights Due Diligence is a risk management process.
- Companies are expected to identify where their activities might contribute to harm, take steps to prevent or mitigate those impacts, and provide mechanisms for remedy when harms occur.
- What is important here is that responsibility does not stop at the company itself. It extends to suppliers and other business relationships across the value



Key idea: Companies must look beyond their own operations to risks in **suppliers, contractors, and business partners.**

How Does the Private Sector Make the Case?

Risk management

(Perera, 2019; BHR Gap Analysis Report)

- Avoiding reputational, legal, and operational risks

Market access

(CPA & Friedrich-Ebert-Stiftung, 2008; EconomyNext, 2022)

- Compliance with buyer requirements and international regulations

Investor expectations

(Daily FT; Newswire – UN Global Compact Network Sri Lanka)

- ESG standards increasingly influence investment decisions

Long-term business stability

(CounterPoint, 2021; Groundviews, 2013)

- Better relationships with workers, communities, and regulators

Business and Human Rights in Sri Lanka: Legal and Policy Landscape

Sri Lanka has **laws addressing labour rights, environmental protection, and corporate regulation**, but these operate through **separate legal frameworks rather than a unified BHR system**

(Fernando, Dempsey & Cooray, 2023).

Key insight from the literature:

- Regulatory protections exist in **labour, environmental, and corporate law**
- However, there is **no integrated national policy or legal framework** specifically addressing Business and Human Rights
- Corporate accountability for human rights violations remains largely indirect, as Sri Lankan constitutional and statutory frameworks primarily impose obligations on the state rather than private corporations (*International Journal of Research and Innovation in Social Science*)

Global Supply Chains and External Regulatory Pressure

Global regulatory developments increasingly shape expectations for companies operating in international value chains.

Examples include:

German Supply Chain Due Diligence Law (2023)

Requires companies to identify and assess human rights risks in supply chains

EU Corporate Sustainability Due Diligence Directive (CSDDD)

- Requires large EU companies to identify and address human rights and environmental risks across their value chains.

Implications for Sri Lankan exporters:

- Greater scrutiny of labour and environmental practices
- Increased reporting expectations
- Compliance pressures for suppliers, especially SMEs

(EconomyNext, 2022).

Debates in Sri Lankan BHR Literature

Key themes include:

1. Role of the State (*Fernando et al. 2023; Perera, 2019*)

- Some scholars argue that governments must play a stronger role in **regulating corporate behaviour and enforcing accountability.**

2. Voluntary vs Regulatory Approaches

- Debates continue over whether **voluntary initiatives** are sufficient to ensure responsible business practices.

3. Trade and Human Rights (*CPA & Friedrich-Ebert-Stiftung, 2008*)

- Policies such as **GSP+** illustrate how trade agreements increasingly link **market access to human rights standards.**

4. Corporate Engagement (*Daily FT, UN Global Compact Network Sri Lanka*)

- Initiatives such as the **UN Global Compact Network Sri Lanka** encourage businesses to integrate human rights into sustainability strategies.

Key Overall Debates and Critiques

Despite growing momentum, the BHR agenda remains contested.

Key critiques include:

- Voluntary frameworks lack enforcement
- **Compliance can become symbolic**
- Policies and reporting without meaningful change
- **Burden on suppliers**
- Compliance costs often fall on firms in developing countries
- **Power asymmetries in global supply chains**
- Lead firms hold most leverage

Research Gaps and Open Questions



Limited empirical research on corporate practice

Most existing studies focus on **legal frameworks or policy discussions**, with less research examining how Sri Lankan companies **actually implement human rights due diligence in practice.**



Insufficient analysis of sector-specific risks

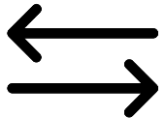
Key export sectors such as **apparel, plantations, tourism, and manufacturing** require deeper analysis of how human rights risks emerge across **value chains and local communities.**



Role of the state and regulatory institutions

Further research is needed to understand how Sri Lanka's legal and institutional frameworks could better **align with international BHR standards.**

Research Gaps and Open Questions Contd...



Implications of global regulatory changes

Emerging regulations such as **supply chain due diligence laws in Europe** raise important questions about how Sri Lankan firms, particularly **small and medium exporters will adapt.**



Access to remedy and accountability

There is limited research on **how workers and communities affected by corporate activity can access effective grievance mechanisms or legal remedies.**

Concluding Reflections

- Business and Human Rights has moved from the margins of corporate responsibility to an emerging **global governance agenda**.
- The framework continues to evolve through **new regulatory developments, corporate practices, and policy debates**.
- For Sri Lanka, the intersection between **global supply chains, domestic institutions, and corporate governance** will shape how the BHR agenda develops in the coming years.
- Understanding these dynamics is important for identifying **both risks and opportunities** within the country's economic and regulatory landscape.