

## Index

accountability politics, 25. See also corporate as international movement, 150 accountability methodology on, 2-3, 14-15 Africa, poverty strategies in, 180-181 at national level, 146-147 SADC and, 182-183 preventative measures for, 148-149 African Commission on Human and Peoples' at regional level, 145-146 Rights, 145-146 remedial measures for, 148-149 Alien Tort Statute (ATS), 171 as transitional field, 187-193 Alston, Philip, 135 types of regulations, 189 Business and Human Rights Resource Center, 153 American Revolution, 99 Amnesty International, 130, 165 business schools, BHR in curriculum of, 66 Annan, Kofi, 17, 18 anti-corruption law, 58 CEDAW. See Convention on the Elimination of anti-discrimination law, 58 All Forms of Discrimination Against Arnez, Lorena Terrazas, 125 Women Asia Infrastructure Investment Bank, 74 Center for Economic and Social Rights, 153 asymmetrical implementation, of UNGPs, 26-32 Centre for Research on Multinational ATS. See Alien Tort Statute Corporations (SOMO), 169 CERD. See Convention on the Elimination of All "Be Patient" mantra, 176-177 Forms of Racial Discrimination BHR. See business and human rights China, 163 bilateral investment treaties (BITs), 74 civil governance, UNGPs and, 48 binding human rights treaties. See also internacivil rights. See also human rights tional binding treaty in Global North, 72 indigenous peoples under, 126 civil society in Global North, 107 international norms in, 116-118 non-binding treaties compared to, 118-121 metagovernance systems and, 103–104, 107 periodic review process for, 120 poverty and, 178-179 BITs. See bilateral investment treaties social movement theory in, 154, 158-159 Bold, Frank, 68 civil society organizations (CSOs). See also non-Brazil, 170, 171 governmental organizations business and human rights (BHR). See also specific BHR strategies and, 195-196 Declaration on the Human Rights Obligations topics boundaries of, 195-196 of Business and, 74 in Ecuador, 36, 44-45 challenges of, 193-199 empowered participation by, 86-92 diversity of, 195-196 as emerging problem, 66 expressiveness of, 91 four pillars of, 88-90 evolution of, 1 at international level, 144-145 in international binding BHR treaties, 115



at international level, 87-88	CPRD. See Convention of the Rights of Persons
at local level, 87–88	with Disabilities
for stakeholders, 88–89	CRC. See Convention on the Rights of the Child
international binding treaties, 65	creative compliance, 84
MNCs and, 70–75	criminal law, 58
in regulatory environments, 168–172	CSOs. See civil society organizations
campaigning by, 170	cultural rights, in Global North, 72
through coalitions, 171–172	Dahua Auralia China 124 125
documentation of violations, 168–170 at international level, 161	Dahua, Aurelio Chino, 124–125 Declaration on Fundamental Principles and
litigation by, 171	Rights at Work, 70
in Treaty Alliance, 36, 57	Declaration on the Human Rights Obligations of
UNGPs and, 30, 34, 35–36, 37–38, 52–55	Business, 73–75
civil unrest, 158–159	BITs and, 74
Coalition of Immokalee Workers (CIW), 121–123	compliance schemes for, 73–74
collaborative governance, 13–14	CSOs and, 74
collectives, 100	international agencies and institutions and, 74
Companies Act (U.K.), 64	purpose of, 73
complementarity, in metagovernance systems,	Declaration on the Rights of Indigenous Peoples,
108–109	57, 167–168
compliance, corporate. See also regulatory	decoupling, 84
environments	democracy. See mass democracy
for BHR, 67–70	democratic experimentalism, 13–14
through corporate culture, 67	Dworkin, Ronald, 71
under Declaration on Fundamental	, , , , , , , , , , , , , , , , , , , ,
Principles and Rights at Work, 70	EC. See European Commission
under International Bill of Rights, 70	ECCJ. See European Coalition for Corporate
liabilities from failure of, 68–70	Justice
obligations of, 68–70	economic rights, in Global North, 72
reorientation of, 67–68	ecosystemic approach, to BHR, 12, 196–199
creative, 84	Ecuador
under Declaration on the Human Rights	BHR in, 135
Obligations of Business, 73–74	CSOs in, 36, 44-45
under International Bill of Rights, 70	Treaty Alliance and, 55
under international binding treaty, 114-116	CSOs in, 36, 57
conceptual maps, for BHR, 188-190	UN Human Rights Council and, 55-56
conflict zones, 70	either/or formulation, of BHR, 65–66
consumer protection law, 58	empowered civil society participation, 86-92
Convention of the Rights of Persons with	expressiveness of, 91
Disabilities (CRPD), 63-64	four pillars of, 88–90
Convention on the Elimination of All Forms of	in international binding treaties, 115
Discrimination Against Women	at international level, 87–88
(CEDAW), 63–64	at local level, 87–88
Convention on the Elimination of All Forms of	for stakeholders, 88-89
Racial Discrimination (CERD), 63-64	empowered participatory governance, 24, 53-54
Convention on the Rights of the Child (CRC),	Endangered Species Act (U.S.), 53
63-64	environmental law, 58
corporate accountability, for human rights,	European Coalition for Corporate Justice
18–19, 60	(ECCJ), 140
corporate and securities law, 58	European Commission (EC), 146
corporate compliance. See compliance	experimentalist approach, to UNGPs, 13-14, 22-26
corporate governance, UNGPs and, 48	legal pluralism and, 22–23
Corporate Social Responsibility, 113–114	experimentalist governance, 85
countervailing power, 133–134, 136, 156	extractive economies, 1–2



extraterritoriality, 108–109	public law and, 48
BHR and, 109	transnational, 100
Human Rights Council and, 143–144	weak zones of, 70
	governance gaps, 62–63
Fair Food Program (FFP), 121–123	in conflict zones, 70
CIW and, 121–123	through globalization, 99
Fédération Internationale de Football Association	human rights approaches and, 133
(FIFA), 50–51	MNCs and, 70–75
FFP. See Fair Food Program	SRSG and, 70–75
FIFA. See Fédération Internationale de Football	in weak zones, 70
Association	GPsID. See Guiding Principles on Internal
Forum-Asia, 153	Displacement
Foucault, Michel, 99–100	greenwashing, 84
French Revolution, 99	Guiding Principles on Business and Human
Fundación Pachamama, 36	Rights (UNGPs), 2, 11-17. See also interna-
Fung, Archon, 53	tional binding treaty; Ruggie, John;
	Working Group
Global Compact, 17, 64	agenda-setting in, 42
Ruggie and, 81	in Asia, 50
global framing, 151	boundary debates and, 31
Global North	corporate governance and, 48
civil society in, 107	corporate responsibilities in, 70
human rights in, 72	CSOs and, 30, 34, 35–36, 37–38, 52–55
ICC response to, 72	dynamic dimension of, 11-12, 41, 63-64
poverty strategies in, deficiencies in, 176	empowered participatory governance and, 24,
prioritization of rights in, 72	53-54
social movement theory in, 154	experimentalist approach to, 13–14, 22–26
UNGPs in, 38–39	legal pluralism and, 22–23
Global South	FIFA and, 50–51
binding international treaties and, 67	foundations of, 48–49
extraterritoriality and, 108–109	framing of, 76–81
human rights in, 72	future applications of, 41-45
ICC response to, 72	Global Compact and, 17, 64
poverty strategies in, deficiencies in, 175-176	in Global North, 38–39
social movement theory in, 154	in global regime complex, 12
UNGPs in, 38–39, 52	in Global South, 38–39, 52
Global Witness, 153	under hard law, 39
globalization, governance gaps as result of, 99	human rights NGOs and, 77
governance	human rights recognized under, 63-64
civil, 48	ICAR and, 54
collaborative, 13–14	implementation of, 17–22, 86–87. See also
corporate, 48	national action plans
empowered participatory, 24, 53-54	asymmetrical, 26–32
experimentalist, 85	as binding international treaty, 33
global, human rights commitments under,	through dissemination, 27-28
121–125	through distributed networks, 49–52
FFP, 121–123	through Draft Norms, 17–18, 34–35
Kimberley Process, 123–124	institutional mechanisms of, 42-43
new, 13-14	for victims' demands, 42-43
UNGPs and, 23, 78–80	integrationist approach to, 16
polycentric	international legalization of, 55-61. See also
collectives in, 100	Treaty Alliance
metagovernance and, 99, 100, 101–102	global support of, 55–57
UNGPs and, 48–49, 52, 78–80	principled pragmatism and, 59–60



mandates of, 20	through WGs, 142
metagovernance systems and, 102–107	Ecuador and, 55–56
civil society components, 103–104, 107	international binding treaty and, 92, 111
collaborative strategies for, 106	OEIGWG and, 72–73
in Global North, 107	regulatory environments and, 160
three pillar frameworks of, 102-103	Treaty Alliance and, 36
multinational enterprises, 46-47	human rights treaties. See binding human rights
new governance and, 23, 78–80	treaties; international binding treaty; non-
NGOs and, 31	binding human rights treaties
norms in	Human Rights Watch, 130, 143, 153
implementation of Draft Norms, 17-18, 34-35	humanitarian law, 58
life cycle of, 82	ŕ
norms in, life cycle of, 82	IBHR. See International Bill of Human Rights
origins of, 17–19	ICAR. See International Corporate Accountability
participation criteria for, 29	Roundtable
through polycentric governance, 48–49, 52,	IHRNGOs. See international human rights non-
78–80	governmental organizations
rights-based hierarchy for, 47-48	ILO. See International Labour Organization
rights-holders and, 82–84	implementation, of UNGPs, 17-22, 86-87
inexpressiveness and, 83–84	asymmetrical, 26–32
legal resources for, 83	as binding international treaty, 33
limited remedies for, 84	gaps in, 114–116
social change theories for, 81-86	through dissemination, 27–28
under soft law, 39	through distributed networks, 49–52
states' obligations under, 63-64	through Draft Norms, 17–18, 34–35
static dimension of, 11-12, 63-64	through NAPs, 27, 42, 49, 140
UK support of, 59	NCPs and, 49
UN Human Rights Council endorsement of, 19	UK adoption of, 59, 64
Guiding Principles on Internal Displacement	indigenous peoples
(GPsID), 118–121	under binding human rights treaties, 126
norm cascade and, 119	under Declaration on the Rights of Indigenous
	Peoples, 57, 167–168
Hafner-Burton, Emilie, 158	WG on, 20–21
hard law	individual, in metagovernance systems, 99-100
BHR and, 1, 14	Infantino, Gianni, 51
international binding treaty and, 114–115	institutional mechanisms, of UNGPs, 42–43
UNGPs under, 39	for victims' demands, 42–43
health and safety law, 58	integrationist approach, to UNGPs, 16
human rights. See also specific topics	Inter-American Court, 167–168
bottom-up approach to, 130–131	International Bill of Human Rights (IBHR), 97
global regime complex for, 12	International Bill of Rights, 33
historical background of, 129–132	corporate compliance under, 70
legal range of, 58	international binding treaty, for BHR, 114–121
top-down approach to, 130	community interventions and, 114
human rights abuses	compliance under, 114–116 Corporate Social Responsibility and, 113–114
by corporations, 60	
OHCHR and, 161–162 powerlessness as factor in, 82	CSOs and, 65
in regulatory environments, 161–162	development of, 92–95 effectiveness of, 115–116
Human Rights Council, 18–19	
BHR agenda at, 140–144	expressive commitments for, 93 Global South and, 67
development of, 140–142	goals of, 113–114
extraterritoriality and, 143–144	hard law and, 114–115
intergovernmental processes for, 143–144	Human Rights Council and, 92, 111



international binding treaty, for BHR (cont.)	consumer protection, 58
implementation of, 94	corporate and securities, 58
gaps in, 114–116	criminal, 58
key concerns of, 113–114	environmental, 58
mechanisms for, 115	hard
participation rights in, embedding of, 93-94	BHR and, 1, 14
poverty under, deficiencies in, 174-177	international binding treaty and, 114-119
"Be Patient" mantra in, 176–177	UNGPs under, 39
consultations in, 175–176	health and safety, 58
design flaws in, 174–176	international
in Global North, 176	MNCs and, 70–75
in Global South, 175–176	poverty under, 180–181
PWDs under, 93–94	TWAIL, 108–109
soft law and, 114–115, 118	investment, 58
states' duties under, specification of, 94–95	labor, 58
power-shifting as result of, 95	post-regulatory, 13–14
UNGPs as, 32–41	privacy, 58
development of, 34–35	property, 58
drawbacks of, 36–38	public, governance and, 48
implementation of, 33	reflexive, 13–14
	soft
political feasibility of, 40	
positive-sum efforts of, 38–41	BHR and, 1, 14
states' duties under, 44	international binding treaty and,
WG and, 35–36	114–115, 118 LINGPs under 20
International Commission of Jurists, 130	UNGPs under, 39
International Corporate Accountability	tax, 58
Roundtable (ICAR), 54, 131, 140	trade, 58
International Criminal Court (ICC), 72	law schools, BHR in curriculum of, 66
International Finance Corporation, 49–50	Legal Aid, Sentencing and Punishment of
international human rights non-governmental	Offenders Act (2012), U.K., 141
organizations (IHRNGOs), 156–157	legal pluralism, 22–23
International Labour Organization (ILO), 33, 63–64	Luhmann, Niklas, 99–100
Declaration on Fundamental Principles and	
Rights at Work, 70	mandates
Declaration on the Human Rights Obligations	for rights-holders, 85–86
of Business and, 74	of SRSG, 18–19
international law	of UNGPs, 20
MNCs and, 70–75	mass democracy, 97–98
poverty under, 180–181	historical development of, 98–102
TWAIL, 108–109	mass movements, 97–98
International Monetary Fund, 74	meaning management, 77
International Organization of Standardization, 50	Meidinger, Errol, 52, 88
investment law, 58	Melish, Tara, 52
•	metagovernance systems
Jungk, Margaret, 125	American Revolution as influence on, 99
Just Business (Ruggie), 158-159, 165	conceptual development of, 97–102
	defined, 97
Kimberley Process, 123–124	French Revolution as influence on, 99
Kiobel v. Royal Dutch Petroleum Company, 60, 143	IBHR and, 97
, , , , , ,	individual in, 99–100
labor law, 58	mass democracy and, 97–98
law	historical development of, 98–102
anti-corruption, 58	mass movements and, 97–98
anti-discrimination, 58	permeability and, 99



polycentricity and, 99, 101–102	national contact points (NCPs), 49
collectives and, 100	National Human Rights Institutions (NHRIs),
porosity and, 99	154-155
Ruggie on, 102	NCPs. See national contact points
transnational governance and, 100	new governance, 13–14
treaty regimes as alternative to, 107-109	UNGPs and, 23, 78–80
complementarity in, 108–109	NGOs. See non-governmental organizations
extraterritoriality in, 108–109	NHRIs. See National Human Rights Institutions
UNGPs and, 102–107	non-binding human rights treaties
civil society components, 103–104, 107	binding treaties compared to, 118–121
collaborative strategies for, 106	GPsID and, 118–121
in Global North, 107	norm cascade and, 119
three pillar frameworks of, 102–103	international norms in, 116–118
Millennium Development Goals, 81	periodic review process for, 120
MNCs. See multinational corporations	non-governmental organizations (NGOs), 31
Montreal Protocol on Substances the Deplete the	for human rights
Ozone Layer, 25–26	command-and-control regulation framework
Movement of Peoples Affected by Vale, 169	tor, 79
multinational corporations (MNCs), 65	expressiveness of, 85
BHR and, compliance with, 67–70	social change theories for, 82
through corporate culture, 67	UNGPs and, responses towards, 77
corporate reorientation as result of, 67–68	IHRNGOs, 156–157
under Declaration on Fundamental	Treaty Alliance among, 36, 55, 58
Principles and Rights at Work, 70	non-state actors, 72
under International Bill of Rights, 70	norm cascade, 82
liabilities from failure of, 68–70	GPsID, 119
obligations of, 68–70	norm emergence, 82
CSOs and, 70–75	norm internalization, 82
under Declaration on the Human Rights	"normicide," 77–78
Obligations of Business, 73–75	norms in hinding treaties, 116, 118
BITs and, 74 compliance schemes for, 73–74	in binding treaties, 116–118
CSOs and, 74	for human rights, legitimation of, 116–118 in non-binding treaties, 116–118
international agencies and institutions	in UNGPs
and, 74	implementation of Draft Norms, 17–18,
purpose of, 73	•
governance gaps and, 70–75	34–35 life cycle of, 82
under international law, 70–75	ine cycle of, oz
norm cascade and, 82	obligation thesis, 68–70
norm emergence and, 82	OEIGWG. See open-ended intergovernmental
norm internalization and, 82	working group
UNGPs and, 70	Office of the High Commissioner for Human
multinational enterprises	Rights (OHCHR), 161–162
regulation of, 46–47	open-ended intergovernmental working group
UNGPs and, 46–47	(OEIGWG), 72–73
multi-stakeholder approach	Oxfam, 170
to BHR, 144–145	. ,
WG and, 23–24, 29, 30, 31–32	Paris Conference of the Parties, 25-26
2 6 7 2 3 2	permeability, of metagovernance systems, 99
national action plans (NAPs), 27, 42, 49, 140	persons with disabilities (PWDs), 93-94
NCPs and, 49	Pineda, Wendy, 124–125
for poverty, 173	political opportunity structures, 154–156
UK adoption of, 59, 64	political rights, in Global North, 72



polycentric governance	at international level, 161
collectives in, 100	litigation by, 171
metagovernance and, 99, 100, 101–102	enforcement tools, 171
UNGPs through, 48–49, 52, 78–80	Human Rights Council and, 160
porosity, of metagovernance systems, 99	at international level, 160–168
post-regulatory law, 13–14	CSOs and, 161
poverty, human rights protections against	in Ecuador, 161, 162–164
in Africa, 180–181	limitations of human rights violations, 161–162
SADC and, 182–183	treaty proposals for, 160–164
civil society and, 178–179	at national level, 171
government response to, 177–178	through WG, 164–168
role of business groups, 177–178	company engagement and, criteria for,
role of citizen groups, 178	166–167
interest groups and, 177	membership factors, 165–166
under international binding treaty, 174–177	remedies for victims, 167
"Be Patient" mantra in, 176–177	transparency of, 166
consultations in, 175–176 design flaws in, 174–176	responsive regulation, 13–14 rights-holders
in Global North, 176	mandates for, 85–86
in Global South, 175–176	UNGPs and, 82–84
under international law, 180–181	inexpressiveness and, 83–84
NAPs for, 173	legal resources for, 83
preconditions for, 181–185	limited remedies for, 84
through contractual negotiations, 183–185	Robinson, Mary, 50
through regional alliances, 182–183	Rodríguez-Garavito, César, 80
workers and affected communities and, 179–180	Rome Statute, 87
power. See countervailing power; powerlessness	Ruggie, John, 18, 77, 140–144, 158–159, 165, 190–191.
power asymmetries, human rights and	See also Special Representative on Business
countervailing power in, 133–134, 136	and Human Rights
deliberate shifts in, 135–137	on empowered civil society participation, 90
distinction between approaches influenced by,	Global Compact and, 81
132–135	on human rights, historical development of,
governance gaps and, 133	130-132
grassroots mobilization influenced by, 136–137	on meaning management, 77
powerlessness, human rights abuses and, 82	on metagovernance, 102
pragmatism, 190–193	Millennium Development Goals and, 81
principled pragmatism, 28–29, 191	"normicide," 77–78
UNGPs and, 59–60	
principlism, 190–193	SADC. See Southern African Development
privacy law, 58	Community
property law, 58	Saro-Wiwa, Ken, 158–159
Prospect, Respect, and Remedy (PRR)	Schutter, Oliver de, 39–40
Framework, 18–19, 174–176	Sen, Amartya, 195
public law, governance and, 48	Shelton, Dinah, 117
PWDs. See persons with disabilities	Siqueira, Flavio, 162
O - : - 1	social change, theories of
reflexive law, 13–14 regulation. See responsive regulation	acculturation-based models, 81–86
	human rights approach to, 85 for human rights NGOs, 82
regulatory environments	for UNGPs, 81–86
in Brazil, 170, 171 CSOs and, 168–172	social constructivism theory
campaigning by, 170	core components of, 81
through coalitions, 171–172	defined, 81
documentation of violations, 168–170	social movement theory, 151–157



in civil society, 154, 158–159	UK. See United Kingdom
countervailing power and, 156	UN. See United Nations
framework for, 151–154	UNGPs. See Guiding Principles on Business and
in Global North, 154	Human Rights
in Global South, 154	United Kingdom (UK)
organized action and, 156–157	Legal Aid, Sentencing and Punishment of
political opportunity structures and, 154–156	Offenders Act, 141
sociological institutionalism. See social	NAPs adopted by, 59, 64
constructivism	UNGPs supported by, 59
soft law	United Nations (UN). See also Guiding Principles
BHR and, 1, 14	on Business and Human Rights; Human
international binding treaty and, 114–115, 118	Rights Council
UNGPs under, 39	Centre for Transnational Corporations, 17
SOMO. See Centre for Research on Multinational	Convention Against Corruption, 143–144
Corporations	Convention on the Rights of People with
Southern African Development Community	Disabilities, 25–26
(SADC), 182–183	Development Program, 104–105
Special Representative on Business and Human	Draft Norms, 17–18, 34–35
Rights (SRSG), 3, 67–70	United States (U.S.)
Draft Norms and, 34–35	BHR in, 146–147
governance gaps and, 70–75	Endangered Species Act in, 53
mandates of, 18–19	Universal Declaration of Human Rights, 69, 118
"normicide," 77–78	Universal Period Review (UPR) process, 154-155
principled pragmatism and, 28–29	U.S. See United States
PRR Framework for, 18–19, 174–176	
stakeholders. See also multi-stakeholder	victims' demands, UNGPs and, 42-43
approach	
empowered civil society participation for,	weak governance zones, 70
88–89	WFE. See World Federation of Stock Exchanges
states' duties and obligations	WG. See Working Group
under international binding treaty, for BHR,	Workers Rights Consortium, 25–26
94-95	Working Group (WG), 11–12, 15
power-shifting as result of, 95	as binding international treaty, 35–36
under UNGPs, 63–64	data metrics for, 21–22
	Human Rights Council and, 142
TANs. See transnational advocacy networks	human rights mechanisms through, 165–168
tax law, 58	company engagement and, criteria for,
Taylor, Charles, 181	166–167
Teubner, Gunther, 99–100	membership as factor for, 165–166
Third World Approaches to International Law	remedies for victims, 167
(TWAIL), 108–109	transparency of, 166
trade law, 58	on indigenous peoples, 20–21
transnational advocacy networks (TANs),	OEIGWG, 72–73
186–187	origins of, 17–19
transnational governance, 100	shortcomings of, 164–168
treaties. See international binding treaty	work of, 19–22
Treaty Alliance	World Bank, 74
CSOs and, 36, 57	World Federation of Stock Exchanges (WFE), 146
among NGOs, 36, 55, 58	World Trade Organization, 74
scale of, 58	Wright, Erik Olin, 53
TWAIL. See Third World Approaches to	
International Law	Zerk, Jennifer, 162