

Special Article

Human Rights and Multinational and Transnational Corporations: A Panoramic Review



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KEYWORDS:

Human rights;
companies;
businesses;
corporations; liability;
due diligence;
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environment.

ABSTRACT:

This paper constitutes a panoramic literature review of papers on human rights and transnational corporations published in the Scientific Electronic Library Online database in English, Spanish, and Portuguese. Of course, the papers were not easy to search because they used different keywords. For example, companies, businesses, transnational corporations, multinational corporations, etc. Furthermore, the topics covered were very varied, focusing on international trade, foreign investment, labor issues, environmental issues, collective rights of indigenous communities or peoples, etc. The methodological perspectives and approaches also differ in each case; they are not always approached from a strictly legal perspective, but rather from a sociological, political, ethical, economic, and other perspectives. The authors were able to identify 105 papers and were able to specify the main concerns of the specialists, which is mentioned in the conclusions.

PALABRAS CLAVES:

Derechos humanos;
empresas; negocios;
corporaciones;
responsabilidad; debida
diligencia;
extractivismo; medio
ambiente.

RESUMEN:

Este artículo constituye una revisión bibliográfica panorámica de artículos sobre derechos humanos y corporaciones transnacionales publicados en la base de datos Scientific Electronic Library Online en inglés, español y portugués. Por supuesto, la búsqueda de artículos no fue sencilla debido al uso de diferentes palabras clave, como empresas, negocios, corporaciones transnacionales, corporaciones multinacionales, etc. Además, los temas tratados fueron muy variados, centrándose en el comercio internacional, la inversión extranjera, cuestiones laborales, cuestiones ambientales, derechos colectivos de comunidades o pueblos indígenas, etc. Las perspectivas y enfoques metodológicos también difieren en cada caso; no siempre se abordan desde una perspectiva estrictamente legal, sino desde perspectivas sociológicas, políticas, éticas, económicas y de otro tipo. Los autores lograron identificar 105 artículos y especificar las principales preocupaciones de los especialistas, que se mencionan en las conclusiones

MOTS CLÉS :

Drets humans;
empreses; negocis;
corporacions;
responsabilitat;
diligència deguda;
extractivisme; medi
ambient.

RÉSUMÉ :

Cet article propose une analyse panoramique de la littérature sur les droits humains et les sociétés transnationales publiée dans la base de données Scientific Electronic Library Online en anglais, espagnol et portugais. La recherche d'articles s'est avérée complexe en raison de la diversité des mots-clés utilisés, tels que « entreprises », « sociétés transnationales », « multinationales », etc. Les thématiques abordées sont par ailleurs très variées : commerce international, investissements étrangers, droit du travail, environnement, droits collectifs des peuples autochtones, etc. Les perspectives et les approches méthodologiques diffèrent également ; elles ne se limitent pas à une perspective strictement juridique, mais s'articulent autour de dimensions sociologiques, politiques, éthiques, économiques, et autres. Les auteurs ont recensé 105 articles et ont pu identifier les principales préoccupations des spécialistes, lesquelles sont présentées dans les conclusions.

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1 INTRODUCTION¹

Since the emergence of the modern understanding of human rights, the negative impacts of transnational business on the rights of individuals and communities have been identified, especially in the form of transnational and multinational corporations.

Thus, at least over the last fifty years, an extensive literature on the subject has emerged. This literature is very broad and covers a wide range of different, but of course interrelated, issues.

Our research objective is to identify the main concerns of specialists in the broad field of business and human rights, usually related to transnational or multinational companies in the context of economic globalization.

In other words, we are interested in determining the impact on the human and constitutional rights of individuals and communities of the activities of companies operating globally. These companies are often referred to as multinationals or transnational corporations.

It has been a concern for decades on the part of the UN, which has developed a series of studies and resolutions on the subject, which can be grouped under the idea of international standards on business and human rights.²

Likewise, various research centers have emerged in this field. Business & Human Rights Resource Centre,³ the Institute for Human Rights and Business⁴ or the *Observatorio de Multinacionales en América Latina*.⁵

To identify the issues, we opted for the technique of a panoramic literature review (Arksey & O'Malley, 2005), which we carried out under the parameters indicated below. This will allow us to identify, in this field: topics, variables, and factors; technical and methodological perspectives; authors; and discover the current state of the art.

2 TERMINOLOGY

We are interested in the problem of human rights from a legal perspective, from the existing or required rules of any kind, whether of National Law or International Law, in a given context. Or from the perspective of social conflicts that clearly require legal norms to resolve them (*lege ferenda*). Of course, this is primarily a matter of International Law, but with an impact on the domestic legal system.

We do not specifically consider any national or comparative perspective. However, international solutions must be correlated with national rules.

As will be seen, we have decided to broaden our perspective for reasons justified later.

Our overall objective is to understand the interests expressed by specialists, based on the legal literature of indexed and peer-reviewed journals, in a specific database: Scielo,

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² See websites: <https://www.ohchr.org/es/business/international-standards-business-and-human-rights>; <https://www.undp.org/rolhr/business-and-human-rights>; <https://unglobalcompact.org/take-action/business-and-human-rights>

³ See website: <https://www.business-humanrights.org/en/>

⁴ See website: <https://www.ihrb.org/>

⁵ See website: <https://omal.info/>

Scientific Electronic Library Online (<https://scielo.org/>). Given the breadth of the literature, we decided to specify this.

The issue or problem of particular interest is the impact of the activities of multinational and transnational companies or businesses on the rights of the people and communities in which these companies operate.

The problem is not easy to specify because it relates to the following identified parameters: companies with transnational operations; transnational businesses; transnational companies; multinational enterprises. Furthermore, human rights are numerous.

Therefore, our research, first and foremost, has been related to legal issues, whether from existing legal norms or from legal norms that need to be established (*lege ferenda*).

However, we have encountered a conceptual and methodological difficulty: human rights (HR) are understood as general or moral parameters of social conduct, and even with a certain economic content (they are also discussed as an issue linked to the economic system or with an impact on economic processes). This leads many specialists to approach the topic from non-legal perspectives, but ones that undoubtedly impact the field. Therefore, we have finally decided to incorporate these other perspectives.

So, the descriptors that imply search parameters are the following (in Spanish and English):

- (a) Legal matters terms or juridical matters: Derecho; Law; Legal.
- (b) Terms: Derechos Humanos; Human Rights.
- (c) Terms: Empresas, operaciones transnacionales; companies, transnational operations.
- (d) Terms: Negocios transnacionales; transnational businesses.
- (e) Terms: Empresas transnacionales o corporaciones transnacionales; transnational corporations or companies.
- (f) Terms: Empresas multinacionales o corporaciones multinacionales; multinational corporations or companies.
- (g) Terms: Empresas; companies.

We have finally selected one hundred and five (105) papers in Spanish, Portuguese and English (these are the languages used in the Scielo database). It is strange, but Scielo's search engines generate multiple different results on very similar parameters. This makes us suspect that there may be some more papers that we have not been able to identify.

3 METHODOLOGY

For the literature review, we followed a procedure according to the methodological proposal of [Tranfield, Denyer & Smart \(2003\)](#).

The steps were as follows:

- (a) Search the Scielo (Scientific Electronic Library Online) database for each descriptor, either in the titles or in the abstracts.
- (b) Collection of all papers published in peer-reviewed journals.
- (c) Identification of papers that deal with legal issues in the narrow or specific sense. Generally, the selected papers will be published in law journals.
- (d) Identification of papers that do not deal with legal issues in the narrow or specific sense but are relevant material for the specification of relevant topics in this field. Generally, the selected papers will be published in economics and social science journals.
- (e) Elimination of duplicate papers.
- (f) Tabulation of quantitative information from the selected papers.
- (g) Reading and classification of the main issues addressed in the selected papers.

- (h) Validation of the information.
- (i) Drafting of the report.

4 GENERAL RESULTS. FORMAL ANALYSIS

- (a) Article titles. There are two main identifiers: *y companies* (and associated terms) *y derechos humanos o human rights* (and associated terms). In most of the identified papers, in their titles, they used the terms, in both parameters: (i) *empresas o empresarial; corporate, corporation, companies, corporación, compañía; business; transnacional o transnational; multinacional o multinational*; (ii) *derechos humanos y human rights; derecho o Law o Legal (English and Spanish)*. Results in (d)
- (b) Other commonly relevant terms: The relevant topics that identify the problems addressed in each paper were obtained from their title and abstract, as well as the titles of the various sections within each paper. The total number of references is included in parentheses (). Results in (d)
- (c) Number of papers per year: The figures are as follows: 2006: 1; 2007: 1; 2008: 5; 2009: 3; 2010: 2; 2011: 2; 2012: 3; 2013: 8; 2014: 7; 2015: 7; 2016: 5; 2017: 4; 2018: 6; 2019: 9; 2020: 10; 2021: 4; 2022: 5; 2023: 13; 2024: 5; 2025: 2. The average number of papers per year in this field is almost: 5,5
- (d) Number of papers by main and secondary topics (a) and (b):
 - (i) On matters of liability regulation: (11) Legally binding instrument (regulations); (15) International legal liability for human rights violations; (8) Civil legal liability; (4) Corporate crime, criminal liability; (6) Extraterritorial jurisdiction (legal liability); (12) Reference to insufficient regulation of business activities with regard to human rights in the context of transnational operations (problems in pursuing legal liability, impunity); (12) Corporate social responsibility; (11) Due diligence and transparency obligations
 - (ii) On matters of responsibility of the host State of the companies: (4) State responsibility to protect against corporate violations; (8) Constitutional law solutions and the horizontal application of fundamental rights; (11) State responsibility to prevent and punish human rights violations; (5) Corruption; (12) National judicial activity against companies that violate human rights; (9) Soft law and its application to solve court cases or lawsuit.
 - (iii) Specific issues or areas of concern regarding human rights and business: (15) Indigenous Peoples and Indigenous Consultation; (14) International Trade & Free Trade Agreements; (13) Environment; (13) Mining and Natural Resources, Oil; (10) Foreign or Transnational Investment, Abuse, (Over) Protection (ICSID); (10) Rights to Health and Medicine (Intellectual Property); (9) Extractivism; (6) Water and Sanitation; (9) Labor Relations (Labor Abuses); (3) Poverty; (8) Private Security, Arms Industry and Trafficking, Armed Conflicts; (2) Genetic Resources (Indigenous Peoples); (1) Right to Development; (1) Food Sovereignty and Bioethics; (1) Low taxation, public finances; (1) Rights of the entrepreneurs; (6) Information technologies; (1) Children and adolescents.
- (e) Number of papers by topic per year: 2006 [(1) Right to Health]; 2007 [(1) Right to Health]; 2008 [(3) Right to Health; (1) Mining, oil, and extractivism; (1) Legal responsibility (regulation of)]; 2009 [(1) Legal Responsibility (Regulation of); (2) Labor Standards]; 2010 [(1) Right to Health; (1) Free Trade and Investment]; 2011 [(1) Corporate Social Responsibility; (1) Mining, Oil, and Extractivism]; 2012 [(1) Mining, oil, and extractivism; (1) Legal responsibility of companies; (1) Free Trade and investment]; 2013 [(1) Right to Health; (1) Corporate Social Responsibility; (1) Legal Responsibility of Companies; (1) Free trade and investment; (1) Mining, oil, and extractivism; (1) General business regulation and human rights; (1) Weapons and

private security; Indigenous peoples (extractivism and natural resources; international trade and foreign investment)]; 2014 [(1) Due diligence (legal responsibility); (1) Free trade and investment (extractivism; environment; labor issues); (1) Right to water; (1) Mining, oil, and extractivism; (1) Legal responsibility of companies; (1) General regulation of companies and human rights]; 2015 [(1) Legal responsibility of companies; (2) General regulation of companies and human rights; (1) Corporate social responsibility; (2) Right to health; (1) Right to water]; 2016 [(1) Corporate social responsibility; (1) Right to health; (1) Right to water; (1) General regulation of business and human rights (binding international instrument); (1) Mining, oil, and extractivism]; 2017 [(1) Free trade and investment (food sovereignty); (1) Free trade and investment (natural resources; regulatory asymmetry); (1) General regulation of business and human rights (national action plans); (1) General regulation of business and human rights]; 2018 [(1) General regulation of business and human rights (binding international instrument); (1) General regulation of business and human rights (binding international instrument; architecture of impunity); (1) Arms and private security; (1) Food; (2) Mining, oil, and extractivism (environment)]; 2019 [(1) General regulation of business and human rights; (3) Arms and private security; (2) Legal liability (regulation of); (1) Indigenous peoples; (1) Environment; (1) Environment (indigenous peoples)]; 2020 [(1) Indigenous Peoples; (1) Legal responsibility (regulation of) and Due Diligence obligations; (2) General regulation of business and human rights; (1) Environment; (1) Technologies; (1) Environment and corruption; (1) corporate social responsibility; (1) Free Trade and investment (and extractivism); (1) Food and the Right to Water]; 2021 [(1) Binding international instrument, corporate legal responsibility; (2) General regulation of business and human rights; (1) Arms and private security]; 2022 [(1) Legal responsibility (regulation of); (1) General regulation of business and human rights [(binding international instrument); (1) Legal responsibility (regulation of) and criminal matters; (1) New technologies; (1) Labor matters]; 2023 [(1) Due diligence and the environment; (1) General regulation of business and human rights; (1) Human rights of entrepreneurs; (3) Corporate social responsibility); Corporate social responsibility (and the environment); (1) Indigenous peoples; (1) Right to health; (1) Legal responsibility (regulation of); (1) Environment; (2) Constitutional mechanisms]; 2024 [(1) Due diligence and accountability; (1) Legal liability (regulation of) and labor issues; (1) Environment and criminal acts; (1) State corruption; (1) Constitutional mechanisms]; 2025 [(2) Due diligence and accountability].

5 CONTENTS BY PAPERS

5.1 HUMAN RIGHTS AND BUSINESS, IN GENERAL

- (a) [Cantú Rivera \(2013\)](#) The author provides a general review of attempts at effective control or legal regulation of the liability of transnational corporations for human rights violations: the obligations and responsibilities of corporations in the area of human rights; corporate social responsibility; corporate responsibility for human rights; the Guiding Principles on Business and Human Rights; and current and future possibility of filing lawsuits against corporate legal responsibility for human rights.
- (b) [Cantú Rivera \(2014\)](#) explores extraterritorial adjudication (e.g., liability of parent companies for the acts of their subsidiaries) and soft law (the role and scope of soft law) as new measures to hold companies accountable for their human rights performance. These developments could lead to binding standards and an effective judicial remedy in these contentious cases.

- (c) [Cantú Rivera \(2015\)](#) studies the OECD Guidelines for Multinational Enterprises on Human Rights: the case of national contact points. This allows for alignment with the UN Guiding Principles on Business and Human Rights and creates international convergence with respect to existing standards on corporate responsibility with regard to human rights.
- (d) [Cantú Rivera \(2016\)](#) reflects on the possibility of a binding international instrument or international treaty on corporate responsibility in the areas of human rights and the environment.
- (e) [Cantú Rivera \(2017\)](#) addresses the instrumentalization of international law (the Guiding Principles) in the domestic legal sphere regarding business and human rights, in order to generate public policies or national action plans on the matter.
- (f) [Cantú Rivera \(2020\)](#) addresses the role of national human rights institutions in the area of corporate responsibility, and capacity building in the public and private sectors to disseminate and implement the UN Guiding Principles on Business and Human Rights.
- (g) [Carrillo-Santarelli & Arévalo-Narváez \(2017\)](#) discusses the discursive use of the Guiding Principles on Business and Human Rights in Latin America, which are the main normative reference on the subject, by states and supervisory bodies, activists, and businesses. The paper exposes these dynamics in Latin America and analyzes the jurisprudence of the Inter-American Commission and Court of Human Rights, national action plans, and other state initiatives in the region.
- (h) [Castillo Argañarás & Vázquez \(2021\)](#) addresses Mercosur's agenda on Business and Human Rights. While states must guarantee the enjoyment and exercise of human rights, businesses also have an essential role in this field, especially in a context of globalization, technological advances, new emerging powers, and the blurring of borders. Mercosur has attempted to address this issue since its previous leadership at the UN.
- (i) [Barros \(2018\)](#) addresses the debates in Brazilian academia regarding the responsibilities of corporations in the field of human rights. He argues that this is a complex issue, as corporations act as political actors and occupy spaces that previously belonged solely to states. He emphasizes the need for binding legal instruments as well as ethical and moral principles on the matter.
- (j) [Guevara Duque \(2022\)](#) states that transnational corporations possess great political, economic, and legal power worldwide, backed by a structure that protects their interests. This situation becomes clearer when their activities have adverse impacts on human rights, as has been proven in various court cases. The international community has attempted to fill this legal vacuum through two main frameworks: [The Norms on the Responsibility of Transnational Corporations and Other Business Enterprises with Respect to Human Rights \(2003\)](#); and the [Guiding Principles on Business and Human Rights \(2011\)](#). Subsequently, in 2014, the UN Human Rights Council recognized the need for a legally binding instrument on human rights and transnational corporations, and a specialized working group was created for this purpose. Finally, the European and Inter-American efforts in this area.
- (k) [Jara Gómez \(2020\)](#) argues that "from traditional approaches to human rights, transnational actors are excluded from the legislation that protects these rights. Globalization processes have increased the number and typology of these actors, who appear not to be directly bound by human rights norms. The result may translate into a crisis of the State as the sole protector and violator of rights, and a need for new approaches that make accountability mechanisms effective. The objective is to argue in favor of the 'third-party effectiveness' of human rights and to highlight the need for transparency in the mechanisms surrounding the creation of *lex mercatoria*."

- (l) [Oliveira & Silveira \(2023\)](#) present a comprehensive paper that analyzes issues related to Business and Human Rights, theoretical debates, principles, guidelines, norms, and regulations. It focuses on three themes: the commercial activities of transnational corporations negatively impact human rights worldwide; Initiatives designed to address the impact of business on human rights are discursive and therefore distant from practice; businesses and corporations employ various attempts to evade their responsibility, even as they make symbolic and material reparations.
- (m) [Sánchez González \(2021\)](#) addresses the interaction between convergent and divergent approaches to global law in the field of business and human rights. The author explains that convergent notions seek to counteract difference by treating global law as a collective agreement implemented through hierarchical arrangements. Divergent conceptions seek to manage difference through the coordination of distinct normative orders. This study seeks to identify the points of contention and the points of compatibility between the two approaches.

5.2 RULES OF RESPONSIBILITY

5.2.1 Legal Responsibilities

(a) [Arevalo \(2013\)](#) discusses a macro approach to legal responsibility for multinational corporations. The power relationship between corporations and states generates a tension derived from their nature: while states' objective is the well-being of their members, corporations' purpose is profit. This creates a collision of powers and purposes between corporations and states, which requires establishing an international framework for corporate responsibility for human rights violations. One solution would be extraterritorial jurisdiction, such as the Aliens Tort Claims Act (ATCA) of the United States.

(b) [Chinchilla \(2023\)](#) discusses the idea of legal personality for transnational corporations, establishing corporate citizenship to ensure their legal responsibility. This would counteract the negative impacts of corporations on human rights by anchoring them in a jurisdiction. The concept of corporate citizenship proposed here implies greater moral duties toward fellow citizens at the local, regional, and global levels. Corporate citizenship requires the creation of a national and supranational legal governance framework that recalibrates the rights and responsibilities of companies as citizens.

(c) [Gwanyanya \(2015\)](#) discusses the South African Companies Act and the enforcement of corporate liability for human rights violations in the case of multinational corporations.

(d) [Muñoz de Morales Romero \(2020\)](#) argues that multinational corporations frequently affect human rights directly and negatively, and this should be prevented through the articulation of various legal avenues, both civil and criminal. This paper sets out the main forms of corporate liability for these types of violations, both internationally and domestically. It analyzes hard law and soft law instruments, such as the ONU Guiding Principles, and their legal effects. A large majority of European countries, and even the EU, have binding regulations on the subject or are attempting to introduce due diligence obligations.

(e) [Céspedes-Báez \(2012\)](#) addresses the Colombian Victims' Law, which aims to address the effects of the armed conflict on the civilian population. It also seeks to strengthen the investigation and prosecution of legal entities and companies involved in violations of human rights and international humanitarian law in the Colombian context.

(f) [Feeney \(2009\)](#) describes the growing concern about corporate human rights violations and the limitations of the traditional state-centered approach to regulating corporate conduct in the era of globalization. While the UN has spent decades trying to develop global standards to hold corporations accountable for their involvement in human rights violations,

this paper discusses the reasons for the decline of the UN Draft Norms on the Responsibilities of Transnational Corporations and assesses the strengths and weaknesses of the "Protect, Respect, and Remedy" Framework adopted by the Human Rights Council in 2008.

(g) [Maritan & Oliveira \(2022\)](#) carried out an empirical case study analyzing multinational corporations' attempts to neutralize allegations of human rights violations and avoid being held accountable for wrongdoing.

(h) [Silva \(2024\)](#) summarizes the issue of human rights in the field of capitalist relations of production, known as "corporate responsibility," which impacts serious human rights violations (e.g., forced displacement and serious labor abuses), especially in the context of non-democratic governments in Brazil.

(i) [Tangarife-Pedraza \(2008\)](#) reviews the state of the art in the field of business in the international arena in relation to human rights, addressing some important political and economic initiatives, such as the Global Compact and corporate social responsibility. It also addresses legal issues regarding the international liability regime for human rights violations. It concludes that there are no clear mechanisms that allow businesses to align their activities with standards of respect for human rights; likewise, there are no effective and appropriate judicial remedies to protect victims of abuses committed by businesses or with their complicity; and there are no competent judicial bodies at the international level to hear these types of violations.

(j) [Thabane \(2014\)](#) argues that there are no concrete results in UN efforts to address human rights violations committed by corporations and that voluntary measures promoted by them are ineffective. Factors contributing to impunity include widespread state corruption; the need to attract and retain foreign direct investment; and archaic legal systems incapable of managing complex corporate structures. He examines the possibilities of judicial remedies for victims of corporate abuses and the reasons why they cannot access justice in the host country and instead seek remedies in their home country. It argues that, by failing to address obstacles to accessing home state remedies, such as the principle of forum *non conveniens*, state sovereignty, separate legal personality, and limited liability, the Framework and Guiding Principles have not clearly defined the circumstances and means by which multinational corporations will be held accountable, under the laws of their home states, for human rights violations committed outside their borders, by their subsidiaries or so-called "foreign hands."

(k) [Tobar Torres \(2019\)](#) studies the problem of the actions of transnational corporations that potentially affect community rights and violate human rights in the context of prolonged armed conflict. He argues that an adequate transitional justice model must incorporate mechanisms to guarantee the rights of victims in relation to the investigation, prosecution, and punishment of potential human rights violations committed by companies within the territory of conflict. He addresses international experiences in this area, based on self-regulation instruments, on the one hand, and judicialization, on the other.

(l) [Atabongawung \(2021\)](#) addresses the need to establish a legally binding instrument on business and human rights in relation to the right to development in Africa. He argues that such an international instrument could clarify certain controversial human rights principles, such as international cooperation and assistance, extraterritoriality, and accountability, which are fundamental for the meaningful implementation of the right to development on the continent.

(m) [Roland & al. \(2018\)](#) analyzes the relevance of developing a legally binding international instrument to hold transnational corporations accountable for human rights violations caused by their activities (avoiding the inadequacy of the current legal framework and the so-called architecture of impunity).

5.2.2 Criminal Liability

- (a) [Sánchez González \(2019\)](#) addresses the issue of the criminal liability of multinational corporations and the steps necessary to implement the UN Guiding Principles on Business and Human Rights, which have been established as guidelines for public, corporate, and civil governance toward respect and protection of human rights. The paper investigates whether the corporate criminal liability law adopted by Mexico would be a way to implement these guiding principles.
- (b) [Silva-García & Barreto Montoya \(2022\)](#) analyze cases of transnational corporate or white-collar crime, develop a theoretical framework for this type of crime, and explore the conditions that promote impunity for these crimes. They demonstrate how, among other causes, the shortcomings of international law, as well as the status of those who commit these crimes, foster impunity and the helplessness of victims.
- (c) [Suau Morey \(2019\)](#) proposes the need for a criminal law with "advanced punitive barriers" that seeks, among other things, to hold accountable the systematic creation of risks. At the same time, this framework would require international legal mechanisms aimed at preventing human rights violations and the appropriate control of conventionality (treaties) by following the paths outlined by international law and international procedural law.

5.2.3 Corporate social responsibility

- (a) [Alfonso Monroy \(2013\)](#) reviews international and Colombian instruments on human rights and business in relation to corporate social responsibility.
- (b) [Antúnez Rivoir \(2023\)](#) argues that corporate social responsibility has emerged from a series of international soft law instruments (the Guiding Principles on Business and Human Rights, the ILO Tripartite Declaration of Principles concerning Multinational Enterprises and Social Policy, and the OECD Guidelines for Multinational Enterprises) that seek to introduce standards for socially responsible corporate behavior and their convergence around two human rights concepts: due diligence and sphere of influence. However, it still requires a legally binding instrument, which continues to be developed by the UN.
- (c) [Cabrera Rubio \(2016\)](#) indicates that corporate social responsibility consists of social actions by the company toward its stakeholders, and this paper studies ten models used by companies in Mexico from a human rights perspective (observing negative results).
- (d) [Camacho Solís \(2015\)](#) argues that corporate social responsibility (CSR) is a style of business management that partly recognizes and incorporates the relationship of permanent interdependence that exists between the company and its stakeholders, whose common interests are assumed for mutual benefit. One aspect of this approach is the processes aimed at respecting human rights.
- (e) [Gonçalves Ribeiro & Leite Sampaio \(2023\)](#) study the meaning and history of corporate social responsibility, culminating in a conceptual management model that combines economic and social aspects, with respect for human rights and the environment, and an orientation toward economic policies and practices that promote sustainable social development. It highlights the need for a legal perspective in this field.
- (f) [Sotelo-Torres \(2023\)](#) addresses specifically the topic of corporate social responsibility and human rights, and the effectiveness of their results despite the fact that these are voluntary business initiatives.
- (g) [Soto Maciel & Saucedo Delgado \(2020\)](#) seek to encourage interest in conducting exploratory qualitative research on labor practices from the perspective of corporate social responsibility.

- (h) [Veiga & Domingos \(2023\)](#) carried out a study on corporate social responsibility related to the human rights of stakeholders and their national and transnational business transactions, including the legal norms to achieve these objectives, whether private or public, national or international law.
- (i) [de la Cuesta-González, Valor & Holgado-Tello \(2011\)](#) conduct a qualitative and quantitative study on the voluntary commitment of IBEX 35 companies to human rights. It uses instruments such as ISO 26000/2010, and especially the UN Standards on the Responsibility of Transnational Corporations and Other Business Enterprises with Respect to Human Rights.

5.2.4 Due diligence

- (a) [Lago de Ávila \(2025\)](#) analyzes the state obligation to regulate and require companies to comply with human rights due diligence procedures from an inter-American perspective and based on international human rights law. He emphasizes that states in the region have neglected uniform and systematic regulation, but there is jurisprudence from the Inter-American Court of Human Rights that requires mandatory regulation, by virtue of the control of conventionality and the American Convention on Human Rights. He then suggests a series of regulatory pillars and state oversight and the Inter-American Human Rights System.
- (b) [Barboza López \(2024\)](#) discusses the Guiding Principles on Business and Human Rights and Environmental Issues and Public Participation, and the influence of the Inter-American Human Rights System on the matter. [Barrera-Trabol \(2025\)](#) studies due diligence and the UN guiding principles for business and human rights, and the consequences of civil liability, proposing due diligence criteria such as foreseeability, control of the activity, and the intensity of the impacts.
- (c) [Ibáñez-M & Ordoñez-S \(2014\)](#) seeks to clarify concepts and assessments regarding which responsibilities are attributable to businesses and which to States regarding the protection of human rights, for which they delve into the concept of due diligence in accordance with the guiding principles on business and human rights.
- (d) [Jiménez Guanipa & Tous Chimá \(2023\)](#) study corporate due diligence regarding human rights and the rights of nature, including aspects of environmental and climate protection, and corporate duties to promote the energy transition.

5.2.5 Legal responsibility through constitutional means

- (a) [Gómez-Patiño & Calderón-Valencia \(2023\)](#) seek to identify the influence of the Guiding Principles for Business and Human Rights on the jurisprudence of the Colombian Constitutional Court regarding constitutional rights.
- (b) [Jiménez Torres \(2023\)](#) analyzes economic globalization, viewed as a threat that not only violates state sovereignty but also violates constitutional supremacy and the powers of the executive and legislative branches, widening the social divide and violating social, economic, and cultural rights, thereby disrupting democracy and the constitutional state.
- (c) [Martínez Pinilla \(2024\)](#) presents a theoretical legal model to interpret the accountability needs attributed to transnational corporations in the face of obligations to respect human rights and the role of the state in guaranteeing them. To this end, he suggests regulating the legal relationships of these corporations through constitutionalization.

5.3 SPECIFIC TOPICS

5.3.1 Environment

- (a) [Iglesias Márquez \(2020\)](#) connects transnational corporations, human rights, and climate obligations for companies derived from international instruments and the binding commitments of States. He discusses hard and soft law.
- (b) [Guzmán & Álvaro \(2023\)](#) analyzes rulings that declared components of nature as subjects of rights and ordered measures to implement them in Colombia, under an ecological Constitution, and Ecuador, with a biocentric Constitution, from the role of the business sector.
- (c) [Meyer \(2019\)](#) analyzes market initiatives to ensure compliance by multinationals in Africa with specific social, environmental, and human rights standards, or with standards established by international financial institutions such as the International Finance Corporation and the World Bank, as well as the Equator Principles and self-regulation standards incorporated by multinationals in their operations.
- (d) [Millaleo-Hernández \(2019\)](#) analyzes the position of Indigenous peoples and their ethical and political foundations regarding the protection due to genetic resources linked to traditional knowledge as collective cultural property, a concept of property that has different determinations compared to Western ownership.
- (e) [Mushoriwa \(2024\)](#) provides an overview of the jurisdiction of the proposed African Court of Justice and Human Rights over the transnational crime of trafficking in hazardous waste, as provided for in Article 28 L of the Malabo Protocol.

5.3.2 Mining, oil and extractivism

- (a) [Cárdenas \(2013\)](#) explains the constitutional, conventional, and legal background of mining, from colonial times to the present day, and then presents the economic, social, and ecological problems of mining in Mexico. The author argues that it is an extractive system generally in the hands of transnational corporations that violates constitutional principles and the fundamental rights of individuals, communities, and indigenous peoples.
- (b) [Ezeudu \(2011\)](#) addresses the case of human rights violations by transnational corporations in the oil-producing region of the Niger Delta in Nigeria, and the difficulty of pursuing their responsibilities given the limited international regulation of these companies' activities. He advocates extending the jurisdiction of the International Criminal Court to transnational corporations.
- (c) [Molina-Portilla \(2016\)](#) discusses the human rights violations linked to the transnational activity of mining companies, the problem of attributing liability to companies and state jurisdiction, and the attribution of international responsibility to host States (extraterritorial damage). Based on a doctrinal and jurisprudential analysis of the Inter-American Human Rights System, he suggests that the exception of lack of jurisdiction should not apply between States that belong to the same human rights protection system.
- (d) [Valladares de la Cruz \(2018\)](#) presents a general overview of the impacts that the extractive mining turn in Mexico has on indigenous autonomies, which has resulted in the delivery of vast indigenous territories in the form of exploration and exploitation concessions in favor of large national and transnational companies, with violation of collective and environmental human rights.
- (e) [Velasco \(2014\)](#), in the context of the massive land acquisition by foreign companies in African, Asian, and Latin American countries, studies cases of conflict in Colombia from a human rights perspective.

- (f) [Witker \(2018\)](#) studies the impact on human rights and the negative socio-environmental effects on communities and peoples of the mining activities of transnational corporations within the framework of NAFTA.
- (g) [Yusuf \(2008\)](#) examines the current tension against human rights (and economic, social, and cultural rights) due to the exploitation of multinational oil companies in the Niger Delta, Nigeria. He argues that while the primary obligation to uphold the economic, social, and cultural rights of host communities rests with the government, multinational corporations in developing countries, given their enormous resources and influence on government policies, should also be obligated to respect, promote, and protect those rights.
- (h) [Castillo Meneses \(2012\)](#) shows the role that transnational oil extraction companies have assumed in Colombia within the framework of prior consultations with indigenous communities in Colombia, the role of the State, and the impact on human rights.
- (i) [Kamga & Ajoku \(2014\)](#) argue that international human rights law protects populations against state abuses, and that states have an obligation to respect, protect, and guarantee human rights. However, today, the power of extractive transnational corporations has increased, and some of them are stronger than the governments of their host countries. They pose a significant threat to the human rights of communities and citizens or even violate them. Therefore, the accountability of these corporations must be strengthened, and non-state actors must also be considered subjects of international law. This paper focuses on the experience of developing countries and Africa.

5.3.3 Indigenous populations

- (a) [Aylwin Oyarzún \(2013\)](#) analyzes the deepening of market globalization, trade agreements and investments in extractive industries, and the international recognition of the human rights of Indigenous peoples in Latin America and Canada. He argues that states in the region and Canada should review their regulatory frameworks and investment policies in Indigenous territories to ensure their respect.
- (b) [Barros Sepúlveda \(2019\)](#) seeks to determine the content and basis of the right to share in the benefits of natural resource extraction or exploration projects for Indigenous peoples under international human rights law.
- (c) [Cabezas Albán \(2020\)](#) explores the capability of the Inter-American Human Rights System to address the human rights of legal entities and the international responsibility of corporations for human rights violations (based on specific cases).
- (d) [Veintimilla Quezada & Chacón Coronado \(2023\)](#) discusses a case from Ecuador, about a multinational oil company that violated the collective rights to prior, free and informed consultation of indigenous peoples and communities regarding activities that put their lives or territory at risk.

5.3.4 Free trade and investment

- (a) [Arroyo Vargas \(2017\)](#) addresses the tensions between bilateral and multilateral free trade and investment agreements and the actions of extractive transnational corporations regarding human rights, and their global impact, from the perspective of critical legal theories. He highlights the problems of threats and criminalization of human rights defenders, the negative consequences for food sovereignty, and the activities of farmers. He highlights the absence of a regulatory State and suggests the importance of ethical and legal frameworks that place people, communities, and nature at the center of economic relations.

- (b) [Restrepo Parra \(2020\)](#) uses quantitative and qualitative research techniques in his work. He critiques the application of the Colombia-Canada Free Trade Agreement in relation to local mining and its consequences for human security.
- (c) [Rodríguez Albor et al. \(2014\)](#) analyzes Canadian investment in Colombia's extractive industries (coal, oil, and gold, among others), arguing that it has had negative consequences for the economy, the environment, health, and violations of human and labor rights. All of this, despite having signed commitments to act ethically and responsibly.
- (d) [Guevara Fletcher \(2010\)](#) addresses the practical consequences of the Canada-Colombia Free Trade Agreement in relation to its negative impact on human rights and poverty.
- (e) [Castillo Meneses \(2012a\)](#) studies the relationships between human rights, soft law rules, and foreign investment treaties, and the relationships between human rights and investment arbitration, in cases involving a transnational corporation.
- (f) [Velásquez-Ruíz \(2013\)](#) explores the relationship between the dynamics of foreign investment by multinational corporations and involuntary migration, occurring in the context of the Colombian armed conflict. Through the analysis of several cases, she shows the negative effects on the human rights of some communities and the lack of recognition of this as a valid legal interest.
- (g) [Bohoslavsky & Justo \(2015\)](#) discuss the relationship and conflict of interests between foreign investment and its protection regime and the human rights of community members (including indigenous communities). Respect for human rights can be seen as violations of investment protection treaties. The paper addresses three aspects that have led to complaints about regulatory measures that alter the business climate: fair and equitable treatment, expropriation, and stabilization clauses.
- (h) [Echaide \(2017\)](#) explains that Argentina has signed many Bilateral Investment Treaties and has been the subject of many legal actions filed with the International Centre for Settlement of Investment Disputes, mostly brought by transnational corporations due to the economic crisis of 2001-2002 and referring to economic sectors related to natural resources, especially the drinking water and sanitation sector. These are cases of high social conflict and in which the role of the State as a regulator is evident in the face of the claim by transnational corporations for the protection of private property, in which a legal asymmetry stands out that favors the protection of investments over the safeguarding of human rights, particularly the human right to water recognized by the UN in 2010. The paper calls for greater balance in the treatment of these conflicting interests, in order to improve the standard of human rights protection.

5.3.5 Right to health

- (a) [Abramovich & Pautassi \(2008\)](#) discuss the protection of the right to health through public interest actions against the State and healthcare providers, and judicial activism, analyzing legal disputes in court.
- (b) [Hunt & Khosla \(2008\)](#) refer to access to medicines (especially essential ones) as a human right in relation to the activities of the State and pharmaceutical companies.
- (c) [Millán-González & González-Espinoza \(2015\)](#) address the right to health from the perspective of human rights and fundamental rights in relation to the State and private health insurance.
- (d) [Nwobike \(2006\)](#) addresses the right to access to medicines in the face of uncooperative attitudes of pharmaceutical companies in developing countries (except for experimental purposes), in research that does not yield lucrative results, and in cases of diseases that are significant for the population.

- (e) [Ugalde & Homedes \(2015\)](#) argue that to generate high dividends for their shareholders, pharmaceutical companies constantly innovate (creating new blockbuster drugs). To offset losses due to the expiration of drug patents, they seek to accelerate the execution of clinical trials to obtain marketing authorization as quickly as possible, thus increasing the monopoly sales of new drugs. These trials are conducted in developing countries such as those in Latin America, which presents challenges regarding the quality of the data obtained and the human rights of the subjects tested.
- (f) [Junges \(2010\)](#) argue that the right to health is increasingly affected by new configurations of biopower, no longer determined only by the State but also by large market players, such as biotechnology companies, which promote consumer demand for health. This paper seeks to show the interdependence between human rights in general and the right to health in particular, and to emphasize a public health bioethics that considers the collective implications of the right to health.
- (a) (g) [Pozzatti & Souza \(2023\)](#) emphasize the corporate social responsibility of transnational pharmaceutical companies in the face of inequality in access to essential medicines in the Global South, and add the need for global health governance.- [Scott-Samuel & O'Keefe \(2007\)](#) highlight the enormous impact of social and economic public policy decisions on global public health, given the unequal global distribution of power and resources. They advocate for health impact assessments in foreign and global public policymaking, including the incorporation of human rights assessments. This could be established as a global audit tool for promoting health equity, with an important role for multilateral international organizations.
- (g) [Vawda & Baker \(2013\)](#) discuss the conflict between exclusive intellectual property rights (in the form of patents and data protection) over health products and medicines of pharmaceutical companies (which claim human rights over their medical discoveries), and the human rights of consumers to access medical care and medicines. The authors seek to incorporate the criterion of social justice into this debate. It attempts to show how the human rights regime has achieved superiority in theory but inferiority in practice, and that intellectual property rights in the health field are solidly protected by an international regulatory architecture.
- (h) [Quintana-Cepeda \(2016\)](#) refers to the right to health recognized by the Colombian Constitutional Court through rulings on prepaid medical contracts, limiting the contractual freedom of individuals -prepaid medical companies- for the benefit of the users of this service.

5.3.6 Labor relations issues

- (a) [Bensusán \(2009\)](#) discusses the problem of the decline in national and international labor standards in Latin America, within transnational corporations. International labor conventions that influence these issues are also reviewed.
- (b) [Castillo Aguirre \(2022\)](#) analyzes the human rights of children and adolescents in the context of business and human rights (e.g., investment or trade agreements, and labor matters), both in the universal and inter-American systems.
- (c) [Grueso Hinestroza \(2009\)](#) exposes some practices of discrimination, horizontal and vertical segregation of women, and difficulties in their access to and retention in the workplace under equal conditions.

5.3.7 Issues on the right to water and basic services

- (a) [Bohoslavsky & Martín & Justo \(2015\)](#) recall that the human right to water has been proclaimed by the UN. This paper focuses on private companies providing public

drinking water and sanitation services and their internal and international regulations. The paper analyzes the state's obligation to protect against violations of this human right committed by companies in the specific area of drinking water and sanitation services, both from the internal regulatory perspective and from the perspective of international responsibility.

- (b) [Restrepo Gutiérrez & Zárate Yepes \(2016\)](#) addresses the human right to the minimum vital right of drinking water for people in a state of weakness in the jurisprudence of the Colombian Constitutional Court, regarding the suspension of service for non-payment and the conditions for companies to refrain from suspending service, as well as the minimum amount necessary for subsistence.
- (c) [Mazo Elorza \(2014\)](#) presents a study on the possible violation of human rights due to the absence of public utilities in homes.

5.3.8 Right to food

- (a) [Cini, Rosaneli & Cunha \(2018\)](#) study the problem of food sovereignty and the means of food production, in connection with human rights and the sustainable use of land. The concept of food sovereignty is based on an attempt to counteract the food production system developed by large corporations that nullifies people's autonomy to decide on their food consumption.
- (b) [Latorre & Badillo Sarmiento \(2020\)](#) study the problem of biofuel production (by multinational corporations) in relation to the human rights to water and food in Colombia.
 - (a) Rights and technologies
 - (a) [Gravett \(2020\)](#) analyzes China's efforts to become a cyber superpower, to control (constantly monitor) computer networks within its borders ("internet sovereignty"), and to extend its cyberspace governance model to countries where it has influence, such as some in Africa. This would be contrary to freedom of expression, free enterprise, and the rule of law.
 - (b) [Tole Martínez & al. \(2022\)](#) address the implications (risks and impacts) of the development of new technologies on the realization of human rights (civil and political rights; economic, social, and cultural rights; collective rights) in the activities of multinational corporations and their technological business models.
- (b) State corruption
 - (a) [Pereira, Machado & Richter \(2024\)](#) present a qualitative and exploratory study on the fragmented processes and exclusionary policies of a company that hinders the participation of communities that have suffered human rights violations.
 - (b) [Schönsteiner, Martínez & Miranda \(2020\)](#) present the case of two Chilean state-owned companies that violate the human rights of communities, which could generate international liability for internationally wrongful acts, particularly in environmental or human rights matters.

5.3.9 Weapons and private security

- (a) [Ballesteros Sánchez \(2021\)](#) analyzes the link between corporate crime and human rights within private military and security companies. In certain cases, their actions are based on flawed management focused solely on profit-making, which can violate criminal law and human rights. This is even more serious if there is also a significant lack of regulatory and jurisdictional discretion to attribute national and international liability to these companies, which leads to impunity.
- (b) [Jiménez-Reina, Gil-Osorio & Acosta-Guzmán \(2019\)](#) studies state security service companies as an alternative in the confrontation of asymmetrical forces, which

- fosters dynamics of violations of human rights and international humanitarian law, in addition to the failure of States to assume due international responsibility.
- (c) [Pérez Ricart & Lindsay-Poland \(2019\)](#) examine the legal regulation of handgun control and exports from Germany and the United States to Mexico, a country with a serious human rights violation situation.
 - (d) [Perret \(2013\)](#) studies the use of private military and security companies in Latin America, resulting from the rise in violence and insecurity, and exposes the human rights risks posed by this privatization of security.
 - (e) [Urueña-Sánchez \(2019\)](#) compares the concepts of mercenarism and Private Military and Security Companies and analyzes conventional, jurisprudential, and doctrinal instruments of international law to understand the legal and political dynamics of their regulation.
 - (f) [Vila Seoane \(2018\)](#) studies the growing industry of private military and security companies and electronic surveillance practices, and their effects on international security and state sovereignty, in addition to the risks posed to human rights, such as privacy.

5.3.10 Human Rights of Businesspeople

- (a) [Cabezas Albán \(2023\)](#) deals with the human rights of wealthy individuals in Ecuador, whose rights (property interests) have allegedly been violated by the State.

6 CONCLUSIONS

From the reported findings, within the limits of this research, it is possible to establish that:

- (a) Despite the relevance of the topic, there is not a very extensive scientific literature. In Scielo, the main database in Latin America, with participation from countries in Europe and Africa, there are only five to six papers per year in this field.
- (b) There are very few researchers who consistently conduct scientific research and generate scientific reports in this field.
- (c) The topics investigated in the identified papers are few, and none in some areas of interest; that is, they do not exhaust all the research issues on the impact of transnational business activity on human rights.
- (d) Some papers address general issues, other papers address specific issues but within the general framework, and still other papers address isolated and fragmented issues.
- (e) There are interesting and relevant perspectives, and the literature collected in this research shows that specialists are generally familiar with global frameworks or the state of the art.
- (f) Much more scientific research is required in this field, given its scarcity and also its great importance.

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