



# WORKING PAPER LIMITS OF TRANSNATIONAL CORPORATE COMPLIANCE WITH THE GUIDING PRINCIPLES ON BUSINESS AND HUMAN RIGHTS IN **NORTH AFRICA**



## Introduction

Opinions vary on the extent to which transnational corporations comply with Guiding Principles on Business and Human Rights, and consequently, on the degree to which these companies promote respect for human rights in the countries where they operate and contribute to economic development in host countries. There is no doubt that transnational corporations possess the resources, administrative capabilities, and technical expertise that qualify them as effective agents for developing the economies of emerging nations. Some believe that the presence of transnational corporations positively impacts economic development by providing capital, introducing foreign technology, and offering expertise and skills. These companies can exploit investment opportunities, manage and organize projects, and create job opportunities for thousands. Conversely, others argue that these corporations do not enhance national economies. They often fail to respect the human rights of their workers and may harm local communities through their activities. North African countries are not isolated from the impacts of these corporations; the practices of transnational companies in the region highlight a disparity in compliance with Guiding Principles on Business and Human Rights, which were unanimously approved by the Human Rights Council in its resolution 17/4 on June 16, 2011.<sup>1</sup> It is significant that most of these companies possess considerable capabilities that could enhance compliance with human rights standards, particularly concerning workers' rights and environmental preservation. However, weak compliance of transnational companies in North Africa with these Guiding Principles primarily stems from the economic vulnerabilities of the region. Consequently, these countries often prioritize the survival of transnational corporations over adherence to international human rights standards. As transnational companies expand and capture significant market shares in North African countries, there is an urgent need to assess their commitment to human rights standards and Guiding Principles established thirteen years ago.<sup>2</sup>

In light of Maat's commitment to promoting Guiding Principles on Business and Human Rights, particularly in North Africa, this paper aims to clarify the extent of compliance by transnational corporations with these principles in the region. For this paper, North Africa includes Egypt, Tunisia, Algeria, Morocco, Sudan, and Libya.

<sup>1</sup> مبادئ توجيهية بشأن الأعمال التجارية وحقوق الإنسان، A/HRC/RES/17/4، <https://tinyurl.com/mvfpbwsa>  
<sup>2</sup> مساءلة الشركات عن انتهاكات حقوق الإنسان في منطقة الشرق الأوسط وشمال أفريقيا، معهد التحرير لدراسات الشرق الأوسط،

<https://tinyurl.com/2ysk26f3>

Transnational corporations are defined as companies headquartered in one country but operating in multiple countries through projects or subsidiaries. They are also referred to as multinational corporations or international companies.<sup>3</sup> The concept of corporate social responsibility (CSR) encompasses the framework in which companies voluntarily integrate social and environmental considerations into their operations and interactions with stakeholders. CSR covers three main dimensions: economic, social, and environmental.<sup>4</sup>

In this context, and prior to the 13th session of United Nations Forum on Business and Human Rights, Maat for Peace, Development and Human Rights presents a working paper entitled “**Limits of Transnational Corporations Compliance with Guiding Principles on Business and Human Rights in North Africa.**” The Paper focuses on assessing the activities of transnational corporations in North Africa. The second part addresses the role of these corporations in promoting the concept of social responsibility, while the third part envisions how they can enhance compliance with Guiding Principles. Finally, the Paper provides recommendations to improve transnational corporations’ adherence to Guiding Principles on Business and Human Rights.

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<sup>3</sup> What Is a Multinational Corporation? Investopedia, 7 June, 2024,  
<https://www.investopedia.com/terms/m/multinationalcorporation.asp>

<sup>4</sup> زابري بلقاسم، أهمية المسؤولية الاجتماعية في تهذيب الممارسات الادارية للشركات متعددة الجنسيات في ظل تحديات العولمة، لبنان، 2012

## Evaluation of Activities of Transnational Corporations in North Africa

Activities of transnational corporations in North Africa are diverse, primarily concentrated in sectors such as mining, natural resource extraction (including gas and oil), textile manufacturing, electronics, and retail. Particularly in the extractive industries, these activities are often viewed as vital for economic growth, job creation, technology transfer, and increasing production capacities. They are seen as a potential quick solution to many economic challenges faced by these countries, especially following the transitional periods and crises that have occurred since 2011. However, the operations of these corporations, especially those involved in mining, have been associated with practices that violate Guiding Principles. These include the increasing eviction of local communities from their lands, poor working conditions, the absence of occupational health and safety measures, and environmental degradation resulting from corporate activities. Such practices have become prevalent in many rural areas rich in natural resources. Despite promises to improve local infrastructure and implement development projects, these initiatives often fail to mitigate the environmental damage and community harm caused, leading to negative impacts on local economies.<sup>5</sup> Since 2020, the activities of the German-headquartered BMW have led to significant violations of workers' rights and environmental standards in Morocco, because of company's reliance on cobalt extracted from the Bouzar cobalt mine in the Ouarzazate region to manufacture electric car batteries and other industries.<sup>6</sup> This has resulted in widespread worker protests. Mine workers have repeatedly struck due to wage deprivation, poor working conditions, lack of adherence to labor laws, serious accidents, and chronic illnesses stemming from deficiencies in occupational health and safety. Recently, between June and October 2024, 254 workers from the Bouzar cobalt mine engaged in a continuous strike in protest against unpaid wages.<sup>7</sup>

Transnational corporations in North Africa also contribute to social and political instability, fostering internal crises and fueling conflicts. In Algeria, multinational corporations have committed various gross violations of workers' rights, often prompting employees to resort to strikes and protests to convey their demands. For example, over 570 workers at branches of British Petroleum, the world's third-largest

<sup>5</sup> TRANSNATIONAL CORPORATIONS AND HUMAN RIGHTS IN AFRICA, center for applied legal studies

<sup>6</sup> Marokko: Arbeiter bei BMW-Zulieferer bestreiken Kobaltmine wegen ausstehender Löhne und schlechter Arbeitsbedingungen, business-human rights, 13 August 2024, <https://tinyurl.com/da468yxx>

<sup>7</sup> عمال منجم "بوزار" لإنتاج الكوبالت يضربون احتجاجا على حرمانهم من أجورهم، لكم، 30 أكتوبر 2024، <https://lakome2.com/societe/360332/>

private oil company, protested, leading to heightened tension and unrest in the country.<sup>8</sup> Some transnational corporations have also been involved in selling technical and surveillance equipment to governments in North Africa. In July 2021, a French court accused the French company AMESYS and four of its executives of complicity in torture practices in Libya, confirming that between 2007 and 2011, the company provided surveillance technology to the Libyan government at that time.<sup>9</sup> Maat notes the limited initiatives undertaken by transnational corporations in the region covered by this report to address harm, particularly among companies operating in the mining and industrial sectors in Libya and Algeria. There is a weakness in stimulating cooperative initiatives, which contradicts the thirtieth principle of Guiding Principles. This principle directs those initiatives in the industrial sector, multi-stakeholder initiatives, and other cooperative efforts based on respect for human rights standards should ensure the availability of effective grievance mechanisms.

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<sup>8</sup> دور الشركات متعددة الجنسيات في تغذية الانقسامات الأفريقية، المركز العربي للبحوث والدراسات، <https://acrs.albawabhnews.com/40754>

<sup>9</sup> Surveillance and torture in Libya: The Paris Court of Appeal confirms the indictment of Amesys and its executives, and cancels that of two employees, <https://www.fidh.org/en/impacts/Surveillance-torture-Libya-Paris-Court-Appeal-indictment-AMESYS>

## Second: Role of Transnational Corporations in Promoting Concept of Social Responsibility

Corporate social responsibility (CSR) requires respect for human rights in line with the United Nations Guiding Principles.<sup>10</sup> CSR initiatives can help promote workers' rights, combat child labor, and reduce environmental pollution.<sup>11</sup> Many transnational companies in North Africa aim to demonstrate positive engagement with the concept of social responsibility, despite the potential economic and financial costs associated with such efforts. These companies recognize the importance of CSR in achieving their primary goals of maximizing profits and gains. Consequently, they view social responsibility as a strategy necessary for survival and continuity. It helps them gain the satisfaction of the host country and its society while improving their public image, ultimately fostering positive perceptions toward the company and its products.<sup>12</sup>

In Morocco, for example, transnational corporations adopt one of two strategies regarding social responsibility engagement. The first, known as the "nested strategy," integrates social programs into the company's business model. The second, referred to as the "outsourcing strategy," involves multinational corporations delegating their social activities to an independent organization that is not part of the parent company. The social activities of these transnational corporations primarily focus on developing human capital, fostering a spirit of initiative, encouraging community participation, and promoting good environmental management of resources.<sup>13</sup> However, not all transnational corporations in Morocco are committed to enhancing social responsibility.

The level of compliance with Guiding Principles among transnational corporations in Morocco is acceptable, but it has not reached a high standard. To raise awareness of these principles, the National Council for Human Rights in Morocco has worked to educate companies about the United Nations Guiding Principles on Business and Human Rights and the importance of developing a national action plan for business and human rights.<sup>14</sup> In Tunisia, interest in social responsibility has increased, as some international

<sup>10</sup> The UN Guiding Principles on Business and Human Rights and conflict affected areas: state obligations and business responsibilities, <https://www.onlinelibrary.ihl.org/wp-content/uploads/2021/06/2012-UN-Guiding-Principles-Business-HR-conflict-affected-areas.pdf>

<sup>11</sup> Corporate social responsibility in Egypt: Towards creating shared value, <https://fount.aucegypt.edu/cgi/viewcontent.cgi?article=1451&context=etds>

<sup>12</sup> واقع تبنّي المسؤولية الاجتماعية للشركات متعددة الجنسيات، المنصة الجزائرية للصحافة العلمية، مايو 2020، <https://www.asjp.cerist.dz/en/article/115437>

<sup>13</sup> The CSR in an emerging country - Case of MNCs in Morocco, AIMS, <https://tinyurl.com/5ctb38am>

<sup>14</sup> National Action Plans on Business and Human Rights, Morocco, <https://globalnaps.org/country/morocco/>

companies have funded training initiatives to promote CSR.<sup>15</sup> In May 2024, Tunisia hosted the third edition of the International Forum on Corporate Social Responsibility,<sup>16</sup> sponsored by Orange Tunisia.<sup>17</sup>

Libyan government has not taken measures to define or encourage responsible business behavior, such as promoting the OECD Guidelines or the UN Guiding Principles on Business and Human Rights, nor has it established a national focal point to promote such behavior.<sup>18</sup> In Egypt, the American Chamber of Commerce has an effective committee focused on corporate social responsibility (CSR). Many American pharmaceutical companies engage in CSR activities, but they typically limit their efforts to specific issues, such as health.<sup>19</sup> Despite the importance of corporate social responsibility for transnational corporations in the North African region, and the efforts of some countries to engage positively with this concept, it has not yet been fully realized within either the societal or institutional frameworks in most North African countries. For instance, there is currently no law in Sudan governing corporate social responsibility for transnational corporations. Instead, some CSR issues are addressed under various laws and regulations, including environmental protection laws, consumer protection laws, and anti-corruption laws.<sup>20</sup> The commitment of transnational corporations to Guiding Principles is uneven across North Africa; while companies in Morocco, Egypt, and Tunisia show a strong adherence to these principles, there is less compliance in Libya and Sudan.

<sup>15</sup> Tunisia: Training on corporate social responsibility and ISO 26000 event organized by CLUSTER4GREEN

<https://www.enicbcmec.eu/tunisia-training-corporate-social-responsibility-and-iso-26000-event-organized-cluster4green>

<sup>16</sup> Responsibility Societal des Entreprises (RSE) : Un catalyzer de performance economies et de progress social et environmental, <https://lapresse.tn/2024/05/25/responsabilite-societale-des-entreprises-rse-un-catalyseur-de-performance-economique-et-de-progres-social-et-environnemental/>

<sup>17</sup> أورانج تونس تطلق الحوار الثالث حول المسؤولية الاجتماعية للشركات (RSE)، على الرابط التالي: <https://tinyurl.com/yc6np6bt>

<sup>18</sup> 2022 Investment Climate Statements: Libya, <https://www.state.gov/reports/2022-investment-climate-statements/libya/>

<sup>19</sup> 2024 Investment Climate Statements: Egypt, <https://www.state.gov/reports/2024-investment-climate-statements/egypt/>

<sup>20</sup> المسؤولية الاجتماعية للشركات بإشارة خاصة إلى السودان، رسالة دكتوراه، السودان، 2012

## Proposed Vision for Roles of Transnational Corporations in North African Region

**The commitment of transnational corporations to the UN Guiding Principles varies from country to country in North Africa. While accurate statistics on the number of these companies across the region are lacking, several factors could strengthen their roles:**

1. **Strengthening Legislation:** Enhancing legislation to ensure that transnational corporations respect human rights in their business operations is essential. This aligns with the second pillar of Guiding Principles, which states that business enterprises must respect human rights by avoiding violations and addressing any harmful effects on these rights.<sup>21</sup>
2. **Participating in Negotiations:** Transnational corporations should engage in negotiations to develop a binding instrument on business and human rights that complements the UN Guiding Principles.
3. **Examining Supply Chains:** Companies should carefully examine their supply chains and establish partnerships with local NGOs to eliminate exploitative labor practices, particularly the worst forms of child labor in hazardous occupations.
4. **Opening Communication Channels:** It is crucial to open channels of communication with those affected by corporate activities by consulting stakeholders and prioritizing dialogue to address grievances and explore solutions.

Ultimately, the future roles of transnational corporations in the North African region will depend on various factors, particularly the internal conditions specific to each country. For example, in Sudan, the ongoing civil war between the Sudanese army and the Rapid Support Forces continues to hinder the implementation of plans that would clarify the roles of transnational corporations in the region. With the escalation of conflict and the spread of serious human rights and environmental violations, developing a future vision for the roles of transnational corporations in North Africa appears increasingly complex. In Libya, the existence of two separate governments in the east and west hinders the establishment of unified rules for engaging with transnational corporations and defining their roles. Despite these challenges, it is possible to develop a general vision that transcends the internal factors specific to each country. This vision primarily focuses on

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<sup>21</sup> Guiding Principles on Business and Human Rights,

[https://www.ohchr.org/sites/default/files/Documents/Publications/GuidingPrinciplesBusinessHR\\_EN.pdf](https://www.ohchr.org/sites/default/files/Documents/Publications/GuidingPrinciplesBusinessHR_EN.pdf)



the nature of future relations between transnational corporations and the governments of North African countries, represented by the following scenarios:

- Continued Operation Without Real Controls: If transnational corporations operate without effective regulation, the depletion of natural resources and the violation of workers' and environmental rights will persist.
- National Companies Competing with Transnational Corporations: North African countries may take significant steps to reduce the influence of transnational companies by supporting the growth of national companies. This transition will require considerable efforts to improve the efficiency and quality of services provided by national companies to effectively compete with those offered by transnational corporations.
- Complete Reduction of Transnational Companies: In light of severe political and economic changes, particularly in Sudan and Libya, new governments may choose to eliminate the presence of transnational companies entirely. In such cases, especially for companies accused of exploiting national resources, these corporations could lose their roles completely, allowing national institutions to take their place.<sup>22</sup>

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<sup>22</sup> دور الشركات متعددة الجنسيات في تغذية الانقسامات الافريقية، المركز العربي للبحوث والدراسات، <https://tinyurl.com/5c8r5cbd>

## Recommendations

Guiding Principles on Business and Human Rights, adopted by the Human Rights Council in 2011, face significant challenges in terms of adherence by transnational corporations in North Africa. Compliance is hindered by various factors, including inadequate legal frameworks and policies, as well as the severe political and economic changes many countries in the region have experienced. Moreover, non-binding nature of these Guiding Principles allows transnational corporations to disregard them, as violations do not incur specific obligations. In light of these issues, Maat for Peace, Development, and Human Rights presents the following recommendations:

- **Enact National Legislation:** Develop national laws that enhance corporate social accountability and promote the widespread dissemination of Guiding Principles on Business and Human Rights.
- **Motivate Transnational Corporations:** Encourage transnational corporations to strengthen their commitment to Guiding Principles.
- **Incorporate Principles in Agreements:** Include references to Guiding Principles in trade and investment agreements made with transnational corporations.
- **Promote Internal Compliance:** Urge transnational corporations to integrate and adhere to Guiding Principles in their internal regulations to promote decent work.