



BUSINESS AND HUMAN RIGHTS IN ETHIOPIA MULTI-STAKEHOLDER DIALOGUE

WORKSHOP SUMMARY REPORT - 28 FEBRUARY – 1 MARCH 2023
Addis Ababa, Ethiopia



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1. INTRODUCTION

This report documents highlights from the first Multistakeholder dialogue on Business and Human Rights in Ethiopia, conducted by the Ethiopian Human Rights Commission (EHRC), the Danish Institute for Human Rights (DIHR) with the support of the Office of the High Commissioner for Human Rights (OHCHR) – East Africa and the UN Development Program (UNDP). The event took place in February 28 and March 1, 2023 and was attended by 40 people. These included staff of the EHRC, representatives of state institutions in charge of business management, commercial enterprises including State Owned Enterprises (SOEs), civil society organizations (CSOs), academic institutions as well as relevant international organizations and donors.

The objectives of the dialogue included:

- Raise awareness about the UNGPs and relevant AU policies pertinent to business and human rights.
- Initiate multi-stakeholder dialogue on business and human rights at national level with the aim of establishing a roadmap for the implementation of the UNGPs and relevant AU policies.
- Facilitate cross-sectoral experience sharing on the impacts of the business activities on the enjoyment of human rights in Ethiopia.
- Ensure multi-stakeholder buy-in to advance the agenda on business and human rights in Ethiopia.

2. BACKGROUND

In June 2011, the United Nations Human Rights Council (UNHRC) unanimously endorsed the United Nations Guiding Principles on Business and Human Rights (UNGPs). In recent years, Ethiopia has been undertaking various policy, legislative and institutional reforms to create a conducive environment for foreign direct investment (FDI). There has been an influx of several multinational enterprises into the country investing in economic sectors including petroleum refining, mining, real estate, large-scale commercial farming, apparel industries, manufacturing, and renewable energy. Following the political reform that occurred in Ethiopia in 2018, the GoE announced that it is working to privatize fully or partially major State-Owned Enterprises. Further, local business organizations have exhibited an unprecedented growth in recent years.

In its National Human Rights Action Plan 2016 - 2020, Ethiopia had already planned to develop a National Action Plan on Business and Human Rights (NAP) to ensure respect for human rights in business, in addition to the efforts to ensure respect for human rights in government institutions. However, the commitment to draft a National Action Plan (NAP) on business and human rights is yet to be realized. Ethiopia ratified the African Continental Free Trade Agreement (AfCFTA) on 23 March 2019.

3. WORKSHOP OVERVIEW

The first day provided information, creating awareness on the UNGPs and the state of implementation at global, regional, and country level. Four case studies were presented to ground and contextualise business and human rights in Ethiopia. The second day was dedicated to identifying, prioritise and analyse key issues on business and human rights in Ethiopia, as well as discussing future steps for a roadmap for the implementation of the UNGPs in Ethiopia.

4. PROGRAM

DAY 1	BUSINESS & HUMAN RIGHTS CONTENT SESSIONS
Content	Facilitator/Presenter
Welcome and opening remarks	Dr. Abdi Jibril, Commissioner, Civil and Political and Socio-Economic Rights, Ethiopian Human Rights Commission (EHRC) Mr. Charles Ndiema Kwemoi, Deputy Country Representative, OHCHR Ms. Elin Wrzoncki, Department Director, Danish Institute for Human Rights (DIHR)
Introduction to the UN Guiding Principles on Business and Human Rights (UNGPs)	Mr. Dylan Van Tromp, Human Rights Officer, Business and Human Rights, OHCHR (Geneva).
Policy and regulatory developments on business and human rights: NAPs and mandatory human rights due diligence	Ms. Elin Wrzoncki, Department Director, Danish Institute for Human Rights (DIHR)
Status of business and human rights in Africa: Progress, Challenges, and Ways Forward	Ms. Victoria de Mello, Regional Business and Human Rights Specialist, UNDP Africa
Legal and policy framework in Ethiopia on businesses and their duty to respect human rights during their operations	Dr. Brightman Gebremichael, Ethiopian Human Rights Commission (EHRC)
Business impacts on human rights in Ethiopia <ul style="list-style-type: none"> • Human rights and business in the floriculture sector • Mainstreaming gender equality in the energy sector • Human rights due diligence in the tobacco sector • Financial accessibility of private health care 	Dr. Belay Tizazu, Addis Ababa Centre for Human Rights Misrach Sesay, Project Coordinator, Ethiopian Women in Energy Network (EWIEN) Ms. Biruktawit Tessema, Japan Tobacco International (JTI) Mr. Amare Tesfaye, Senior Human Rights Officer, Ethiopian Human Rights Commission (EHRC)
DAY 2	HRB KEY ISSUES AND WAY FORWARD
Recap of Day 1	Raji Gezahegn Gebre (DIHR)
Identification and prioritization of key human rights and business issues in Ethiopia. Facilitated plenary and group work	Facilitators Ojot Miru Ojulu, East Africa Regional Representative (DIHR) Gabriela Factor, Chief Advisor (DIHR)
Group Presentations Facilitated discussion: Next steps towards a roadmap of business and human rights in Ethiopia	Dr. Brightman Gebremichael, Ethiopian Human Rights Commission (EHRC)
Closing of the Dialogue	Dr. Abdi Jibril, Commissioner, Civil and Political and Socio-Economic Rights, Ethiopian Human Rights Commission (EHRC)

5. DAY 1: BUSINESS AND HUMAN RIGHTS CONTENT SESSIONS

Session 1: Introduction on UNGPs on BHR

The presentation stated that the UNGPs as the most authoritative framework for any discussion on BHR, unanimously endorsed by UN members, NHRIs and global business associations, CSOs etc. and integrated in other UN and multilateral/regional frameworks. The 3 Pillars of UNGPs and their salient features are:

- The State duty to protect individuals and communities from human rights violations of by businesses through laws, policies and regulations
- The Corporate responsibility to respect human rights: introduced by UNGPs, voluntary obligations assumed by businesses; UNGPs methodology for doing this is human rights due diligence
- Access to Remedy: judicial, non-judicial (administrative) and non-state (company-based grievance mechanisms)

The national action plans on business and human rights, NAPs, have emerged as the main methods for implementing UNGPs. The OHCHR is considered as custodian of the UNGPs and in that capacity supports the work on the UN working Group on BHR, the Open-ended intergovernmental working group on transnational corporations and other business enterprises with respect of human rights and engages in other special initiatives.

Session 2: Policy and Regulatory Development on BHR: NAPs and Mandatory Due Diligence

The presentation by DIHR representative provided examples of international and regional frameworks aligned with UNGPs such as OECD Guidelines, AU Draft Policy on BHR, UNSDGs-2030 Agenda. In terms of domestic initiatives, countries tend to: mainly to adopt NAPs with support for their development and implementation coming from major international and regional organizations and human rights mechanisms. There are currently 30 NAPs published worldwide, and 16 more are under development

DIHR has developed a useful tool on how to undertake NAPs that is freely available and is being used by several countries. Based on DIHR experience in the support of NAPS processes, the following recommendations can be provided as basis for successful NAP processes:

- Government leadership and ownership:
- Clear TOR, timeline, and resources for the process
- Stakeholder Participation and transparency
- National Baseline Assessment: to identify gaps, priority areas and needed actions
- SMART action plans: specific, clear, and measurable action plans needed action plans a mix of legislative/policy measures and capacity building and promotional activities.
- Clear framework for implementation and monitoring:

The benefits of NAPs include its participatory nature which can ensure common identification of issues and needed measures; can lead to alignment of public policies; raise awareness on BHR especially among businesses and can provide international exposure and acknowledgement. On the other hand, some challenges have been identified, including the fact that the process is resource intensive; a generally low participation of rights holders and businesses; too little attention to access co remedy and ensuring ownership beyond government (i.e. by businesses)

Finally it was discussed the process by which soft law on BHR is hardening through policy commitments by States and businesses, and non-financial disclosure and due diligence obligations imposed by home countries on transnational businesses.

Session 3: Status of BHR in Africa: Progress, Challenges and Ways Forward

UNDP undertook a baseline assessment of status of UNGP implementation for the first 10 years (2011-2019) in Africa. It found that Sub-Saharan Africa is lagging behind, but momentum is picking up in the last few years with NAPs adopted in Kenya, Uganda (NAPs) and other measures taken by governments. There are opportunities for better implementation due to political will for NAPs across the continent and in the east Africa region. Other positive factors include the availability of more resources for CSOs to be involved in the process, the availability of Annual BHR Forums and sub-regional dialogue opportunities to exchange experiences and best practices. Not less important, strong NHRI networks at regional level to support such processes. The presentation also discussed the need to ensure coherence between NAPs and ACFTA

Session 4: Domestic Legal Framework on BHR

This session dealt with the need to discuss BHR in the Ethiopian context and which are the key areas of concern from the EHTC perspective: labor rights, GBV, occupational safety, forced displacement and villagization, right to clan and healthy environment, environmental degradation and pollution, expropriation and displacement, etc.

In terms of the legal framework for BHR in Ethiopia, the international instruments ratified by Ethiopia, Constitution, Bilateral Investment Treaties (BIT), Proclamations and regulations (environmental laws, Labour Law, investment laws, land law) were listed. The presentation further elaborated the many gaps in these frameworks such as absence of human rights in BITs, investment promotion authorities given power to review and override decisions of environmental protection agencies; too broad definition of public purpose, absence of judicial recourse for land expropriation decisions and low compensation in land laws; need to revise and bring into line tortious liability provisions promulgated over 5 decades ago.

The key gaps identified in terms of domestic legal framework in BHR include the absence of comprehensive policy/legal framework on BHR; lack of institutional coordination and the limited access to remedy: affordability, stringent locus standi requirements, rare rights-based claims.

Session 5: 4 Case studies of business impacts on human rights in Ethiopia

1. Evidence from the Floriculture Sector: Center for Human Rights AAU

This study performed by the AAU center for Human Rights focused on workers safety, water usage and waste management in the floriculture sector. Despite the many companies contacted, only 5 companies (all Dutch) agreed to take part in the study. The study also looked at relevant literature in the topic.

The major issues identified affecting human rights include the use of extremely toxic chemicals (class 1 &2); authorization of use of unregistered pesticides as an interim measure resulting in the use of obsolete/expired pesticides; unsafe disposal of solid and liquid waste leading to contamination of lakes; intensive use of water from nearby lakes endangering the sustainability of the lakes.

The lack of effective supervision and enforcement of environmental standards is one of the key gaps. While there are some improvements in self-regulations, major challenges persist. Moreover, there is a need to clarify roles and responsibilities between federal, regional and sub regional authorities

2. Baseline Assessment of Gender Mainstreaming in the Energy Sector: Ethiopian Women in Energy

The research piece implemented by EWIEN focused on on-grid energy suppliers and regulators in Addis Ababa, which constitute more than 90% of the energy system in Ethiopia: Ethiopia Electric Power EEP, Ethiopia energy Utility EEU, the Ministry of Water MoWE and Energy and the Petroleum and energy Authority, PEA. Gender gaps were identified in terms of proportion of women in the workplace, low rates of women in leadership positions; gender barriers in the workplace environment and culture; low promotion rates for women; and high rates of sexual harassment/assault. Measures were recommended to increase the recruitment of women in energy workplaces, increase retention and promotion of women in the energy sector

3. JTI Ethiopia: Human Rights Due Diligence, National Tobacco Enterprise, Ethiopia

JTIs presented their 5-steps approach to human rights due diligence, this is: embedding human rights; identifying and prioritizing issues, responding through action plans; measuring response and reporting on progress made. In Ethiopia, the human rights impact assessments performed identified the following issues: child labor; health and safety; working conditions; harassment and gender impact and grievance mechanisms. The presentation concluded with an outline of the specific measures to be taken to address each priority area.

4. Financial Accessibility of Private Health Service Providers in Ethiopia: EHRC Monitoring Preliminary Report: Amare Tesafaye (EHRC)

The scope of study implemented by EHRC included: financial accessibility only; private service providers based in Addis Ababa, Bahir Dar, Jimma and Hawassa cities. The findings of the study highlight major gaps in financial accessibility, including:

- Fees are too high: shortage of foreign currency hampering imports of medical supplies; monopoly of the importation by vested interests; extended supply chain with many middlemen; high rental fees
- Mandatory procurement procedure which requires purchasing supplies that they don't need along with supplies they need, resulting in transference of the cost to patients
- Unethical practices
- No legal ceiling on profit margins

6. DAY 2: KEY ISSUES AND WAY FORWARD FOR BUSINESS AND HUMAN RIGHTS IN ETHIOPIA

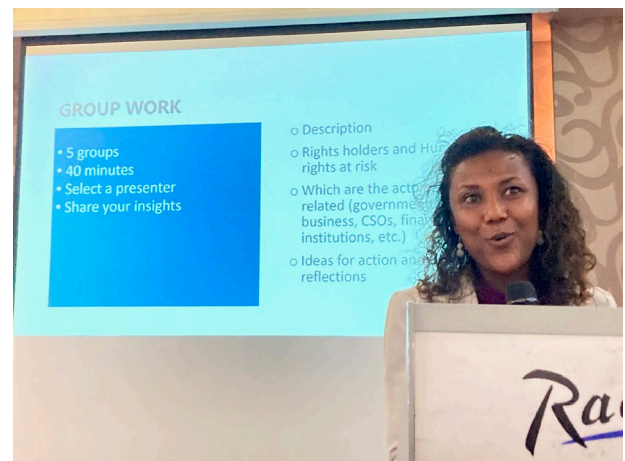
Session 1: Identification and prioritization of BHR issues in Ethiopia

After the recapitulation of Day 1, the facilitators require the participants to write and share: “Which are in your opinion the key issues of concern regarding Business and Human Rights in Ethiopia today?”

The more than 40 issues identified were then grouped in eight thematic areas. The five BHR thematic areas prioritised for further discussion were

- Labour conditions, including wages & health and safety of workers
- Environmental impacts and HR
- Access to remedy
- Land related issues (land grabbing, eviction, displacement, etc.)
- Gender inequality and gender specific impacts

Other issues identified included lack of comprehensive legal framework, protection of minorities interest, quality of private health services, access to water including impacts of privatization on access to water.



While Ministries and companies were represented, the number of participants from these two groups was limited, and therefore their views may not be proportionately reflected on the issues and priorities raised during the workshop.

Session 2: Recommendations on the way forward

The following recommendations were provided in plenary by the participants. The order does not indicate priority nor relevance and were grouped in thematic areas of action for the purpose of this summary.

Development of a National Action Plan

- Move forward on the development and adoption of a National Action Plan on BHR, NAP as it provides a narrative framework
- EHRC should facilitate the active participation of business in the development of the NAP, for example organizing a workshop on BHR for business.
- Organize another multistakeholder consultation on the development and implementation of NAPS at National and Regional levels.
- Conduct baseline assessment and build capacity of businesses on BHR, including on monitoring and reporting on violations of BHR standards
- Consider the existing HR due diligence work and research work from academia in the development of the baseline for the NAP

Review of the current legal framework

- Review the existing legal framework and mainstream human rights standards, including on Environmental Impact Assessment proclamation and regulations.
- EHRC to review and revise bilateral treaty agreements in terms of environment, human rights, labour standards, etc.

Increase advocacy and coordination efforts on BHR

- Highlight the benefits of HRBA to business in terms of sustainability- and require compulsory report on sustainability, including human rights
- Involve medium and small enterprises in the process of promoting BHR
Create a common platform on BHR for NGOs Consortium of Ethiopian Human Rights Organizations (CEHRO)
- Support to the strengthening of self-regulation within own companies?
- EHRC to facilitate the strengthening of synergies among government, business and CSOs
- Establish a task force and prioritise the work on remedy mechanisms around impacts of businesses

Increase awareness and evidence on BHR among government actors

- Higher level advocacy on BHR for relevant government officials. This was raised in relation to NAP development that if we need to promote the development of NAP, then we need to carry out advocacy with higher level government officials such as the Ministry of Justice and others.
- Apply a whole government approach, bring different government ministries together, as opposed to focus on specific sector.
- We need to strengthen evidence-based approach and gather more evidence of human rights issues and impacts on BHR
- Perform strategic environmental assessment (for a region and/or a sector) SEA and sector wide human rights impact assessments, SWIA.