



IMPACT OF CORPORATE GOVERNANCE ON HUMAN RIGHTS

AUTHOR – MOHD. REHAN ALI

STUDENT AT FACULTY OF LAW, ALIGARH MUSLIM UNIVERSITY, ALIGARH

Best Citation – MOHD. REHAN ALI, IMPACT OF CORPORATE GOVERNANCE ON HUMAN RIGHTS, *ILE JOURNAL OF POLITICAL STUDIES (ILE JPS)*, 1 (1) of 2023, Pg. 1-7, APIS – 3920 – 0054 | ISBN – 978-81-964391-3-2

Abstract

This article explores the impact of corporate governance on human rights. Corporate governance refers to the system of rules, practices, and processes by which a company is directed and controlled. It plays a crucial role in shaping a company's behaviour and decision-making processes. Human rights, on the other hand, encompass the fundamental rights and freedoms that every individual is entitled to. The article highlights the connection between corporate governance and human rights, emphasizing that without effective corporate governance, the protection of human rights is not possible.

Inadequate corporate governance can lead to human rights violations such as environmental degradation, labour exploitation, discrimination, and violations of freedom of association. Multinational corporations often engage in serious abuses, taking advantage of weak local laws and mismanagement. Examples of such violations include the collapse of the Rana Plaza building in Bangladesh, oil spills in Nigeria, and the Bhopal Gas Tragedy. These cases underscore the importance of corporate accountability and the need for transparency, ethical decision-making, and community participation in business operations.

The article also discusses the ethical and legal violations of human rights by corporations, including the exploitation of labor, environmental damage, discrimination, and child labor. It emphasizes that corporate governance should ensure compliance with laws and regulations, set policies and practices that respect human rights, and monitor and report on the company's impact on the environment and local communities. By prioritizing human rights, promoting transparency and accountability, and engaging with stakeholders, corporate governance can protect and promote human rights, build trust, and enhance a company's reputation. The article concludes by highlighting the importance of laws and regulations in ensuring fair labor practices and creating safe working conditions for employees.

Key Words – Corporate governance, Human rights, Labour Rights, Multinational corporations, Environmental degradation

Introduction

Corporate governance is the system of rules, practices, and processes by which a firm is directed and controlled¹. It includes how companies are run and what are its purposes. It can also be described as an important tool that

makes board and management work more efficient. It can be better understood as role structure, power structure and organisation's decision making process. Things like ethical behaviour, compensation and environmental awareness are all aspects of it.

Human rights are attracting increasing attention from corporate governance

¹ James Chen, Corporate Governance Definition: How It works, Principles, and Examples, Investopedia, (April 15th, 2023, 10 PM), <https://www.investopedia.com/terms/c/corporategovernance.asp>

perspective as dimension of both business ethics and enterprise risk management for companies². The consequences of bad human right practices can affect company's relationship with its stakeholders and its financial performance. Hence, human rights becomes something that deserves the attention of investors in the analysis of investments. Inadequate corporate governance can lead to human rights violation, including environmental degradation, labour exploitation, discrimination and violation of the right to freedom of association etc. On the other hand, a good and effective corporate governance can prevent such abuses and can encourage corporate bodies to take steps to mitigate negative impacts and uphold ethical standards.

If organisations are governed while considering human rights, it can create a culture of responsibility, ethical behaviour and can also protect the employees. While, the poor corporate governance can lead to violation of human rights.

Connection Between Corporate Governance and Human Rights

There are some fundamental rights and freedoms which are available to every human being such as civil and political rights which includes right to freedom, life and freedom of expression as well as socio-cultural and economic rights including right to health, right to education and right to a standard of living.

There is a direct link between corporate governance and human rights because without a good corporate governance protection of human right is not possible. Companies have a responsibility to make sure that there is no negative impact of their activities, products and services. It is the duty of the corporates to take care of human rights and to prevent its violation.

² George S. Dallas, Human Rights Through A Corporate Governance Lens, Harvard Law School Forum on Corporate Governance, (April 15th, 2023, 10:40 PM), <https://corpgov.law.harvard.edu/2015/05/22/human-rights-through-a-corporate-governance-lens/>

By promoting accountability, transparency and collaboration with stakeholders, corporate governance can play a significance role in ensuring that companies respect human rights. Prioritising human rights in management can improve the reputation of the company and reduce legal and reputational risks. Companies that develop good corporate governance are a better able to respect and protect human rights.

Corporate And Violation of Human Rights

Multinational corporations and business organisations operating across the borders, have gained unprecedented power and influence worldwide. These companies are often involved in serious abuses such as forced labour or removal. There are numerous cases of human rights violation by these corporations.

Amnesty International has uncovered countless examples of companies taking advantage of weak local laws and mismanagement to have devastating effects on individuals and communities. Deaths of more than 1100 people due to collapse of the Rana Plaza building in Bangladesh 2013 is one of the examples of violation of human rights by corporates. Two oil spills (August/December 2008) in Bodo Creek, Ogoniland, Nigeria destroyed the livelihoods of thousands of people³.

Unsurprisingly, fraud is particularly painful in mining industries, where companies compete to extract scarce and valuable resources. Affected communities often do not have access to information about the impact of company's operation that means they are excluded from participating in decisions that affect their lives.

Although the laws of many countries allow companies to be prosecuted, the government rarely even investigate business crimes. Corruption, lack of access to information and ineffective legal system are the reasons why people don't succeed in securing justice. The worry id that when there is no justice for the

³ Corporations, Amnesty International, (April 16th, 2023, 12:10 pm), <https://www.amnesty.org/en/what-we-do/corporate-accountability/>

poor, companies know they can exploit poverty with no consequences.

Bhopal Gas Tragedy, a fight for justice

The Bhopal Gas Tragedy is a reminder of corporate responsibility and accountability. Corporations should take responsibility for any harm caused by their operation and must prioritize the welfare of the communities affected by their actions and operations.

The Tragedy happened on December 1984 was one of the worst industrial disaster in the recorded human history. A toxic gas leak in the central Indian city killed and maimed tens of thousands of people⁴. The tragedy is a human rights violation by Union Carbide. Human rights such as the right to health, the right to clean environment and the right to life were compromised in the tragedy. The company did not take proper preventive measures to prevent accidents, such as installing proper safety mechanisms, or disclosing the hazards of chemicals used in the factory. Instead, the company disregarded for the lives and safety of local communities which is clearly reflected in poor security procedures and inadequate facility maintenance. This situation reminds the need for security measures, transparency and conscious decision-making in business operations.

The Bhopal gas tragedy, December 1984 is a violation of human rights by Union Carbide. It highlights the importance of community participation and importance of corporate social accountability to prevent happening of similar tragedies in future.

Ethical and Legal Violation of Human Rights by Corporations

Corporates are responsible for human rights and if they do not manage their human right risks, it can produce consequences for both company as well as general public. In today's

time the corporates have emerged as one of the most powerful entities of the world. They have the capability of shaping the world as well as the power to make decisions that affects millions of people. However, in modern times this power is often being misused by the corporate bodies which has resulted in many human rights violations. Some of the ethical and legal rights violations has been discussed below:

Exploitation of Labour: It refers to situation where workers are forced to work in inhumane conditions, low wages, denied of basic human rights such as health and safety. Child labour, human trafficking, forced labour are all examples of exploitation of labours. This culture is prevalent in developing countries, where labour laws are not so strict, and companies and corporates give preference to profit over social responsibilities. Some companies don't even provide sufficient safety measures to their employees, which leads to accidents and injuries. All this thing violates the human rights of the employees.

Environmental Damages: Everyday practice of Corporates includes polluting the water and air, dumping of hazardous waste and deforestation that violate the right to clean and healthy environment of general public. Lack of accountability, weak regulatory frameworks, lack of transparency, short-term focus and neglecting the interest of stakeholders interest etc. are the several ways by which corporate governance leads to environmental damages. The engaging of corporates in activities like pollution and deforestation are nothing but the lack of accountability on their behalf. Focusing on the short-term profit and neglecting the long-term consequences of the same on the environment is the example of poor corporate governance. Dumping waste into rivers, ponds and deforestation are the result of the weak regulatory frameworks on behalf of the government. Prioritizing the interest of the shareholders (local communities or the environment) over those of stakeholders is the

⁴ Raghu Rai, Bhopal's 30 year fight for injustice, Amnesty International, (April 16th, 2023, 12:55 pm), <https://medium.com/@AmnestyOnline/bhopals-30-year-fight-for-justice-d5d410c03e1e>



violation of human rights. Concealing the impact of corporate operations on environment and not disclosing the details of the same are the result of the lack of transparency and all this can only be solved by bringing the transparency and prioritizing sustainability.

Discrimination: Discrimination based on race, region, religion, nationality and sexual orientation against customers and employees are also practised by some corporates. This violates the human right against discrimination and right to equality.

Child Labour: Depriving children of their education by forcing them to work in hazardous conditions and exposing them to mental and physical health risks is the violation of human rights.

The Role of Corporate Governance in Protecting Human Rights

Responsibility to defend and protect human rights does not solely belong to governments; instead, it rests with corporates as well. While governments have the power to make and enforce laws that protect human rights, it is the responsibility of the corporate bodies to act as per those laws and follow them in the best possible manner. Due to its ability to influence the economy of the country and its contact with workers and government, the businesses also play a significant role in protecting the human rights.

In 2011, the United Nations Human Rights Council ratified the Business and Human Rights Convention, which states that business "must not violate the Human Rights of others and participate in addressing their negative impact on society". Although these principles are not legal, they have been accepted by many different corporates and have helped stakeholders reach consensus around them⁵.

Ensuring and promoting human rights is the responsibility of the corporate governance and they can ensure by following ways:

Ensuring Compliance with Laws and Regulations: Businesses must ensure that their operations don't violate the right of any person or community. They should also make sure that their company complies with the national and international laws and other regulations related to human rights.

Setting Policies and Practices: Corporate governance should frame sufficient rules and regulations that ensure human rights. Their policies must address issues such as environmental issues, workers rights and social relations. There should be a committee which ensures that the policies and procedures are respecting human rights.

Monitoring and Reporting: There must be a fixed procedure for monitoring the human rights performance which includes monitoring and reporting the company's impact on the environment and the local community. Accountability on behalf of the business will lead to the respect of human rights.

Corporate governance plays a significant role in protecting and promoting human rights by framing, implementing and reporting policies. Businesses that use a good management culture can respond to issues and problems, protect their stakeholders and demonstrate their reputation. Hence, by promoting things such as transparency and accountability, a corporate body governance plays a critical role in protecting human rights. By giving importance to human rights, corporates can build trust and enhance their reputation. Promotion of stakeholders engagement by corporate governance is another way of protecting human rights. It involves engaging with customers, employees, communities, suppliers and NGOs, to understand interest and expectations. It also involves providing scope for grievances, feedback and mediation that

⁵ The Democracy & Human Rights Working Group, THE ROLE OF BUSINESS IN PROTECTING HUMAN RIGHTS GLOBALLY, McCain Institute (April 16th, 2023, 5:00PM), <https://www.mccainstitute.org/resources/reports/the-role-of-business-in-protecting-human-rights-globally/>

enables stakeholders to raise their problems and obtain redresses.

Impact of Corporate Governance on labour rights

Corporate governance can have both positive as well as negative impact on labour rights. However, most of the times corporates compromise the labour rights to prioritize their own interest. Unsafe working conditions and exploitation of labour are very common examples of abuse of labour rights by the corporates. Companies generally prioritize their own interest over the well-being of their workers.

Labour right is both human as well as legal right. These rights influence the working condition of the employees. Labour unions were formed which fought for the better wages, reasonable working hours and safer working conditions⁶. The labour movement resulted in minimizing the child labour and provided aid to the retired and injured workers. Hours limit, workplace condition, child labour, living wage, migrant workers and undocumented workers etc. all are the elements of labour rights.

Working Hour: Poor working hour is the major problem of today's corporate world. The corporate governance for their own benefit don't take into consideration the health of the employees. Sometimes people have to work day and night to complete their respective task and if they fail in completing the same they are fired of their job. Despite the fact that there are sufficient laws in most of the countries regarding the working hours, people still suffer from working hour issues.

Child Labour: Child labour not only violates the fundamental rights but affects their development also. It is very difficult for children to seek their basic rights, especially in workplaces. Just because of minimizing the cost of labour, corporates practice and promote child labour. Corporates hire children because

they are unable to organize and interact to work in a poor workplace. Data shows that 95 percent of the child labour occurs in the developing countries⁷. It is a well know fact that mining industry practices child labour the most. Hence, there need a strict legislation regulating this violation of human right.

Work Place Condition: It has been seen that the corporates don't pay attention towards the betterment of the condition of workplaces and the employees have work in ill environment and poor work places. Poor working conditions causes many health issues among the workers.

Safety and Social Sustainability: Safe working conditions and ensuring the workers right should be the primary focus of the corporate governance. Prevention of child labour and human trafficking should be practiced.

Living wages: The industries don't pay attention towards the issue of wages, they prioritize their own benefits and interest. Due to lack of sufficient laws regarding the minimum wages the workers have to suffer from the issue to low paying scale. Sometimes they are not even paid the minimum wage.

Pay parity: The issue of pay parity is prevalent in today's time. While paying for the works, corporates discriminate people on the basis of their race and gender. Paying a girl less as compared to a boy for the same work done is very much in practice. Despite having the provision of non discrimination such issues are prevailing in the society.

It is the responsibility of the corporations to provide safe and fair workplace for their employees. There must sufficient laws which protects violation of workers right and ensure that they are not subject to abuse, harassment, and discrimination. Overall, laws play a significant role in ensuring that corporates act ethically and responsibly without causing harm to individuals, communities, or the planet. It is

⁶ Wikipedia, https://en.wikipedia.org/wiki/Labor_rights (last visited on April 16th, 2023).

⁷ Wikipedia, https://en.wikipedia.org/wiki/Labor_rights (last visited on April 16th, 2023).



the law only which can protect the violation of human rights by the corporates.

Corporate Power Over Human Rights

The issue of corporate power and its impact on human rights controversial and complex one. Companies have the ability to create employment and to contribute to the economy on the other hand they also have the power to violate the freedom of the individuals and affect their lives negatively. They have all the powers to abuse the human rights through their action in the work place. Corporates can indulge in human rights violation by practising discrimination in hiring process, harassing the employees for poor performance and suppressing the employees protest. Suppressing the protest of the local people and the community is also a prevalent form of human rights violation.

Companies use their powers and financial resources to create rules, regulations and laws for their own benefit which gives them benefit in escaping after violating human rights. The corporates impact on government policy and regulation is not hidden from anyone. Sometimes corporates may lobby for environmental protection laws or labour laws, or use their power to weaken worker protection and customer guarantees.

To address these issues, corporates are under increasing pressure to adopt good business practise and to respect human rights. This includes initiatives such as the UN Business and Human Rights Charter that outline the role of human rights organisations, as well as due diligence to identify and address human rights risks and provide remedial measures for any harm caused. Governments and investors have also encouraged greater business cooperation and accountability, including the use of independent reporting and monitoring mechanism.

The problem of corporate power over human rights is multifaceted and complex one with no easy solution. However, by promoting greater

responsibility and accountability, we can ensure that corporates does not interfere with human right.

Conclusion

Corporate governance refers to the laws, policies and procedures that governs how a company is managed. A good corporate governance can help the business to operate efficiently, fairly and properly but on the other hand it can have negative impact on human rights as well. Violation of human right can be seen oftenly when the companies don't have proper and effective process to address the risk of human rights violation. For example, a company may rely on workers or middle men who employ forced or child labour without taking any appropriate action to ensure this behaviour does not occur.

It is a well known fact that most of the corporate bodies prioritize their profit over human rights and several examples of the same can be seen on daily basis. Compromising with the employee safety and using natural resources without taking sustainable development into consideration have become a very common issue. Work place injuries, inhumane working conditions and environmental damages etc. all are the examples of violation of human rights by the corporate bodies.

The use of institutional power and influence to suppress the voice of dissents and protest has become quite normal now-a-days. By suppressing the protests and limiting the freedom of expression, corporate bodies are violating the basic human rights. Support of institutional power is leading to the authoritarian rule of the corporate bodies. Corporates lobby or campaign collaboratively to influence government policy in their favour, which leads to the restrictions on the ability of individuals non-governmental organisations to fight crime.

Generally, corporate governance is important for businesses to operate efficiently but it is also important to be aware of it's negative impact

on the on the human rights. Hence, taking steps to reduce the risk of corporate mismanagement and violating of human right is essential.

References

- I. James Chen, Corporate Governance Definition: How It works, Principles, and Examples, Investopedia,(April 15th, 2023, 10 PM), <https://www.investopedia.com/terms/c/corporategovernance.asp>
- II. George S. Dallas, Human Rights Through A Corporate Governance Lens, Harvard Law School Forum on Corporate Governance, (April 15th, 2023, 10:40 PM), <https://corpgov.law.harvard.edu/2015/05/22/human-rights-through-a-corporate-governance-lens/>
- III. Corporations, Amnesty International,(April 16th , 2023, 12:10 pm), <https://www.amnesty.org/en/what-we-do/corporate-accountability/>
- IV. Raghu Rai, Bhopal's 30 year fight for injustice, Amnesty International,(April 16th, 2023, 12:55 pm), <https://medium.com/@AmnestyOnline/bhopals-30-year-fight-for-justice-d5d410c03e1e>
- V. The Democracy & Human Rights Working Group, THE ROLE OF BUSINESS IN PROTECTING HUMAN RIGHTS GLOBALLY, McCain Institute (April 16th , 2023, 5:00PM), <https://www.mccaininstitute.org/resources/reports/the-role-of-business-in-protecting-human-rights-globally/>
- VI. Wikipedia, https://en.wikipedia.org/wiki/Labor_rights (last visited on April 16th, 2023).
- VII. Wikipedia, https://en.wikipedia.org/wiki/Labor_rights (last visited on April 16th, 2023).

RECENT PUBLICATION FROM INSTITUTE OF LEGAL EDUCATION

(May utilization for reference/ bibliography)

1. Prasanna, S., et al. EMPOWERMENT AND EQUALITY NAVIGATING HUMAN RIGHTS LAW IN A COMPLEX WORLD. Institute of Legal Education, 2023. Access Here - <https://scholar.google.com/scholar?cluster=8073531615629308019>
2. PRASANNA, S., and P. LAVANYA. "NAVIGATING THE MAZE: UNDERSTANDING KEY DATA PRIVACY AND SECURITY LAWS WORLDWIDE." Access Here - <https://scholar.google.com/scholar?cluster=14275456488561985070>
3. Gopala, Bhagyamma. "A constitutional imperative for gender equality and dignity: a discourse on menstrual leave in India." ILE Constitutional Review 2 (2023). Access Here - <https://scholar.google.com/scholar?cluster=14542656713228494739>
4. Tulsyan, Aryan. "Cannabis and the constitution:'High time for amending the NDPS act?." ILE Human Rights Law Review 1.1 (2022). Access Here - <https://scholar.google.com/scholar?cluster=1620071720487117886>
5. SINGH, UJJWAL. "CUSTODIAL VIOLENCE IN MODERN INDIA." Journal of the Indian Law Institute 36.3 (1994). Access Here - <https://scholar.google.com/scholar?cluster=4641833531038214506>
6. Azizfan, Sayed Malik Shah. "A BLUEPRINT FOR SUSTAINABLE POVERTY ALLEVIATION AND UNEMPLOYMENT MITIGATION: SYNTHESIZING SOCIOECONOMIC TRANSFORMATION IN AFGHANISTAN." Access Here - <https://lspr.iledu.in/wp-content/uploads/2023/06/V1I116.pdf>
7. PRASANNA, S., and P. LAVANYA. "PROTECTING PERSONAL DATA: A COMPREHENSIVE GUIDE TO DATA PRIVACY REGULATION." Access Here - <https://ijclp.iledu.in/wp-content/uploads/2023/11/V1I114.pdf>
8. PRASANNA, S., and P. LAVANYA. "NAVIGATING THE MAZE: UNDERSTANDING KEY DATA PRIVACY AND SECURITY LAWS WORLDWIDE.". Access here - <https://ipclr.iledu.in/wp-content/uploads/2023/11/V2I17.pdf>
9. PRASANNA, S., and P. LAVANYA. "DATA PRIVACY IN THE DIGITAL AGE: COMPLIANCE WITH INDIAN LAWS.". Access Here - <https://liu.iledu.in/wp-content/uploads/2023/11/V2I116.pdf>
10. SRIVASTAVA, AVANTIKA. "A CRITICAL ANALYSIS OF LAWS PERTAINING TO RAPE AND FALSE MARRIAGE PROMISES." Access Here - <https://jcvpj.iledu.in/wp-content/uploads/2023/07/V1I16.pdf>
11. Abdurahim Zai, Mohammad Edris, and Naseebullah Amani. "The Impact of Green Supply Chain Management on Climate Change: Cursory Glance on the Food Industry." International Environmental Legal Research Journal 1.1 (2023): 150-161. Access Here - <https://ielrj.iledu.in/wp-content/uploads/2023/03/V1I117F.pdf>
12. JAYAL, HARDIK, and SHREYA SINGH THAKUR. "A COMPREHENSIVE ANALYSIS REGARDING THE PRACTICE OF BONDED LABOUR IN INDIA." Access Here - <https://llr.iledu.in/wp-content/uploads/2023/01/I11.pdf>