

School of Law

Respect of Human Rights s by Foreign Investors in Tuleffa Town vis-à-vis UNGPs

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Thesis submitted in partial fulfillment of the requirements for LLM Degree (Business Law)

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Declaration

I, the undersigned, declare that the thesis is my original work and has not been submitted for a degree in any other University and that all materials used in the thesis have been duly acknowledged.

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TABLE OF CONTENTS

LIST OF TABEL.....	7
LIST OF FIGURE.....	7
Abstract.....	8
acknowledgemen.....	9
List OF ABBREVIATIONS	10
CHAPTER ONE	1
1. BACKGROUND OF THE STUDY.....	1
1.1. INTRODUCTION.....	1
1.2. Statement of the problem	3
1.3. Objective of the study.....	4
1.3.1. General Objective	4
1.3.2. Specific Objectives	4
1.4. Significance of the study	4
1.5. The Research Methodology	5
1.5.1. Study design.....	5
1.5.2. Type and Sources of Data	5
1.5.3. Questionnaire	5
1.5.4. Sampling technique and sample size determination for questionnaires	5
1.5.4.1. Inclusion and exclusion criteria.....	6
1.5.4.1.1. Inclusion criteria.....	6
1.5.4.1.2. Exclusion criteria	6
1.5.5. Methods of Data Analyze.....	6
1.5.6. Data quality control	7
1.6. Scope of the Study	7
1.7. Description of the study area.....	7
.....	7
1.8. Organization of the Study	8
CHAPTER TWO	9
2. Literature Review	9
2.1. The socio-economic context of Ethiopia.....	9
2.1.1. 1974-1991 Regime	9
2.1.2. The Post -1991 Regime of Ethiopia.....	11

2.2. The National Legal frameworks about the operation and the human rights duty of foreign business enterprises	12
2.2.1. The FDRE Constitution of Ethiopia	12
CHAPTER THREE	17
3. International legal framework on transnational business enterprises' responsibility towards human rights s.	17
3.1. United Nation Norms on the Responsibilities of Transnational Corporations and Other Business Enterprises about Human Rights s	18
3.2. United Nation Guiding Principles on Business and Human Rights s	21
3.2.1. The State Duty under the General Principles.....	21
3.2.2. Corporate Responsibility to Respect Human Rights under the Guiding Principles	22
3.2.3. Access to Remedy	24
3.2.4. Human rights s which are the concern of the General Principles.....	25
Chapter four.....	26
4. Result and Discussion.....	26
4.1. Demographic Background of Respondents	26
4.1.1. Respondents' Sex Distribution.....	26
4.1.2. Educational background of respondents.	27
4.1.3. Respondents' work experience.....	27
4.2. The commitment of business corporations to fulfill their responsibility to respect human rights	28
4.2.1. The companies' trend in respecting human rights s.....	28
4.2.2. The human rights impact of the company's activities	29
4.3. The transnational business corporates' tendency to recognize and respect workers' rights to collective bargaining....	29
4.3.1. The existence of functional trade union	30
4.3.2. Discriminatory treatment of workers who try to exercise their rights to collective bargaining	30
4.3.3. Businesses enterprises willingness to recognized workers' organization as partner and to work with them.....	30
4.4. Elimination of child labour	31
4.5. Preventing potential, remediating actual environmental damages and respecting environmental legal frameworks....	34
4.5.1. The rate of environmental damage caused by the selected business enterprise	36
4.5.2. The companies' diligence of conducting environmental impact assessments on regular basis	36
4.5.3. The corporates trend on installing equipment's to prevent potential environmental damages	36
4.5.4. The corporates' culture on remediating actual environmental damages stemming from its operation.....	36
4.6. The adoption of policy statement which show the company's commitment and its expectation from workers and other business partner towards human rights s.....	36
4.7. The dissemination of the company's policy commitment to its worker, business partners and the public at large.....	38
4.8. The business enterprise's culture of conducting human rights due diligence	38
4.8.1. Assessing actual and potential human rights s impacts directly linked with its operations and products	41
4.8.2. Integrating the findings of the assessment across relevant internal functions and processes and taking appropriate actions.....	41

4.8.3. Tracking the effectiveness of their prevention and/or remediation measurement	41
4.9. The establishment of an effective operational-level grievance mechanisms within the company for victims of business related human rights abuses	41
Chapter FIVE.....	44
5. Conclusion and recommendation.....	44
5. 1. Conclusion.....	44
5.2. Recommendations	45

LIST OF TABEL

Table 1. Name of company studied	26
Table 2. Elimination of child labour.....	32
Table 3. Preventing potential, remediating actual environmental damages	35
Table 4. Conducting human rights due diligence	39
Table 5. Establishing of an effective operational-level grievance mechanisms	42

LIST OF FIGURE

Figure 1: Location Map of the study area	7
Figure 2: Sex distribution of the respondents	26
Figure 3. Educational background of respondents.....	27
Figure 4. Respondents' work experience.....	27
Figure 5. Discharging their responsibility to respect human rights	28
Figure 6. Respect workers' rights to collective bargaining.....	30
Figure 7. Adoption human rights policy commitment.....	37
Figure 8. Dissemination of the company's policy commitment	38

ABSTRACT

Globalization has paved the way for the rapid expansion of transnational business corporations across the globe. While these enterprises provide significant economic benefits, particularly for developing countries, they also hold the potential to promote fundamental human rights and freedoms within their host states. However, alongside these advantages, they pose serious risks to human rights. Historically, human rights issues were primarily associated with national governments, leaving corporate-related abuses largely unexamined despite evidence of widespread violations caused by local and global business entities.

Today, the expectation for businesses to uphold human rights has become a global norm. Transnational corporations, like all business entities, have obligations under both national and international laws to respect fundamental human rights and freedoms. The United Nations Guiding Principles on Business and Human Rights (UNGPs) stand as a key global framework, defining corporate responsibilities and mandating proactive measures to prevent and mitigate human rights risks, as well as to address violations arising from their operations.

This study focuses on the role of transnational business corporations operating in Tulofa town in fulfilling their obligations to respect fundamental human rights as outlined in the UNGPs. Employing a cross-sectional study design and a quantitative research approach, the research selected four transnational corporations from the twenty operating in the area, based on their operational history and employee size, using purposive sampling. A total of 200 questionnaires were distributed to randomly selected employees from these companies.

The findings, analyzed through a descriptive approach, reveal that the compliance of transnational corporations in the study area with their duty to respect human rights, as prescribed by the UNGPs, is significantly weak.

Keywords: *Transnational Business Corporates, Fundamental Human Rights, United Nation Guiding Principles on Business and Human Rights*

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LIST OF ABBREVIATIONS

ESC -The Economic, Social and Cultural Rights s

FDI - Foreign Direct Investments

FDRE Constitution -Federal Democratic Republic of Ethiopia Constitution

ICCPR – International Convention on Civil and Political Rights

ICESCR – International Convention on Economic, Social and Cultural Rights

ILO Tripartite Declaration – International Labour Organization Tripartite Declaration of principles concerning multinational enterprises and social policy

ILO - International Labour Organization

IMF - International Monetary Fund

OECD - The Organization for Economic Co-operation and Development

OHCHR - Office of the High Commissioner for Human Rights

PMAC - Provisional Military Administrative Council

UDHR – Universal Declaration of Human Rights

UN Guiding Principles - United Nation Guiding Principles on Business and Human

WB - World Bank

WTO -World Trade Organization

CHAPTER ONE

1. BACKGROUND OF THE STUDY

1.1. INTRODUCTION

The ever-increasing nature of globalization as well as neo-laboural ideology creates a fertile ground for the enhancement of Foreign Direct Investment which is recognized as an important catalyst of economic and social development. Foreign investment procure tremendous economic benefit to developing countries, which have a low economic efficiency, low saving rate and thereby low investment and low income growth rate per capital, by facilitating the mobility of large capital, foreign exchange, technological transplantation, innovation, access to foreign markets, creating employment opportunities, knowledge, experience and skill sharing and so on¹

As a result developing countries competing against each other in terms of mitigating their regulatory power and conducting huge policies reforms such as liberalizing their trade regime, creating special industry zones, reforming their tax regime, offering different incentives like supplying investment land free of charge, tax exemption and so on to secure an attractive foreign investment flow. This competition among countries coupled with the voluminous economic benefits associated with foreign investment provides tremendous opportunity for foreign investors to enhance their bargaining power. Therefore, there is an increasing tendency in developing countries regarding the adoption of one-sided investment law which protect investors' rights without at the same time attaching investors' responsibilities towards human rights, culture, environment, sustainable development and so on.²

The curiosity of least developing countries to have many foreign investment as well as the economic benefit procured by transnational corporations increase the leverage of the latter in dealing with host states which cause so many complex human rights problems³ and have an adverse implication on the protection and promotion of human rights.⁴

Different reports and studies disclosed about the irreconcilability nature of the tension between the profit oriented nature of transnational business enterprises on one hand and the initiation for protection and promotion of human rights of the people on the other hand.⁵ Studies on the concerned area suggested that it is too difficult to reconcile

¹ P Romer, 'Idea Gaps and Object Gaps in Economic Development' (1993) 32(3) *Journal of Monetary Economics*. UNCTC, *World Investment Report 1991: The Triad in Foreign Direct Investment* (United Nations Centre on Transnational Corporations 1991, New York). Yujiro Hayami, 'Development Economics: From Poverty Alleviation to the Wealth of Nations' (2007) 8 *Journal of World Investment and Trade*: Yujiro Hayami, *Development Economics: From Poverty Alleviation to the Wealth of Nations*, 2nd edn (Oxford University Press 2001) 357-3598.

² Prem Sikka, 'Accounting for Human Rights: The Challenge of Globalization and Foreign Investment Agreements' (2011) 22 *Journal of Critical Perspectives on Accounting* 811-827.

³ Ibid

⁴ Ibid

⁵ Amnesty International, *Human Rights, Trade and Investment Matters* (Amnesty International 2006) <http://www.amnestyusa.org/business/HRTradeInvestmentMatters>. Christian-Aid, *Death and Taxes: The True Toll of Tax Dodging* (Christian-Aid 2008). Environment Defense Fund USA, *The Chad-Cameroon Oil and Pipeline Project: Putting People and the Environment at Risk* (Environment Defense Fund 1999) <http://www.edf.org/documents/728>. ETC Group, *Who Owns Nature? Corporate Power and the Final Frontier in the Commodification of Life* (Action Group on Erosion, Technology and Concentration 2008) http://www.etcgroup.org/upload/publication/707/01/etc_won_report_final_color.

business enterprises power with democracy and respect of fundamental human rights.⁶ And they further call for the adoption and enforcement of binding national laws which hold business corporates responsible, at least, to the minimum human rights standards and obliged them to limit their potential abuses of their position of power against fundamental human rights.⁷ Furthermore, binding international human rights instruments also impose the ‘respect, protect and fulfill’ obligations on member states towards fundamental human rights. Among these obligations the duty to ‘protect’ require member states of the concerned human rights instrument to take all the necessary measurement to prevent potential and remediate actual human rights violations caused by third parts including business enterprise both domestic and foreign business corporates. However, due to transnational body corporates’ huge economic benefits and better bargaining power, states especially developing countries become impotent to exercise their sovereign power to develop, modify and implement legal norms which protect the human rights of their people, improve labour cost, occupational safety, health and environmental standards and to provide local remedies for victims of business related human rights abuses.⁸ Furthermore, transnational business enterprises employ different techniques including stabilizing clause to weaken or impede host states from discharge their human rights s obligations.⁹

Recognizing the risk posed to human rights s and freedoms by transnational business enterprises and the inadequacy of the measurement taken by sates alone to prevent such risk, different international and regional bodies, and other human rights s initiatives try to regulate the human rights impact of business through the adoption of voluntary and non-voluntary international and regional code of conduct. Amongst which United Nation General Principles on Business and Human Rights s (herein after referred as the General Principles) is the prominent one.

The Guiding Principles is an authoritative and influential global instrument which defines corporate responsibility towards human rights s. It contains basic principles which define and elucidate States’ and businesses’ obligation to prevent potential and remediate actual business related human rights abuses. Currently, many companies, business organizations, civil society organizations, trade unions, national and regional institutions, and other stakeholder group endorse the Guiding Principles. This has further solidified the status of the Guiding Principles as the key global normative framework for business and human rights.

This paper tried to scrutinize the status of those foreign investors operating at Tulofa town in Amhara Regional State of Ethiopia in discharging their human rights duty as defined under the United Nation General Principles on business and human rights, International Human Rights Covenants and national laws, and provide possible recommendations to solve business related human rights abuses in the area.

⁶ J Bakan, *The Corporation: The Pathological Pursuit of Profit and Power* (Free Press 2004, New York). N Hertz, *The Silent Takeover: Global Capitalism and the Death of Democracy* (William Heinemann 2001, London).

⁷ JB Davies, S Sandstrom, A Shorrocks, and EN Wolff, 'Discussion Paper No. 2008/03: The World Distribution of Household Wealth' (United Nations University 2008) <http://www.wider.unu.edu/publications/working-papers/discussion-papers/2008/en-GB/dp2008-03/files/78918010772127840/default/dp2008-03>.

⁸ Prem Sikka, cited above at note 2, p. 811-827.

⁹ Ibid

1.2. Statement of the problem

Many scholars in the field of economics, politics, journalism and so on, and international organizations like World Bank (WB), International Monetary Fund (IMF), World Trade Organization (WTO), International Labour Organization (ILO) and so forth commonly agreed about the indispensable role played by foreign investments in the efforts to alleviate poverty, to improve living standard and also serve as a catalyst for the technological and economic growth especially in developing countries including Ethiopia.

However, economic growth is not an end by itself rather it is a means to an end. The end is “development”¹⁰ which is too broad concept contains the economic, social, cultural and political wellbeing of a given society. Therefore, foreign investments which are congruent with development are adhere, at least, to the minimum human rights, environmental and labour standards and play a positive role in the economic, political, social and cultural improvement and wellbeing of the society in which they operated.

Beside their duty to respect, business enterprises may go beyond their obligation and promote the proper enjoyment fundamental human rights and freedom of the people in which they operate. This is because they engaged in those economic sectors which improve the living standard of the people and have a direct and strong relationship with the proper enjoyment of fundamental human rights of the people. These economic sectors include, but not limited to, electricity, telecommunication, banking and insurance, health and so on.

However, transnational business corporates may also pose a serious threat to the social, cultural and political wellbeing of the people in which they operate. They might, for instance, operate in such a way which poses a serious danger on the proper enjoyment of fundamental human rights and freedoms of the people. Sometimes business corporates may deliberately engage in human rights abuses.

In addition to the global expectation, all foreign business enterprises operating within Ethiopia are obliged by international and domestic laws including the FDRE Constitution to respect the human rights, environmental and labour standards.

Nowadays, there are about 20 transnational business corporates at Tulofa town which operate in different investment sector and employ thousands of workers. However, a preliminary enquiry hold by the researcher reveals that transnational business corporates operating in the study area are not carries out their business in a manner consistent with the human rights, labour and environmental standards enshrined under national and international laws. Repression and exclusion of vulnerable groups like women and disabilities, suppressing workers’ trade union and collective bargaining, absence of occupational safety and weak health standards, unreasonable salary which is not even enough to survive, discrimination against certain groups in terms of salary, absence of job security, encroaching

¹⁰ The United Nation Declaration on the Rights to Development defines development as

“A comprehensive economic, social, cultural and political process, which aims at the constant improvement of the well-being of the entire population and of all individuals on the basis of their active, free and meaningful participation in development and in the fair distribution of benefits resulting therefrom.” United Nations General Assembly, *Declaration on the Rights to Development*, UNGA Res 41/128 (4 December 1986) <http://www.un.org/documents/ga/res/41/a41r128.htm> accessed 17 January 2021.

the rights to live in a clean environment through causing damage to the environment and so on are some of the problems posed by these foreign organizations. Since the drawback of business which is not consistent with development is greater than its benefits and cause multi-dimensional problems,¹¹ the above practices not only endangering the human rights of the people but also it has an adverse effect on the social, cultural and political wellbeing of the society and eventually on the sustainable development of the country.

1.3. Objective of the study

1.3.1. General Objective

Evaluating the status of transnational business corporates, operating at Tulofa town, in discharging their obligation to respect human rights as defined under the UN Guiding Principles is the central theme of this paper.

1.3.2. Specific Objectives

Bearing the above general objective in mind, this paper has the following specific objectives:-

- Exploring the legal obligation of business enterprises in general and foreign business enterprises in particular towards human rights and fundamental freedoms under international laws.
- Discussing the human rights obligations of business under the United Nation General Principles on Business and Human Rights.
- Exploring the human rights obligations of foreign business enterprises under national laws such as Constitution and Investment law of Ethiopia.
- Evaluating the position of foreign business enterprises operating at Tulofa Town in discharge of their human rights duties defined under nation and international laws.
- Detecting the possible recommendations to solve business related human rights abuses witnessed at the study area.

Research questions

This study addresses the following questions:

- ✓ Are those transnational business corporates operating in the study area properly discharging their obligation to respect fundamental human rights and freedoms as defined under the UN General Principles and other national laws?
- ✓ What measures should have to be taken to prevent potential and remediate actual business related human rights abuses identified in the study area?

1.4. Significance of the study

This paper tries to examine whether those foreign business enterprises operated at Tulofa town in Amhara Regional State of Ethiopia complied with their human rights duty as defined under the United Nation Guiding Principles on

¹¹Office of the High Commissioner for Human Rights, *Frequently Asked Questions on a Human Rights-Based Approach to Development Cooperation* (United Nations 2006, New York and Geneva) 10 <http://www.ohchr.org/Documents/Publications/FAQen.pdf> accessed 17 January 2021.

business and human rights , international human rights instrument, international labour rights s and standards, and other domestic laws or not.

This research, thus, provides an in-depth analysis of the risks posed by foreign business enterprises to the protection and promotion of fundamental human rights in the region. The findings highlight the urgent need for action and aim to alert various stakeholders, including governmental bodies, international human rights organizations, and other human rights-focused initiatives, to address business-related human rights abuses observed in the study area. The study also proposes actionable recommendations for responsible entities to mitigate these issues effectively.

In addition to its practical implications, this research holds academic significance by contributing to the legal discourse on human rights. As the first of its kind in the area, it serves as a foundation for further studies, encouraging other researchers to explore this critical topic. Overall, the study offers indispensable insights and recommendations for advancing human rights in the country.

1.5. The Research Methodology

1.5.1. Study design

Cross-sectional study design was used in order to assess the compliance of transnational business corporates with their human rights obligations under the UN Guiding Principles. The study also follows a descriptive approach and used quantitative research method to analyze the collected data and describe the existing phenomenon.

1.5.2. Type and Sources of Data

In order to obtain the data necessary to achieve the objective of the study, both primary and secondary data were used. Primary data was collected through the administration of questionnaires to workers who are employed within the selected transnational business enterprises. International and regional legislations and national laws including the FDRE Constitution were also used as a primary source. As far as secondary data is concerned, literature and journals written on the concerned issue, international and regional institutions reports were used as a source.

1.5.3. Questionnaire

Close ended questionnaires containing different questions which indicate checklist factors were prepared and dispersed to the chosen professional workers of the selected transnational corporates so as to explore whether those transnational business entities operating in the study area are complied with their obligation towards human rights as determined under the UNGPs and other relevant national laws. A total of 220 questionnaires were distributed to the concerned workers from the chosen business corporates out of which 200(90%) were properly filed and returned. Each question in the questionnaire was accompanied by checklist factors which respondents were expected to scale ranging from “Strongly Disagree” to “Strongly Agree”.

1.5.4. Sampling technique and sample size determination for questionnaires

In the study area there are about twenty functional transnational business enterprises which employed plenty of workers of different professions. Thus, four transnational business enterprises which have relatively better operating

history and have higher number of employees were selected by using purposive sample taking method. From each chosen transnational business enterprises, subject to the inclusion and exclusion criteria, representative samples of 55 professional workers were taken by using simple random sampling technique.

1.5.4.1. Inclusion and exclusion criteria

The researcher set some inclusion and exclusion criteria which are very important to ensure the relevance and impartiality of respondents and thereby to improve the accuracy and reliability of the data.

1.5.4.1.1. Inclusion criteria

Workers who are hired for professional work and working within the selected business entities for not less than one year are incorporated within the target population and have equal chance to be chosen for the sample unite.

1.5.4.1.2. Exclusion criteria

Those individuals who are working within the sampled transnational business enterprises for the purpose of education, training, or apprentice and new employees working not more than one year were excluded from the target population. Those workers hired not for professional position like guards, janitors and supportive staffs were also excluded from the target population. Furthermore, those employees who are at the managerial positions and vested with the powers to lay down and/or execute management policies of the organization or have the power to hire, transfer, suspend, layoff, assign or take disciplinary measures against employees or recommend the measures to be taken by the organization regarding the above issues are excluded from being considered as the target population.

Table 1: Name of the selected transnational business enterprises and their employee number

Name given by the researcher	Number of employee	Sample taken
Company A	270	55
Company B	120	55
Company C	190	55
Company D	140	55

1.5.5. Methods of Data Analyze

The data collected by means of questionnaire is analyzed by using Microsoft excel 2010 version package. Frequency and percentage calculation methods were used to analyze the data and the analyzed data presented through tabulation, line graph and bar graph.

1.5.6. Data quality control

Pre-test was done in one transnational business enterprises. The purpose of the pre-test is to check the validity of the checklists and the questionnaire and to ensure the consistence of the result with the objective of the study. 5% Percent sample was used for the pretest and 10% of questionnaire also used for contingency.

1.6. Scope of the Study

Currently, approximately thirty business enterprises operate in Tulofa town, located in the Amhara Regional State of Ethiopia. However, this study specifically focuses on assessing whether the transnational business corporations in the area comply with and respect the United Nations Guiding Principles on Business and Human Rights. Domestic business enterprises are not, therefore, included within the scope of this research and fall entirely outside its purview.

1.7. Description of the study area

Ethiopia is one of the largest countries in East Africa with a total area of approximately 1.1million square kilometres. The country is located between 3° N and 15° N of Latitudes and 33° E and 48° E of Longitudes with varying topographical features. The country is sub divided in to 12 ethno-linguistically based Regional states and two chartered cities. Tuleffa is a small city which is situated in Hagermariam Kessem woreda Northern shewa zone of Amhara regional state of Ethiopia. The city is 65 Km far away from the capital city of Ethiopia, Addis Ababa to the north and located at 9°57'0"North and 38°45'0" East.¹²

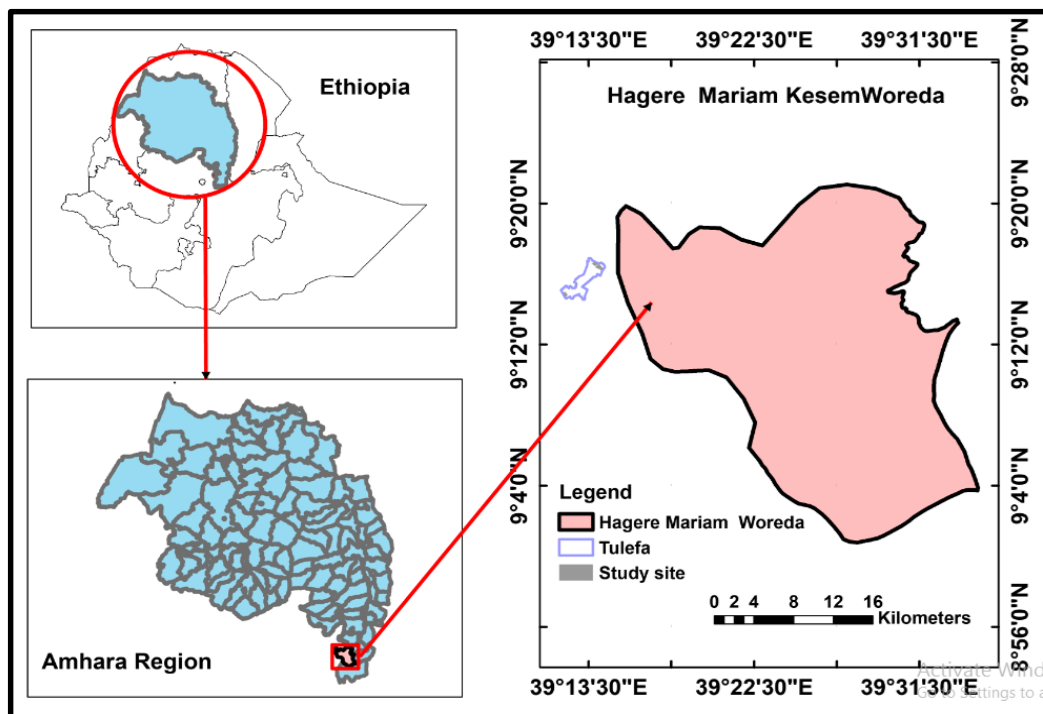


Figure 1: Location Map of the study area

¹² Drawn by Haven Hailu Beyene, Lecturer at Dilla University, BA on Architecture and LLM on Urban planning.

1.8. Organization of the Study

This study is organized in to five chapters and they are concisely presented as follow.

The first chapter of this study posits the research design or the road map of the study. The second and third chapters provide the legal and conceptual frameworks on the basis of which the very understanding of transnational business corporates responsibilities lies. Accordingly, it deals with, inter alia, the national and international normative frameworks concerning business enterprises' responsibilities towards fundamental human rights and freedoms. Furthermore the United Nation Norms on the responsibilities of transnational business corporates towards human rights also expounded in detail.

The fourth chapter confines itself in present the data gathered from respondents concerning the respect of human rights by the transnational business corporate operating in Tuleffa town and the result also discussed vis-à-vis the UNGPs.

Finally the last chapter, which is chapter five, sum up the discussions made in the preceding four chapters and provides recommendations which are, in the eye of the researcher, are necessary and relevant to the problem identified by this research.

CHAPTER TWO

2. LITERATURE REVIEW

2.1. The socio-economic context of Ethiopia

Ethiopia is a landlocked country located in the horn of Africa with a total population of about one hundred ten million which is the second largest population number in Africa. Ethiopia is one of ancient country with a history of three thousand years. Unlike almost all African countries except Liberia, Ethiopia is not colonized because Italian attempt to colonize the country is failed two times by the bloody straggle of its people. Nevertheless, like many African countries, Ethiopia is suffered by drought, poverty, famine, epidemic disease, civil war, political instability, and so on. The 2007 human right development report discloses that, Ethiopia ranks 105th out of 108 African countries in terms of poverty¹³ with 220 USD per capital income which is much lower when it compare with other sub-Saharan countries.¹⁴ Despite tremendous role Foreign Direct Investments (FDI) play in facilitating economic growth and reducing poverty, in Ethiopia significant number of foreign investors has not been operated for a long period of time. Subject to the economic policy of the regime, foreign investors were either totally banned or allowed to invest in identified limited investment sectors. The place and volumes of FDI within different regimes in Ethiopia is addressed under the following sub-topics.

2.1.1. 1974-1991 Regime

In 1974 an important political change, from feudalism to state ruled economic system, was witnessed in Ethiopia. The military governments known as ‘Derge’ come in to power by ousting emperor Haileselassie from power. Immediately after taking power, such military government suspends the 1955 revised constitution and makes a lot of political and economic reforms within the country. In September 12, 1974 it centralized the political power at the hand of the Provisional Military Administrative Council (hereinafter referred as PMAC) through enacting the Provisional Military Government Establishment proclamation.¹⁵ However, this proclamation did not explicitly define the economic role of the government except assigning a centralized political power for PMAC.¹⁶ Nevertheless, the subsequent declarations of socialist economic policy as the economic system of the country by Provisional military government followed by proclamations which subjugate all means of production under the government control, other laws which regulate the private investment and commercial undertakings¹⁷ and the authorization of the Central Planning Office with the

¹³ World Bank, *Country Brief: Ethiopia* (World Bank 2009, Washington DC).

¹⁴UN Development Program, *Human Development Report 2007–08: Ethiopia Country Factsheet* (2007) http://hdrstats.undp.org/countries/country_fact_sheets/cty_fs_ETH.html accessed 17 January 2021 See also Provisional Military Government of Ethiopia, *Proclamation No. 1 of 1974*, Negarit Gazeta, Year 34, No. 1.

¹⁵ Provisional Military Government of Ethiopia, *The Declaration of the Provisional Military Government of Ethiopia* (Addis Ababa, 20 December 1974). Provisional Military Government of Ethiopia, *Central Planning Commission Establishment Proclamation No. 128 of 1977*, Negarit Gazeta, Year 36, No. 29. Provisional Military Government of Ethiopia, *National Revolutionary Development Campaign and Central Planning Supreme Council Establishment Proclamation No. 156 of 1978*, Negarit Gazeta, Year 38, No. 4. Provisional Military Government of Ethiopia, *Office of National Committee for Central Planning Establishment Proclamation No. 262 of 1984*, Negarit Gazeta, Year 43, No. 13

¹⁶ Ibid

¹⁷ Provisional Military Government of Ethiopia, *Commercial Activities Undertaken by the Private Sector Proclamation No. 76 of 1975*, Negarit Gazeta, Year 35, No. 18. Provisional Military Government of Ethiopia, *Regulation of Domestic Trade Proclamation No. 335 of 1987*, Negarit Gazeta, Year 46, No. 24.

responsibility to control the national economy make it clear the huge economic role and the active participation of the government in the market.¹⁸ All these laws clearly define all economic activities carried by the government alone, by the private sector and by the foreign investors jointly with the government. Upon the recognition of socialist economy as a national economic system, it considered privatization as something which sacrilege the public interest. Consequently, subject to socialist objectives, the small scale industries and handcraft are the only economic sectors which are allowed to be pursuit privately.¹⁹

It recognized poverty, drought, and diseases as the major problem of the country which can be solved only by the public ownership of all means of production and through the active economic role of the government on the management and guidance of major economic activities.²⁰ To that end, it nationalized basic means of production which includes urban and rural land, extra dwelling house, banks and insurances, all industrial proprietorship and business organizations in 1975.²¹ Furthermore, it declare half million birr as the maximum total amount of money allowed to be owned under private ownership otherwise under the risk of confiscation.

After thirteen years of taking and before three years of losing of its governmental power which is in 1987 the Military government was enacted a constitution known as “the Constitution of the People’s Democratic Republic of Ethiopia”.²² This constitution was enacted as a response to the instability prevailed throughout the country. Consequently, through the introduction of this constitution and other subsequent laws, the government made a significant economic policy change from command economy to mixed economy and open relatively better economic sectors for the private sector within the socialist ideology. During the military government the number and role of transnational business corporates in the national economy is not that much significant.

¹⁸Provisional Military Government of Ethiopia (PMGE), *Government Ownership and Control of Means of Production Proclamation No. 26 of 1975*, Negarit Gazeta, Year 34, No. 22. See also Central Statistical Office (CSO), *People's Democratic Republic of Ethiopia: Facts and Figures* (Bole Printing Press 1987) 10.

¹⁹ Provisional Military Government of Ethiopia (PMGE), *Declaration of the Socialist Economic Policy as the Economic Policy of the Provisional Military Government of Ethiopia* (Addis Ababa, 20 December 1974).

²⁰ People's Democratic Republic of Ethiopia (PDRE), *Constitution of the People's Democratic Republic of Ethiopia Proclamation No. 1 of 1987*, Negarit Gazeta, Year 47, No. 1. People's Democratic Republic of Ethiopia (PDRE), *Small-Scale Industry Development Council of State Special Decree No. 9 of 1989*, Negarit Gazeta, Year 48, No. 19; re-enacted by *Small-Scale Industry Development Proclamation No. 30 of 1989*, approved by *Notice of Approval No. 8 of 1989*, Negarit Gazeta, Year 49, No. 2. People's Democratic Republic of Ethiopia (PDRE), *Hotel Services Development Council of State Special Decree No. 10 of 1989*, Negarit Gazeta, Year 48, No. 20; re-enacted by *Hotel Service Development Proclamation No. 31 of 1989*, approved by *Notice of Approval No. 9 of 1989*, Negarit Gazeta, Year 49, No. 2. People's Democratic Republic of Ethiopia (PDRE), *Joint Venture Council of State Special Decree No. 11 of 1989*, Negarit Gazeta, Year 48, No. 21; re-enacted by *Joint Venture Proclamation No. 32 of 1989*, approved by *Notice of Approval No. 10 of 1989*, Negarit Gazeta, Year 49, No. 2. People's Democratic Republic of Ethiopia (PDRE), *Council of State Special Decree on Investment Proclamation No. 17 of 1990*, Negarit Gazeta, Year 49, No. 12. People's Democratic Republic of Ethiopia (PDRE), *Council of Ministers Regulations to Provide for the Issuance of License for Agricultural Activities Regulation No. 7 of 1990*, Negarit Gazeta, Year 49, No. 17. People's Democratic Republic of Ethiopia (PDRE), *Industrial License Council of Ministers Regulations Regulation No. 8 of 1990*, Negarit Gazeta, Year 49, No. 18. People's Democratic Republic of Ethiopia (PDRE), *License for Tourist and Hotel Facilities Council of Ministers Regulations Regulation No. 9 of 1990*, Negarit Gazeta, Year 49, No. 19. People's Democratic Republic of Ethiopia (PDRE), *Participation of Foreign Investors Council of Ministers Regulations Regulation No. 10 of 1990*, Negarit Gazeta, Year 49, No. 23.

²¹ Provisional Military Government of Ethiopia (PMGE), *Commercial Activities Undertaken by the Private Sector Proclamation* cited above at note 17. Provisional Military Government of Ethiopia (PMGE), *Regulation of Domestic Trade Proclamation* cited above at note 17. People's Democratic Republic of Ethiopia (PDRE), *Domestic Trade Regulations Regulation No. 109 of 1987*, Negarit Gazeta, Year 46, No. 27.

²² The Constitution of the People’s Democratic Republic of Ethiopia Proclamation, cited above at note 20.

2.1.2. The Post -1991 Regime of Ethiopia

The long-time internal straggle of various liberation fronts were closed up after they successfully removing the Military government, control the political power and enact the transitional period charter in 1991.²³ Immediately after the removal of the military government, the transitional government was took the political power and abrogated the 1987 constitution by adopting the Transitional Period Charter in May 1991. This charter was serving as a constitution until the current Federal Democratic Republic of Ethiopia Constitution (hereinafter referred as FDRE Constitution) is enacted in 1995.²⁴ Even though this charter was not defining the economic role of the government, the subsequently adopted transitional economic policy²⁵ sufficiently define the economic role of the transitional government. Thus, through the adoption of the transitional economic policy in 1991, the government was promised to reduce its economic role, to promote the active participation of the domestic and foreign investment, recognized the positive role of the private sector in the economy and to withdraw from the market in favor of free market economy and privatization.²⁶ Following the enactment of the transitional economic policy, the transitional government enacts several laws which regulate the operation of the private sector in the economy.²⁷

Therefore, the year 1991 is turning point in the history of the country, during which the country experienced grass-root reform both in the economy and political sector; from unitary form of government into federal state structure and from state run-economy into market economy.²⁸ Four years later, in 1995, the FDRE Constitution enacted. This constitution contains one hundred five provisions which subsumed into eleven chapters of which the broadest chapter (i.e. chapter three) is dedicated for the declaration of fundamental human rights and freedoms.²⁹ To summarize, period

²³ Provisional Government of the Democratic Republic of Ethiopia (PDTCE), *Transitional Period Charter of Ethiopia No. 1 of 1991*, Negarit Gazeta, Year 50, No. 1.

²⁴ Federal Democratic Republic of Ethiopia (FDRE), *Constitution of the Federal Democratic Republic of Ethiopia Proclamation No. 1 of 1995* (hereinafter referred to as FDRE Constitution), Federal Negarit Gazeta, Year 1, No. 1.

²⁵ Transitional Government of Ethiopia (TGE), *Ethiopia's Economic Policy during the Transitional Period* (Official Translation, Addis Ababa, November 1991).

²⁶ Ibid.

²⁷ Transitional Government of Ethiopia (TGE), *Encouragement, Expansion and Coordination of Investment Proclamation No. 15 of 1992*, Negarit Gazeta, Year 51, No. 11. Transitional Government of Ethiopia (TGE), *Encouragement, Expansion and Coordination of Investment Amendment Proclamation No. 31 of 1992*, Negarit Gazeta, Year 52, No. 5. Transitional Government of Ethiopia (TGE), *Mining Proclamation No. 52 of 1993*, Negarit Gazeta, Year 52, No. 42. Transitional Government of Ethiopia (TGE), *Mining Operations Council of Ministers Regulations No. 182 of 1994*, Negarit Gazeta, Year 53, No. 84. Transitional Government of Ethiopia (TGE), *License for Agricultural Activities Council of Ministers Regulations No. 120 of 1993*, Negarit Gazeta, Year 52, No. 45. Transitional Government of Ethiopia (TGE), *National Seed Industry Agency Proclamation No. 56 of 1993*, Negarit Gazeta, Year 52, No. 47. Transitional Government of Ethiopia (TGE), *Transfer of Technology Council of Ministers Regulations No. 121 of 1993*, Negarit Gazeta, Year 52, No. 53. Transitional Government of Ethiopia (TGE), *Export Trade Duty Incentive Scheme Establishing Proclamation No. 69 of 1993*, Negarit Gazeta, Year 52, No. 62. Transitional Government of Ethiopia (TGE), *Domestic Trade (Amendment) Council of Ministers Regulation No. 123 of 1993*, Negarit Gazeta, Year 52, No. 64. Transitional Government of Ethiopia (TGE), *Radiation Protection Proclamation No. 79 of 1993*, Negarit Gazeta, Year 53, No. 39. Transitional Government of Ethiopia (TGE), *Monetary and Banking Proclamation No. 83 of 1994*, Negarit Gazeta, Year 53, No. 43. Transitional Government of Ethiopia (TGE), *Licensing and Supervision of Banking Business Proclamation No. 84 of 1994*, Negarit Gazeta, Year 53, No. 44. Transitional Government of Ethiopia (TGE), *Licensing and Supervision of Insurance Business Proclamation No. 86 of 1994*, Negarit Gazeta, Year 53, No. 46. Transitional Government of Ethiopia (TGE), *Customs Clearing Agency License Issuance Council of Ministers Regulation No. 155 of 1994*, Negarit Gazeta, Year 53, No. 47. Transitional Government of Ethiopia (TGE), *Licensing and Supervision of Health Service Institutions Council of Ministers Regulation No. 174 of 1994*, Negarit Gazeta, Year 53, No. 66. Transitional Government of Ethiopia (TGE), *National Fertilizer Industry Agency Establishment Proclamation No. 106 of 1994*, Negarit Gazeta, Year 54, No. 2. Government of Ethiopia (TGE), *Licensing and Supervision of Private Educational Institutions Council of Ministers Regulation No. 206 of 1995*, Negarit Gazeta, Year 54, No. 14.

²⁸ Provisional Government of the Democratic Republic of Ethiopia (PDTCE), *Transitional Period Charter of Ethiopia* cited above at note 23; Transitional Government of Ethiopia (TGE), *Ethiopia's Economic Policy during the Transitional Period* cited above at note 25.

²⁹ FDRE Constitution, cited above at note 24.

starting from 1991 onward is characterized by the opening of voluminous economic areas to the private sector including the foreign investors.

2.2. The National Legal frameworks about the operation and the human rights duty of foreign business enterprises

2.2.1. The FDRE Constitution of Ethiopia

Other than the current constitution, Ethiopia had three written constitutions, namely: the 1931, 1955 and 1987 constitution.³⁰ The 1931 constitution was the first written constitution of the country adopted by Emperor Haileselassie I. Since the Emperor adopted this constitution with the intention to reaffirm and legitimized his absolute power, it does not have any meaningful attachment or relevance for human rights debates.³¹ Similarly, the 1955 constitution was adopted by emperor himself so as to fill the incapacity or impotency of the preceding constitution to accommodate the legal and political dynamism witnessed both at domestic and international level.³² Even though this constitution contain a lot of human rights provisions, the absolute power of the emperor coupled with claw-back clauses intertwined with human rights provisions and lack of an independent organ responsible for the interpretation and implementation of the constitution devoid its significance on human rights .³³

The 1987 constitution was adopted by the military junta (called itself Dergue which literally mean committee) who took power in 1974. This constitution declares economic, social and cultural rights s. However, due to the political and economic instabilities which surround the regime, it seems ludicrous to think about the proper enjoyment of fundamental human rights.³⁴

The current Federal Democratic Republic of Ethiopia Constitution (here in after referred as FDRE constitution) entered in to force on 21st August 1995.³⁵ This constitution represents bedrock in giving recognition and protection for wide range of human rights. It constitutes succinct but comprehensive restatement of internationally recognized human rights and human rights principles.³⁶ The Constitution declares about the importance of recognizing individuals' and people's rights from the outset on preamble that:

“... firmly convinced that the fulfillment of this objective³⁷ requires full respect of individuals and people's fundamental freedoms and rights, to live together on the bases of equality and without any sexual, religious or cultural discrimination...”³⁸ emphasis added

³⁰ Adem Kassie Abebe, 'Human Rights s Under the Ethiopian Constitution: A Descriptive Overview' (2011) 5(1) *Mizan Law Review* 41.

³¹ Fasil Nahum, *A Constitution for a Nation of Nations: The Ethiopian Prospect* (Red Sea Press 1997) 21.

³² Adem Kassie Abebe, cited above at note 30, p.42.

³³ Ibid

³⁴ Ibid

³⁵ FDRE Constitution, cited above at note 24.

³⁶ Id., Chapter three.

³⁷ Full and free exercise of the rights to self-determination, building a political community founded on the rule of law, ensuring long lasting peace and democratic order, and advancing economic and social development are the objectives of the Nation, Nationality and people of Ethiopia who are the author of the constitution and the owner of the ultimate sovereign power. See FDRE Constitution, cited above at note 24, preamble, Para. 1 and Art. 8.

³⁸ Id., Preamble, Para. 2.

Furthermore, it allocate more than one-third of its provision to declare fundamental human and people's rights s.³⁹ It also elevate the status of the human rights s and fundamental freedoms by requiring that the interpretation of those human rights and fundamental freedoms provisions within the constitution to be carried out in conformity with Universal Declaration of Human Rights, International Covenants on Human Rights and other International Instrument adopted by Ethiopia.⁴⁰

The constitution, though impliedly, further recognized the indivisible, interdependent and interrelated nature of human rights by recognizing all the three generations of human rights s with similar consequence when they are violated. This position of the Constitution is well-matched with the 1993 Vienna World Conference on Human Rights and the African Charter on Human and Peoples' Rights s both of them affirm the indivisibility of all kinds of rights under Paragraph 5 and (in preamble) paragraph 6 respectively.⁴¹

With the intention to extend a strong guarantee and prevent arbitrary alteration, the constitution provides more stringent and rigorous amendment procedures for those constitutional provisions dealing with human rights and fundamental freedoms than any other part of it.⁴²

2.2.1.1. Human Rights Protected under the FDRE Constitution

The FDRE Constitution encompasses a comprehensive range of internationally recognized human rights. These provisions can be categorized into various groups for better understanding and analysis. The following subsections are devoted to explaining the human rights recognized under the FDRE Constitution, organized according to the categories in which they are classified.

2.2.1.2. Civil and political rights

The constitution incorporates several civil and political rights most of which are directly replicated from the Universal Declaration of Human Rights. Such list of rights range from the fundamental human rights, i.e., the rights to life⁴³ (which prohibit the deprivation of such rights unless as a punishment for a serious crime determined by the law), and go further to include the right to security of the person⁴⁴, to liberty⁴⁵ which save a person from arbitrary arrest and deprivation of liberty; the right to protection against cruel, inhuman, or degrading treatment or punishment including the prohibition of slavery and trafficking in human beings for whatever reason, and forced or compulsory labour⁴⁶; the right to equality and equal protection of the law⁴⁷; the right to privacy⁴⁸ which includes the right not to be subjected to searches of his home, person or property and the seizure of any property under his personal possession;

³⁹ Id., from Arts. 13 – 44.

⁴⁰ Id., Art. 13 sub-article 2.

⁴¹ H Steiner and P Alston, *International Human Rights s in Context: Law, Politics and Morals* (2nd edn, Oxford University Press 2000). The three generations of rights s are: first generation which contains civil and political rights s, second generation which contains economic, social and cultural rights s, and third generation contains group rights s.

⁴² FDRE Constitution, cited above at note 24, Arts. 105 sub art.1 and 2.

⁴³ Id., Art. 15.

⁴⁴ Id., Art. 16.

⁴⁵ Id., Art. 17.

⁴⁶ Id., Art. 18.

⁴⁷ Id., Art. 25.

⁴⁸ Id., Art.26.

the freedom of religion, belief and opinion⁴⁹; the right of thought, opinion and expression⁵⁰; the right of assembly, demonstration and petition⁵¹; the right to association for any cause or purpose⁵²; freedom of movement⁵³ including the right to reside anywhere within the national territory as well as the right to leave and return to Ethiopia; the right to nationality⁵⁴; the right of women to equality, protection from harmful customary and religious practices, right to maternity leave, right to acquire property, equal employment opportunities, and access to family planning education and information⁵⁵; the rights of child⁵⁶ which includes among others the right not to be subject to exploitative practices, neither to be required nor permitted to perform work which may be hazardous or harmful to his or her education, health or well-being; the right of access to justice⁵⁷ includes the right of individuals and groups to bring a justiciable matter to a court of law or any other competent body with judicial power and obtain a decision or judgment; the right to property⁵⁸ includes the right to acquire, use and dispose of private property and peasants' right to obtain land without payment and the protection against eviction from their possession otherwise with payment of compensation determined according to the law and the right of private investors to the use of land and so forth are some of civil and political rights protected under the current FDRE Constitution.

2.2.1.3. Economic, Social and Cultural Rights

The Economic, Social, and Cultural Rights (hereinafter referred to as ESC Rights) are another category of human rights recognized under the FDRE Constitution. The constitution guarantees everyone the right to freely participate in economic activities, choose their means of livelihood, occupation, and profession. It also ensures equal access to publicly funded social services such as hospitals and schools. Additionally, it protects Ethiopian farmers and pastoralists by ensuring they receive fair prices for their products. Beyond affirming individual rights, the constitution further assigns duties to the government to create an environment conducive to the proper enjoyment of ESC Rights. Accordingly, the state is obligated to allocate resources to provide public health, education, and other social services, as well as support and assist physically and mentally disabled individuals, the elderly, and orphans. Furthermore, the government is responsible for implementing policies and programs aimed at expanding job opportunities for the unemployed and disadvantaged populations.⁵⁹

Additionally, the FDRE Constitution provides extensive protection for various labor rights, including workers' right to form associations aimed at improving their employment conditions and ensuring their economic welfare. These rights encompass the ability to establish trade unions and other organizations for collective bargaining, the right to express grievances and strike, as well as the right to reasonable limits on working hours, rest, leisure, paid periodic

⁴⁹ Id., Art. 27.

⁵⁰ Id., Art. 29.

⁵¹ Id., Art. 30.

⁵² Id., Art. 31.

⁵³ Id., Art.32.

⁵⁴ Id., Art.33.

⁵⁵ Id., Art.35.

⁵⁶ Id., Art.36.

⁵⁷ Id., Art.37.

⁵⁸ Id., Art.40.

⁵⁹ Id., Art.41.

leave, remuneration for public holidays, and the right to a healthy and safe working environment. The relevant governmental organ also has constitutional duty to enact laws necessary for the implementation of labour rights and establish procedure which regulates the formation and operation of trade unions and collective bargaining.⁶⁰

2.2.1.4 Application Clause of the FDRE Constitution

Constitutional application clauses identify the person upon whom a given constitution is applied or simplify the person who have the duty to obey and/or enforce a given constitution. Most of the time constitutions have vertical and/or horizontal applications. Under the vertical application the constitution regulates the relationship between the state and its people as well as among the state's institutions, whereas horizontal application regulates the relationship between and among the people themselves.⁶¹ Concerning the FDRE Constitution, two provisions regulate the application of the FDRE constitution. Article 13 (1) of the FDRE Constitution is the first provision which deals about the issue of application of the constitutional human rights provisions. This provision declares that;

“All federal and state legislative, executive and judicial organs at all level shall have the responsibility and duty to respect and enforce the provisions of this chapter dealing with human rights and freedoms” emphasis add

The failure of the above provision to mention entities other than state organs led someone to conclude that chapter three of the FDRE Constitution, which is dealing with human rights and fundamental freedoms, has only vertical application. Thus, private persons, both natural and legal, do not have the duty to respect and enforce this chapter. However, art. 9(2) is also the other constitutional provision, which deals the application of the constitution. This provision declares that:

“All citizens, organs of state, political organizations, other associations as well as their officials have the duty to ensure observance of the constitution and to obey It.” emphasis add

This provision reveals the vertical and horizontal application of the FDRE Constitution including its human rights provisions. Therefore, every natural and legal persons, including investors, who are Ethiopian citizen as well as all the three governmental branch of the federal and regional governments at all level, all political organization and any other association with their respective officials have the duty to respect the constitution in general and chapter three in particular. Nevertheless, the word ‘all citizens’ in the above provisions seems to be excluding foreign nationals and juristic persons established under the law of other states, including transnational business corporates, from the duty to observe and obey the Constitution and its human rights provisions.⁶² This expression may lead someone to believe that the constitution does not enjoin foreigners, both natural and legal persons, to obey the constitution. However, since article 13 sub-article 2 requires all state organs at all level to respect and enforce at least chapter three of the FDRE Constitution, they have the duty to enforce the constitutional human right provisions against all person, both

⁶⁰ Ibid.

⁶¹ DM Chirwa, ‘In Search of Philosophical Justifications and Suitable Models for the Horizontal Application of Human Rights’ (2008) *African Human Rights Law Journal* 294. JJ Paust, ‘Human Rights Responsibilities of Private Corporations’ (2002) *Vanderbilt Journal of Transnational Law* 801.

⁶² Adem Kassie Abebe, cited above at note 30.

natural and legal person, any organ of the society and so forth regardless of their nationality so long as they exist within its jurisdiction.

Therefore, all business enterprises regardless of their nationality and investment sector including foreign investors who operate within the jurisdiction of Ethiopia have the duty to observe and obey the FDRE Constitution in general and the Constitutional human rights provisions in particular throughout their operation. Furthermore, the FDRE Constitution's supremacy clause stipulates that:

*“The Constitution is the supreme law of the land. Any law, customary practice or a decision of an organ of state or a public official which contravenes this Constitution shall be of no effect”*⁶³

Consequently, all business enterprises including foreign investor cannot use their economic leverage against the Ethiopian government to escape from their duty to respect and obey the FDRE Constitution through the inclusion of exemption or stabilizing clauses in their investment agreement.

⁶³ FDRE Constitution, cited above at note 24, Art. 9 sub-article 1.

CHAPTER THREE

3. International legal framework on transnational business enterprises' responsibility towards human rights.

The term human rights are defined as inviolable and inalienable fundamental rights to which everybody is inherently entitled by the mere fact that he or she is being human without any other pre-requisite. Traditionally human rights issues were discussed exclusively in relation to national governments. This is because of the believe that, national governments are the only powerful actors who has the monopoly of violence, and thereby pose aggravated risks against the proper enjoyment of fundamental human rights and freedoms. Consequently, the human rights abuses, which are perpetrated by legitimate local or global business corporate has been hardly explored and regulated though there are evidence, which shows tremendous business related human rights abuses perpetrated by business corporates. Business related human rights abuses resulted either from negative externalities or deliberate conduct of transnational enterprises.⁶⁴ Myriad studies on the area confirmed that, child labour, work related discrimination, violating workers' and other individuals rights to health by failing to respect the minimum occupational safety and other environmental protections standard, repressing workers' rights to form trade union and collective bar-gain and so forth are the most common type of human rights violations perpetrated by business corporates.⁶⁵ The effect of some of these abuses becomes severe on children, minorities, women, indigenous communities and other vulnerable groups of developing countries.⁶⁶

As a result, since the second half of the 20th century countless number of initiatives emerged in favor of adopting international code of conduct regulating the interaction between business and human rights. Besides, burgeoning debates also carried out on holding business accountable for their human rights abuses.

Though it was not successful, in the second half of the 20th C, for instance, the United Nation tried to draft an international code of conduct for businesses.⁶⁷ In 1976 the Organization for Economic Co-operation and Development (OECD) launched parallel initiatives to regulate the conduct of transnational corporates regarding to human rights through international code of conduct. Unlike the UN draft code of conduct, which was never adopted, the OECD established the most important international code of conduct, which addresses corporates human rights responsibility.⁶⁸ Similar to the above two organizations, the International Labour organization (ILO) under took

⁶⁴ F Wettstein, E Giuliani, G D Santangelo, and G K Stahl, 'International Business and Human Rights s: A Research Agenda' (2019) *Journal of World Business* 54-65, available at <https://doi.org/10.1016/j.jwb.2018.10.004>

⁶⁵ FAQ, cited above at note 11.

⁶⁶ David Weissbrodt and Muria Kruger Sourc, 'Norms on the Responsibilities of Transnational Corporations and Other Business Enterprises with Regard to Human Rights s' (2003) 97(4) *The American Journal of International Law* 901-922, available at <http://www.jstor.org/stable/3133689> (last visited on 08/03/2021).

⁶⁷ UN, *Development and International Economic Cooperation: Transnational Corporations*, UN Doc. E/1990/94. See also Draft United Nations Code of Conduct on Transnational Corporations, May 1983, 23 ILM 626 (1984) (last visited on 08/03/2021).

⁶⁸ Organization for Economic Co-operation and Development, *Guidelines for Multinational Enterprises* (21 June 1976) 15 ILM 969 (1976). The OECD updated these Guidelines in 2000. For the current version, see *OECD Guidelines for Multinational Enterprises* (31 October 2001), available at <http://www.oecd.org/> (last visited on 08/03/2021).

similar effort and successfully adopt Tripartite Declaration of principles concerning multinational enterprises and social policy (here in after referred as ILO Tripartite Declaration) in 1976.⁶⁹ The aim of this declaration is to encourage multinational enterprises to adhering the ILO's conventions and recommendations so as to play their own role in the proper enjoyment of fundamental human rights. Furthermore, in 1999 Kofi Annan, who is the secretary general of UN, proposed a "global compact" at the world economic forum.⁷⁰ The Global Compact is composed of common values and principles in the area of human rights, labour and environmental standards⁷¹ and calling business to make sure that they are not engaged in any kind of human rights abuses and to respect the minimum human rights standards while they pursue their business. Since they are voluntary, all the above initiatives do not have obligatory nature to bind all business to adhere minimum international human rights standards.

3.1. United Nation Norms on the Responsibilities of Transnational Corporations and Other Business Enterprises about Human Rights

Besides the above endeavors, in August 2003, the United Nation sub-commission on the promotion and protection of human rights (here in after referred as sub-commission) adopted the "Norms on the Responsibilities of Transnational Corporations and Other Business Enterprises with regarding to Human Rights"⁷² through its resolution No2003/16.⁷³

These norms are the first non-voluntary initiatives accepted at the international level and constitute as a very precise legal document, which contain international legal principles applicable to business with respect to human rights, international labour law, environmental law, consumer law, anti-corruption law and so forth.⁷⁴ Furthermore, these Norms constitute an important break-through in holding business in general and transnational corporations in particular accountable for their misdeed in relation to human rights.⁷⁵ Consequently, these Norms can be considered as a bedrock hard faced legal document, which does not have any mercy for those transnational business enterprises that engaged in any abusive conduct and cause hideous human rights consequence.⁷⁶ Since transnational business corporates carried out several activities with multifaceted impact including on human rights, these Norms constitute

⁶⁹ International Labour Organization, *Tripartite Declaration of Principles Concerning Multinational Enterprises and Social Policy*, 16 November 1977, 17 ILM 422, para 6 (1978), available at <http://www.ilo.org/public/english/employment/multi/tridecl/index.htm> (last visited on 08/03/2021).

⁷⁰ Secretary-General Kofi Annan, *Address at the World Economic Forum in Davos, Switzerland* (31 January 1999), UN Doc. SG/SM/6448 (1999) (last visited on 08/03/2021).

⁷¹ The Global Compact, available at <http://www.unhchr.ch/global.htm> (last visited on 08/03/2021). The principles are: businesses should (1) support and respect the protection of internationally proclaimed human rights within their sphere of influence; (2) make sure that they are not engaged in any human rights abuses; (3) respect the freedom of association and the rights to collective bargaining; (4) eliminate all forms of forced and compulsory labour; (5) abolish child labour; (6) eliminate discrimination in respect of employment and occupation; (7) support a precautionary approach to environmental challenges; (8) undertake initiatives to promote greater environmental responsibility; and (9) encourage the development and diffusion of environmentally friendly technologies.

⁷² UN, *Norms on the Responsibilities of Transnational Corporations and Other Business Enterprises with Regard to Human Rights* (UN Doc. E/CN.4/Sub.2/2003/12/Rev.2, 2003), available at <http://www.unhchr.ch/html/menu2/2/55sub/55sub.htm> (last visited on 08/03/2021).

⁷³ *Responsibilities of Transnational Corporations and Other Business Enterprises with Regard to Human Rights*, Sub-Commission on the Promotion and Protection of Human Rights Resolution 2003/16, UN Doc. E/CN.4/Sub.2/2003/L.11, 52 (2003), available at <http://www.unhchr.ch/html/menu2/2/55sub/55sub.htm> (last visited on 08/03/2021).

⁷⁴ Prem Sikka, cited above at note 2, p. 811-827.

⁷⁵ Norms, cited above at note 73.

⁷⁶ Ibid

succinct but comprehensive legal document composed of several legal principles, which regulate the conduct of business entities with respect to human rights, labour rights, environmental law, and consumers' rights and so on.

Unlike the code of conduct of other initiatives such as UN Global compact, ILO Tripartite Declaration and OECD guidelines for transnational enterprises, the Norms have non-voluntary nature or it is not a mere expression of an aspirational conduct of business in relation to human rights . Rather it constitute an obligatory legal document, which holding multinational enterprises accountable for their human rights violations.

The Norms are binding not because they are a treaty rather the obligatory nature of the norm stemming from different reasons. The first reason is their base on binding international human rights instrument and international customary practices.⁷⁷ The Norms are not the novel innovation of the sub-commission rather they are restatement of those international legal principles, which already contained in multilateral treaties such as human rights covenants, international humanitarian laws, international labour laws, environmental laws, and customary international laws. Therefore, since treaties and customary international laws are the primary sources of binding international human rights instruments, the legal authority of these norm emanating from their source in treaties and customary international laws.⁷⁸

Second the binding nature of the Norms can be derived from their content. Besides the restatement of international legal principles applicable to multinational enterprise with regard to human rights, the Norms contain significant implementation procedures, which require the participation of different stake-holders.⁷⁹ First the norm calling companies to adopt and implement their own bylaws to make sure their adherence to legal principles contain there in⁸⁰. They also require all businesses to subject themselves to transparent and periodic supervision conducted by an independent body that have the necessary knowledge or input from the relevant stakeholder⁸¹. Furthermore, the norms calling business to repair any damage cause to anyone by the conduct of the enterprise in contradiction of the standards provided therein⁸². Third, the Norms provide as to how international organization like United Nation, other non-governmental bodies and unions take part in ensuring the implementation of norm. It suggest that various UNs human rights treaty bodies may obliged member states to include in their report about the compliance of transnational corporates operating in their territory with those standards stated in the Norms within their respective treaty regime and to use the Norms as a parameter to arrive at certain conclusion about the status of a particular member state with respect to the prevention of human rights abuses by the private business sector and to provide possible

⁷⁷ Ibid.

⁷⁸ Ibid.

⁷⁹ Ibid.

⁸⁰ Id., Para. 15, which provides:

“Depending on their resources and capabilities, businesses should consider creating ethics committees and/or appointing ethics officers to provide oversight and counseling, and to promote their code. Employee incentives can also be used to create accountability within a company.” For example, conduct consistent with the code could be used as a basis for promotion or wage increases

⁸¹ Id., Paragraph 16.

⁸² Id., Paragraph 18, which provides:

“Transnational corporations and other business enterprises shall provide prompt, effective and adequate reparation to those persons, entities and communities that have been adversely affected by failures to comply with these Norms through, inter-alia, reparations, restitution, compensation and rehabilitation for any damage done or property taken.”

recommendations to solve the problem⁸³. Accordingly, in response to such call of the Norm, several human rights conventions, for instance, article 5 of the convention against racial discrimination, require states to regulate business corporates so as to prevent work place discrimination and other human rights violations⁸⁴. The Norms further call other intergovernmental bodies like ILO and OECD and non-governmental bodies to endeavor for its implementation through periodic monitoring and verification⁸⁵. Accordingly, some Non-governmental organization such as Amnesty international and Christian aid used the norm as a benchmark so as to measure the impact of business on human rights and to open campaign for immediate correctional measurement⁸⁶.

Furthermore, other influential international and regional organizations use international standards as a point of reference to measure the validity of national measurements. The World Trade Organization, for instance, established to facilitate free trade throughout the world by avoiding trade barriers. However, the WTO agreement allows states to impose certain trade restrictions when certain preconditions are meeting. The agreement on sanitary and phytosanitary measures, for instance, allow states to take trade restrictive measurements to protect public moral, natural resource and the life and health of humans, plants and animals⁸⁷. However, it prefers to use international standards including the Norms as a yardstick in determining as whether certain state measurements, which restrict trade are significant to protect human, animal, or plant life or health or not⁸⁸. Third the Norms require states to fasten towards its implementation⁸⁹. It also encourages national courts to use the norms in determining damages criminal, sanctions and so on⁹⁰ or to use it as a reference when they interpret national legislations in the area.⁹¹

To summarize, the containment of many implementation procedures, the creation of mechanisms for NGOs and other relevant body to submit information about business which is not complied with the minimum standards stipulated in the Norm,⁹² their adoption and promulgation by UN Commission on Human rights and principally their source in

⁸³ Ibid. See also Sub-Commission, *Commentary on the Norms on the Responsibilities of Transnational Corporations and Other Business Enterprises with Regard to Human Rights*, UN Doc. E/CN.4/Sub.2/2003/38/Rev.2.[hereinafter referred as Commentary].

⁸⁴ UN, *International Convention on the Elimination of All Forms of Racial Discrimination*, 1966, 660 UNTS 195, 5 ILM 352 (1966).[hereinafter Racial Discrimination Convention].

⁸⁵ *Norms on the Responsibilities of Transnational Corporations and Other Business Enterprises with Regard to Human Rights*, cited above at note 73, para 16.

⁸⁶ Ibid

⁸⁷ *General Agreement on Tariffs and Trade*, 30 October 1947, Art XX, TIAS No. 1700, 55 UNTS 194.. Article XX of the 1947 General Agreement on Tariffs and Trade provides ten exceptions which allow states to take trade-restrictive measures to achieve certain goals such as to protect public morals; to protect human, animal, or plant life or health; and to preserve non-renewable natural resources.

⁸⁸ *Marrakesh Agreement Establishing the World Trade Organization*, 15 April 1994, Annex 1A, Agreement on Sanitary and Phytosanitary Measures, Art. 2.1, in *The Legal Texts: The Results of the Uruguay Round of Multilateral Trade Negotiations* 59 (1999).

⁸⁹ *Norms on the Responsibilities of Transnational Corporations and Other Business Enterprises with Regard to Human Rights*, cited above at note 73, para 17.

⁹⁰ *Norms*, paragraph 18, provides that: “In connection with determining damages, in regard to criminal sanctions, and in all other respects, these Norms shall be applied by national courts and/or international tribunals, pursuant to national and international law.”

⁹¹ Su-Ping Lu, ‘Corporate Codes of Conduct and the FTC (2000): Advancing Human Rights s Through Deceptive Advertising Law’ (2000) 38 *Colum. J. Transnat’l L.* 603. Advancing Human Rights s Through Deceptive Advertising Law, 38 *COLUM.J.TRANSNAT’LL.* 603 (2000) (which expound how company human rights s codes of conduct can be used by courts in holding companies liable under advertisement law for their deceptive advertisement).

⁹² Res. 2003/16, cited above at note. This resolution creates an initial procedure for the implementation of the Norms. The working group is to receive information from governments, NGOs, business enterprises, individuals, groups of individuals, and other sources on the negative impacts of businesses, and especially data on the implementation of the Norms. After inviting each business concerned to respond to the information received, the working group is to transmit its comments and recommendations to the relevant business, government, or NGO.

international law justify the legal authority and the binding nature of the Norms evidencing that the Norms are more than aspirational statement of business corporates' desire conduct in relation to human rights.⁹³

3.2. United Nation Guiding Principles on Business and Human Rights

The UN Guiding principle⁹⁴ is one of the most important, authoritative and influential global instrument, which defines corporate responsibility towards human rights. And obliged them to take proactive measurements to prevent and mitigate human rights risks and to redress already materialized human rights abuses.⁹⁵

The Guiding principles developed by John Ruggie⁹⁶, the special representative of the United Nation Secretary-General, and endorsed by the United Nation Human Rights Council, responsible for the protection and promotion of human rights, in June 2011.⁹⁷ The unique feature of the document is the substitution of the well-known tripartite “**Respect, Protect, Fulfill**” typology with a “**Respect, Protect, Remedy**” framework.⁹⁸ It is also the first authoritative, successful instrument in bringing several regulations, which address business' responsibility towards human rights in a single document.⁹⁹

The Guiding Principles are build up on the 2008 United Nation's “Protect, respect and remedy” framework and furnish three principles for making the UN “Protect, respect and remedy” framework operational. These principles are¹⁰⁰:

- I. The state duty to protect human rights;
- II. The corporate responsibility to respect human rights; and
- III. Access to remedies for victims of business related human rights abuses.

3.2.1. The State Duty under the General Principles

Since the second half of the 20th C plentiful international and regional human rights instruments, which obliged states to respect, protect and fulfill the human rights of their subject are adopted. The duty to “respect” obliged states not to

⁹³ Foley Hoag LLP, *UN Guiding Principles for Business and Human Rights s, Working Paper* (May 2011) <http://businesshumanrights.org/sites/default/files/media/documents/ruggie/foley-hoag-briefing-guiding-principles-may-2011.pdf> accessed 13 March 2021.

⁹⁴ John Ruggie, *Guiding Principles on Business and Human Rights s: Implementing the United Nations “Protect, Respect and Remedy” Framework*, Report of the Special Representative of the Secretary-General on the issue of human rights s and transnational corporations and other business enterprises, Human Rights s Council, Seventeenth session, A/HRC/17/31 (21 March 2011) http://www.ohchr.org/Documents/Issues/Business/A-HRC-17-31_AEV.pdf accessed 13 March 2021

⁹⁵ Foley Hoag LLP, cited above at note 94.

⁹⁶ John Ruggie, cited above at note 95: See also UN, *Guiding Principles on Business and Human Rights s: Implementing the United Nations “Protect, Respect and Remedy” Framework* (United Nations publication, Sales No. 13.XIV.5).

⁹⁷ Office of the High Commissioner for Human Rights s, *Frequently Asked Questions about th Guiding Principles on Business and Human Rights s* (United Nations, New York and Geneva, 2014) http://www.ohchr.org/Documents/Publications/FAQ_PrinciplesBussinessHR.pdf accessed 26 March 2021. FAQ aimed at explaining the background and the contents of the United Nation Guiding Principles and their relationship with the broader human rights s system and other frameworks on the concerned area.

⁹⁸ The obligation to “Respect” entails states' obligation to refrain from encroaching or impeding the proper enjoyment of human rights s. The obligation to “Protect” entails states' obligation to prevent any person, whether natural or legal, or other organs of the society from violating or interfering with the human rights of others. The obligation to “Fulfill” requiring states to take a positive action so as to create a fertile ground for the proper enjoyment of fundamental human rights s by its subject. Thus, the substitution of “**Respect, Protect and Fulfill**” typology, upheld by international human rights treaties, with “**Respect, Protect and Remedy**” simplifies the obligation of business enterprise, when it compare with states' obligation, towards human rights s and thereby make the implementation of the guide line more practical. See Salome Zurabishvili (2015), *The Role of Corporate Responsibility in Transitioning Countries, A Case Study on Workplace Inequality in Myanmar*, Lund University.

⁹⁹ Ibid

¹⁰⁰ John Ruggie, cited above at note 95.

interfere or impede the proper enjoyment of human rights by their subject, the duty to “protect” requires states to take the necessary step so as to protect the human rights of their people from being violated by third parties whatsoever and the duty to “fulfill” requires states to perform all the necessary actions so as to facilitate the proper enjoyment of fundamental human rights.¹⁰¹ Thus, states duty towards human rights stemming from international human rights regime.

In addition to the existing states’ obligation under different human rights instruments, the Guiding Principles also reaffirmed the already existed states’ obligation to Protect and declaration that:

*“States must protect against human rights abuse within their territory and/or jurisdiction by third parties including business enterprises....”*¹⁰²

Therefore, to comply with their responsibility under the Guiding Principles, they have to take all the necessary measurements to prevent potential and, investigate, punish and redress actual business related human rights abuses.¹⁰³

Deviating from the international human rights laws, the Guiding Principles go further and require states to clearly set out their human rights expectation from all business enterprises domiciled within their territory and /or jurisdiction throughout their operation.¹⁰⁴

To discharge their duty to protect, states are required by the Guiding Principles to adopt and implement policies and laws, which obliged business enterprise to respect human rights and also to provide guidance about how they respect human rights during their lifespan.¹⁰⁵ The enforcement can be effected either through administration measure or litigation or both as appropriate having regard to the circumstance of the violation.¹⁰⁶

3.2.2. Corporate Responsibility to Respect Human Rights under the Guiding Principles

Corporates responsibility towards human rights is the second pillar of the Guiding Principles. This pillar calls business enterprise to carry out their activities with due diligence to avoid any human rights violation and to take an immediate measurement to address adverse impacts which they cause.¹⁰⁷ To this end principle 11 of the General principles provides that;

*“Business enterprises should respect human rights. This means that they should avoid infringing on human rights of others and should address adverse human rights impacts with which they are involved.”*¹⁰⁸

The above principle reveals that “Respect” is the standard of responsibility, which business enterprises have towards human rights. Thus, in discharge of their responsibility, under the General Principles, business enterprise should take

¹⁰¹ OHCHR, cited above at note 98.

¹⁰² John Ruggie, cited above at note 95, principle 1, commentary.

¹⁰³ Ibid.

¹⁰⁴ Id., Principle 2, Commentary.

¹⁰⁵ Id., Principle 3, Commentary.

¹⁰⁶ Id., Principle 2, Commentary.

¹⁰⁷ Id., Principle 11, Commentary.

¹⁰⁸ Id.

in advance all the necessary steps so as to know all the possible risk they will pose and should take sufficient measurements to avoid or mitigate any adverse human rights impacts. Furthermore, when they caused or contributed to human rights abuses, they must perform such actions so as to address the materialized harm.¹⁰⁹ In addition, the responsibility to respect requires business enterprise to prevent or mitigate adverse human rights impacts linked with their operation though they have not contributed to it.¹¹⁰

Corporates responsibility under the Guiding principle is independent from the state's legal duty under international human rights treaties towards human rights. Thus, business enterprises have the duty to respect human rights regardless of their recognition under nation laws of the host state and irrespective of states' ability or willingness to discharge their obligation under international and regional human rights instruments. Furthermore, it also prevent transnational business corporate from making any kind of arrangement so as to gain the consent of the host state or any other privilege exempting the former from its obligation under the Guiding Principles.

The responsibility to respect also obliged corporates to refrain from doing anything, which impede or weaken the host state's ability to discharge its human rights obligations under regional and international human rights instruments.¹¹¹

In discharge of their duty to "Respect" business enterprises need to accomplish three basic tasks,¹¹² namely:

- A. Policy commitment
- B. Human rights due diligence and
- C. Remediation process

A. Policy commitment

So as to efficiently meet their obligation to respect, companies need to know and show that they respect human rights.¹¹³ To that effect, the Guiding principle requires business enterprises to adopt a policy statement approved by senior officials, which contain their commitment to effectively discharge their duty to respect and its expectations from its own workers, business partners and others directly linked to its operation regarding the respecting of human rights. This policy document needs to be available to the public at large and disseminate to its own workers, business partners, others who have linked to its operations and to their respective personnel.¹¹⁴

B. Human rights due diligence

Office of the High Commissioner for Human Rights (OHCHR) defines "human rights due diligence" as:

¹⁰⁹ Id., Principle 11, 13, Commentaries. See also OHCHR, cited above at note 98.

¹¹⁰ John Ruggie, cited above at note 95, Principle 11, Commentary.

¹¹¹ Id.

¹¹² Id., Principle 15, Commentary. See also OHCHR, cited above at note 98.

¹¹³ Id.

¹¹⁴ Id., Principle 16, Commentary.

“The continuous process of identifying and addressing the human rights impact of a company across its operations and products and throughout its suppliers and business partner networks”¹¹⁵

The aim of carrying out human right due diligence is to identify, prevent, mitigate and address the companies’ potential and actual human rights impact.¹¹⁶ Accordingly, after the human due diligence process being completed, business enterprises are required to take appropriate action, based on their finding, so as to address any potential¹¹⁷ and /or actual¹¹⁸ human rights impacts.¹¹⁹

C. Remediation

Remediation is the third task, which business corporates required to perform so as to discharge their responsibility to respect. Accordingly, if the human right due diligent process reveals that the concerned business enterprise causing or contributing to actual human right impact, the Guiding Principle requires the concerned business enterprise to actively engaged in the remediation process either alone or in collaboration with other actors so as to redress the human rights damage.

3.2.3. Access to Remedy

Access to an effective, prompt and legitimate remedy is the third important pillar of the Guiding Principles and one of the most important international human rights principles.¹²⁰ Principle 25 of the Guiding Principles stipulate that, creating a fertile ground, through appropriate means, for victims of human rights abuses to have an access to an effective remedy is an integral part of states’ duty to protect human rights abuses by third party including business corporates.¹²¹ Consequently, states have the duty to take appropriate steps so as to provide an effective, comprehensive and speedy judicial, non-judicial state-base and non-state base system for the remedy of business related human rights abuses.¹²² Furthermore, they have the duty to take all appropriate measurements and reforms to ensure the effectiveness and promptness of such grievance mechanisms when addressing business related human rights abuses.¹²³ States should have to evaluate the effectiveness of both state-based and non-state based non-judicial grievance mechanisms from the perspective of their legitimacy, accessibility, predictability, equitability, accountability, compatibility with human rights principles and so on,¹²⁴ and judicial mechanisms from the perspective of their impartiality, integrity, independency, commitment towards due process of law and so forth, and take appropriate correctional measurements to that end.¹²⁵

¹¹⁵ See also OHCHR, cited above at note 98.

¹¹⁶ John Ruggie, cited above at note 95, principle 17, 18, Commentaries.

¹¹⁷ Potential human rights impacts are addressed through prevention or mitigating measurements depending up on the circumstance of the case.

¹¹⁸ Actual human rights impacts are addressed through remediation.

¹¹⁹ John Ruggie, cited above at note 95, Principle 19, Commentary.

¹²⁰ See also OHCHR, cited above at note 98.

¹²¹ John Ruggie, cited above at note 95, Principle 25, Commentary.

¹²² Id., Principle 26, 27 and 28, Commentaries under each principle.

¹²³ Ibid

¹²⁴ Id., Principle 31, Commentary.

¹²⁵ Id., Principle 26, Commentary.

Access to remedy under the Guiding Principles also require state to pay all the necessary price so as to reduce legal, practical and other barriers, which prevent victims of business –related human rights abuse from having an access to justice.¹²⁶ Besides, states has also the duty to create public awareness and to extend the necessary financial and professional support for victims of business related human rights abuses so as to properly exploit their rights to justice.¹²⁷

Parallel to states’ duty towards access to remedy, business enterprises also duty bound to establish an effective operational-level grievance mechanisms for individual and community group who may adversely impacted by the operation of the enterprise.¹²⁸ This grievance mechanism create a conducive environment for grievances to be addressed as early as possible, provides an opportunity for the business enterprise to assess the grievance by itself and directly remediate the harm if any¹²⁹ and thereby to build a peaceful relationship with the victims and to gain public trust.

3.2.4. Human rights, which are the concern of the General Principles

Even though the degree and severity may be varied, business enterprise may pose a risk to the entire spectrum of internationally recognized human rights.¹³⁰ Consequently, principle 12 of the Guiding Principles obliged business enterprises to respect at least those human rights, which are recognized and protected under the international bill of human rights¹³¹ and principles concerning fundamental rights set out under the ILO declaration .¹³²

¹²⁶ Ibid

¹²⁷ Id., Principle 25, Commentary.

¹²⁸ Id., Principle 29, Commentary.

¹²⁹ Ibid

¹³⁰ Id., Commentary under Principle 12.

¹³¹ The International Bill of Human Rights is the repository of UDHR (whose principals have been codified into a number of treaties, conventions and binding legal instruments. See Cronin-Furman KR, “Years of the universal declaration of human rights s: towards an individual responsibility to protect,” *American University International Law Review* (2010) 175–198.

¹³² John Ruggie, cited above at note 95, Principle 12, Commentary. See also OHCHR, cited above at note 98.

CHAPTER FOUR

4. RESULT AND DISCUSSION

4.1. Demographic Background of Respondents

Respondents for the questionnaires were selected from four transnational business organizations situated in the study area. The table below summarizes the sex, working experience, and educational background of the respondents drawn from each business enterprise.

4.1.1. Respondents' Sex Distribution

More than half of the respondents in all transnational business organizations operating in the study area were male. However, a relatively higher number of female respondents were found at Companies B and D. Respondents' sex distribution is illustrated in the following graph.

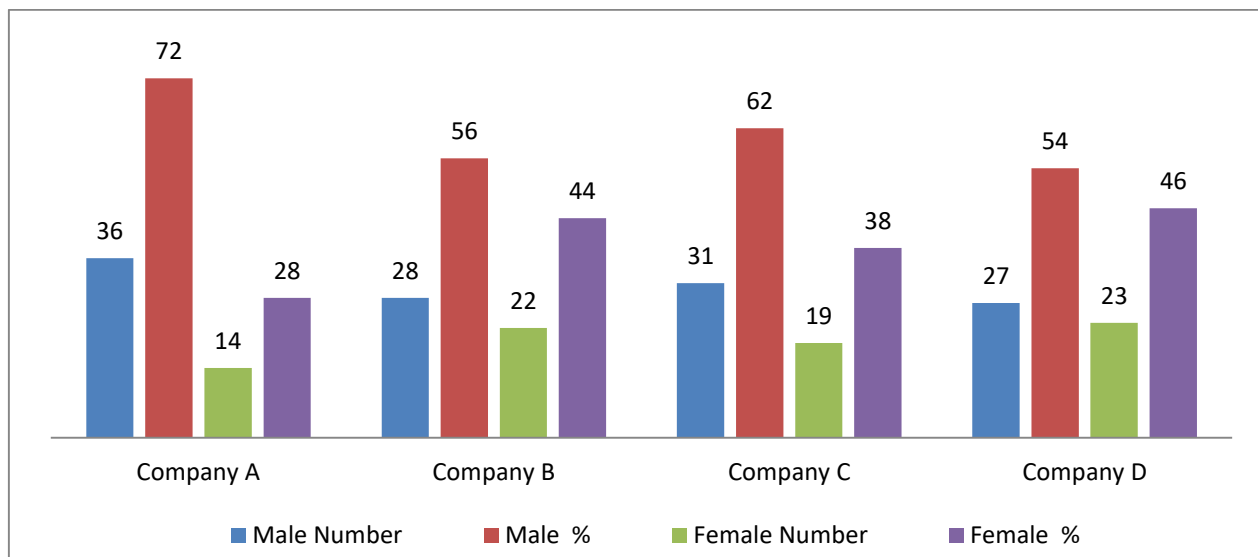


Figure 2: Sex distribution of the respondents

4.1.2. Educational background of respondents.

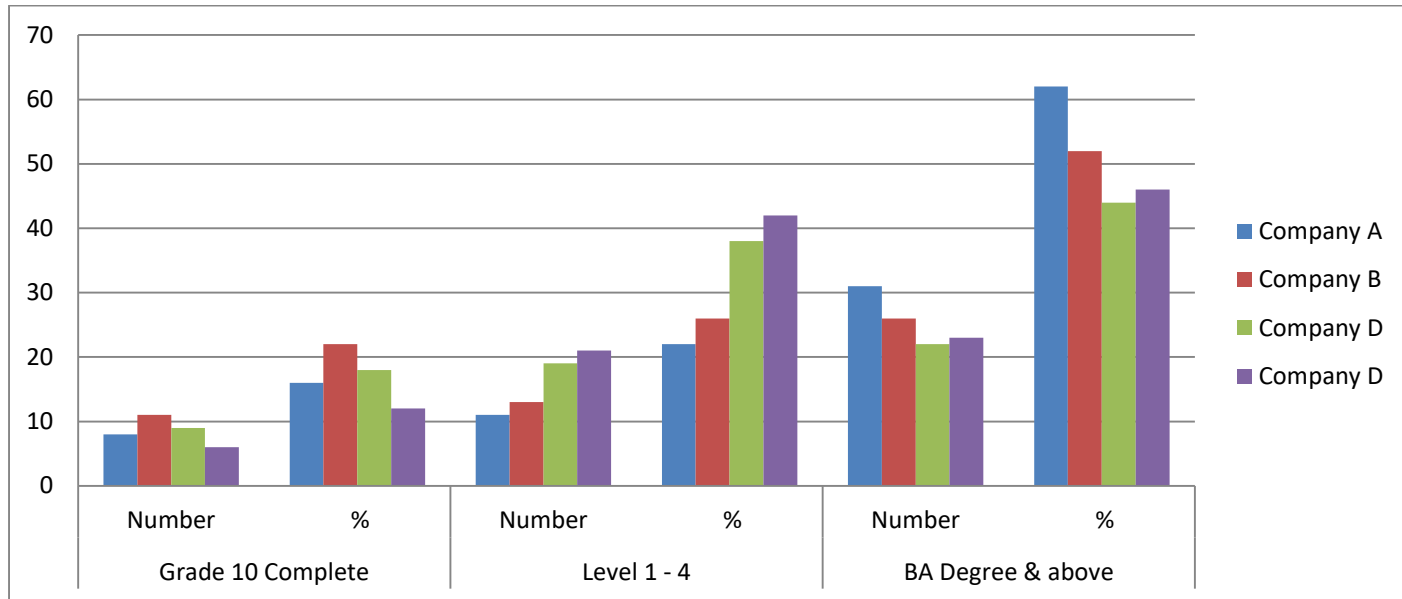


Figure 3. Educational background of respondents.

Approximately 60% of respondents from Company A held bachelor's degrees, while around 20% were graduates of technical schools. In Company B, about 50% had bachelor's degrees, and 25% held technical school diplomas. Less than half of the respondents from Companies C and D were bachelor's degree holders. The educational backgrounds of these respondents demonstrate their sufficient knowledge and ability to understand and provide reliable feedback on the issues addressed in the study.

4.1.3. Respondents' work experience

Respondents were asked about their work experience, and their responses are presented in the graph below.

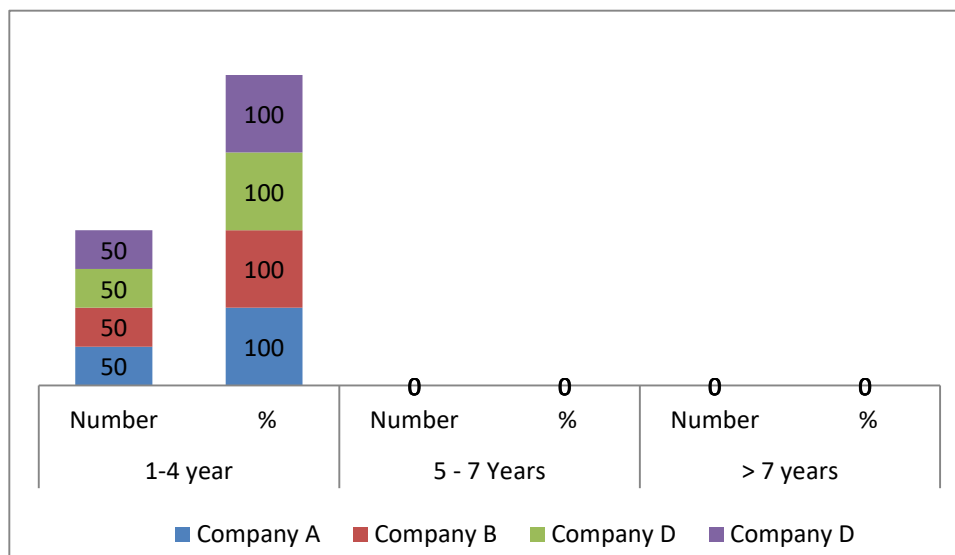


Figure 4. Respondents' work experience

As can be inferred from the above graph, all respondents from the four transnational business organizations have working experience ranging from one to four years. This demonstrates that all respondents are well informed about the overall prevailing conditions within their respective enterprise.

4.2. The commitment of business corporations to fulfill their responsibility to respect human rights

Business corporations' responsibility toward human rights is the second pillar of the Guiding Principles. This pillar calls on business enterprises to carry out their activities with due diligence to avoid any human rights violations and to promptly take corrective measures to address the adverse impacts they cause to human rights, including workers' rights. Hence, this part of the questionnaire is dedicated to measuring the company's commitment to discharging its responsibility to respect human rights. To this end, two checklist factors that show the company's commitment to human rights were provided, and respondents were expected to rate these factors as very bad, bad, medium, good, or very good. Accordingly, the respondents' answers are presented in the graph below.

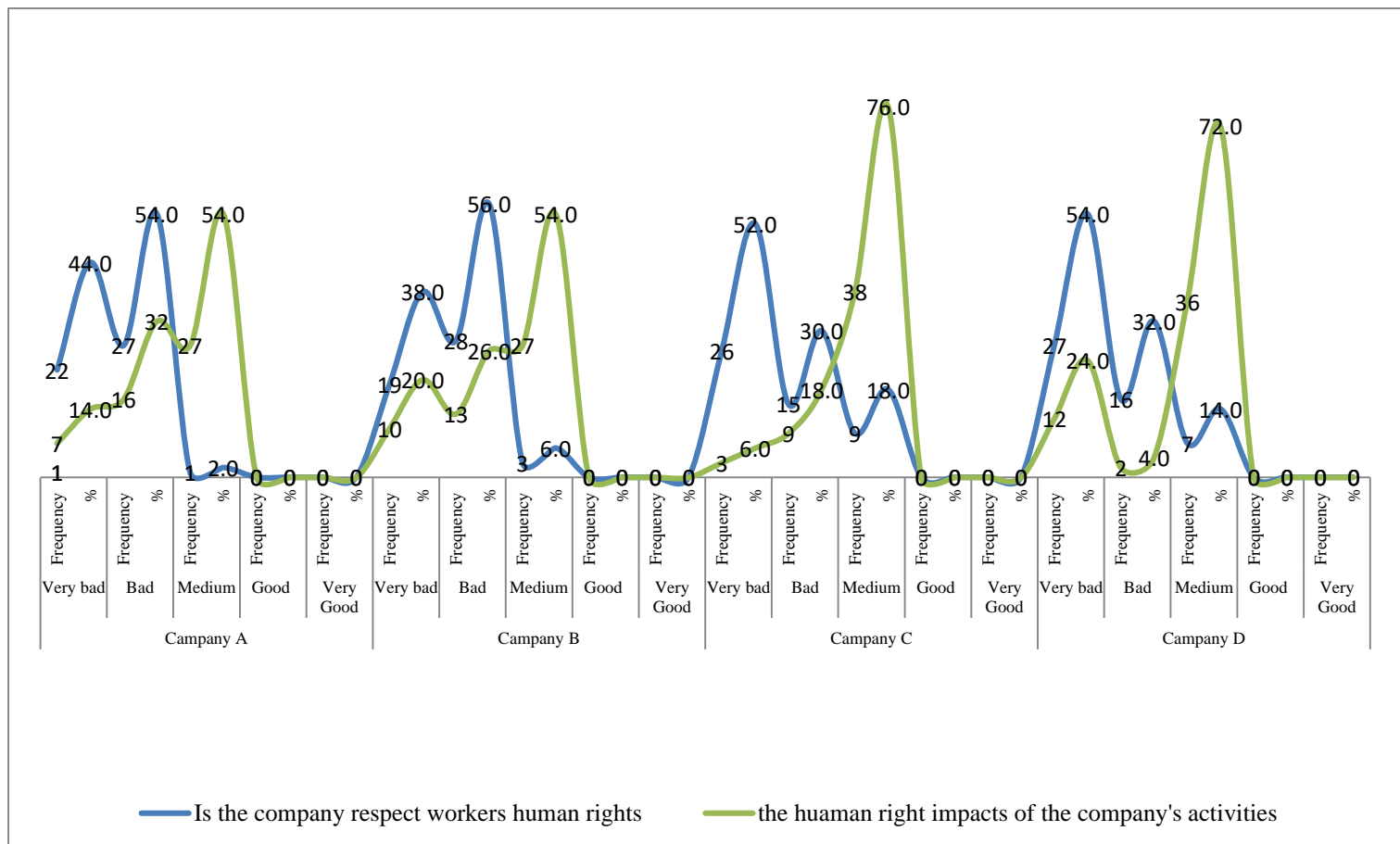


Figure 5. Discharging their responsibility to respect human rights

4.2.1. The companies' trend in respecting human rights

Respondents from the selected companies were asked about their organization's commitment to upholding human rights. According to the data presented in the graph, 44% (22 respondents), 54% (27 respondents), and 2% (1 respondent) from Company A rated their company's performance as very bad, bad, and medium, respectively.

Similarly, responses from Company B showed 38% (19 respondents), 56% (28 respondents), and 6% (3 respondents) rated their company as very bad, bad, and medium, respectively. For Company C, the ratings were 52% (26 respondents), 30% (15 respondents), and 18% (9 respondents), while Company D had 54% (27 respondents), 32% (16 respondents), and 14% (7 respondents) in the same categories. Overall, 98% of respondents from Company A, 94% from Company B, 82% from Company C, and 86% from Company D rated their organizations as either very bad or bad, with Company C having the highest percentage (12%) rating their company as medium. Notably, none of the respondents from any company rated their organizations as good or very good, suggesting that all the companies fall short in fulfilling their obligation to respect human rights.

4.2.2. The human rights impact of the company's activities

The light green line in the graph above represents respondents' views on the impact of each company's activities on human rights. Based on the feedback, 14% (7 respondents), 32% (16 respondents), and 54% (27 respondents) from Company A, and 20% (10 respondents), 26% (13 respondents), and 54% (27 respondents) from Company B rated their companies as very bad, bad, and medium, respectively. Similarly, 6% (3 respondents), 18% (9 respondents), and 76% (38 respondents) of Company C's respondents, and 24% (12 respondents), 4% (2 respondents), and 72% (36 respondents) of Company D's respondents rated their companies as very bad, bad, and medium, respectively. This suggests that the human rights impact of all companies' activities is neither extremely poor nor excellent, but rather moderate.

According to Article 11 of the General Principles, business corporations are obligated to prevent human rights violations and to address any negative human rights impacts arising from their activities without delay. Additionally, the FDRE Constitution recognizes a broad spectrum of international human rights and requires all individuals and entities, including transnational corporations, to comply with its provisions, especially those related to human rights, throughout their operations.

However, the assessments from respondents regarding the two checklists above reveal that the transnational corporations operating in the study area display a weak commitment to respecting human rights, failing to fulfill their obligations under the UN Guiding Principles, the FDRE Constitution, and other national laws.

4.3. The transnational business corporates' tendency to recognize and respect workers' right to collective bargaining

In this section, the researcher evaluates the position of corporate bodies in respecting workers' rights to freedom of association, including the right to freely form and join trade unions. To this end, a question was included in the questionnaire and posed to respondents about workers' freedom of association and the right to form and join trade unions. Checklists of three factors were used to measure the commitment of their respective corporate bodies toward this right. The graph below presents a summary of respondents' responses to this question.

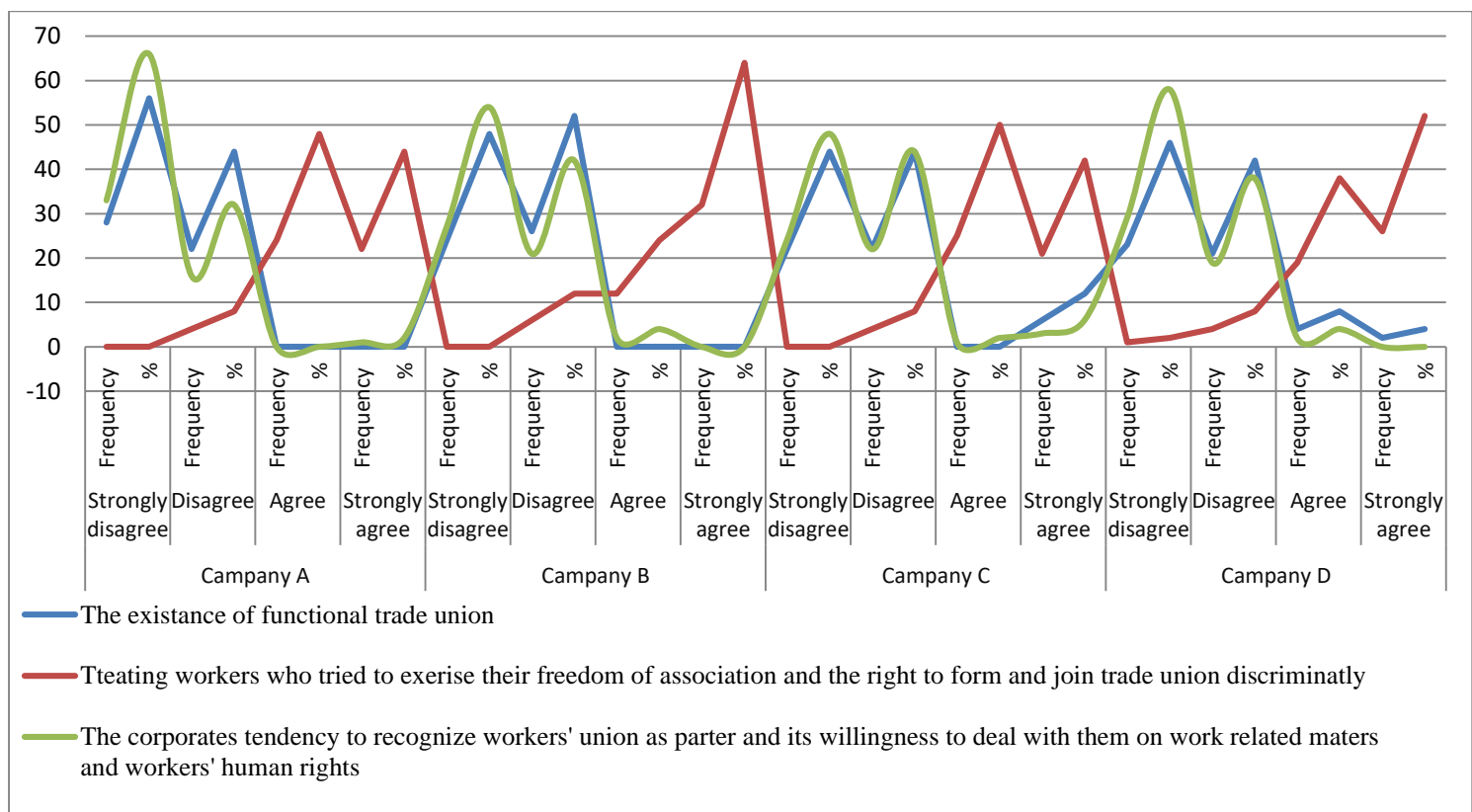


Figure 6. Respect workers' rights to collective bargaining

4.3.1. The existence of functional trade union

Merely having a nominal trade union is not enough to safeguard workers' rights. For a trade union to fulfill its intended purpose, it must be functional, which can be assessed based on its independence and its effectiveness in defending workers' rights. In this section of the questionnaire, the researcher aimed to gather information on whether functional trade unions exist in the transnational business enterprises operating in the study area. Respondents were asked to rate the establishment of a functional trade union using the options "Strongly disagree," "Disagree," "Agree," or "Strongly agree." In response, 36% (18 respondents), 44% (22 respondents), 16% (8 respondents), and 4% (2 respondents) of Company A's respondents chose strongly disagree, disagree, agree, and strongly agree, respectively. For Company B, 48% (24 respondents), 38% (19 respondents), 14% (7 respondents), and 0% (0 respondents) responded strongly disagree, disagree, agree, and strongly agree. In Company C, 44% (22 respondents), 44% (22 respondents), 0% (0 respondents), and 12% (6 respondents) chose strongly disagree, disagree, agree, and strongly agree, respectively. Lastly, in Company D, 46% (23 respondents), 42% (21 respondents), 8% (4 respondents), and 4% (2 respondents) responded strongly disagree, disagree, agree, and strongly agree, respectively. These responses indicate a reluctance among transnational business enterprises in the study area to acknowledge and uphold workers' rights to collective bargaining, and demonstrate the absence of strong, independent, and functional trade unions.

4.3.2. Discriminatory treatment of workers who try to exercise their right to collective bargaining

The absence of a functional trade union may not always be attributable to the employer's actions. Workers may choose not to exercise their right to form or join a trade union for various reasons. One such reason, linked to employers, is

the discriminatory treatment of workers who attempt to exercise their right to collective bargaining, which discourages them from forming or joining a trade union.

Even when national laws protect workers' rights to form and join trade unions, employers might still hinder the establishment or effective operation of trade unions through various actions that do not necessarily violate the law. These actions may include discriminating against workers who try to form a union or exercise their collective bargaining rights, despite such discrimination being explicitly prohibited by law.

To assess whether the selected transnational business enterprises engage in practices, including discriminatory treatment, to obstruct the formation and proper functioning of trade unions, the researcher asked respondents if their companies treat workers attempting to exercise their collective bargaining rights in a discriminatory manner. In response, 44% (22 respondents), 48% (24 respondents), 0% (0 respondents), and 8% (4 respondents) of respondents from Company A agreed, with the respective answers of strongly agree, agree, disagree, and strongly disagree. In Company B, 64% (32 respondents), 24% (12 respondents), 12% (6 respondents), and 0% (0 respondents) answered strongly agree, agree, disagree, and strongly disagree. For Company C, 42% (21 respondents), 50% (25 respondents), 8% (4 respondents), and 0% (0 respondents) gave these responses, while in Company D, 52% (26 respondents), 38% (19 respondents), 8% (4 respondents), and 2% (1 respondent) chose strongly agree, agree, disagree, and strongly disagree, respectively.

4.3.3. Businesses enterprises willingness to recognized trade unions as partner and to work with them

The corporate attitude toward accepting workers' organizations as partners and collaborating with them is another crucial element for the effective operation of trade unions. The purple line in the graph above illustrates the feedback from respondents regarding their company's willingness to recognize and cooperate with workers' trade unions. The responses were as follows: 66% (33 respondents), 32% (16 respondents), 0% (0 respondents), and 2% (1 respondent) from Company A; 54% (27 respondents), 42% (21 respondents), 4% (2 respondents), and 0% (0 respondents) from Company B; 48% (24 respondents), 44% (22 respondents), 2% (1 respondent), and 6% (3 respondents) from Company C; and 58% (29 respondents), 38% (19 respondents), 4% (2 respondents), and 0% (0 respondents) from Company D, with the response options being strongly agree, agree, disagree, and strongly disagree, respectively.

From the feedback provided by respondents, it can be concluded that there are no fully functioning, strong trade unions in the transnational business enterprises within the study area. Furthermore, these enterprises are unwilling to recognize and accept workers' unions as partners or engage with them on work-related matters and workers' human rights. They even discriminate against workers who attempt to form trade unions.

In countries with an overabundance of labor but limited job opportunities, corporations, especially transnational business enterprises, hold a more advantageous bargaining position not just over workers, but also over the government. As a result, workers are often too fearful to assert their rights, worried about losing their jobs. Therefore, the recognition and respect for workers' right to collective bargaining are essential for safeguarding and promoting their work-related interests. Additionally, the right to form and join trade unions is crucial for the advancement and

protection of a broad range of workers' fundamental human rights. However, simply forming a trade union is not enough to achieve these goals; unions must be strong, independent, and functional, as they play a primary role in defending and advancing workers' rights, including their fundamental human rights.

Although the risks may vary in severity, business enterprises may pose a threat to the full spectrum of internationally recognized human rights. However, the UN Guiding Principles require business enterprises to respect at least those human rights recognized and protected under the International Bill of Human Rights (which includes the UDHR, ICCPR, and ICESCR) and the principles concerning fundamental rights outlined in the ILO Declaration.

The right to freedom of association, including the right to form and join trade unions for the promotion and protection of economic and social interests, is enshrined in Articles 8, 22, 23(4), and 42(1)(a) of the International Covenant on Economic, Social and Cultural Rights, the International Covenant on Civil and Political Rights, the Universal Declaration of Human Rights, and the FDRE Constitution, respectively. This right is also established in the ILO Conventions. Restrictions on this right may only be imposed according to relevant laws necessary for a democratic society, enacted to ensure national security, public order, or the protection of others' rights and freedoms. Freedom of association and the right to form trade unions are fundamental tools for workers to influence work-related issues that directly affect them. Today, the right to freely form and join organizations that advocate for workers' occupational interests is recognized as essential for the proper protection and enjoyment of workers' fundamental human rights and other work-related interests. Freedom of association ensures that workers can form and join organizations without interference, including from their employers.

However, the responses from the four checklists, which assess the enterprises' commitment to workers' rights to collective bargaining, reveal a reluctance on the part of business corporations to recognize and respect these rights. Meanwhile, they discriminate against workers who attempt to exercise their right to collective bargaining. As a result, all of these conditions confirm the absence of strong, independent, and functional trade unions, which are essential for protecting and advancing workers' economic and social rights.

4.4. Elimination of child labour

As members of the human race, children are entitled to the same human rights as all other individuals. However, due to their underdeveloped physical abilities and mental immaturity, children are unable to advocate for their own interests or protect themselves from exploitation. Therefore, various laws offer specific protections for children based on their age, including, but not limited to, safeguarding them from work that could harm their health, morals, education, or physical and mental development.

However, not all work performed by children is prohibited. Instead, international conventions and labor standards differentiate between acceptable and unacceptable work. Both national and international laws set a minimum working age for children to engage in different types of work. This minimum age varies by jurisdiction, reflecting local social

and economic conditions. Nevertheless, it should never be lower than the age at which compulsory education is completed and, in no case, should it be less than 14 years old.

For dangerous work, including activities identified as “the worst forms of child labor,” it is prohibited for children under 18 years of age. Consequently, employing children below the minimum working age or assigning them to dangerous jobs is considered a violation of human rights. This section of the questionnaire seeks to examine the practices of business enterprises in the study area regarding the employment of children below the legal working age or in hazardous jobs. To conclude this examination, two factors were provided as checklists, which respondents rated as very low, low, medium, high, or very high. The respondents’ answers are shown in the following graph.

Table 2. Elimination of child labour

Elimination of child labour				
			Employing children below 14 years old	The existence of the worst forms of child labour
Company A	Very low	Frequency	50	50
		%	100	100
	Low	Frequency	-	-
		%	-	-
	Medium	Frequency	-	-
		%	-	-
	High	Frequency	-	-
		%	-	-
	Very high	Frequency	-	-
		%	-	-
Company B	Very low	Frequency	50	50
		%	100	100
	Low	Frequency	-	-
		%	-	-
	Medium	Frequency	-	-
		%	-	-
	High	Frequency	-	-
		%	-	-
	Very high	Frequency	-	-
		%	-	-
Company C	Very low	Frequency	50	50
		%	100	100
	Low	Frequency	-	-
		%	-	-
	Medium	Frequency	-	-
		%	-	-
	High	Frequency	-	-
		%	-	-
	Very high	Frequency	-	-
		%	-	-
	Very low	Frequency	50	50

Company D	Low	%	100	100
		Frequency	-	-
	Medium	%	-	-
		Frequency	-	-
	High	%	-	-
		Frequency	-	-
	Very high	%	-	-
		Frequency	-	-

All respondents from the business enterprises unanimously reported that their companies do not engage in the practice of employing children under the age of 18. This suggests that the worst forms of child labor are not present in these enterprises within the study area and indicates that they have a strong track record in eliminating child labor. However, considering the abundance of low-cost labor and limited employment opportunities in the country, the enterprises' positive record on child labor elimination may be more related to the availability of cheap labor rather than a true commitment to children's human rights.

4.5. Preventing potential, remediating actual environmental damages and respecting environmental legal frameworks

It is impossible to conceive life without the environment. All species, including humans, are completely reliant on the environment in which they exist. A safe, clean, and healthy environment is essential for the proper enjoyment of a broad range of human rights, such as the right to life, health, food, and human dignity. Environmental harm directly or indirectly affects human well-being and the enjoyment of human rights. Numerous international human rights and environmental agreements highlight the crucial role of environmental protection in ensuring the enjoyment of human rights.

For example, the Convention on the Rights of the Child acknowledges the importance of a clean environment for the proper enjoyment of a child's right to the highest attainable standard of health. Likewise, the FDRE Constitution, under Article 44, guarantees the right of individuals to a clean and healthy environment.

Therefore, failing to take the necessary steps to prevent or remedy environmental damage constitutes a violation of people's human rights and goes against the principles set forth by the UN. To assess potential or actual environmental harm and the responses of the concerned business corporations, respondents were asked to provide their feedback. The responses to this issue are presented below.

Table 3. Preventing potential, remediating actual environmental damages

Taking prompt measurements to prevent potential and remediate actual environmental damages							
			The rate of environmental damage caused by your organization	The companies' diligence of conducting study on regular basis to check in advance the environmental impact of a give activity or technology	The corporates trend on installing equipment necessary to prevent potential environmental damages	The corporates' culture of taking immediate action to remediate occurred damages	
Company A	Very low	Frequency	-	22	18	28	
		%	-	44	36	56	
	Low	Frequency	5	21	27	14	
		%	10	42	54	28	
	Medium	Frequency	12	6	3	5	
		%	24	12	6	10	
	High	Frequency	27	1	2	3	
		%	54	2	4	6	
	Very high	Frequency	6	-	-	-	
		%	12	-	-	-	
	Company B	Very low	Frequency	-	19	16	24
			%	-	38	32	48
Low		Frequency	7	23	28	20	
		%	14	46	56	40	
Medium		Frequency	8	6	3	3	
		%	16	12	6	6	
High		Frequency	30	2	3	3	
		%	60	4	6	2	
Very high		Frequency	5	-	-	-	
		%	10	-	-	-	
Company C	Very low	Frequency	-	33	19	19	
		%	-	66	38	38	
	Low	Frequency	7	14	28	22	
		%	14	28	56	44	
	Medium	Frequency	12	3	3	9	
		%	24	6	6	18	

	High	Frequency	26	-	-	-
		%	52	-	-	-
	Very high	Frequency	5	-	-	-
		%	10	-	-	-
Company D	Very low	Frequency	-	16	29	22
		%	-	32	58	44
	Low	Frequency	8	29	18	26
		%	16	58	36	52
	Medium	Frequency	11	5	8	2
		%	22	10	16	4
	High	Frequency	28	-	-	-
		%	56	-	-	-
	Very high	Frequency	3	-	-	-
		%	6	-	-	-

4.5.1. The rate of environmental damage caused by the selected business enterprise

Regarding the environmental damage caused by the companies, 66% of respondents from Company A, 70% from Company B, 62% from Company C, and 62% from Company D indicated that they believe their organizations cause a high or very high level of environmental damage. In contrast, only 10%, 14%, 14%, and 16% of respondents from Companies A, B, C, and D, respectively, reported that their organizations have low environmental impacts.

4.5.2. The companies' diligence of conducting environmental impact assessments on regular basis

Regarding the companies' practices of conducting environmental impact assessments, 86% of respondents from Company A rated it as low or very low. Similarly, 84%, 94%, and 90% of respondents from Companies B, C, and D, respectively, stated that their companies have a low or very low culture of conducting regular environmental impact assessments. Only 2% and 4% of respondents from Companies A and B, respectively, rated their companies' commitment to conducting these assessments as high, while no respondents from Companies C and D provided the same response.

4.5.3. The corporates trend on installing equipment's to prevent potential environmental damages

Ninety percent, eighty-eight percent, ninety-four percent, and ninety-six percent of respondents from Companies A, B, C, and D, respectively, indicated that there is a very low to low trend in installing equipment necessary for preventing potential environmental damage caused by their companies.

4.5.4. The corporates' culture on remediating actual environmental damages stemming from its operation

Eighty-four percent, eighty-eight percent, and eighty-two percent of respondents from Companies A, B, and C, respectively, reported that the culture of their companies in taking immediate corrective actions for any environmental

damage resulting from their operations is very low. Almost all (96%) of respondents from Company D also indicated that their company has a very low tendency to take prompt remedial actions.

Overall, the data indicates that the business enterprises operating in the study area have a very weak culture when it comes to conducting environmental impact assessments, implementing precautionary measures, and quickly addressing environmental damage. This ultimately leads to severe consequences for fundamental human rights.

4.6. The adoption of policy statement which show the company’s commitment and its human rights expectation from workers and other business partner towards human rights

In order to effectively fulfill their obligation to respect human rights, companies must be aware of and demonstrate their commitment to these rights. To this end, the UN Guiding Principles require transnational business corporations to implement a policy statement, approved by senior officials, that reflects their commitment to upholding human rights. This statement should also outline the company’s expectations regarding human rights for its employees, business partners, and others directly associated with its operations.

To assess the degree to which the selected business corporations have adopted such a policy, respondents were asked the question, “Does your company adopt a policy commitment toward human rights?” The responses to this question are shown in the graph below.

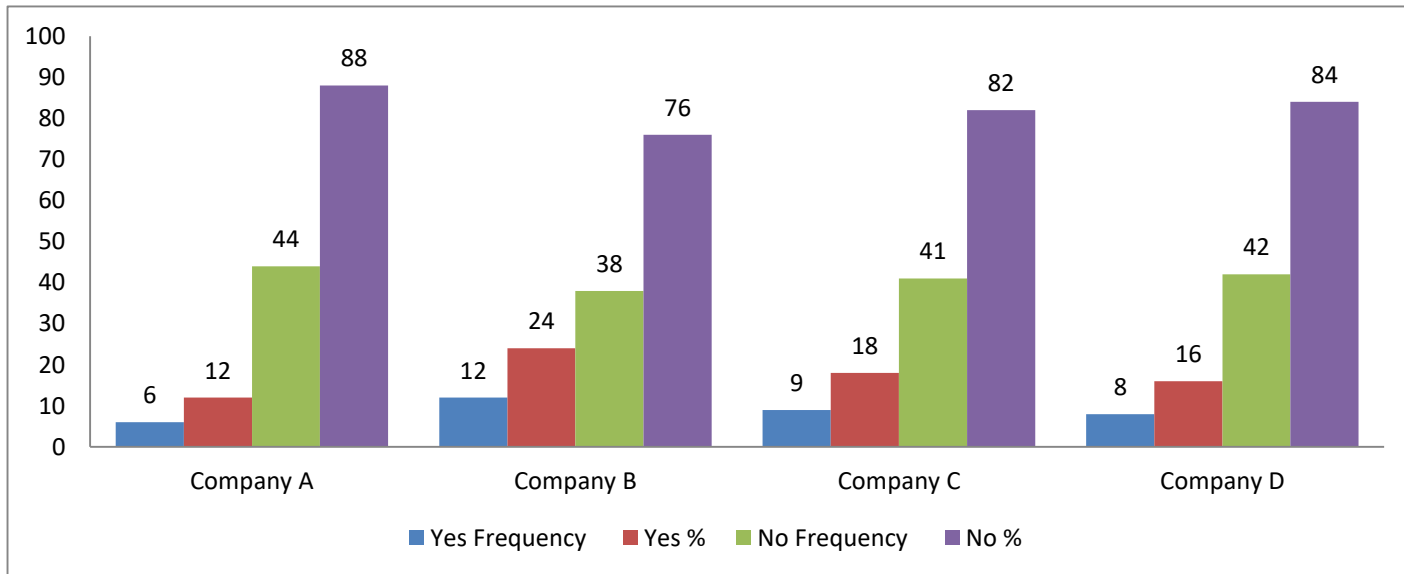


Figure 7. Adoption human rights policy commitment

As can be seen from the graph above, 12%, 24%, 18%, and 16% of respondents from Companies A, B, C, and D confirmed the adoption of a policy commitment by their companies, respectively. In contrast, 88%, 76%, 82%, and 84% of respondents from Companies A, B, C, and D, respectively, confirmed that their companies do not adopt any policy commitment toward human rights. This indicates that the selected transnational business corporations do not adopt any policy commitment concerning human rights. Consequently, the business enterprises in the study area do

not adhere to the content of the UN Guiding Principles regarding the adoption of a human rights policy commitment ratified by senior officials.

4.7. The dissemination of the company’s policy commitment to its worker, business partners and the public at large

Besides the adoption of a human rights policy document, enterprises are further required by the Guiding Principles to make such a policy commitment available to the public at large and to disseminate it to their own workers, business partners, and others linked to their operations, as well as to their respective personnel. Thus, the researcher seeks to examine the business enterprises’ experience in disseminating their policy commitment to their own workers and business partners, and making it available to the public at large, by posing a question to respondents. Their replies are presented as follows.

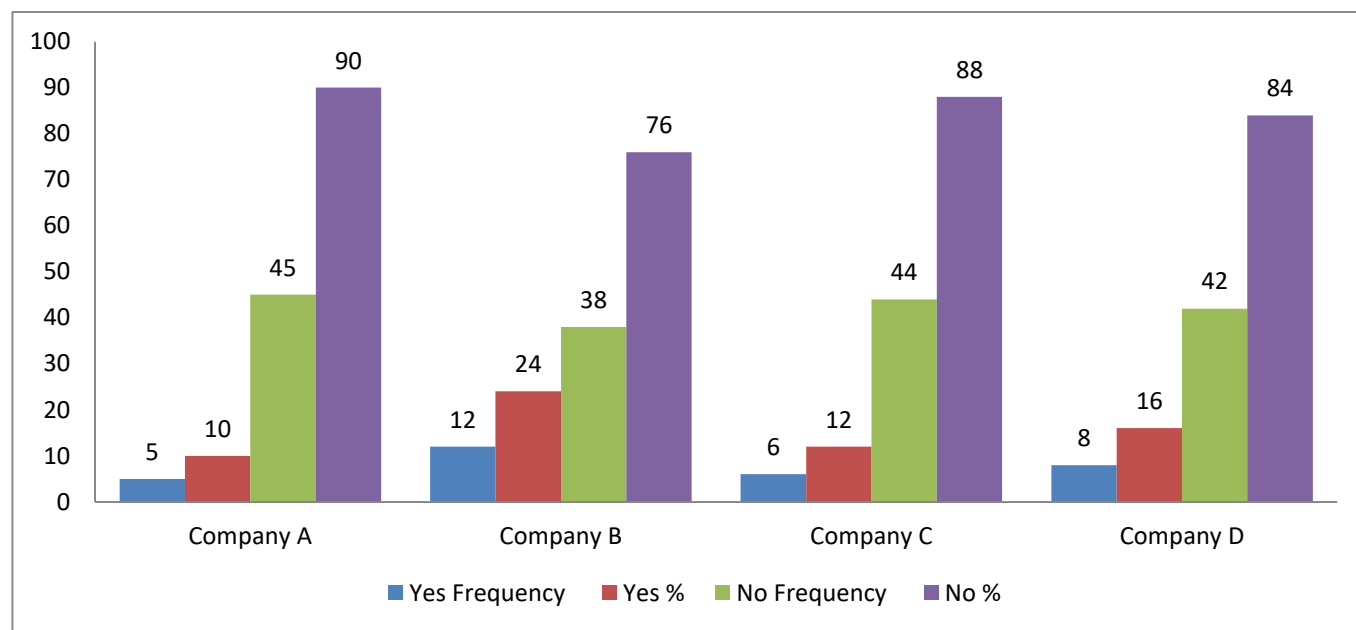


Figure 8. Dissemination of the company’s policy commitment

In response, 5, 12, 6, and 8 respondents from Companies A, B, C, and D, respectively, confirmed that their companies make the human rights policy commitment accessible to their workers, business partners, and the general public. In contrast, 45, 38, 44, and 42 respondents stated that their companies do not make the policy documents available to anyone. Therefore, if a business corporation fails to make its human rights policy statement accessible to the relevant parties, regardless of whether it has adopted one, it does not align with the UN Guiding Principles.

Additionally, 84.5% of all respondents (from the four companies) affirmed that their companies do not provide access to their policy statements for the appropriate individuals. This suggests that transnational business corporations in the study area are not fulfilling their responsibility to adopt and make a human rights policy statement available, which would express their commitment to human rights throughout their operations and outline their expectations for workers, business partners, and others directly connected to their operations.

Regarding domestic laws, there is no specific legislation or provision in the country’s legal framework that requires transnational business corporations operating within the jurisdiction to adopt a policy statement approved by senior management that demonstrates their commitment to respecting human rights and outlines their expectations for workers, business partners, and others involved in their operations.

4.8. The business enterprise’s culture of conducting human rights due diligence

It is not always easy for business corporations to anticipate potential human rights abuses, particularly those related to the company’s operations. Since identifying human rights impacts is challenging unless businesses conduct human rights due diligence, the Guiding Principles emphasize the importance of this process. Human rights due diligence is an ongoing effort to identify and address a company’s human rights impacts linked to its operations and products.

As part of this, transnational business enterprises are required to regularly assess all potential and actual human rights abuses resulting from their operations, products, and business partner networks. They must take steps to prevent or mitigate potential impacts and remedy any actual human rights violations.

To examine how transnational business corporations in the study area comply with this obligation, as outlined in the General Principles, respondents were given three checklist factors and asked to evaluate them as very bad, bad, medium, good, or very good. Their responses are shown below.

Table 4. Conducting human rights due diligence

The business corporate’s commitment on conducting human rights due diligence					
			Assessing actual and potential human rights impacts directly linked with its activities, operations and products	Integrating the findings of the assessment across relevant internal functions and processes and taking appropriate actions.	Gaging the effectiveness of their response based on appropriate qualitative and quantitative indicators and through the collection of feedbacks from internal and external sources including victims
Company A	V. Bad	Frequency	21	49	18
		%	42	98	36
	Bad	Frequency	29	1	27
		%	58	2	54
	Medium	Frequency	-	-	3
		%	-	-	6

	Good	Frequency	-	-	2
		%	-	-	4
	V. Good	Frequency	-	-	-
		%	-	-	-
Company B	V. Bad	Frequency	19	40	16
		%	38	80	32
	Bad	Frequency	18	10	28
		%	36	20	56
	Medium	Frequency	6	-	3
		%	12	-	6
	Good	Frequency	7	-	3
		%	14	-	6
	V. Good	Frequency	-	-	-
		%	-	-	-
Company C	V. Bad	Frequency	26	46	19
		%	52	92	38
	Bad	Frequency	15	4	28
		%	30	-	56
	Medium	Frequency	9	-	3
		%	18	-	6
	Good	Frequency	-	-	-
		%	-	-	-
	V. Good	Frequency	-	-	-
		%	-	-	-
Company D	V. Bad	Frequency	17	38	29
		%	34	76	58
	Bad	Frequency	27	12	18
		%	54	24	36
	Medium	Frequency	1	-	8
		%	2	-	16
	Good	Frequency	4	-	-
		%	8	-	-
	V. Good	Frequency	1	-	-
		%	2	-	-

4.8.1. Assessing actual and potential human rights impacts directly linked with its operations and products

Under the Guiding Principles, business corporations are required to continuously assess both the actual and potential human rights impacts resulting from their own activities, or those directly connected to their operations, products, or services, or arising from their business relationships. The first step in human rights due diligence is identifying and assessing all potential and actual human rights impacts. The scope and complexity of these assessments will depend on the size of the business and the nature and severity of the human rights impacts. To conduct these assessments effectively, companies should seek internal or external human rights expertise and consult with relevant stakeholders, including potentially impacted groups.

The researcher aims to determine whether the business corporations operating in the study area have carried out assessments to identify and examine the actual and potential adverse human rights impacts they may be associated with. All respondents from Company A, along with 74%, 82%, and 84% of respondents from Companies B, C, and D, respectively, reported that their companies' approach to assessing actual and potential human rights impacts linked to their activities, operations, and products is rated as low to very low.

4.8.2. Integrating the findings of the assessment across relevant internal functions and processes and taking appropriate actions.

The second step in fulfilling the obligation to conduct human rights due diligence is for business enterprises to integrate the results of their impact assessments into relevant internal functions and processes. After completing their assessments and identifying both actual and potential adverse impacts, companies should allocate the necessary resources and assign responsibility to the appropriate departments to take actions that address these human rights impacts. Potential impacts can be prevented or mitigated by integrating the findings across the enterprise, while actual impacts should be addressed through remediation measures.

In this regard, respondents were asked to evaluate how committed their respective companies are to integrating the results of human rights impact assessments into relevant functions and processes and taking prompt and appropriate actions to address or prevent these impacts. The responses indicated that all respondents from the four business enterprises rated their companies' commitment as either very bad or bad.

4.8.3. Tracking the effectiveness of their prevention and/or remediation measurement

After an enterprise has conducted a human rights impact assessment and implemented all necessary measures to prevent or stop any potential or actual adverse human rights impacts identified by the assessment, the final step in the human rights due diligence process is to monitor the effectiveness of these prevention and remediation measures. This monitoring is done using relevant qualitative and quantitative indicators, along with feedback collected from both internal and external sources, including victims. However, most respondents indicated that their companies' efforts to track the effectiveness of these measures are very weak.

As a result, the responses to the three checklists used to evaluate human rights due diligence show that the involved transnational business corporations have very limited experience in conducting human rights due diligence.

4.9. The establishment of an effective operational-level grievance mechanisms within the company for victims of business related human rights abuses

When business-related human rights abuses have already occurred, the next concern is how to address the remediation process. Remediation is a fundamental principle in international human rights instruments and a key component of the UN Guiding Principles (UNGPs). In general, states are primarily responsible, under all human rights instruments, including the Guiding Principles, for ensuring that victims of human rights abuses caused by third parties, including business corporations, have access to effective remedies.

However, the Guiding Principles go beyond other human rights instruments by requiring business corporations, alongside the state, to set up internal operational-level grievance mechanisms. These mechanisms are intended for individuals and communities who may be victims of human rights abuses due to the operations or products of the business. The purpose of these grievance mechanisms is twofold: First, they provide a channel for victims to report abuses or potential abuses to the company, keeping the enterprise informed about any human rights issues. Second, these mechanisms offer the business an opportunity to take corrective actions promptly, preventing the persistence of human rights abuses.

In light of this, the questionnaire asked respondents to provide information on whether their companies have established effective and accessible operational-level grievance mechanisms. The following table presents their responses.

Table 5. Establishing an effective operational-level grievance mechanisms

Entrenching internal operational-level grievance solving mechanisms for victims for business related human rights abuses				
	Yes		No	
	Frequency	%	Frequency	%
Company A	2	4	48	96
Company B	5	10	45	90
Company C	7	14	43	86
Company D	19	38	31	62

Regarding the creation of an internal operational-level grievance system for victims of human rights abuses linked to business operations, 96% of respondents from Company A, 90% of respondents from Company B, 86% of respondents from Company C, and 62% of respondents from Company D stated that their companies do not have effective grievance mechanisms in place for victims of such abuses. Only 4%, 10%, 14%, and 38% of respondents from

Companies A, B, C, and D, respectively, reported the establishment of internal grievance systems within their organizations.

CHAPTER FIVE

5. CONCLUSION AND RECOMMENDATION

5. 1. Conclusion

This study explores the extent to which transnational business corporations operating in Tulofa town, in the Amhara regional state of Ethiopia, fulfill their duties toward human rights as defined under the United Nations Guiding Principles and other national laws. The outcome of the study demonstrates the following facts:

- Transnational business corporations operating in the study area have a very weak trend in respecting human rights, and the companies' activities have adverse human rights impacts.
- There is no properly functioning trade union, and the concerned transnational business enterprises lack the willingness to recognize workers' unions as partners and to collaborate with them on work-related issues and workers' human rights. The enterprises are reluctant to accept and respect workers' rights to collective bargaining, and they discriminate against those workers who attempt to exercise their right to collective bargaining.
- As far as child labor is concerned, all enterprises subject to this study do not employ children below 18 years old. This indicates the non-existence of the worst forms of child labor in these business enterprises, and they have a good track record in the elimination of child labor. However, due to the excess availability of cheap labor with limited job opportunities in the country, the good record on the elimination of child labor may result from the abundance of inexpensive labor rather than a genuine commitment to children's human rights.
- The outcome of the study also shows that the concerned businesses have a very weak trend in conducting environmental impact assessments of their activities, taking precautionary measures, and promptly remediating actual environmental damages.
- Adopting a human rights policy commitment is another obligation that businesses, in general, and transnational business corporations, in particular, have under the Guiding Principles. However, the outcome of the study indicates that those transnational enterprises operating in the study area neither adopt any policy commitment toward human rights nor make available a human rights policy statement that expresses their commitment to human rights throughout their operations and their expectations from their own workers, business partners, and others directly linked to their operations.
- Conducting human rights due diligence is another obligation for business enterprises. The fulfillment of this obligation is measured by answering questions such as: Is the company assessing actual and potential human rights impacts directly linked to its activities, operations, and products? Is the company integrating the findings of the assessment across relevant internal functions and taking appropriate actions to address the problems? Is the company tracking the effectiveness of corrective measures based on appropriate qualitative and quantitative indicators and through feedback collection from internal and external sources, including

victims? Thus, if the answers to these three questions are affirmative, the company demonstrates a strong commitment to conducting human rights due diligence; otherwise, it does not. However, the measurement of transnational business corporations operating in the study area shows that they have a very weak trend in conducting human rights due diligence.

- Regarding the obligation under the Guiding Principles to establish or participate in effective operational-level grievance mechanisms for individuals and communities who may be victims of business-related human rights abuses, the outcome of the study indicates that the business enterprises operating in the study area are not complying with this obligation.

To summarize, the outcome of the study indicates that the concerned business enterprises' commitments to discharging their responsibility to respect human rights, as defined under the United Nations Guiding Principles, are very weak.

5.2. Recommendations

Ensuring the alignment of transnational business enterprises' operations with fundamental human rights and freedoms is imperative and cannot be delayed. This study investigates how transnational business corporations operating in Tulofa town, Amhara regional state, Ethiopia, adhere to their obligations toward human rights as defined under the United Nations Guiding Principles (UNGPs) and other national legal frameworks. The findings reveal significant weaknesses in the commitment of these enterprises to fulfill their responsibility to respect human rights. Based on these findings, the following recommendations are proposed to strengthen the respect for and protection of fundamental human rights by transnational business enterprises:

1. Integration of the UN Guiding Principles into Domestic Legislation

- The Ethiopian government should incorporate the UNGPs into its domestic legal framework, ensuring their full integration as binding legal instruments. This step will provide clear and enforceable obligations for all business entities, particularly transnational corporations, to respect human rights. Furthermore, dedicated mechanisms should be established to monitor compliance and provide remedies for violations.

2. Judicial Application of the UNGPs

- The judiciary should adopt the UNGPs as a standard for interpreting domestic laws governing business operations and human rights. By referencing the UNGPs, courts can ensure that interpretations align with international human rights norms and reinforce accountability for corporations operating in Ethiopia. This approach will bridge gaps between national legislation and international standards.

3. Strengthened Oversight by Human Rights Organizations

- Both governmental bodies, such as the Ethiopian Human Rights Commission, and non-governmental organizations (NGOs) dedicated to human rights advocacy should intensify their efforts to hold corporations accountable for respecting human rights. This includes conducting regular assessments, raising awareness about human rights obligations among business entities, and engaging in dialogue to promote compliance.

4. Human Rights Provisions in Investment Agreements

- Investment agreements between Ethiopia and transnational corporations should explicitly include clauses that mandate adherence to fundamental human rights and the UNGPs. These provisions should outline specific responsibilities and establish consequences for non-compliance, thereby embedding human rights considerations into the business lifecycle.

5. Role of International and Regional Organizations

- International and regional organizations to which Ethiopia is a member should actively utilize the UNGPs as a benchmark to evaluate member states' human rights records. They should require regular reporting on the state of business and human rights, fostering accountability and promoting best practices. These organizations should also offer technical and financial support to member states to enhance the implementation of the UNGPs.

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Appendix- A
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Questionnaire to be filled by respondents selected from the four transnational business corporate operating in Tulofa town.

Introduction

This questionnaire is designed to gather insights from respondents selected from four transnational business corporations operating in Tulofa town, in Amhara Regional State, Ethiopia. The primary purpose of this questionnaire is to critically analyze the extent to which transnational business corporations respect and uphold fundamental human rights and freedoms as provided under the UN Guiding Principles and National laws. The findings of this study aim to contribute significantly to the protection and promotion of fundamental human rights and freedoms in the study area. However, the success of this study largely depends on your honest cooperation and genuine responses to the questions. Your input is invaluable and will play a key role in shaping actionable recommendations to improve the human rights practices of transnational businesses.

Please rest assured that your responses will remain strictly confidential and will be used solely for research purposes. Your privacy is of utmost importance, and no personal identifying information will be collected.

You are kindly requested to read each question carefully and respond thoughtfully and sincerely. Your cooperation is greatly appreciated.

General Instructions

1. **Anonymity:** Please do not write your name or any identifying information on the questionnaire.
2. **Following Instructions:** Kindly adhere to the instructions provided for each section of the questionnaire.
3. **Rating System:** For each question, you will find a checklist of responses. Please evaluate each item using the provided scale:
 - Very Bad
 - Bad
 - Medium
 - Good
 - Very Good
4. **Marking Responses:** Indicate your choice by placing a (√) mark in the box corresponding to your answer.

Thank you for your time and valuable participation. Your honest responses will contribute to meaningful research and practical outcomes in enhancing the respect for human rights in Tulofa town.

PART I: Background of the respondent

Direction: Following are questions related to your biography. Kindly requesting you to encircle the letter put in front of your appropriate choice

1. Sex

- A) Male B) Female

2. Age

- A) 20-30 year B) 31-40 year C) 41-50 year D) 50 - 60

3. Your educational level

A) Grade Ten Complete B) Diploma C) 1st Degree and Above

4. Total Experience

A) 1-4 years B) 5-7 years C) Above 7 years

5. Name of the institution where you are working

A/ Company -A B/ Company-B C/ Company -C D/ Company -D

PART II

The following questions are designed to assess the extent to which transnational business corporations operating in the study area respect and uphold fundamental human rights and freedoms in their operations. For each question presented in the tables, please indicate your level of agreement by placing a tick (√) mark in the box that corresponds to your assessment. Your responses should reflect the reality of your locality and personal observations regarding the practices of these corporations.

Note:

- Use the provided scale to express your level of agreement or assessment of each question.
- Please place a tick (√) mark next to the value that most accurately represents your perspective.
- The scale is defined as follows:
 - **5 = Very Bad / Very Low**
 - **4 = Bad / Low/Strongly disagree**
 - **3 = Medium /Disagree**
 - **2 = Good / High/ Agree**
 - **1 = Very Good / Very High/Strongly Agree**

1. Transnational Business corporates' commitment in discharging their responsibility to respect human rights

This question is designed to evaluate the extent of your company’s commitment to fulfilling its responsibility to respect and uphold human rights in its operations. To facilitate this assessment, two key checklist factors representing the company’s dedication to human rights are provided below. You are requested to carefully review each factor and rate the company’s level of commitment using the provided scale. Please choose the option that best reflects your perception and mark it as **Very Bad, Bad, Medium, Good, or Very Good**.

No.	Item	Level of agreement				
		5	4	3	2	1
1	Is your company respect workers’ human rights					
2	The human rights impacts of your company's activities					

2. The transnational business corporates' tendency to recognize and respect workers' right to collective bargaining

This question aims to assess the practices of transnational business corporations regarding their respect for workers' rights to freedom of association, including the ability to freely form and join trade unions. To evaluate this, three checklist factors are provided, and you are requested to rate them using the scale: strongly disagree, disagree, agree, or strongly agree.

No.	Item	Level of agreement			
		4	3	2	1
1.	The existence of functional trade union				
2.	Treating workers who tried to exercise their freedom of association and the right to form and join trade union discriminately				
3.	The corporates tendency to recognize workers' union as partner and its willingness to deal with them on work related matters and workers' human rights				

3. Child Labour

This section of the questionnaire is designed with the aim of explore the trends of your company regarding the hiring of children below the minimum working age (below 14 years old) or employing children blow 18 years old in dangerous work. Towards the end of this exploration, two factors are provided as checklists, which you are expected to measure these factors as very low, low, medium, high, or very high.

No.	Checklist factors	Level of agreement				
		5	4	3	2	1
1.	Your Company's trend of employing children below 14 years old					
2.	The existence of the worst forms of child labour in your company					

4. Preventing potential, remediating actual environmental damages and respecting environmental legal frameworks

This section of the questionnaire is designed to assess your company's efforts in preventing potential environmental harm, addressing actual environmental damages, and adhering to relevant environmental legal frameworks. To evaluate these aspects, four checklist factors are provided. Please indicate your level of agreement based on the situation in your locality by placing a tick (√) in the box corresponding to the appropriate scale value: 5 = Very low 4= Low 3= Medium 2= High 1= Very High

No.	Item	Level of agreement				
		5	4	3	2	1
1.	The rate of environmental damage caused by your organization					

2.	Your company's diligence of conducting study on regular basis to know in advance the environmental impact of a give activity or technology					
3.	Your company's trend on installing equipment necessary to prevent potential environmental damages					
4.	Your company's culture of taking immediate action to remediate occurred environmental damages stemming from its operation					

5. The adoption of policy statement showing the company's commitment towards human rights and its human rights expectation from workers and other business partner

This question is dedicated to investigate as to whether your company adopt a policy statement approved by senior officials that shows its commitment to effectively discharge their duty to respect human rights and outlines its human right expectations from its workers, business partners, and others directly linked to its operations or not. . So, if your answer is "Yes" put a tick "√" in the box provided under Number 1 or if your answer is "No" put a tick "√" in the box under Number 2.

No.	Item	Level of agreement	
		1	2
1.	Does your company adopt a policy statement showing its commitment towards human rights and human rights expectation from workers and other business partner?		

6. The dissemination of the company's policy commitment to its workers, business partners and the public at large

This question is dedicated to investigate as to whether your company disseminate its policy statement, if it has adopted, approved by senior officials to its workers, business partners and the public at large or not. So, if your answer is "Yes" put a tick "√" in the box provided under Number 1 or if your answer is "No" put a tick "√" in the box under Number 2.

No.	Item	Level of agreement	
		1	2
1.	Does your company disseminate its policy statement, showing its commitment and human rights expectation, to its worker, business partners and the public at large?		

7. The business enterprise’s culture of conducting human rights due diligence

This section of the questionnaire is designed to explore the trends of your company in conducting human rights due diligence. To this end, three checklist factors are provided, so indicate your level of agreements according to the case of your locality by putting a tick "√" mark the scale value number. . 5 = “Very Bad/ Very low” 4=“Bad/ Low” 3= “Medium” 2= “Good/High” 1=“Very Good/ Very High”.

No.	Item	Level of agreement				
		5	4	3	2	1
1.	Assessing actual and potential human rights impacts directly linked with its activities, operations and products.					
2.	Integrating the findings of the assessment across relevant internal functions and processes and taking appropriate actions.					
3.	Gaging the effectiveness of their response based on appropriate qualitative and quantitative indicators and through the collection of feedbacks from internal and external sources including victims.					

8. The establishment of an effective operational-level grievance mechanisms within the company for victims of business related human rights abuses

This question is dedicated to investigate as to whether your company established an effective operational-level internal grievance mechanisms for victims of business related human rights abuses or not. So, if your answer is “Yes” put a tick "√" in the box provided under Number 1 or if your answer is “No” put a tick "√" in the box under Number 2.

No.	Item	Level of agreement	
		1	2
1.	Does your company established an effective operational-level internal grievance mechanisms for victims of business related human rights abuses?		