

PEOPLE BEFORE PROFIT:

Why urgent action is needed to hold businesses accountable for respecting human rights

A Policy Brief



1. Economic growth and investment in Ethiopia and its impact on human rights

>> Background

In recent years, following the promotion of its free market regime, Ethiopia has been implementing various economic measures aimed at strengthening the private sector, boosting competition and increasing investment including by adopting investment proclamation No. 1180/2020 in April 2020.

Government has opened up various sectors of the economy previously reserved for unilateral state investment resulting in some Multi-National Enterprises investing in sectors such as petroleum refining, mining, real estate, large-scale commercial farming, manufacturing, and renewable energy.

These measures combined with increases in production costs in other parts of the world has led to a rise in the flow of foreign direct investment in recent years. For example, Ethiopia has recently emerged as a major destination for the apparel sector, with industrial parks created as special economic zones to drive manufacturing-related job creation.

>> Impact

Private sector investment has an indispensable place in economic growth and development by bringing capital and technology, generating much needed foreign currency, and creating employment opportunities.

Whilst prevailing low wages have made Ethiopia one of the preferred investment destinations for companies, this has come at a cost, most notably to workers. For example, since 2020, the International Trade Union Confederation (ITUC) has rated Ethiopia at category 4, indicating that workers' rights are systematically violated, a factor corroborated by several recent studies.

Although women make up nearly 80% of employees in the garment industry, most of them are employed on the factory floor, with little opportunity for growth and development. In addition, many experience harassment and abuse, unsafe workplaces, forced overtime as well as draconian wage deductions as punishment for minor disciplinary infractions. Discrimination against pregnant workers is also common.

In 2019 the New York University Stern Center for Business and Human Rights and the Worker Rights Consortium conducted research on the labour rights environment in Ethiopia's growing textile and apparel export sector. Highlighting the impact of the low wages in particular and its negative impact on the overall living conditions of workers, the report stated:

The government's eagerness to attract foreign investment led it to promote the lowest base wage in any garment-producing country—now set at the equivalent of \$26 a month. On that amount, workers, most of them young women from poor farming families, cannot afford decent housing, food, and transportation.

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A further study by the Workers' Rights Consortium revealed that workers in Ethiopia producing garments for fashion giant PVH (which owns Tommy Hilfiger and Calvin Klein), are regularly subjected to abuse and exploitation. Investigation into the working conditions of four textile factories, found that managers routinely subjected workers to verbal abuse calling them "stupid", "worthless" or "trash" and threatening to fire them.

In one of the factories, it was found that managers sexually exploited workers in exchange for promotions. In addition, in all the factories investigated, workers performed significant unpaid labour – either in the form of uncompensated overtime hours or off-the-clock work during breaks or before shifts.

These findings are upheld by research commissioned by ActionAid Ethiopia in 2022, in which employees at a major industrial park reported the prevalence of under-payment and abuse. One key informant noted that her salary of 1200 ETB (US\$22) wouldn't even cover basic needs, adding that she frequently found herself on the receiving end of verbal abuse and insults by the manager. A second key informant stated:

"The owner gives no time even for toilet. The time you spent in toilet is fixed or monitored. More than anything, verbal abuse is so immense. The company manager often says - I do not care about your degree unless you produce."

Another industrial park employee highlighted the case of a co-worker who lost her leg due to an accident with one of the machines, noting that although she was treated by the company she was not compensated for the loss of her leg.

Whilst Ethiopian law forbids child labour, evidence indicates that it occurs in several sectors including in the production of hand-woven textiles where children, mostly boys as young as seven years old and some of them victims of trafficking, are working under conditions of forced labour. Research by ActionAid has shown that trafficked children are often sold to recruiters, and the parents and children are deceived with false promises about wages and opportunities for education.

Corporate abuse extends to environmental abuses in the form of harmful emissions and toxic discharges into the air and waterways commonly perpetrated in sectors such as tanneries and the extractive sector.

Overall what these studies reveal is that if the rights of workers are not protected, and if businesses are not regulated and held to account, they will continue to routinely place profits over people by engaging in exploitative practices (including forms of modern slavery) and compelling employees (many of whom are women and children) to work in situations where they are routinely subject to violence, harassment, and abuse.

2. Towards a UN Binding Treaty on Business & Human Rights

The operations of businesses can have a profound impact on human rights, including those of employees but also consumers, and communities where they operate. Whilst some of these impacts may be positive, such as increasing access to employment, others, as highlighted in the examples above, as well as countless more across the world, may be negative and include underpaying workers, using forced labour or child labour, polluting the environment or forcibly evicting or re-locating communities.

This situation has created a pressing need to establish international norms regulating business operations in relation to human rights. After many years of debate, in 2011, the UN Human Rights Council unanimously endorsed the UN Guiding Principles on Business and Human Rights, that operationalize the United Nations 'Protect, Respect and Remedy' framework for business & human rights, and further define the key duties and responsibilities of States and business enterprises regarding business-related human rights abuses.

The Guiding Principles affirm that:

- under existing international human rights law, States have the duty to protect against human rights abuses by all actors in society, including businesses.
- States must prevent, investigate, punish and redress human rights abuses that take place in domestic business operations.
- States are to set clear expectations that companies domiciled in their territory/jurisdiction respect human rights in every country and context in which they operate.

The UN Guiding Principles, which currently enjoy quasi-universal recognition impose commitments on both States and businesses and put special emphasis on remedies for human rights abuses committed by corporations. However, although much progress has been achieved since 2011, human rights abuses by corporations persist. A legally binding international treaty could provide the necessary remedy for this.

In 2014, the Open-ended Intergovernmental Working Group on transnational corporations and other business enterprises with respect to human rights was established in response to Human Rights Council resolution 26/9. It has a mandate to elaborate an international legally binding instrument to regulate the activities of transnational corporations and other business enterprises.

According to the UN Office of the High Commissioner for Human Rights (OHCHR), the Binding Treaty and the Guiding Principles on Business & Human Rights can and should be mutually reinforcing and complementary. The Guiding Principles call for action at the international, regional, and national levels that can effectively protect against business related human rights abuses.

However, unlike the Guiding Principles, the Treaty would be legally binding in nature and, as such, engagement in the negotiation process represents an opportunity to increase businesses respect for human rights, paving the way for more principled, responsible and accountable business operations.

In addition, acknowledging that women the world over are most likely to be employed in the most precarious working environments with least labour protection, earn the lowest wages and shoulder the vast majority of the world's unpaid care work, engaging in the treaty negotiation process presents a critical opportunity for States to demonstrate political will to put gender justice above corporate interests.



*Women are most likely to be employed in the most precarious working environments with least labour protection, earn the lowest wages and shoulder the vast majority of the world's unpaid care work. By engaging in the UN Binding Treaty negotiation process, States have the **opportunity to put gender justice above corporate interests.***

Yeshumnes, Facilitator for Integrated Family Service Organization (IFSO), a local partner of ActionAid Ethiopia, leads a women's group meeting in Harbu woreda, South Wollo zone, Amhara region, Ethiopia. PHOTO: GENAYE ESHETU, ACTIONAID



3. Progress on business & human rights at the continental level

The 2022 Baseline Assessment on Business & Human Rights in Africa notes that Africa has lagged behind other regions in efforts to implement the UNGPs and advance the business and human rights agenda; as the continent's economic activity continues to increase with the recently launched African Continental Free Trade Area (AfCFTA), businesses have come under scrutiny for their impact on human rights.

Nevertheless, progress is being made. In March 2023, the African Commission on Human and People's Rights adopted a resolution on Business & Human Rights in Africa, which amongst other things highlights the adverse impacts of business activities on the rights of peoples and communities; the need for an effective regional framework to prevent and address such abuses and ensure access to effective remedy for those affected. It further calls on the African Union to appropriately reflect relevant soft-law instruments (such as the UN Guiding Principles) of the African Commission in updating and finalizing the African Union Policy Framework on Business and Human Rights, as well as the new context of the operationalization of the AfCFTA.

4. Progress on business & human rights in Ethiopia

Ethiopia is a State Party to several universal and regional human rights treaties which require states to take measures, including legislative measures, to prevent abuses committed by private actors, including corporations, and investigate, prosecute perpetrators, and redress victims whenever abuses occur.

The legal frameworks relevant to ensure corporate responsibility against human rights abuses are distributed across various national legal instruments, including the Constitution of the Federal Democratic Republic of Ethiopia, the Criminal Code, the Labour Proclamation, and the Civil Code.

Ethiopia is one of 170 States that have ratified the UN Guiding Principles and, in 2014 was one of eight African Union member states voting in favour of the establishment of the open-ended intergovernmental working group on transnational corporations and other business enterprises with respect to human rights to draft a legally binding instrument.

In 2017 Ethiopia was also one of 37 States that endorsed a Call to Action to end forced labour, modern slavery and human trafficking at a roundtable convened by then UK Prime Minister and launched at the 72nd meeting of the UN General Assembly. This included provisions to:

Eradicate forced labour, modern slavery, human trafficking, and the worst forms of child labour from our economies (both formal and informal) by developing regulatory or policy frameworks, as appropriate, and working with business to eliminate such practices from global supply chains; whilst addressing government procurement practices and building a culture of consumer awareness which supports such action and promotes decent work.

However, for Ethiopia to better implement the Protect, Respect and Remedy framework embedded in the UN Guiding Principles, and ensure decent work for all, several gaps need to be addressed:

- 1. Slow progress made on implementing the UN Guiding Principles on Business & Human Rights:** as part of their responsibility to disseminate and implement the UN Guiding Principles, countries are recommended by the UN to adopt National Action Plans on Business and Human Rights. Ethiopia is yet to adopt a National Action Plan outlining its policy and strategies to prevent and protect against human rights abuses by business enterprises.
- 2. Lack of mandatory due diligence legislation for businesses:** Ethiopia has not adopted legislation specifically designed to respond to business related human rights abuses, either in the form of mandatory due diligence laws or mandatory disclosure laws. Making it obligatory for companies to conduct due diligence to prevent and mitigate the adverse impacts of their activities will help improve businesses' compliance with human rights and labour law standards.
- 3. Low levels of attention to human rights in the business sector:** private businesses taking part in a study by ActionAid Ethiopia revealed a low awareness of the need for policies and measures (e.g., self-assessments, grievance mechanisms) required to identify and prevent forms of modern slavery, (including child labour) in their operations and supply chains.
- 4. Failure to establish a wage board:** The Ethiopian labour Proclamation No. 1156/2019 introduced new changes which aimed at preventing business related abuses, particularly exploitative labour practices. In addition to raising the statutory minimum age for young workers to 15, under article 55, it also mandated the Council of Ministers to establish, by regulation, a Wage Board with the power to determine and periodically review the minimum wage. However, this has not yet been done.
- 5. Lack of coordination across the various Government bodies responsible for preventing exploitative labour:** Proclamation No. 909/2015 encompasses acts such as labour exploitation, forced labour or servitude and slavery-like practices. In Articles 39-43 it also comprehensively defines the responsibilities of different stakeholders and the cooperation required to exist among them. However, the lack of synergy between stakeholders leaves implementation of existing legislations at stake.

5. Conclusion

As the role and size of the private sector in Ethiopia continues to grow, human rights abuses resulting from business activities are on the increase, including in the garment and textile industry. Given that the overwhelming majority of employees in this sector are women, this renders them particularly vulnerable to various forms of abuse and exploitation including low wages, poor working conditions, sexual harassment and abuse. Whilst such abuses are prevalent within the garment and textile sector, other sectors are also responsible for abuses of environmental and human rights (including the rights of women and children).

6. Recommendations

The research findings summarised in this brief are evidence that it is critical for the Government of Ethiopia to urgently scale up action related to business and human rights. Central to this is continuing to actively participate in the negotiations for a UN binding treaty on business and human rights, to hold corporations accountable for their impact on human rights and prioritise people over profits. In addition, we recommend that the Government work closely with all relevant stakeholders, including Civil Society and the business sector to:

1. **Develop a National Action Plan on Business & Human Rights:** take urgent steps towards the development and adoption of a gender-sensitive National Action Plan, outlining its policy and strategies to prevent and protect against human rights abuses by business enterprises in conformity with the UN Guiding Principles on Business and Human Rights.
2. **Introduce mandatory due diligence legislation for businesses:** adopt laws specifically designed to respond to business related human rights abuses, either in the form of mandatory due diligence laws and/or mandatory disclosure laws.
3. **Provide technical support and awareness-raising for businesses:** raise awareness within the business sector on their responsibilities to operate in conformity with relevant laws and policies aimed at protecting human rights, preventing any forms of abuse, exploitation, and harassment, and promoting decent work. This can include the development of self-assessment frameworks and redress mechanisms.
4. **Establishing a wage board:** in line with Ethiopian labour Proclamation No. 1156/2019, establish a wage board with the power to determine and periodically review the minimum wage.
5. **Improve coordination:** take steps to improve coordination across relevant bodies with responsibilities to combat exploitative practices including forced and child labour, human trafficking and other exploitative practices.

Acknowledgements

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Cover photo: Yeshumnesh, Facilitator for Integrated Family Service Organization (IFSO), a local partner of ActionAid Ethiopia, leads a women's group meeting in Harbu woreda, South Wollo zone, Amhara region, Ethiopia. PHOTO: GENAYE ESHETU, ACTIONAID.

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ActionAid is a global movement of people working together to achieve greater human rights for all and defeat poverty. We believe people in poverty have the power within them to create change for themselves, their families and communities. ActionAid is a catalyst for that change.

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