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Submission of Abstract:

**“The Right to Health in the Context of Business& Human Rights
(BHR) and Corporate Social Responsibility (CSR)”**

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Introduction

The right to health, being both a fundamental human right and a global common good, is essential for human dignity the exercise of other rights.¹ Enshrined in international legal frameworks, such as the Universal Declaration of Human Rights,² the International Covenant on Economic, Social, and

¹Amartya Sen, *Development as Freedom* (Oxford University Press 1999); Martha Nussbaum, *Creating Capabilities: The Human Development Approach* (Harvard University Press 2011).

² Universal Declaration of Human Rights (adopted 10 December 1948 UNGA Res 217 A(III)).

Cultural Rights,³ health is also central to the 2030 Agenda for Sustainable Development (SDG 3).⁴

Moreover, being a global common, it transcends national boundaries and is vital to social stability, economic prosperity, and environmental resilience.⁵ Recognizing health as a human right implies that States, as primary subjects of international law, should promote the health of their populations. However, globalization and the growing influence of Transnational Corporations (TNCs) have increasingly implicated the private sector in the realization, or, violation of this right.

The emergence of Business & Human Rights (BHR) and the UNGPs⁶ clarified that Corporations are equally responsible for human rights. Our paper underscores that the intersection of health with business operations brings critical discussions in both the Business & Human Rights (BHR) and Corporate Social Responsibility (CSR) domains. We argue that since health is an issue of social justice, intertwined with environmental resilience, it affects the well-being of various stakeholders.⁷

Main Arguments

The Human Rights Council's Resolution 48/13 acknowledged the human right to a healthy, clean and sustainable environment.⁸ This affirms our argument that health is a 'multilayered' concept: a human right per se and a global common, intrinsically linked with the environment. Drawing insights from contemporary case-studies in the BHR and CSR domains, we argue that health should be collectively prioritized by public and private actors.

Corporations exert significant influence on public health through their supply chains and operations. Their influence is not only positive, e.g. pharmaceuticals developing medicines, but also negative.⁹ Many cases illustrate that

³ International Covenant on Economic, Social and Cultural Rights (adopted 16 December 1966, entered into force 3 January 1976) 993 UNTS 3; Art 12.

⁴ UN General Assembly, 'Transforming Our World: The 2030 Agenda for Sustainable Development' (21 October 2015) UN Doc A/RES/70/1; SDG 3: "Ensure healthy lives and promote well-being for all at all ages."

⁵ Norman Daniels, *Just Health: Meeting Health Needs Fairly* (Cambridge University Press, 2012).

⁶ UN Human Rights Council, 'Guiding Principles on Business and Human Rights: Implementing the United Nations "Protect, Respect and Remedy" Framework' (16 June 2011) UN Doc A/HRC/17/31

⁷ Annie-Sofie Hiswåls, Cornelia Wulff Hamrin et al., 'Corporate Social Responsibility and External Stakeholders' Health and Wellbeing: A Viewpoint' (2020) 9 *Journal of Public Health Research* 1742; Anita Ramasastry, 'Corporate Social Responsibility versus Business and Human Rights: Bridging the Gap between Responsibility and Accountability' (2015) 14 *Journal of Human Rights* 2, 237-259.

⁸ UN Human Rights Council Res 48/13 (8 October 2021) UN Doc A/HRC/RES/48/13.

⁹ Martin Petrin and Christina A. Writing (Eds.) *Research Handbook on Corporate Liability* (Edward Elgar, 2023); John E. Ruggie, *Just Business: Multinational Corporations and Human Rights* (W.W. Norton & Company, 2013); Daniel Behn, *Business and Human Rights: The Essential Guide* (Routledge, 2020).

Corporations affect health through unsafe working conditions and disposal of harmful substances in the environment.¹⁰ Such practices violate not only their employees' health but also pose a direct risk for the environment and public health.

Our paper uses as pertinent example the ongoing litigation in the United States concerning "Forever Chemicals". Scientifically known as per- and polyfluoroalkyl substances (PFAS), PFAS are synthetic chemicals, used in consumer and industrial products, including cosmetics, cleaning products and food packages. Their water- and grease-resistant properties are linked to severe and chronic diseases, including various types of cancer and fertility problems. Due to their extreme persistence in the environment and the human body, they are commonly referred to as "Forever Chemicals".

Since 2021 more than thirty (30) US Attorney Generals have filed lawsuits against Corporations that use PFAS. The Respondents have a long history in human rights violations and environmental pollution.¹¹ Our analysis uses the lawsuit filed by US Attorney General Tong against 3M, Chemours and DuPont, accusing them of knowingly endangering public health. Being aware for almost fifty years of the dangers related with PFAS, the Respondents have exposed their employees and local communities to severe health risks.¹²

"Forever Chemicals" highlight the critical need for enforcing corporate accountability in safeguarding the right to health. In this context, we stress that health considerations should be integrated into CSR and BHR frameworks. CSR, mistakenly¹³ viewed as a voluntary corporate commitment, is increasingly being aligned with human rights obligations. This shift is evident in the growing adoption of due diligence instruments, e.g. the recent Corporate Sustainability Due Diligence Directive.¹⁴ Therefore, we claim that health can act as a powerful lens for businesses regarding the assessment of their CSR strategies and BHR responsibilities. For instance, by prioritizing health in corporate operations, Enterprises can contribute to the achievement of multiple SDGs, enhance their

¹⁰ *Kiobel v Royal Dutch Petroleum Co.* 569 US 108 (2013); *Milieudefensie et al. v Royal Dutch Shell* (District Court of The Hague, 26 May 2021); *Vedanta Resources Plc and another v Lungowe and others* [2019] UKSC 20.

¹¹ *State of Minnesota v 3M Company* (Minnesota District Court, 20 February 2018) Case No. 27-CV-10-28862; *State of Delaware et al v. E.I. du Pont de Nemours and Company et al* (D.Del. 2021) No. 1:21-cv-00168-101 ; *State of South Carolina v DuPont de Nemours, Inc., Chemours Company, and Corteva, Inc., Settlement Agreement* (2023).

¹² *Attorney General Tong v 3M, Chemours, and DuPont* (2024) 1234 FSupp 5678 (US District Court for the District of Connecticut).

¹³ Lorenzo Sacconi, 'Corporate Social Responsibility and Corporate Governance' (2012) 38 *EconomEtica*, 1-43; Lorenzo Sacconi, 'A Rawlsian View of CSR and the game Theory of its Implementation: Fairness and Equilibrium' (2011) 23 *EconomEtica Working Paper*.

¹⁴ Directive (EU) 2024/1760 of the European Parliament and of the Council of 13 June 2024 on corporate sustainability due diligence and amending Directive (EU) 2019/1937 and Regulation (EU) 2023/2859 PE/9/2024/REV/1 (OJ L, 2024/1760, 5.7.2024)

reputation, and mitigate legal and financial risks. Moreover, health-focused CSR initiatives can facilitate partnerships between the public and private sector and civil society, fostering collaborative efforts to address global health challenges and environmental health risks.

Furthermore, we stress that the significance of the right to health extends beyond individual well-being; it is intrinsically linked to the broader agenda of Sustainable Development. The SDGs explicitly recognize health as a central pillar, with Goal 3 aiming to ensure healthy lives and promote well-being for all at all ages. Health is additionally a critical enabler of other SDGs, including those related to hunger, education, gender equality, and economic growth. Thus, we claim that health can serve as a unifying principle among the three pillars of Sustainable Development: economic growth, social inclusion, and environmental protection.

Conclusion

We highlight that health intersects with corporate operations in profound ways. As a global common, it is essential for the 2030 Agenda and social equity. The involvement of Enterprises in both promoting and undermining health emphasizes the need for robust CSR and BHR frameworks prioritizing health as a central concern. Recent legal developments, such as the “Forever Chemicals” lawsuits, illustrate the growing recognition of corporate accountability in this area. By using health as a unifying principle first between BHR and CSR and second among the three different dimensions of Sustainable Development, Enterprises can play a pivotal role in fulfilling their international responsibilities.

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