

UNIVERSITY OF GHANA
COLLEGE OF HUMANITIES

**THE BUSINESS AND HUMAN RIGHTS FRAMEWORK AND THE OIL AND GAS
SECTOR IN GHANA: THE UTILITY OF A LEGAL INSTRUMENT FOR
ENSURING COMPLIANCE**



SCHOOL OF LAW

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**UNIVERSITY OF GHANA
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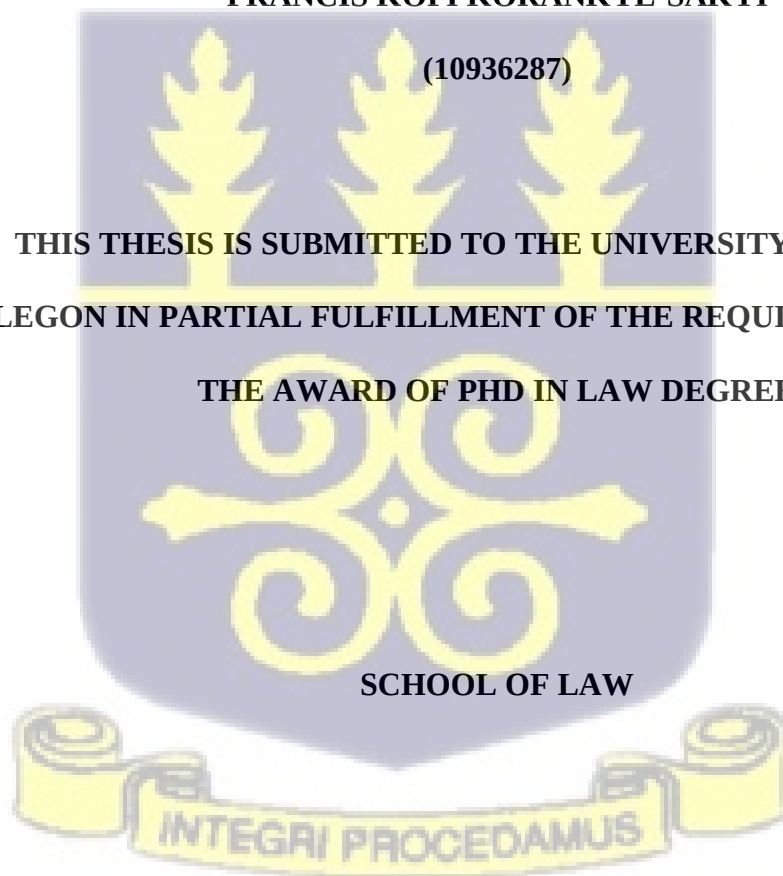
**THE BUSINESS AND HUMAN RIGHTS FRAMEWORK AND
THE OIL AND GAS SECTOR IN GHANA: THE UTILITY OF A
LEGAL INSTRUMENT FOR ENSURING COMPLIANCE**

BY

FRANCIS KOFI KORANKYE-SAKYI

(10936287)

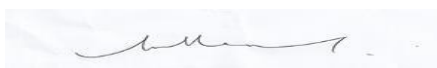
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LEGON IN PARTIAL FULFILLMENT OF THE REQUIREMENT FOR
THE AWARD OF PHD IN LAW DEGREE**



JUNE 2025

DECLARATION

I, **Francis Kofi Korankye-Sakyi**, hereby declare that this thesis is the result of my original research and that no part of it has been presented for another degree in this University or elsewhere.

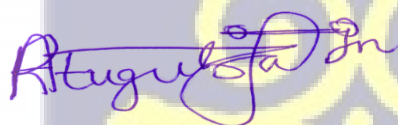


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Date: 11th December, 2025

SUPERVISORS' DECLARATION

I hereby declare that this thesis was supervised by Professor Raymond Akongburo Atuguba and Dr Olufemi Oluyaju in accordance with the established procedures of the University of Ghana.



.....
Professor Raymond Akongburo Atuguba
(Principal Supervisor)

Date: 11th December, 2025



.....
Dr Olufemi Oluyaju
(Co-Supervisor)

Date: 11th December 2025

DEDICATION

I dedicate this work to everyone who walked beside me, even when the path was unclear. I dedicate this work to my father, Mr Samuel Kwesi Korankye; my twin sister, Francisca Afia Korankye-Sakyiwa; my wife, Mrs Esther Korankye-Sakyi; and my sons, Clifford Sakyiba-Agyinsam and Chasy Sakyiba-Arhin.



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"It always seems impossible until it's done"

(Nelson Mandela, 1918-2013).

I take no singular glory for this success, as many inspired, advised, encouraged, mentored, directed and guided me on this path. First, I thank the Almighty God of my life for the guidance, strength, wisdom and protection I needed to undertake this PhD successfully. I thank my principal supervisor, Professor Raymond Akongburo Atuguba, with my deepest gratitude for his invaluable support, mentorship and insightful guidance throughout every step of this academic journey. I extend my gratitude to my external supervisor, Dr Olufemi Oluyeju (University of Venda, South Africa), who diligently provided a comprehensive evaluation of my work at every phase. I am grateful to my former Dean and mentor at the Faculty of Law, University of Cape Coast, Professor Peter A. Atupare, who inspired me to undertake this programme to fulfil my desire as a legal academic. To Professor John G. Gatsi, Professor George T. K. Oduro, Professor Phillip Ebo Bondzi-Simpson, and Dr Lamin Daffeh, I am grateful for your encouragement and invaluable pieces of advice. I am grateful to my dear friends, Professor Lawrence Attipoe, Apostle Ebenezer Godbless Adjei, Dr Elijah Yin, Mr Felix Awuah, Esq., Mr Gabriel Nii Kommey Adams, Miss Josephine Jehu-Appiah, Miss Maame Ama Dadzie and Miss Joyce Anastasia Sam, whose unwavering support sustained me through the highs and lows of this academic journey. I appreciate my UGSoL PhD year mates of 2022 (Justice, Eugene, Richard, Baba and Clarke) for their friendship and encouragement. Last, but not least, I thank my family (Adwoa, Faith and Judah) for their love, patience, and support throughout this academic journey.

ABSTRACT

This thesis investigates the utility of a legal instrument in ensuring compliance with the United Nations Guiding Principles (UNGPs) on Business and Human Rights (BHR) in Ghana's oil and gas (O+G) sector, emphasising its ability to reduce human rights breaches and promote corporate accountability. The 2011 UNGPs established standards requiring states and multinational companies (MNCs) to protect, respect, and remedy human rights violations per the principles of responsible corporate conduct. The UNGPs seek to promote responsible business conduct through state-based judicial mechanisms and state-based non-judicial grievance mechanisms; however, they lack enforceability and have proven ineffective in ensuring corporate accountability and compliance with human rights obligations in the O+G sector in Ghana. A review of existing literature on human rights concerns in the O+G industry reveals that the impacts of MNCs' activities on human rights are not adequately addressed in Ghana. This research investigates whether a domestic legal instrument can safeguard citizens' rights against violations while ensuring compliance with the UNGPs in Ghana's O+G sector. This study employed a qualitative research approach using in-depth interviews to explore the effectiveness of domestic legal instruments in safeguarding citizens' rights and ensuring compliance with UNGPs. Grounded in the theories of human rights due diligence and corporate social responsibility, the thesis argued that to ensure that MNCs comply with the UNGPs, are more responsible as businesses, and stop human rights violations in the O+G industry in Ghana, there needs to be a strong legal framework with clear, enforceable, and binding obligations on them. This thesis analysed the shortcomings in Ghana's regulatory frameworks

and the viability of a legally binding instrument, thus enhancing the discourse on BHR. The results of the study indicated that voluntary compliance standards in the O+G sector are very weak. They also showed how important it is to have strong laws that protect human rights within the O+G sector in Ghana. It provided practical insights to enhance the protection of vulnerable communities and promote sustainable corporate practices within the O+G sector in Ghana.

Keywords: BHR, Corporate Accountability, Domestic Legal Instrument, Ghana, Human Rights Due Diligence, Oil and Gas, UNGPs, Voluntary Compliance

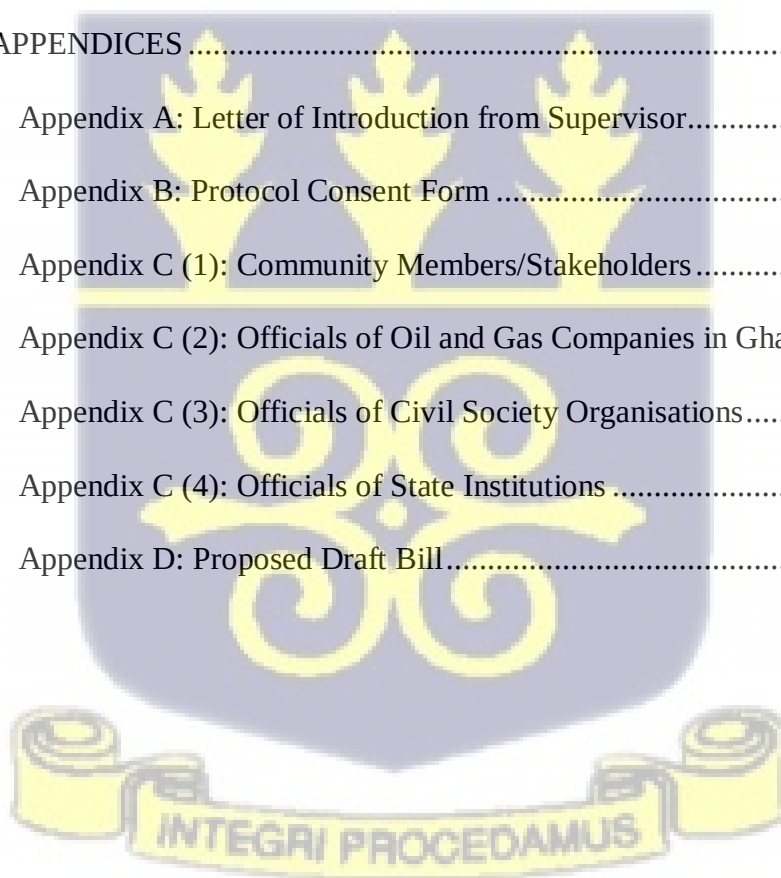


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LIST OF ABBREVIATIONS

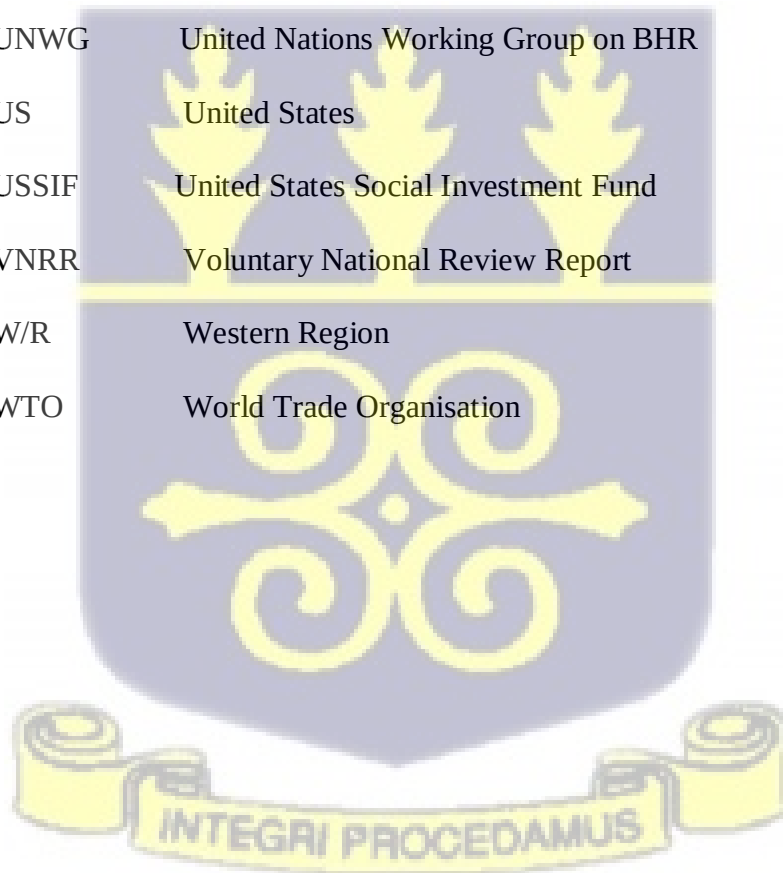
ABFA	Annual Budget Funding Amount
ARI	Access to Remedy Institute
BHP	Broken Hill Proprietary Company Ltd
BHR	Business and Human Rights
BoG	Bank of Ghana
CEPS	Customs, Excise, and Preventive Service
CERDS	Charter of Economic Rights and Duties of States
CHRAJ	Commission on Human Rights and Administrative Justice
CIL	Customary International Law
CO ₂	Carbon Dioxide
COPEC	Chamber of Petroleum Consumers
CSOs	Civil Society Organisations
CSR	Corporate Social Responsibility
DIHR	Danish Institute for Human Rights
EC	European Commission
ECNL	European Centre for Not-for-Profit Law
EIAs	Environmental Impact Assessments
EITI	Extractive Industry Transparency Initiative
EPA	Environmental Protection Authority (Agency)
EPC	Environmental Protection Council
ESIFS	European Sustainable Investment Funds Study
EU	European Union
FDIs	Foreign Direct Investments
FPIC	Free, Prior, and Informed Consent

GDP	Gross Domestic Product
GHF	Ghana Heritage Fund
GIMPA	Ghana Institute of Management and Public Administration
GLSS	Ghana Living Standard Survey
GMA	Ghana Maritime Authority
GNGC	Ghana National Gas Company
GNPC	Ghana National Petroleum Corporation
GoG	Government of Ghana
GPDMF	Ghana Petroleum Development Master Plan
GPFs	Ghana Petroleum Funds
GRI	Global Reporting Initiative
GSF	Ghana Stabilisation Fund
HRDD	Human Rights and Due Diligence
HRW	Human Rights Watch
IAC	Investment Advisory Committee
ICESCR	International Covenant on Economic, Social, and Cultural Rights
ICJ	International Court of Justice
ICOPRC	International Convention on Oil Pollution Preparedness, Response and Cooperation
IEA	International Energy Agency
IES	Institute for Energy Security
IFC	International Finance Corporation
ILO	International Labour Organisation
IMO	International Maritime Organisation

IOC	International Oil Companies
IPC	International Petroleum Cartel
ISO	International Organisation for Standardisation
ISODEC	Integrated Social Development Centre
JHS	Junior High School
LCPs	Lease Petroleum Contracts
M.Phil	Master of Philosophy
MARPOL	International Convention for the Prevention of Pollution from Ships
MDGs	Millennium Development Goals
MNCs	Multinational Companies
MoE	Ministry of Energy
MoEST	Ministry of Environment, Science and Technology
MoFEP	Ministry of Finance and Economic Planning
NAP	National Action Plan
NBABHR	National Baseline Assessment of Business and Human Rights
NGOs	Non-Governmental Organisations
NHRIs	National Human Rights Institutions
NIEO	New International Economic Order
NOC	National Oil Company
NOSCP	National Oil Spill Contingency Plan
NOSSP	National Oil Spill Strategic Plan
NPA	National Petroleum Authority
NRCD	National Redemption Council Decree
NTO	National Treatment Obligation

O+G	Oil and Gas
OECD	Organisation for Economic Co-operation and Development
OHCHR	Office of the High Commissioner for Human Rights
OILPOL	International Convention for the Prevention of Pollution of the Sea by Oil
OPA	Oil Pollution Act
OPEC	Oil Producing and Exporting Countries
OSRL	Oil Spill Response Limited
PC	Petroleum Commission
PHC	Population and Housing Census
PhD	Doctor of Philosophy
PHF	Petroleum Holding Fund
PIAC	Public Interest and Accountability Committee
PNDC	Provisional National Defence Council
PPTA	Petroleum Profit Tax Act
PRMA	Petroleum Revenue Management Act
PSA	Production Sharing Agreement
PURC	Public Utilities Regulatory Commission
SDGs	Sustainable Development Goals
SFP	Société Française de Petrole
SHS	Senior High School
SIF	Sustainable Investment Funds
SRI	Socially Responsible Investing
TNCs	Transnational Corporations
UDHR	Universal Declaration of Human Rights

UK	United Kingdom
UN	United Nations
UNCHE	United Nations Conference on the Human Environment
UNCLOS	United Nations Convention on the Law of the Sea
UNDRIP	United Nations Declaration on the Rights of Indigenous Peoples
UNDRTD	United Nations Declaration on the Right to Development
UNGPs	United Nations Guiding Principles
UNHRC	United Nations Human Rights Council
UNHROHC	United Nations Human Rights Office of the High Commissioner
UNIDO	United Nations Industrial Development Organisation
UNWG	United Nations Working Group on BHR
US	United States
USSIF	United States Social Investment Fund
VNRR	Voluntary National Review Report
W/R	Western Region
WTO	World Trade Organisation



CHAPTER ONE

OVERVIEW OF THE STUDY

1.1 Background to the Study

This thesis investigates the utility of a legal instrument to ensure compliance with the United Nations Guiding Principles (UNGPs/Guiding Principles) on Business and Human Rights (BHR) in Ghana's oil and gas (O+G) sector, examining its potential to address human rights violations and promote corporate accountability. On 16 June 2011, the UN Human Rights Council (UNHRC) endorsed the Guiding Principles in its Resolution 17/4. Before the UNGPs came into force as a global compact and a broad model for ensuring compliance by businesses, diplomats, and experts such as Mike Posner and Kofi Annan had collaborated with several human rights and environmental groups, as well as Multinational Companies (MNCs) using the UN platform to discuss environment, labour, human rights, and corruption as global concerns in 2000. The UNGPs rather legitimised the talks that had previously taken place at the UN (Morrison, 2025). According to John Ruggie, the introduction of the UNGPs "...was the end of the beginning." This meant that the Guiding Principles were not an end in themselves for resolving every human rights violation associated with MNCs. Ruggie's acknowledgement highlights the inherent weaknesses of the UNGPs. The Guiding Principles primarily targeted human rights issues involving MNCs and other business enterprises.

The 31 principles of the BHR framework are meant to help stop and adequately compensate victims of businesses that break human rights laws, regardless of what kind of business they are. The document lays out a global standard of conduct that businesses and states must follow to meet the needs of BHR

(United Nations Human Rights Office of the High Commissioner [UNHROHC], 2012, p. 1). The compact opines that a country must not interpret the UNGPs in a way that creates new international law obligations or weakens any legal duties it already has or is bound to under international law regarding human rights (UNHROHC, *ibid*). This exception inherently makes it harder to enforce and follow the framework. Therefore, states must implement specific measures to establish an effective system ensuring that businesses that violate human rights comply with remediation rules. This research's thesis is that an adequate domestic legal instrument can ensure compliance with the UNGPs in the O+G sector by MNCs in Ghana. The hypothesis is that how human rights obligations under the UNGPs are currently enforced does not fully consider the effects of MNCs' activities on Ghana's O+G industry. Furthermore, this study was conducted because there is a notable dearth of studies on BHR involving MNCs in Ghana's O+G industry.

In this chapter, the thesis explored the problem statement; outlined the aim and objectives of the project; identified the research questions; discussed the scope of the research and its limitations; defined key terms as intended to be interpreted in the context of this research; and presented the outline of the organisation of the study.

According to David Robertson (2004, p. 109) in "A Dictionary of Human Rights," the primacy of human dignity in modern human rights theory cannot be underestimated. Robertson (*ibid*. viii) argues that both legal and political issues with human rights characterised the aftermath of World War II in national and international politics. This is also because many international political

structures, such as the UN and other sovereign nations like Germany, consider human rights very seriously, even in their constitution-making processes. In the past two decades, the human rights responsibilities of businesses have been extensively examined in academic research (Idemudia et al., 2022; Abe, 2022 (a); Deva & Bilchitz, 2013; Clapham, 2006; Kinley & Tadaki, 2006; Ratner, 2001; Donaldson, 1989). Recent research has made the case for bringing international legal frameworks into national domestic legal systems to ensure that people responsible for human rights do what they should do under international law. Such initiatives are likely to improve the protocols that protect human dignity (Idemudia et al., *ibid.*; Andrews & Siakwah, 2020; Sun et al., 2020; Ackah & Salifu, 2019).

All international human rights instruments, including the Universal Declaration of Human Rights (UDHR), the International Covenant on Economic, Social, and Cultural Rights (ICESCR, 1966), the International Covenant on Civil and Political Rights (ICCPR, 1966), the Charter of Economic Rights and Duties of States (CERDS), the African Charter on Human and Peoples Rights (the African Charter), and the UN Declaration on the Right to Development (UNDRTD) assert that people's rights must not be violated. Chapter 5 of Ghana's Constitution (1992) (the Constitution) backs up this assertion. The common objectives of all these legal frameworks are to protect human dignity and rights, to promote equality and equity, and to ensure the rule of law and justice (Pascal, 2021, p. 35; UN, *ibid.*; Ratner, *ibid.*). The UNGPs (*ibid.*, p. 10) say that these bills, which are called the "International Bill of Human Rights" along with other legal frameworks, set the minimum standards for human rights recognised worldwide.

On the back of globalisation, MNCs continue to enter transnational ventures across jurisdictions other than their home states (Hammond & Batariwah, 2024). MNCs are cited for human rights violations, including a lack of responsible practices in their host communities (Tuokuu et al., 2025; Wettstein, 2012; Obi, 2009). According to Ruggie (2008), MNCs have the corporate responsibility to respect human rights in a globalised world. This view is further emphasised by Wettstein (2015), who states that in the post-Ruggie dispensation, it is not only the advocates for corporate human rights obligations who must sustain this view; instead, it is the MNCs that are the perpetrators of the violations, having more power than some states in exerting more influence in many of Africa's economic sectors (Connolly & Kaisershot, 2015).

Most people think that MNCs' work in the extractive industry (exploration, development, extraction, and production) is terrible for the environment and society (Tuokuu et al., *ibid.*; Hammond & Batariwah; *ibid.* Idemudia et al., *ibid.*; Tuokuu et al., 2018; Idemudia, 2007; Peck & Sinding, 2003; Akabzaa & Darimani, 2001). In light of this, Idemudia et al. (*ibid.*, p. 1) say that the extractive sector of African economies has been critical to their socioeconomic progress. However, we cannot deny that actors in the extractive industry also violate the fundamental human rights of the people in their operational areas. In another study, Warhurst (2001) pointed out that in the past 40 years, many environmental catastrophes and human rights violations eliciting public concerns have occurred in the extractive industries. This view has received further highlight in recent studies that revealed that while some international elite organisations agree that the extractive industry has positive impacts on the economic development of countries in Africa, others also point to the negative

socioeconomic impacts of this sector on the poor and marginalised societies (Idemudia et al., *ibid.*; Tuokuu et al., *ibid.*; Akabzaa & Darimani, *ibid.*).

According to Muchlinski (2001, p. 45), the atrocities of World War II heightened discussions on human rights and brought significant focus to the subject in the 20th century. As a result, the need for state laws to protect and uphold fundamental human rights became a significant issue in international law. This led to the creation of the UDHR in 1948. Following the UDHR, various soft law approaches, such as the UNGPs, have garnered attention to address human rights violations. However, these approaches have not significantly impacted MNCs operating in Ghana's O+G sector. Again, in recent times, BHR have taken centre stage in international relations and development discourse across the globe (Olawuyi & Abe, 2022 (b); Korankye-Sakyi, 2022; Quijano & Lopez, 2021; Varvastian & Kalunga, 2020; UN, 2014; Frynas, 2000). However, mechanisms to achieve adherence to the obligations under the Guiding Principles have not been effective in the O+G sector in Ghana. Ghana's most important efforts to move the UNGPs forward are the National Baseline Assessment of Business and Human Rights (NBABHR) and the National Action Plan (NAP) frameworks. They are led by the Commission on Human Rights and Administrative Justice (CHRAJ), the Ghana Institute of Management and Public Administration (GIMPA), and the Danish Institute for Human Rights (DIHR). The NBABHR only evaluated the implementation of the UNGPs in the country (CHRAJ, 2022).

The Ghanaian economy is evolving with many empirical studies on various sectors of the country's development, including the extractive industry (World

Bank, 2022; Hoedoafia, 2019; Diao & Hazell, 2019; Ackah et al., 2016; Quartey, 2015; Alagidede et al., 2013; Senadza & Laryea, 2012; Jedwab & Osei, 2012; Aryeetey et al., 2014). Ghana relies heavily on foreign direct investments (FDIs) in many areas, such as agriculture, manufacturing, finance, service, and natural resource extraction (Adjei-Henaku et al., 2024; Korankye-Sakyi & Dwomoh, 2021; Sasu, 2021; Santander, 2020; Knoema, 2019; Asiamah et al., 2018; Williams et al., 2017; Tsikata, 1997). This implies that critical BHR issues relating to the environment, participation, access to information, regulation and compliance, benefits sharing, and inequality may arise (Schrempf-Stirling et al., 2022; Martin-Ortega et al., 2022; Álvarez Rubio & Yiannibas, 2017; Robinson, 2000; Kansuk, n.d.). Despite this situation, it has been suggested that the effects of the O+G sector on the human rights of Ghanaian citizens are not well studied, even though the number of MNCs working in the economy is growing (Olawuyi & Abe, 2023; Abe (b), 2022; Gracia, 2022; Bailey, 2018).

Problems in the O+G industry related to human rights violations include damage to the environment (like water and air pollution), damage to infrastructure, the forced relocation of communities, the exclusion of local people from planning for development, and unfair treatment that leaves local people poor (Abe (b), *ibid*). Even though the government in Ghana is supposed to protect people's rights from businesses in the O+G industry, many obstacles are making it hard to do this, such as poor and marginalised groups (like indigenous people, children, and women) struggling to get justice, slow action from government agencies to stop violations, and a lack of local laws to help ensure compliance.

The thesis says that to ensure that MNCs comply with the UNGPs, be more responsible as businesses, and mitigate human rights violations in the O+G industry in Ghana, there needs to be a strong legal framework with clear, enforceable, and binding obligations on them. It will also make it easier to deal with human rights violations and hold companies accountable. It looked at how businesses in the O+G sector work and the areas around them. This conclusion is not because these O+G businesses are more likely to violate human rights than others in the extractive sector; it is because Ghanaian literature does not empirically discuss how these businesses affect human rights in the O+G sector.

1.2 Statement of the Problem

Scholarly interest in studying human rights violations in Ghana's extractive industry is slowly growing. Some studies looked at Ghana's extractive industry and found many human rights violations (Tuokuu et al., *ibid.*; Hammond & Batariwah, *ibid.*; Idemudia et al.; Matebesi & Marais, 2018). However, as far as this researcher knows, there has not been a study that empirically investigated the utility of a domestic legislative instrument that is tailored to the pitfalls of the UNGPs and offers effective ways to deal with violations in Ghana's O+G sector. In other words, studies exploring the potential of a legal instrument to enforce the UNGPs in Ghana's O+G sector remain scarce. Yet, the results of this research could help MNCs comply with their human rights obligations under the UNGPs.

A report from the Government of Ghana (GoG) in 2019 called the 'Voluntary National Review Report' (VNRR) stated that CHRAJ was created to help protect human rights according to the Paris Principles (1993), which set basic

standards for national human rights institutions (NHRIs) in defending human rights. This means that protecting the human rights of people in the business world is important for Ghana, and a state-based legal instrument is needed to ensure that businesses in the O+G industry comply with standards as well. Studies have identified challenging BHR issues relating to the environment, participation, access to information, and compliance in the O+G industry, which may lead to inequality (Álvarez Rubio & Yiannibas, *ibid.*; Robinson, *ibid.*). Despite the rapid expansion of the O+G sector over the last two and a half decades, the industry has continued to underestimate the necessity of human rights standards and compliance (Pascal, *ibid.*). Non-compliance with various legal and regulatory processes and procedures is part of organisational life.

In corporate regulation, compliance refers to the measures and practices put in place to make sure those specific legal and regulatory requirements and commitments are met and strictly adhered to (Hawtrej, 2023). It deals with the internal policies, rules, and procedures an organisation assigns to reduce risks and leverage efficiency in its operations (Hawtrej, *ibid.*). Organisations and their employees carry out certain practices for businesses in a particular sector or to help minimise risk. Consequently, organisations invest significant time, effort, and resources in ensuring adherence to compliance areas. Of course, organisations can never eliminate non-compliance risks; they can take significant steps to reduce them. Ensuring compliance requires implementing well-structured processes that align with regulatory obligations. When an organisation lacks clear formal procedures, there is a greater likelihood of deviating from established rules. Additionally, poorly designed processes can introduce their own set of risks (van de Ploeg & Robaey, 2017, p. 91). It also

implies that organisations must have the right monitoring tools and controls to ensure compliance. Furthermore, most compliance relies on the right actions, decision-making, and even the goodwill of employees. If organisations lack the necessary training and awareness, the likelihood of non-compliance by duty bearers increases (Hilson & Ovadia, 2020). When there is a compliance failure, the consequences can range from mild to very severe. For example, it can result in financial fines and massive damage to an organisation's branding and reputation (Pascal, *ibid.*, p. 98). MNCs avoid this loss of brand reputation and are likely to negotiate for financial fines.

Compliance-related human rights activities are not necessarily the most interesting or enjoyable aspects of an organisation; they are important. Usually, companies find themselves in trouble when caught up in the ramifications of human rights violations (Morrison, *ibid.*). Some perceive compliance as heavily burdened with excessive bureaucracy (Hawtrey, *ibid.*). Even if one feels some areas of compliance are unnecessary, the fact is that the relative policies, procedures, and rules that need to be followed are also critical (Dartey-Baah et al., 2012, p. 77). Besides, some organisations have a strong compliance culture and a low appetite for risk, particularly in sectors such as energy and financial services; those in the O+G industry are notable for several abuses of human rights (Ochei et al., 2023; Watts, 2009; Human Rights Watch, 1999). By developing metrics for enforcing compliance within each industry, we can resolve the challenge with the previous position. We cannot apply a uniform approach to achieving human rights compliance across all industries. Establishing acceptable frameworks that prioritise industry standards is

necessary. To assess compliance within the O+G industry, some measure of accountability metrics, including incentives for compliance, will be plausible.

Despite the increasing recognition of the BHR framework and its significance in promoting corporate accountability, the O+G sector in Ghana faces substantial challenges regarding its compliance. This is due to the challenges of implementing non-binding soft law in dualist states like Ghana. In places like Ghana, where businesses do not always follow the rules because of a soft law approach to international law rules (Kekesi et al., 2023), a new way of thinking might need to be used. In Ghana, the rules and policies that apply to BHR are still not unified, and there are not always enough compliance mechanisms to keep weak communities safe from human rights abuses caused by the industry. Moreover, there is a dearth of studies examining how the O+G industry complies with the UNGPs and the effectiveness of voluntary compliance measures in the sector. This gap makes the thesis of this study timely: an empirical study investigating the utility of a domestic legal instrument to achieve compliance with the UNGPs to effectively deal with violations in the O+G sector. Without such a legislative instrument, the potential for corporate accountability and the protection of human rights in Ghana's O+G sector would remain severely compromised.

1.3 Aim and Objectives of the Study

The central aim of this research project is to investigate how a domestic legal instrument can be used to ensure compliance with the BHR framework in Ghana's O+G sector. To achieve this goal, the researcher will pursue the following specific objectives:

1. To assess the existing policy and legal frameworks for BHR in Ghana.
2. To examine Ghana's O+G industry's compliance with the UNGPs.
3. To assess the effectiveness of a comprehensive national legislative instrument in ensuring compliance with the UNGPs in the O+G sector.

1.4 Research Questions

The principal question of this research is: How can a domestic legal instrument ensure compliance with the BHR framework in Ghana's O+G sector? To answer this question, the study will address the following secondary questions:

1. What is Ghana's current policy and legal framework governing BHR?
2. To what extent do existing frameworks help the O+G industry in Ghana to comply with the UNGPs?
3. How effective would a comprehensive national legislative instrument be in ensuring compliance with the BHR framework within Ghana's O+G sector?

1.5 Expected Outcomes

This thesis will argue that a domestic legal instrument is necessary to ensure that the UNGPs are followed, encourage corporate responsibility, and reduce human rights violations in Ghana's O+G sector. It will evaluate the existing policy and legal framework governing BHR in Ghana, identifying both strengths and weaknesses. Additionally, the study will analyse the extent to which the O+G industry complies with UNGPs and assess the limitations of voluntary compliance mechanisms. It will modestly fill the gap in the existing literature on the utility of a legal instrument on the UNGPs for compliance by the O+G sector. The anticipated outcome of this research is to inform the development of appropriate and effective national legislation for compliance

with the UNGPs in the O+G sector in Ghana. It will provide helpful information on how to improve protections for human rights, hold companies accountable, and encourage environmentally friendly business practices in the O+G sector.

1.6.1 Scope of the Research

The main aim of this study is to assess the BHR frameworks in Ghana's O+G industry, focusing on the utility of a legal instrument for ensuring compliance with the UNGPs. The Constitution and other international human rights instruments protect many fundamental rights. However, this study only looked at specific human rights violations in communities where O+G operations occur. The study primarily investigated violations related to the right to property, the right to housing or shelter, the right to a clean and healthy environment, and the right to dignity and personal security. In pursuit of its objectives, this research critically reviewed existing literature on human rights protections under international and national legal frameworks for O+G operations in Ghana.

Additionally, it explored the legal obligations of Ghana and corporate entities operating in the O+G sector under international human rights law. A key aspect of this study was identifying specific corporate practices within the O+G industry that result in human rights violations, as recognised by both international and Ghanaian legal standards. Furthermore, the study evaluated the current policy and legal frameworks governing BHR in Ghana and analysed their strengths and weaknesses. It also assessed the extent to which the O+G sector complies with the UNGPs and considered the potential effectiveness of a national legislative instrument in ensuring compliance. The research aimed to

contribute to the broader discourse on corporate accountability, regulatory reform, and sustainable business practices in Ghana's O+G sector by focusing on these areas.

1.6.2 Limitations of the Scope

Due to the researcher's limited time, purpose, and resources, this research project did not cover all the topics that needed unique analysis. These include the important role that MNCs play in the extractive industry; the technical aspect of O+G extraction; the study of economic effects, environmental science, and ecology; legal systems other than human rights law, like trade or investment law; specific case studies of O+G companies; or the analysis of statistical methods. This study did not cover all human rights issues within the extractive industry; instead, it was limited to the O+G sector and specific rights violations affecting local communities. The study did not engage in a comparative analysis with other extractive industries or explore non-state compliance strategies beyond legislative mechanisms.

1.7 Definition of Terms

In this specific research project, the researcher assigned the following interpretations to these terms. The researcher needed these working definitions to define the research's scope and create a framework for the objectives under analysis.

1. A *domestic legislative instrument* is a formal legal framework that a state enacts to control business activities and ensure that human rights obligations are met in its country. The framework comprises laws, rules, and legally binding sections that turn international human rights principles, like those in the UNGPs,

into national laws that can be enforced. These instruments enable businesses to face legal accountability for human rights violations resulting from their operations. They enable businesses to monitor human rights violations, ensure their adherence, and address any emerging issues.

2. *BHR framework* refers to the UNGPs.

3. *Business operations/activities* encompass the entire spectrum of activities undertaken by O+G companies, including exploration, extraction, production, and distribution. These operations must align with legislative requirements and are expected to uphold human rights standards.

4. *Compliance* denotes successfully adhering to legislative instruments and human rights standards within business operations. Effective compliance ensures that companies operate within legal frameworks, maintain ethical standards, and uphold their social license to do so.

5. *Guiding Principles* refer to the UNGPs.

6. *Hard law* refers to all obligations contained in binding legal instruments and can be legally enforced before a court within a specific legal system.

7. *Human rights* refer to the fundamental rights, privileges, and freedoms that companies must respect in their operations in the O+G industry. This category encompasses the rights to property, housing or shelter, a clean and healthy environment, and dignity and personal security. It also includes protecting the rights of local communities and preventing exploitation or violations.

8. *Multinational companies* refer to enterprises established in one country but with subsidiaries in other countries for exploration, production, management, and distribution purposes.

9. *Soft law* is a voluntary and non-obligatory agreement, guidelines, and principles (declarations, resolutions, and standards). Though they are not “laws” per se, they are valuable instruments for outlining international norms and guiding state behaviour.

10. *Stakeholders* refer to any group or individuals who can or are affected by the operations of O+G companies in Ghana, including company employees, state and non-state actors, and citizens of the research areas.

11. *Transnational corporations* are those enterprises that have their headquarters in one country but operate in several other countries, mainly outside their home countries.

1.8 Organisation of the Study

The study is organised into five chapters. The first chapter consists of the background to the study, a problem statement, aim and objectives, research questions, expected outcomes, scope of the study, definition of terms, and organisation of the study. The second chapter looks at relevant literature on the main objectives of the topic. It focuses on the theories and how well national laws for the O+G industry match up with BHR to ensure that the UNGPs are followed in Ghana's O+G sector. The third chapter discusses the research design and methodology used in the study. The chapter expatiates on the research philosophy that informs the methodology of the study. It details the

justifications for the choice of the methodology and research methods that underpin this study. Chapter four presents the demography and the background of the specific research areas, namely the Greater Accra and Western regions. It primarily presents the collected data results and provides a detailed discussion of these findings. This chapter explicitly analyses the qualitative, in-depth information collected through interviews using the NVivo data analysis tool. The discussion will be structured around the specific objectives outlined in the study. Chapter five summarises the key findings and the study's recommendations, and conclusions.



CHAPTER TWO

LITERATURE REVIEW

2.1 Introduction

Human rights remain one of the contested yet broad-based areas of study in human philosophy and social jurisprudence. As a multidisciplinary and cross-cutting subject, human rights discourse spans several fields, including international relations, history, law, economics, morality, politics, and philosophy (Cargas, 2020; Eberbach, 2020; Frost, 2018; An-Na'im in Gearty & Douzinas (eds.), 2012). This chapter comprehensively reviews relevant research materials related to the study. The study adopted the traditional or narrative literature review as its strategy, which is commonly associated with thesis writing. A narrative review or traditional review scopes the literature, summarises and presents the available research on a topic (Nundy et al., 2022; Olivier, 2022). According to Tulandi and Suarhana (2021, p. 1355), a narrative review is a summary of previously published studies on a topic, with the possibility of introducing modifications. A narrative review is more biased than systematic and scoping reviews as it relies on the author's background knowledge on a topic (Olivier, *ibid*).

A literature review is a framework for analysing the study's findings to ensure they align with its objectives. The chapter also identifies existing knowledge gaps that this research aims to address. To provide a structured examination of BHR from a developmental perspective and establish a theoretical basis for research, the literature review is organised into nine sections. Section one covers the introduction and chapter structure. This is an overview of the chapter's organisation and scope. The second section discusses the theoretical framework

for legal arguments about human rights in a neoliberal market economy like Ghana. This section focuses on Human Rights and Due Diligence (HRDD) theory and Corporate Social Responsibility (CSR) theories. Section three looks at the universal frameworks on BHR. It discusses key international legal frameworks, like the UDHR and the UNGPs, which govern how businesses should treat human rights. In the fourth section, the study talks about human rights in the extractive industry. It looks at how human rights and the governance of the extractive sector, especially in the O+G industry, interact. Section five covers literature on O+G development in Ghana by reviewing the historical evolution, governance structures, and regulatory frameworks governing O+G operations in Ghana. It focuses on institutional and legislative development in the O+G sector in Ghana and analyses their strengths and weaknesses in addressing human rights matters. Section six discusses approaches to enforcing international soft law, such as the UNGPs. It looks at the state-based judicial and state-based non-judicial mechanisms of enforcing soft law to underscore how the legislation of the UNGPs in Ghana may occur. Section seven presents a graphical conceptual framework of the study and underlines the relationships between the research variables. The last section concludes with a summary of key insights from the literature review.

2.2. Theoretical Frameworks

This study's theoretical frameworks are grounded in the Human Rights and Due Diligence (HRDD) and Corporate Social Responsibility (CSR) theories. These theories provided the broad underlying structure or lens that explains why the research problem exists and where the study is situated within existing knowledge.

2.2.1 Human Rights and Due Diligence Theory

Principle 17 of the UNGPs best explains that Human Rights and Due Diligence (HRDD) is a process that includes important steps like finding and evaluating real and possible effects on human rights, putting the results into action, keeping an eye on how things are going, and sharing with others how these effects are being handled. Here are some things that HRDD should do: include all the negative effects on human rights that a business might cause, help cause, or be linked to through what it does, its products, or its business connections; consider the type of business, how serious the impacts on human rights might be, and the specific industry and situation; and make it an ongoing effort since risks to human rights can change as the business and its environment change. Ruggie (2013) posited that HRDD is a “bundle of interrelated processes” that enables companies to detect, avert, mitigate, and report on their human rights impacts. The interpretative manual of the Office of the High Commissioner for Human Rights (OHCHR) to the UNGPs, describes HRDD as a continuous management approach that a responsible and diligent business must use, considering its industry, operational environment, size, and other relevant issues, to fulfil its duty to protect the rights of people. According to this perspective, companies handle HRDD through risk-based management, affording them significant flexibility in identifying and addressing risks. Some scholars proposed that a solution-driven method would offer a more comprehensive understanding of how HRDD functions in practice (McCorquodale & Nolan, 2021, p.191). People can think that if a business follows HRDD, it is meeting its duty to respect human rights, and that managing risk will help those affected, which is

not the case. This notion defeats the understanding of comprehensive human rights protections and compliance under international law.

Broadly, HRDD serves as both a risk management process and a code of conduct. From a fair perspective, there is no way that the normative value of HRDD, as either a risk-mitigation framework or a standard of conduct, could be separated. It is only when the mutuality of risk management and a code of conduct is achieved in compliance standards that one can argue that HRDD meets expectations. In a response to Jonathan Bonnitcha and Robert McCorquodale, Ruggie and Sherman wrote that the UNGPs HRDD is "a

thorough, proactive attempt to find human rights risks (actual and potential) over the whole life cycle of a project or business activity to avoid and mitigate those risks" (Ruggie & Sherman, 2017). The UNGPs (ibid.) referred to HRDD as a "process that should include assessing actual and potential human rights impacts". Both international and national laws that deal with HRDD agree on an expansive definition of potential human rights violations that includes both actual and possible effects on human rights. The Interpretative guide on "responsibility to respect" clarifies that 'human rights risks' include all risks that could harm a human right. This includes actual and possible adverse effects on human rights (Panev, 2022). Actual human rights impact refers to a negative impact already experienced or occurring, while potential is a possible impact that has yet to happen. In the same way, the German Supply Chain Act (2023), which is also known as the Corporate Due Diligence Obligations in Supply Chains, defines human rights risks as situations where there is a good chance that a human right will be violated. Unlike the UNGPs that explicitly apply a

legal classification of actual and potential risks, the German Supply Chain Act only intended to include both types of risks (Aaronson & Higham, 2018, p. 40).

Many transnational corporations (TNCs) have explicit human rights policies as compulsory obligations for transnational businesses. However, only a few adhere to the UNGPs' due diligence initiatives (Aaronson & Higham, *ibid*). The UNGPs developed the HRDD theory and required businesses to stop, lessen, and, if necessary, fix any negative human rights effects their operations may have. This requirement ensures that companies conduct due diligence to identify and address potential risks, thereby minimising harm to rights holders (UNGP, 2011; Ruggie, 2013). The non-compliance with this requirement necessitates the need for an alternative approach to ensure corporate manifestation of adherence to industry-specific metrics on HRDD. Subsequent international documents in this area and national legislation have adopted HRDD, which originated in the UNGPs as efforts to respect, protect, and remedy human rights.

Before the UNGPs became official, the phrase “due diligence” existed in some national legal instruments. According to experts, domestic legal frameworks use parts and information about corporate HRDD from international soft-law instruments (Paney, *ibid.*, p. 53). To give some examples, the ILO Tripartite Declaration of Principles concerning Multinational Enterprises and Social Policy (2017), the Equator Principles (2013), and the International Finance Corporation (IFC) Performance Standards (2012) were all updated to include HRDD and other important parts of the UNGPs. Collectively, these frameworks represent the primary international standards governing corporate responsibility in MNC operations. A group of experts from the UN says that since the Human Rights Council approved the Guiding Principles in 2011, HRDD in businesses

has become the norm (Ovadia et al., *ibid.*, p.89). As a result of this expectation, businesses must treat due diligence as an 'inherent virtue' and an important part of their human rights duties. This reasoning explains why the term 'due diligence' was intentionally included in the UNGPs to match the language that businesses, human rights experts, and governments already understand, even if each group may see it in their own way (Taylor, 2016; UNGPs, *ibid.*).

The UNGPs framework clarifies that, because businesses by their nature can affect nearly every aspect of universally recognised human rights, their duty to respect human rights covers all these rights. Yet, a review of the UNGPs reveals a silence on environmental rights. However, the OECD Guidelines, the IFC Performance Standards, and the Equator Principles all include environmental protection as part of HRDD. This also offers some justification for many O+G businesses rejecting the UNGPs for frameworks such as the IFC Performance Standards on Environmental and Social Sustainability. At least in the European Union (EU), national laws now generally include environmental rights in due diligence.

The latest draft of a treaty on BHR demonstrates the primary focus of HRDD on prevention. This draft comes from a resolution passed by the UNHRC that set a permanent intergovernmental negotiation body on TNCs and other enterprises that interface with human rights. Its duty was to "elaborate an international legally binding instrument to regulate, in international human rights law, the activities of transnational corporations and other businesses" (Ross, 2012, p. 93). Such an international legal framework may not be purposefully effective as compared with national legislative instruments that

address the peculiar human rights concerns of individual states. The treaty included an article titled "Prevention," with HRDD being central to achieving this goal. The article discusses several points, such as parties reporting human rights violations and highlighting the importance of HRDD; countries making sure that businesses follow international human rights standards and work to stop and reduce human rights abuses in their operations and relationships; and countries requiring businesses to carry out HRDD for this reason. Although the object of the instrument was basically on "prevention", other concerns on HRDD, such as recognition, mitigation, and reporting, were focused upon. A major part of BHR prevention is the expectation that businesses will do HRDD to prevent their activities, as well as their partners, from hurting people's rights, the environment, or causing climate change. As a result of an international legal obligation, states must take action to stop businesses in their territory or jurisdiction from violating human rights. This means states must pass laws mandating businesses to conduct HRDD. This is partly because HRDD, when used as a preventive measure, does not always imply legal liability. This level of compliance has created a gap in international legal frameworks like the UNGPs. A piece of legislation at the national level could fix this hole.

HRDD aims to stop or lessen negative effects on human rights. This means businesses must deal with human rights risks within a legally binding framework that includes their duties and responsibilities to obey the rules. This theory is adopted because the spread of HRDD has been an important innovation in securing responsible business conduct (Taylor, *ibid.*). The main idea behind this research theory is that Ghana can effectively manage human rights risks in its O+G industry by incorporating HRDD into a domestic legal

instrument, considering its dual purpose for risk management and as an abiding code of conduct. This approach will encourage responsible business conduct and promote long-term growth. This foundation supports applying this theory to this research to establish the relevance of a proposition for the utility of a legal instrument to achieve compliance with the UNGPs. The next sub-section discusses CSR as a theory and its sub-theories that underpin this research.

2.2.2 Corporate Social Responsibility

Corporate Social Responsibility (CSR) has gained considerable attention from academics, professionals, non-governmental organisations (NGOs), regulatory bodies, and charitable organisations due to its range of impacts on economics, philosophy, law and ethics, and society (Hinson, 2012). Also, CSR definitions, principles, and policies vary across sectors and organisations. As a developing phenomenon in the new global order, CSR does not converge on its definition, rules, structures, or procedures (ILO, 2016). Therefore, we refer to CSR as a contested concept. Various scholars strive to conceptualise CSR differently, which forms the foundation of this perspective. While some studies consider it as no more than sound business practice (IOD, 2003; Guerra-Tamez & Franco-García, 2022), others see it as a mere interface for the “business society” (Lunheim, 2008; Waddock & Boyle, 1995). The latter view is more nuanced if seen from the profit-wealth maximisation perspective. Some scholars assume it to be a broader stakeholder consideration in business concerns (Wheeler et al., 2002; WBCSD, 2002).

So far, the European Commission’s (EC) definition in its Green Paper has been widely recognised. According to the EC Green Paper (2021), CSR is "a concept

whereby companies voluntarily integrate social and environmental concerns in their business operations and their interaction with their stakeholders." The definition highlights that for an organisation to be qualified as socially responsible, it has to fulfil specified compliance requirements and invest significantly in human capital, the environment, and improve its relations with stakeholders (ILO, *ibid.*). Murthy (2007, p. 98) defined CSR as the "social practice where companies shift their responsibility towards meeting the needs and expectations of several stakeholders." The UN Industrial Development Organisation (UNIDO) had earlier stated that "CSR is a management concept that addresses stakeholders' expectations and integrates environmental and social issues into the company's operating model" (UNIDO, 2016, p. 201). This definition asserts that businesses are driven not only by profit but also by a desire to improve life worldwide by providing environmentally safe, ethical, and equal working conditions and products (Peattie, 2001; Carroll, 1979). It also confirms experts' view that businesses should be economically profitable, law-abiding, ethically responsible, and philanthropic (Wirba, 2023; Amponsah-Tawiah & Dartey-Baah, 2011; Carroll, *ibid.*). Again, the World Bank (2003) stated that CSR is a corporate assurance to improving the quality of life by contributing to sustainable economic activities, and collaborating with diverse stakeholders' interests: employees, local communities, society, and government to improve welfare. As a win-win initiative, it benefits companies and assures social improvement (Tonello, 2010). The World Bank's definition emphasises the multiple stakeholder interests and ethical operating practices needed for a business to survive in a contemporary business setting (Tonello, *ibid.*).

Therefore, companies are to enhance and develop the quality of life of their workers, dependents, and their communities (WBCSD, 2005, p. 109).

According to Amponsah-Tawiah & Dartey-Baah (ibid., p. 108), CSR is "the strategic decision of an organisation to voluntarily act upon social factors that have the potential of militating against the fulfilment of corporate goals." This definition imbues the fundamental element of social value in all CSR theories. Construing CSR as a "responsibility", Korkchi and Rombaut (2006) described CSR as

the continuing commitment of businesses to voluntarily behave ethically and contribute to economic development while simultaneously improving the quality of life of the workforce, families, local community, and society at large.

Even so, some have argued that international law's responsibility for businesses should not mean that host states can impose rules on corporations without input from others (Ramasastry, 2015).

The expectations of stakeholders from businesses have substantially increased, which demands that organisations do what is needed to satisfy most of these needs from communities affected by their operations. Recent studies have shown a more common position on the likely impacts of businesses' operations on the environment, society, and economy (Wu & Tham, 2023; Chu & Karr, 2017). This shared view means that MNCs must improve their policies to reduce the real and perceived effects of their activities on the communities affected. The regular and forceful call on businesses to be accountable and transparent with their operations has necessitated these firms to follow responsible business

practices that prioritise shareholder wealth maximisation in the broader interest of society. When companies accept to build a solid CSR reputation, they become successful with a long-term corporate strategy and maximise shareholders' wealth. I refer to this approach as the profit-wealth maximisation or the win-win philosophy. Drawing on this test, CSR has received more acceptance and popularity in recent history. For most companies, accepting and gaining credibility in their operational jurisdictions is now part of their corporate strategy.

The growing interest in CSR is linked to the rise of socially responsible investing (SRI) and sustainable investment funds (SIF), as investors want their financial choices to reflect better social and environmental concerns (European Sustainable Investment Funds Study [ESIFS], 2024, p. 8). This increasing trend is attributed to regulatory interventions in the EU, leading to sustainable funds amounting to an estimated 19% of the total assets of European funds by the end of 2023, compared to 6% in 2019 (ESIFS, *ibid*). In the United States (US), an estimated \$52.5 trillion was invested in socially responsible asset management in 2024, including \$6.5 trillion in explicitly marketed sustainability-oriented investments (USSIF, 2025). The SRI in the US translates into more than \$1 out of every \$6 of investments into assets. The United Kingdom (UK) increased its total SRI fund from €8.93 billion in 2011 to €12.86 billion in 2023, representing an 11% increase (ESIFS, *ibid.*, p.11).

The ESIFS report (2025) highlights that North America and the Asia-Pacific regions hold 11% and 3% of the global EUR 2.6 trillion in sustainable net assets, respectively, by the end of 2023. This puts the EU way ahead with an impressive

85% of global sustainable net assets, with over 30,000 European funds at the end of 2023 (ESIFS, *ibid.*). There has been an increase in demand for socially responsible and ethical corporate practices in spite of the concentration on profit-wealth maximisation theory being touted as the main focus of a firm in the literature. However, while the upward trajectory of SRI is promising, questions remain about the depth of corporate commitment to meaningful social change beyond mere compliance and branding strategies. It is crucial to assess whether these investments lead to tangible improvements in corporate behaviour or serve as a means of enhancing public perception without substantial impact.

The groundbreaking adoption of the UNGPs in 2011 recognised the influence of business enterprises on people's human rights. The debate over time has been about whether companies can respect human rights while pursuing profits (Morrison, *ibid.*). Bernstein (2012) contended that CSR initiatives are prominent in the strategies of businesses because they form part of the ethical and moral responsibilities society expects businesses to contribute to the welfare of the community. Again, companies are regarded by investors and the public not only for their financial outputs and the size of their asset portfolio but also because of their resourcefulness and experience in confronting challenges that arise in society (Davis, 1973, p. 69). CSR also raises awareness of inconsistencies arising in society resulting from business operations and inspires them to drive proactive measures towards social goals to mitigate their operational impacts (Heal, 2014). The growing emphasis on SRI, as reflected in the significant rise in investment figures across the US and Europe, underscores the increasing recognition of CSR as a critical factor in financial decision-

making. These trends suggest that investors progressively prioritise ethical, environmental, and social considerations along with financial returns.

In Ghana, CRS initiatives are appreciably increasing due to regulatory interventions and industry commitments from some MNCs. According to Tuokuu et al. (ibid.), CRS is a strategic management process for the O+G sector to gain social license legitimacy among host communities. This study explores the critical areas of CRS that affect the communities impacted by the activities of the O+G sector in Ghana. Some studies on CSR in Ghana have focused on the O+G sector (Adjei & Ackah, 2023; Mohammed et al., 2022; Tuokuu et al., ibid.; Ablo, 2015). These studies build consensus on CSR in communities affected by O+G operations.

The different types of theories of CSR have been the subject of extensive theoretical discourse, with various scholars proposing different perspectives on the role of businesses in society. Existing studies on CSR theories showed different types of CSR (Secchi, 2007; Windsor, 2006; Garriga & Mele, 2004; Preston, 1975). These theories provide frameworks for understanding how corporations balance profit-making objectives with social and environmental responsibilities. The following sub-sections explore the triple bottom line theory in detail, highlighting its relevance to CSR practices in the O+G industry.

2.2.2.1 Triple Bottom Line Theory

People view CSR as a tool to harmonise economic, environmental, and social imperatives of sustainable development, called the “Triple Bottom Line” (UNIDO, ibid.). This classification emphasises the importance of CSR in informing company management policies to achieve corporate goals through

the balancing of three fundamental standards, namely the economic, social, and environmental obligations created by companies' operations (ILO, *ibid.*). So, an organisation can accomplish its goals if it meaningfully integrates its stakeholders' expectations, interests, and demands within its culture. The shift from the Millennium Development Goals (MDGs) to the Sustainable Development Goals (SDGs) has also strengthened the alignment between the UN system and responsible business practices. The SDGs recognise the interconnected nature of social, environmental, and economic challenges and emphasise the importance of multi-stakeholder partnerships in addressing these complex issues (UNGC & SDGs, n.d.). This evolution reflects a growing understanding that businesses have a crucial role in advancing human rights and sustainable development and that this responsibility extends beyond national borders.

John Elkington introduced the triple bottom line theory in 1997, based on the principles of sustainability. The triple bottom line means that a company should not only be concerned with its economic interest, but should also be interested in the environmental and social demands (Meijer & Schyt, 2005, p. 65). These dimensions are also classified as profit, planet, and people, respectively. Elkington (*ibid.*) proposed that for a full actualisation of the value of the triple bottom line (people, planet, and profit), businesses should be required to report as part of their regular communication and reporting systems. This call was actualised in 2000 when the Global Reporting Initiative (GRI) launched the first triple-bottom-line reporting guideline, as a generally accepted performance framework. After these initiatives, it is manifestly clear that sustainability in

business is becoming more of a priority than before (Venkatraman & Nayak, 2015, p. 98).

Environmental Sustainability

Environmental sustainability, as defined by Jamali (2006, p.811), involves "studying the implications of resource consumption, energy use, and the effects of the firm on ecological integrity." The goal is to apply this understanding to maintain the energy and resources derived from the environment, including land, air, and water. The aim is to protect the planet by using energy efficiently, which involves reducing waste and consumption. Businesses can achieve such results by adopting new practices and shifting their mindset toward environmental sustainability. The first step is to recognise environmental concerns as a crucial aspect of business operations and, ultimately, integrate sustainability into standard business practices. One can evaluate company procedures, resources, and supplies to identify sustainable alternatives. Not only does such behaviour benefit the environment, but it also enhances economic profitability (Jamali, *ibid*). Once businesses can see the benefits of sustainable practices, they may strive to implement them as regular practices (Singh, 2024).

Economic Sustainability

According to the triple bottom line, economic development affects people and the planet (Laurell, 2019, p. 522). Padin et al. (2016) asserted that business sustainability can lead to long-term economic competitiveness. Business sustainability and the triple bottom line should no longer be considered an encumbrance but an opportunity for businesses to maximise their long-term value and profitability. In pursuing profit, sustainability is often viewed as an

obstacle or a challenge to economic growth. However, the triple bottom line framework demonstrates how businesses can achieve profitability while addressing environmental and social responsibilities. This approach generates profit and ensures the survival of the business. While organisations that adopt the triple bottom line may not see immediate financial gains, this strategy can contribute to long-term economic success (Glavas, 2014, p. 82). "Long-term economic outcomes may include gaining a larger consumer base, improving the supply chain, or lowering employee turnover" (Glavas, *ibid.*). Economic sustainability is significant and fundamental to environmental and social goals.

Social Sustainability

The movement towards the triple bottom line entailed a redefinition of company objectives from only financial to creating value for all stakeholders (Padin, *ibid.*). Other than company employees, stakeholders include society and the community. Schulz (2019, p. 34) emphasised that sustainable social practice "encapsulates the values of people, their behavioural patterns, and their social activities." Social sustainability aims to create community value and invest in others' well-being. When companies deliberately choose to foster societal goals, it could manifest in donations, volunteerism, education and training programmes, resource allocation, health, and so on (Schulz, *ibid.*). However, it must be considered a social investment for the company's sustainable operations. Sridhar (2011) argued in favour of this point, stating that a company becomes more transparent about its business practices through social sustainability. Such transparency enhances the company's image and reputation and facilitates communication. Engaging with the community and its impacts

on society builds positive stakeholder relationships (Schulz, *ibid*). This kind of engagement is what allows a company to sustain its profitability for a lifetime.

The literature reviewed above establishes that CSR theories concern themselves with the relationship between business and society. Existing literature points to many issues that drive companies to implement CSR programmes. The scope of each CSR initiative depends on the institutional, organisational, national, and even individual goals and negotiations (Dam & Scholtens, 2012, p. 59).

2.3 International Frameworks on Business and Human Rights

This section of the literature review establishes a foundation for evaluating the feasibility and effectiveness of a structured legal framework for Ghana's O+G industry. Building on the practical theories I have discussed so far gives the background to the regulatory gaps, compliance issues, and the possible implications of a stronger legal instrument. The regulation of BHR has gained increasing global attention, particularly in sectors with high environmental and social risks, such as the O+G industry. International frameworks, notably the UDHR and UNGPs, have evolved from general human rights principles and established a foundational approach to corporate responsibility, emphasising the state's duty to protect, corporate responsibility to respect, and the need for an effective remedy. However, the degree to which these principles are turned into legally binding obligations varies from place to place. Some countries have strict laws, while others rely on voluntary responsibility to achieve compliance with these human rights principles.

Early domestic frameworks for protecting human rights were based on ideas from Europe and the US. However, a closer look at what these states did at the

time shows that they did not follow through on the ideas of human rights they were known for promoting. History has recorded that both Britain and France aligned with imperialism, while in the same period, the US alienated the lands of the colonised people during the slave trade (UN Code of Conduct for Transnational Corporations, 2018). The ICESCR instrument (2019, p. 85) opines that these colonial activities "...were contrary to the human rights ideals expressed in the early bills, constitutions, and declarations." It further states that countries were only subject to international law doctrines at the time. As state citizens, people were under the control and subjugation of other governments; there was little that nations could do to protect the rights of their citizens. It further emphasises that until after World War II, most states did not consider the conflicting positions that human rights dictated or how they handled citizens in their controlled territories. Unprecedented war crimes occurred before and during World War II in German-controlled territories, resulting in the dreaded Holocaust. The officially established government brutalised millions of citizens, resulting in many more deaths. The international community of states was shocked by this, leading them to commit to establishing several exceptional universal standards, which later became part of national laws. These universal standards required that individuals' human rights be protected and respected without distinction or discrimination. According to Abe (b) (ibid.), one of the high-risk sectors where MNCs operate mainly in Africa is the O+G industry. He argues that it is a complex environment that requires understanding how the human rights responsibilities, violations, impacts, and responsiveness of businesses play out in that sector (Abe (b), ibid.). Abe (b) (ibid.) examined the connection between "business" and "human rights" and recommended socially

responsible norms in dealing with BHR violations in the extractive industry in general did not explicitly suggest a national legislative instrument to deal with the “business” and “human rights” nexus in the O+G sector. Instead, he recommended the integration of BHR provisions into existing law (Abe (b), *ibid.*, p. 157). Abe (b) (*ibid.*) affirms that the UN Centre for Transnational Corporations' 1974 draft of a Multinational Code of Conduct for Transnational Corporations (UN Code of Conduct on Transnational Corporations, 1984) marked the beginning of the geometric progression towards the formulation of the UNGPs. Next, other international non-binding agreements tried to control MNCs' actions. None of these instruments was national and required legislative backing for enforceability.

The following sub-sections review six internationally recognised standards relating to BHR: the UDHR, UNGPs, the 2000 UN Global Compact, the OECD Guidelines for Multinational Enterprises, the ISO 26000 Guidance Standard on Social Responsibility, and the ILO's Tripartite Declaration of Principles concerning Multinational Enterprises and Social Policy.

2.3.1: The Universal Declaration of Human Rights

Human rights form the theoretical basis of this research. Consequently, a comprehensive insight into the conceptual issues of human rights and development is worthy of examination. In an affirmation of its role as a champion of respect for human rights, the UN first accepted a body of international human rights law through the UDHR in 1948, and a subsequent articulation of the ICESCR and ICCPR in 1966. These instruments, which collectively advocate for universal human rights protection, are referred to as

the International Bill of Rights in modern international human rights law. The Bill of Rights established fundamental human rights standards. When human rights became formalised in 1948, the UDHR proclaimed that human rights are universal, which means that the protection of human rights forms a common standard to be ultimately achieved by all governments (Sulpeveda, 2006). While the UDHR stipulates what constitutes a standard of inalienable rights, the two Conventions, ICESCR and ICCPR, elaborate on the legalities of these rights. Many states have ratified the International Bill of Human Rights, constituting a more or less accepted universality of the framework. Smith (2005, p.30) states that the Bill of Rights is only a foundation for the examination of international human rights, prompting the UN to adopt a legion of international instruments to give meaning to the UDHR.

One challenge with the conceptualisation of human rights lies with the different interpretations accorded to it by different scholars under different subject orientations. Scholars have failed to converge on the conceptualisation of human rights, considering its underlying principle, rationalisation, global applicability, implementation, and regulatory framework (Dembour, 2010). The natural law theory or approach is considered the root of human rights doctrine, which approaches human rights as inherent, universal rights from natural law, apart from those given by any legal system. Other perspectives affirm that a broad social consensus instils human rights, regardless of moral or social life (Dembour, *ibid.*). Again, critical discourse against human rights had evolved from the perspective of cultural relativism, feminism, realism, and Marxism. Despite these developments, the understanding and application of human rights principles are constantly evolving. In furtherance of its objective, the UNCHR

came into being with the mandate to address specific human rights cases by distilling human rights standards and expectations. To achieve this, the UNCHR proceeded to draft an internationally binding document. The UN General Assembly (UNGA) adopted the UDHR after the Commission completed its first task in 1948. The UDHR is one of the several human rights approaches adopted to protect humanity's liberties. Despite the many rights embodied in these instruments, they did not include specific ways to stop business activities that violated human rights.

The 30 articles in the UDHR underline several fundamental human rights principles, which are predominantly normative, that govern the functioning of all countries. The principles underlying the UDHR are as follows: Indivisibility: Rights are not hierarchical but equal in status; Inalienability: Rights are not shared or taken as a giveaway; Interdependence: One right may depend wholly or partly on others for its actualisation; Equality: Human rights are equal to all human beings. The UDHR stipulates that the rights and freedoms therein apply without discrimination based on race, religion, or sex (UDHR, art. 2). On the facts of constitutional and legislative variations in different states, the UDHR requires countries to approve and foster many civil, political, economic, social, and cultural rights. The UDHR endorsed these categories of rights as the foundations of global freedom, justice, and peace, marking the aspirations and philosophy of the UDHR.

Since the adoption of the UDHR, various interpretations have emerged regarding the nature of the document. For instance, the Soviet Union and its allies viewed them essentially as economic and social rights, while the US and

its allies prioritised civil and political rights as important human rights. These dichotomies resulted in the two treaties coming into force later to break the deadlock: ICCPR and ICESCR. A recent review of how rights are categorised in the ICCPR and ICESCR has raised questions about different opinions by confirming that human rights are all-inclusive, cannot be divided, and are linked together (Korankye-Sakyi et al., 2022, p.169; see Para 5 of the Vienna Declaration and Programme of Action, 1993). Another argument supporting the indivisibility of human rights is that they establish a universal standard of achievement for everyone. As has been established, civil and political rights or socio-economic rights should be inseparable because they together create the same types of obligations: protect, respect, and remedy human rights (Bilchitz, 2013; Korankye-Sakyi et al., *ibid.*).

The UDHR does not establish legal obligations for nations. From its text, it established a “common standard, toward which every individual and every organ of society shall strive.” The drafting chairperson of the UDHR, Eleanor Roosevelt, emphasised before the GA in the final vote as follows:

In giving our approval to the Declaration today, it is of primary importance that we keep the essential character of the document clearly in mind. It is not a treaty; it is not an international agreement. It does not purport to be a statement of law or legal obligation. It is a declaration of basic principles of human rights and freedoms to be stamped with the approval of the General Assembly by a formal vote of its members and to serve as a common standard of achievement for all peoples and all nations (Roosevelt, 1948).

From then on, this Declaration has been a helpful guide for numerous international human rights treaties. Even though the UDHR was conceived as

inspirational, there is an evolved argument that the UDHR is legally binding. For example, in 1968, an UN-sponsored international human rights conference in Tehran confirmed that the UDHR constituted an obligation for countries to follow. In January 1991, the UN Foreign and Commonwealth Office emphasised in the "Human Rights in Foreign Policy" document that although the UDHR is not a legally binding treaty in its nature, many of its provisions implied legal obligations on nations. Since then, many human rights cases have positively referenced the Declaration in a manner that has elevated it from a persuasive document to a binding document.

Many developing countries argue that the international soft law regime has not adequately served the purpose of regulating their domestic BHR environment. A close study of the UDHR's provisions shows that, while its primary goal is to promote human development, it does not in any way mention or address BHR specifically. Arndt et al. (2018) have highlighted that most UDHR provisions apply regardless of a country's circumstances. They, however, make a distinction between those articles that are easier for developed countries to follow and those that are uneasy for the poorer nations (Arndt et al., *ibid.*: p. 181). According to Arndt et al. (*ibid.*), this challenge renders the UDHR merely aspirational. No matter what policies many poor countries want, it is almost impossible to reach the goals of the UDHR, even in the shortest amount of time (Arndt et al., *ibid.*). This gap allows individual countries to adopt normative frameworks and mechanisms that satisfy their human rights aspirations and are consistent with the principles of the UDHR and national laws. Since development is a goal of human rights, it is important to mention that many development organisations, especially those within the UN, connect the rights

in the UDHR with their development programmes and the achievement of the SDGs. The rights-based approach to development aims to merge the principles of human rights as contained in the UDHR. Human rights should be a goal of all development work, and the UDHR principles should be included in every part of the development process and all programming. This is the rights-based approach to development (Yiannibas, *ibid.*).

According to Smith (*ibid.*), a Declaration of the UN is not binding despite its compelling moral force. So, even though the UDHR is important and used by countries around the world, there is a clear disagreement about its legal status and how it can be enforced in international law because its rules are considered unclear and not strictly legal (Smith, *ibid.*, 39). However, the UDHR continues to serve as a valuable framework for many countries in drafting legally enforceable national laws (Smith, *ibid.*).

2.3.2 The United Nations Guiding Principles on Business and Human Rights

Over the last 60 years, the UN has adopted several instruments and conventions, some of which elaborate on rights and freedoms, while others deal with specific violations associated with specific endeavours (Smith, *ibid.*, p. 34). One such instrument is the UNGPs. According to John G. Ruggie and Jon F. Sherman, the endorsement of the UNGPs in 2011 by the UNHRC was the first in the history of the UN to accept a normative instrument on a matter without the inputs of negotiations with member states. The UN High Commissioner for Human Rights at the time described the instrument as ‘the global authoritative standard, providing a blueprint for the steps all states and businesses should take to uphold human rights’ (Al Hussein, 2015).

The creation and support of UNGPs, especially those imposing a duty on companies to respect human rights, is regarded as a shift from focusing solely on governments to also examining how MNCs impact human rights. Also known as the Guiding Principles, the UNGPs represent a significant milestone in the evolution of international human rights frameworks. The BHR framework emerged as a landmark framework to resolve the complex and multifaceted relationship between businesses and human rights. These principles explain that businesses of all forms respect human rights and take steps to find, stop, lessen, and report their effects on those rights.

The UNGPs encourage businesses to promote human rights values in their supply chain activities (UNGPs, *ibid.*). The UNGPs are rooted in the UN's values of protect, respect, and remedy, which outline the responsibilities of business actors in the multilateral ecosystem in upholding human rights standards. Under this framework, countries are imposed with the obligations to protect individuals from human rights abuses, while businesses must respect human rights. The state and businesses as natural parties to commercial contracts are required under the UNGPs to provide remedies to victims of human rights abuses (UNGPs, *ibid.*). The UNGPs further operationalise this framework by providing concrete foundations and operational principles on how states and businesses can fulfil their obligations (UNGPs, *ibid.*).

Three foundational pillars form the basis of the Guiding Principles:

Pillar 1: The government must protect people's rights from third parties, like businesses, violating those rights through the right laws, rules, and court cases; Pillar 2: Businesses must respect human rights, which means they

should not violate other people's rights and should resolve any problems that they cause; and Pillar 3: Victims must have easier access to adequate legal and non-legal remedies (UN, *ibid.*, p. 1).

The first pillar, which deals with the state's duty to protect human rights, entails 10 principles, namely, the state's duty to protect against human rights abuses by third parties, including businesses; states should set clear expectations for businesses to respect human rights; states should enforce laws requiring companies to uphold human rights; states should ensure policy coherence between business-related laws and human rights commitments; states should promote human rights compliance in state-owned businesses and those receiving public support; states should integrate human rights into trade and investment agreements; states should assist businesses in conflict-affected areas to prevent human rights abuses; states should ensure effective policy, law, and regulation enforcement; states should ensure businesses operating abroad respect human rights; states should strengthen multilateral institutions' role in human rights and business. The second pillar, which concerns corporate responsibility to respect human rights, has the highest number of principles, totaling 14. They include that businesses should respect human rights and avoid infringing on them; businesses' human rights responsibilities include internationally recognised rights; they should avoid causing or contributing to human rights abuses and address them if they occur; responsibility applies to all businesses, regardless of size or structure; businesses should embed human rights policies and due diligence processes into their operations; businesses should adopt a human rights policy outlining their commitments; businesses should conduct human rights due diligence to assess risks; businesses should

engage stakeholders in human rights impact assessments; businesses should integrate findings and take action to address risks; businesses should track the effectiveness of their responses; businesses should communicate their human rights performance publicly; businesses should provide for or cooperate in remediation of harm; businesses should comply with laws while meeting human rights expectations; businesses should prioritise addressing severe human rights impacts. The third pillar, access to remedy, has seven pillars: states should ensure that victims have access to effective remedies; states should ensure legal frameworks enable access to justice; states should reduce barriers to judicial remedies; states should ensure non-judicial grievance mechanisms are available; businesses should establish grievance mechanisms for affected stakeholders; Industry and multi-stakeholder initiatives should provide effective grievance mechanisms; grievance mechanisms should be legitimate, accessible, predictable, equitable, transparent, rights-compatible, a source of continuous learning, and based on stakeholder engagement.

As the foremost standard for BHR obligations worldwide, the Guiding Principles guide states and enterprises in respecting and protecting human rights and remedying business violations. In other words, the Guiding Principles apply to all states and all transnational and national business enterprises, regardless of their size, sector, location, ownership, and structure. Before the Guiding Principles, the international human rights system was mostly about what states must do. There were limited mechanisms to address the increasing influence of multinational corporations (MNCs) on human rights. The Guidance Principles represent a significant shift, recognising the unique responsibilities of

businesses in the global economy and outlining actionable steps for companies to uphold human rights (Stockton, 2021).

Notably, the UNGPs state that the duty of businesses to respect human rights means preventing the infringement on the rights of others and avoiding adverse human rights impacts on the people they deal with (UNGPs, *ibid*). The state's responsibility to fulfil its obligations under the standards is without regard to its willingness to do so, underscoring the proactive role businesses must play in safeguarding against human rights abuses. The Guiding Principles also guide states on how to fulfil expectations by protecting human rights in the corporate value chain. It includes making laws and enforcing them with the expectation that businesses respect human rights, creating a legal system that promotes respect for human rights, and providing guidance to businesses on their corporate duties towards human rights (UNGPs, 2012). The BHR framework, by not guaranteeing enforceability and allowing states to enact enforceable legislation, reinforces the hypothesis of this thesis that a consolidated domestic legal instrument would better ensure compliance by businesses in the O+G sector in Ghana.

A notable feature of the UNGPs is the theory of HRDD, which guides businesses to actively monitor and prevent potential human rights abuses in the course of their operations. This approach represents a significant shift in the traditional view of CSR, moving beyond a narrow focus on financial performance to cover a wider range of social and environmental impacts. The Guiding Principles emphasise that businesses must consider not only their direct activities but also the indirect impacts of their operations, including

environmental harms that have human rights implications, such as climate change. The UNHRHC welcomed the Protect, Respect, and Remedy framework. They agreed that the UNGPs would set ‘baseline expectations’ for businesses regarding their human rights duties. People viewed this initiative as a crucial initial step in addressing human rights issues effectively (Pillay, 2009). In 2011, Ruggie endorsed this contention by recognising that the UNGPs were not meant to end the human rights problems in the business operations of MNCs but to mark the end of the beginning with a solid foundation that would propel more learning and acceptable conduct (UNHRHC, *ibid.*, p. 2).

The UNGPs serve as a common guide to help prevent and address human rights issues, giving countries a framework to create laws that regulate businesses in line with the principles for international corporate dealings (see the Statement to the Employers' Group at the International Labour Conference, 7 June 2011). Because of this gap, the main goal of this study is to find the best ways to create a single set of domestic laws that make MNCs in the O+G industry comply with the UNGPs.

Businesses face significant challenges in mapping their supply chains, identifying human rights risks, and developing effective remediation strategies. Some businesses are following the Guiding Principles as evidence grows. For example, they are starting to use HRDD practices. One study, for example, explores how companies have approached the task of identifying human rights impacts, what actions they have taken to prevent and respond to these impacts, and how they have tracked and communicated their progress (OHCHR, 2018). The study highlights the diversity of corporate approaches, with some

companies demonstrating a more proactive and comprehensive commitment to HRDD than others (OHCHR, *ibid*). Another source underscores the potential financial benefits of responsible business conduct, noting that companies that treat their employees well and engage with local communities are often perceived as less risky investments (OECD, 2016). According to the report, companies with higher CSR scores often have lower equity financing costs. Being responsible can reduce legal and reputational risks while giving real economic benefits. Adopting and complying with the UNGPs through an adequate legal framework can mitigate reputational and legal risks and yield tangible economic advantages.

Furthermore, understanding human rights is evolving by establishing new principles. For example, the principle of free, prior, and informed consent (FPIC) was acknowledged through the adoption of the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP) (UN, 2007). Ruggie's responsibility for examining human rights in business has led other UN Special Rapporteurs to investigate increasingly how the private sector impacts human rights, such as the rights of indigenous peoples (Anaya, 2023), the right to food (Schutter, 2009), and environmental rights (Knox, 2017).

Donaldson (*ibid.*) posited that corporate responsibility goes beyond Friedman's profit maximisation (see Friedman, 1962). He contended that MNCs are obligated to respect and promote the human rights of people affected by their activities (Donaldson, *ibid.*).

The adoption of the UNGPs has attracted both critiques and endorsements from various quarters, including academics and CSOs (Blitt, 2012). For example,

business ethics practitioners have appraised the basis of the UNGPs unfavourably based on the principle of corporate duty to respect human rights (Brenkert, 2016). Blitt (ibid.) interpreted “responsibility” to mean a voluntary compliance with obligations to respect human rights by businesses (Blitt, ibid.; Muchlinski, 2012). Again, “respect” implies not interfering with the enjoyment of human rights. According to Ruggie, companies have a moral obligation to be responsible because society expects them to respect human rights (UN, 2011; 2008). Cragg (2012, p. 11) challenged the foundation of this theory. Cragg (ibid.) argued that the practical implications of the operations of businesses will not support justification to respect human rights as a matter of course. According to Human Rights Watch (HRW) (2011), the UNGPs merely reinforced a system in which companies voluntarily promote human rights obligations without any responsibility to adhere to them as rules. This means that corporate human rights obligations should ensure that victims have access to remedies in case of violations. Consequently, human rights practitioners still recommend developing binding BHR legislation instead of just a framework embodying non-binding principles (Bilchitz, 2016; de Schutter, 2016). Drawing on this argument, the key proposition of this researcher is that a national legal instrument, especially for the O+G ecosystem in Ghana, with strict and enforceable rules, would ensure that the UNGPs are complied with.

2.3.3 2000 UN Global Compact

This UN Global Compact is considered the major initiative in the world dealing with voluntary corporate sustainability that urges businesses to align strategic operations with various strands of universal human rights, such as labour, environment and anti-corruption principles. It encourages businesses to take

steps that promote societal goals. The main aim of the Compact is to scale up the global impact of businesses and achieve the relevant SDGs through its 10 cardinal principles that demand companies be accountable to society. The Compact offers support to companies to conduct their businesses responsibly in line with 10 principles centred on human rights, labour, the environment, and anti-corruption and to apply strategic steps that foster broader societal goals, like the SDGs. The human rights principle requires that businesses support, respect, and protect globally recognised human rights and not be involved in human rights violations. The principle of labour encourages businesses to: respect the right of labour associations and their right to collective bargaining; avoid all types of forced labour; abolish all forms of child labour; and avoid discrimination in employment and occupation. The environmental principle requires businesses to support a precautionary approach to environmental challenges, initiate programmes that enhance greater environmental responsibility, and encourage the deployment of sustainable environmental technologies. Finally, the anti-corruption principle demands that businesses fight against corruption in all its forms.

2.3.4 1976 OECD Guidelines for Multinational Enterprises

Another relevant international human rights instrument that deals with BHR is the OECD Guidelines for Multinational Enterprises. In 2011, the OECD Guidelines underwent a revision. It contains recommendations from governments directed at both local businesses and TNCs operating in or from member countries. It is a framework that contains non-binding principles requiring responsible business conduct in line with national laws and global standards. It is known as the only multilaterally and comprehensively accepted

rules of responsible business conduct that adhering member states are committed to enforcing (OECD, *ibid.*).

The guidelines aim to encourage enterprises to positively foster economic, environmental and social advancements in their host states and reduce the negative effects of their operations in their value chain. It contains matters on business responsibility such as human rights, labour rights, the environment, bribery, consumer interests, disclosure, science and technology, competition, taxation, climate change, business integrity, supply chain due diligence and biodiversity (OECD, *ibid.*). The guidelines are described as a protocol with a more precise attempt to demand respect for human rights by MNCs globally (Foster, 2013; Teubner, 2011; OECD, 2011). Once again, this framework did not attempt to address a specific national issue or legal system.

2.3.5 The ISO 26000 Guidance Standards on Social Responsibility

The ISO 26000 Guidance Standard on Social Responsibility was launched in 2010 by the International Organisation for Standardisation (ISO) to guide socially responsible ways of operating by enterprises. It was negotiated and approved by consensus after five years of talks among representatives of businesses, governments, NGOs, consumer groups, and labour organisations across the globe. It requires conducting business ethically and transparently to positively impact the health and welfare of society. This standard is deemed deficient as it provides only guidance for businesses, apart from requirements that can be enforced, as compared to other ISO standards (ISO, n.d.).

The guidance is a voluntary standard for enterprises that considers respect for society and general human rights rules critical to their sustainable progress.

Hence, it is considered an assessment metric for enterprises that commit to sustainability and holistic performance. This means that it defines social responsibility and provides organisations with assistance in implementing global social responsibility principles through acceptable actions and best practices. Its scope covers all forms of businesses, regardless of their activities, size, or location.

2.3.6 The ILO's Tripartite Declaration of Principles concerning Multinational Enterprises and Social Policy

The Tripartite Declaration of Principles for Multinational Enterprises and Social Policy were adopted by the ILO in 1977 and reviewed 30 years later in March 2017. It provides guidelines for MNCs, governments, employers, and workers' organisations. Founded primarily on principles laid down in international labour conventions and recommendations, the document covers employment, training, the conditions of work and life, and industrial relations.

2.3.7 Customary International Law as a Source of BHR Obligations

Customary international law (CIL) has, for a very long period, accepted that a class of individuals deserves specialised protection that would generally not be given to all nationals of a state (Smith, *ibid.*, p. 7), such as the protection of minority rights. Custom is “a general practice accepted as law” (the International Court of Justice (ICJ), art. 38). CIL is the unwritten rules developed from the customs and usages of states that have fallen into a common pattern over time and are regarded as binding rules. Therefore, states' conduct evolves into CIL, which then becomes part of the minimum standards of international law. Experts in international law agree that there are just two main

sources of international law: CIL, which is seen as having a universal basis and some level of obligation, and conventional international law, which usually only applies to the countries that have agreed to it based on the *pacta sunt servanda* principle (D'Amato, 2010).

According to Mendelson (n.d., p.200),

as well as constituting practice of the State of which they form part, [customary international law] constitutes persuasive precedents on the rules of international law on particular questions, just as do those of international courts and tribunals.

Mendelson's view espouses the dual role of CIL and how it plays out in international jurisprudence. By "*constituting practice of the State of which they form part*", CIL engages in certain consistent usages or legal claims, and those actions result in the "state practice" component of CIL. This implies that CIL develops through consistent and general practice and by the acceptance of rules or *opinion juris*. To say that "*[customary international law] constitutes persuasive precedents...*" means that even if CIL is not codified or binding in one legal system, it may be employed to influence the doctrinal approach. This implies that jurists and scholars usually rely on these accepted customary rules to guide their interpretation of international law. Therefore, the state's action and its legal needs develop CIL jurisprudence.

Up until 1868, when the Argentine jurist, Carlos Calvo, persuaded the world with his view on international rule to permit host states to reduce protection for alien property while at the same time reducing domestic guarantees for nationals, CIL was a dominant force for international arbitration against

nationalisation of alien properties. The Calvo doctrine asserted that domestic courts must have jurisdiction over foreign interest cases in host states without recourse to a so-called international tribunal governed by CIL. The unpopular Calvo theory sought to annihilate the international law principles advanced by the capital-exporting countries through CIL to protect foreign investor interests in developing countries. Especially after the period of World War II (1945-1990), CIL rules were disregarded within independent developing states, particularly in the Latin American countries, thereby reviving the Calvo doctrine (Smith, *ibid.*, p.9; Dolzer & Schreuer, 2012). This period of the “permanent sovereignty” ideology under which the Calvo doctrine thrived, came to an end in the 1990s, and the customary law tradition turned the tide in its favour.

Dolzer and Schreuer (*ibid.*, p. 17) argue that despite the dominance of traditional international law with treaties, CIL cannot be ignored in that jurisprudence. This position is fortified under article 31(3)(c) of the Vienna Convention on the Law of Treaties, which states that, in line with the treaty’s context, “any relevant rules of international law applicable in relations between the parties” shall be accepted. In this sense, CIL is regarded as useful in international dispute resolution involving MNCs in any investment contract (Dolzer & Schreuer, *ibid.*). This is especially useful for rules on expropriation or nationalisation of alien property in investor-host states (the Constitution, art. 20).

While most of the soft law instruments mentioned earlier might not have any binding force, customary international law does have some binding effect. The point of doctrinal disagreement during the negotiations towards the UN’s

attempted regulation of TNCs' conduct was on the role and extent of customary law in the regulation of businesses. The OECD countries, particularly, were convinced that CIL provided enough regulation for MNCs, and there was no need for a treaty. Because of the development in the BHR jurisprudence, and to respond to the call for businesses and citizens of host communities to access quick, transparent and cost-effective grievance mechanisms in revoking human rights breaches, non-judicial mechanisms through international customary law practice are being canvassed. For this reason, the American Bar Association led the establishment of the Centre for Human Rights and the Business and Human Rights Access to Remedy Institute (ARI) to facilitate the realisation of the UNGPs' pillar on "remedies" (Brabant, Sousa & Eaton, 2021). In this manner, the Hague Rules on Business and Human Rights Arbitration offer rules for the arbitration of BHR disputes to assist victims in having fair and just treatment.

Even though many human rights abuses like slavery and torture are strongly condemned by CIL, it is unclear if the violations caused by businesses during their operations can be fixed using these legal procedures. Efforts have been made to establish a binding legal mechanism through a treaty law approach to enforce corporate human rights obligations, but these efforts have failed. Some scholars have argued for the revival of this normative proposal at the UN, believing that UN norms are more potent in dealing with BHR breaches by corporate bodies (Malik & Gilani, 2020). This is because these norms are developed from CIL practice, which has an authoritative binding effect on states, as Mendelson postulated (Malik & Gilani, *ibid.*).

This research argues that the UNGPs in their current state are mere soft law guidance, and until universally accepted as rules of CIL, their enforcement would require more than voluntary implementation and compliance.

2.3.8 The Lack of Non-Binding Rules on BHR in the Corporate Ecosystem

Most international instruments related to BHR have established their non-binding nature. The debate on whether a treaty approach should govern BHR has received much scholarly and stakeholder attention (Leader, 2017; Simon, 2017; Bilchitz, *ibid.*; De Schutter, *ibid.*; Ruggie, *ibid.*). According to Bernaz (2021), the contention over the lack of a binding treaty for the BHR is centred on how to adopt and implement one that strengthens corporate accountability in the interest of rightsholders. This situation has revolved around “accountability”; a term which has not received a unified conceptualisation in the field (Bernaz, *ibid.*). According to Uribe and Danish (2020), accountability, generally in the context of BHR, “implies the obligation of an individual or legal entity to accept responsibility for their actions, either through a claim in a civil procedure or in a criminal matter.”

Within the last 50 years, the UN has taken several steps to regulate the value chain in the corporate arena under the mounted pressure from developing countries under different frameworks, such as the New International Economic Order (NIEO) (1974), the Draft Norms (2003), and UNGPs. For instance, to push for a legally binding instrument for BHR regulation, Ecuador and South Africa sponsored Resolution 26/9 (A/HRC/26/9) to the UNHRC in 2014, resulting in the establishment of an Intergovernmental Working Group following international human rights law (Uribe & Danish, *ibid.*). The UN Commission on Transnational Corporations and the UN Centre on

Transnational Corporations were established to formulate a comprehensive international code of conduct to regulate relations between TNCs and host countries as a precursor to an international treaty on transnational corporate conduct. However, the breakdown of negotiations due to doctrinal differences among the negotiating regional blocs prevented this ambitious plan of the UN from being implemented. Among other concerns, Mares (2022) contends that the continuous breakdown in UN negotiations for a binding treaty is due to an attempt to legalise MNCs' responsibility.

According to Smith (ibid., p. 30), like many soft laws, the reason why many BHR compacts have failed is because of the prescriptive nature of the UN international instruments. International codes of conduct have consistently included various stakeholders from the corporate sector, whose differing interests and levels of control influence negotiations. In that regard, states' will and MNCs' interest determine acceptance of these norms. According to Uribe and Danish (ibid., p.1), the negotiation for a binding instrument includes the convergence of different public and private interests. Again, UN codes have only had moral force, without being legally binding, since the adoption of the UDHR (Smith, ibid.). In a recent work, Joseph and Kyriakakis (2023) identified several pitfalls that have plagued the contemporary approaches to regulating BHR and emphasised the support for a legally binding instrument to fill the gap. They contend that both soft and hard law have not addressed the pitfalls because the enormity of corporate power has not been appreciated in the BHR debate.

In the paper titled "Regulating Transnational Corporations at the United Nations-The Negotiations of a Treaty on Business and Human Rights," Mares (ibid.) suggests that the UN has renewed its efforts to regulate MNCs and their

operations, while also highlighting the options available to the UNHRC in treaty negotiations within broader regulatory approaches concerning BHR. He agrees that a deeper discourse on HRDD is needed to identify the real causes of human rights concerns in the corporate ecosystem and arrive at a sustainable approach to offer remedies. The paper proposes that the UNWG work on responsible business conduct, HRDD, the UNGPs, and other UN regulatory interventions from the past should be revisited. This position, however, seems to draw the debate back, as it relies heavily on treaty drafts that have failed to achieve any consensus. In agreement with Uribe and Danish (ibid., pp. 11-12), this research posits that, considering the obvious limitations of the voluntary nature of the UNGPs, to accountability for human rights breaches in host communities, the debate on adoption and implementation of a legally binding instrument on BHR must be the approach to adequately fulfil the mission of the UNGPs in the O+G sector in Ghana.

2.4 Human Rights in the Extractive Industry

This section looks at previous research on how human rights issues have changed in the extractive industry, mainly in the O+G sector, to see how well relevant theories fit the project's goals. The O+G industry in Ghana has been a significant driver of economic growth, but it has also faced persistent challenges in addressing human rights concerns (UNGPs, ibid.; UNGPs, ibid.). Various industries in Ghana have led to a large workforce facing diverse occupational hazards, ranging from chemical and physical exposures to ergonomic and biological risks (Annan et al., 2015). Incidents such as hydrocarbon leakages, falling objects, fires, explosions, blowouts, and hydrogen sulphide emissions pose significant threats to worker safety and well-being in the sector (Liu et al.,

2020). A study by Ghana's Ministry of Environment, Science and Technology (MoEST) and Kosmos Energy Group in 2011 highlighted the need for strengthening environmental regulation and legal regime to better govern the social and environmental impacts of the O+G industry. The report identified some actions needed to build the capacity of the country to manage the industry more effectively.

Meanwhile, a report by General Reinsurance Africa Ltd indicated that explosions are the most serious and dangerous accidents faced by the O+G industry in Ghana, often resulting in worker fatalities and equipment damage (Liu et al., *ibid.*). The ILO Convention (No. 155) on Occupational Safety and Health, which Ghana has not yet ratified, provides a framework for addressing these challenges. The lack of thorough standards and unfamiliarity with existing guidelines have led to underreporting and misclassifying work-related injuries and illnesses, hindering practical corrective actions (Annan et al., *ibid.*). Additionally, research has shown that a strong organisational commitment to occupational safety and health is crucial for reducing work-related injuries and illnesses in the Ghanaian mining industry, which shares similar risk factors with the O+G sector (Amponsah-Tawiah & Mensah, 2016).

The earliest oil governance regime was put together by the private oil companies, constituting the International Petroleum Cartel (IPC), and dates back to before World War I (Yergin, 2009, pp. 105-112). The oil companies leased the fields, compensated the landlords with fees, and formulated rules to guide the product's production, distribution, and marketing. Following World War II, which witnessed a weakening of the grip of the imperialist countries

from which the leading oil companies came, such as France, Britain, and the Netherlands, oil-exporting countries began to assume oversight over their territories, culminating in the second oil governance architecture, the Organisation of Oil Producing and Exporting Countries (OPEC), established on September 1, 1960 (Yergin, *ibid.*, pp. 501-522). However, to ensure the security of supply and reasonable pricing, especially following the oil crisis of the mid-1970s, which sent prices skyrocketing, a third governance regime emerged from oil-consuming nations through the creation of the International Energy Agency (IEA) (Yergin, *ibid.*, p.612). That regime is more or less still in place today (Mommer, 2000, pp. 1-2). The orthodox approach to this phenomenon emphasises internal political and economic phenomena as its primary source. As a counterpoint to the curse, the solutions focus on creating a liberal economic and political governance framework. However, as Jasper Alayazuno points out, such an approach is uncritical, ahistorical, and reductionist (Alayazuno, 2014). It is important to recognise that contemporary global capitalism has led to the persistence of enclave extractive industries and reliance on exporting low-value commodities. Prominent MNCs dominate the significant processes of product exploration, extraction, and processing by design. Many perceive problems as internally generated, yet they have numerous external roots that date back to history.

Following on from a political economy analysis, a rights-based approach helps in arriving at a more profound understanding of the situation of local communities beyond the dominant narratives that link the operations of extractive industries to poverty alleviation and sustainable development (Van

Alstine et al., 2014, p. 48; Atuguba & Dowuona-Hammond, 2006). The well-touted benefits of the extractive industry are widely known.

The European Commission (EC) found that the O+G industry is a critical enabler for development because it provides energy and significant revenue mobilisation for a country. If properly managed, funds accrued from this O+G production can support poverty reduction initiatives as well as the protection of many human rights, including the rights to work, health, a decent standard of living, and education. In most cases, the sector offers employment for highly skilled and technical workers due to the nature of the operations involved. Moreover, MNCs engaged in O+G activities are expected to promote human rights by engaging in health and safety performance, reducing environmental impacts, and sponsoring viable relationships with host communities. (EC, 2013, p. 2). Therefore, it is unsurprising that countries worldwide view the discovery of O+G resources as a “blessing.”

Nevertheless, these discoveries have concerning drawbacks. According to the same EC report, O+G companies can and do have negative impacts when they refuse to focus on human rights. When such a duty is neglected, it can have real impacts on the rights of individuals. In the same way, it can also incur costs for O+G companies due to operational delays, lawsuits, reduced employee satisfaction, lost opportunities in expansion or new investments, and reputational harm (EC, *ibid.*, p. 2). While the above concern is genuine, it overly focuses on the costs to the O+G companies, only briefly mentioning the ‘very real costs’ to individuals. The host country, local communities where the industry is located, and the broader public bear the brunt of the violations.

Further, there is a need to break down the elements in the 'community' such that vulnerabilities within the communities based on gender, class, age, disability, and status are integrated into the analysis at all junctures. Shifting the focus of concern in this way allows for a much more comprehensive understanding of the potential benefits and costs of the O+G industry. The key is to understand the links between power relations, fundamental rights, and social status. It is important to consider how O+G restructures existing social relations, political-economic conditions, and power relations. The analysis of such power relations includes those between and among national elites and elites in the oil industry (the MNCs) and the impacts of both on local communities. An intersectional analysis of this nature will demonstrate the differential impacts on women and men, the rich and poor, the young and old, and those who may be living with disabilities, other disadvantages, or social structures of various kinds.

Before considering those costs and benefits, it is necessary to begin with an understanding and critical interrogation of the main principles governing the operation of the institutions in the sector. The O+G sector in Africa is currently controlled by MNCs with the capacity to employ a significant number of expatriates and enhance the profitability of the sector in their host countries. Unfortunately, Heum et al. (2011) found that the MNCs in the sector provide significantly more support for the livelihoods of foreigners than they do for local nationals.

In African communities where poverty is endemic, indigenous people show less resistance to the well-being of foreign petroleum companies that employ a substantial number of locals. Where local people have been assisted in

developing employable skills by O+G companies, there is little to report on nontechnical challenges in such countries (Hackenbruch & Pluess, 2011). For the sustainable operation of MNCs in the O+G sector in Ghana, managers of these companies need to consider LCPs seriously. This conclusion is grounded in the evidence that in countries where petroleum companies fully integrate the local people, through vocational training and employment, they improve self-sufficiency and economic progress (Ackah & Asaah, 2020; Oil and Gas IQ, *ibid.*). Esteves and Barclay (2011) found that recent governmental policies on LCPs include royalty, tax revenue, and local content maximisation geared towards widening the local industrial base. Royalty and tax revenue maximisation provides the state with dedicated funds for infrastructural expansion, while local content maximisation seeks to enhance the employment of citizens and local enterprises (Esteves et al., *ibid.*). The desired mix of effective LCPs involves maximising royalty and tax revenue and prioritising local human resource content in oil-rich developing countries. As Ghana continues to develop its O+G resources, it must prioritise protecting workers' human rights and ensuring that the industry's operations align with UNGPs.

2.5 History of Oil Development, Governance, and Regulations in Ghana

In this section of the literature review, the historical development of O+G in Ghana is examined critically, along with the governance models employed and the changes in laws and regulations that govern the sector. By tracing these developments, the review provides a contextual foundation for understanding contemporary challenges to regulating corporate behaviour within the industry. It explores key legislative frameworks, the role of institutions such as the Petroleum Commission (PC), and the interplay between national policies and

international legal standards. This historical analysis is critical to the thesis because it places the discussion of BHR within the context of Ghana's O+G sector's broader regulatory and governance framework. This section provides insights into existing gaps in legal compliance, enforcement, and corporate accountability by understanding how governance structures and regulatory mechanisms have evolved. This historical context is crucial for evaluating a dedicated legal instrument's necessity and potential effectiveness for ensuring compliance with BHR principles. This section strengthens the thesis's case for a structured and enforceable legal system to deal with BHR concerns in Ghana's O+G industry.

2.5.1 Development of the Oil and Gas Industry in Ghana

Oil is considered the largest commodity in international trading after dislodging coffee in 1966 (Gelb et al., 1988). Since that time, the production and trade in oil have been a significant avenue of wealth creation for several states (Gunning, 1991). The contribution of O+G resources to the economic development of many countries is well documented (Nyukorong, 2020). After the discovery of oil in some African countries, many were the expectations to see unprecedented growth in the economies of the countries with such discoveries and production. The discovery and subsequent development of Ghana's O+G sector have played a transformative role in the economic and political landscape. Since the initial exploratory activities in the 19th century to the commercial production of oil in 2010, Ghana's petroleum industry has evolved under various governance structures and regulatory frameworks. Both domestic policy decisions and international legal and economic factors have shaped the sector's growth. Such growth has underpinned governance establishments, contractual arrangements,

and compliance mechanisms that are meant to ensure that resources are extracted responsibly. Over the years, Ghana has sought to balance the economic potential of its petroleum resources with the need for environmental sustainability, social responsibility, and adherence to international best practices in extractive governance. Ghana's O+G development is complex and multifaceted, marked by both challenges and opportunities. The country's energy landscape has been shaped by its substantial endowment of renewable energy resources, which have yet to be fully tapped due to a lack of finance and expertise (Takase & Kipkoech, 2023).

Ghana has become increasingly reliant on expensive O+G-based power plants, which have significantly drained the national economy. This development also portends some exploitative tendencies in terms of labour, health, and environmental issues, often at the expense of local communities that bear the brunt of the generational and production effects. In this regard, Ghana's O+G development has had implications for the country's environment and social landscape. The government has recognised the need to strengthen its environmental governance and regulatory capacity to better manage the industry's impacts. The country's substantial renewable energy resources, coupled with the need to strengthen its governance and regulatory capacity, present a complex and multifaceted landscape for the future of the industry (Takase & Kipkoech, *ibid.*; Buchman et al., 2012; Gyamfi et al., 2014; Haselip et al., 2013).

Just as the discovery of oil resources has offered many opportunities for many countries and fueled their socio-economic growth, the same was expected in

Ghana to afford better potential to the nation, instilling optimism and elevating the living standards of some of its citizens. Past events have significantly influenced the governance and extraction practices in Ghana's current oil industry. Key developments have been witnessed since the production of O+G in the country. The pressing question raised is whether Ghana, as a nation, has taken lessons to put things right and achieve significant progress with this discovery, given the account of its history. This question would be satisfactorily addressed if there were a positive answer to the question: does Ghana have the requisite legal instrument to ensure compliance with mandatory requirements under UNGPs in the O+G sector? This is because realising the human rights obligations under the UNGPs requires maximising citizens' welfare in the communities in which the O+G resources are exploited.

The Ghana Geological Survey reported that onshore petroleum exploration in Ghana began in 1896 when the Tano Basin in the Western region of Ghana was discovered with oil seepages (Petroleum Commission of Ghana [PC], 2020). Early exploration corporations were the West Africa Oil and Fuel Company, African and East Trade Corporation, and Société Française de Pétrole (SFP), which began drilling on various concessions in the period between 1896 and 1925 (PC, *ibid.*). Between 1925 and 1956, the country witnessed no activity in oil exploration, but the companies decided to work on existing concessions without bidding additional rents. Following this period, the Gulf Oil Company acquired an onshore lease and explored oil in Ghana. The country drilled a significant number of wells from 1896 to 1957, a period of 61 years. For instance, that period saw the drilling of 17 onshore wells in the Onshore Tano Basin (PC, *ibid.*). The Ministry of Energy (Ministry of Energy and Green

Transition) was established in 1957 with the mandate to align Ghana's energy policies and implement, monitor, coordinate, evaluate, and supervise activities within the sector (Ministry of Energy [MoE], 2017; <https://www.energymin.gov.gh/about>). To explore the benefits of oil, Ghana commercialised its oil resources throughout the 1960s. Again, more gains were made when, in 1970, a company named Signal Amoco successfully discovered additional oil offshore of Saltpond (Asamoah, 2013a; 2013b). The Saltpond oil supply was inadequate to meet the country's, Ghana's, energy needs. To make up for the short supply, Ghana relied on imported petroleum products to supplement both domestic and industrial demands (Siakwah, 2016; Integrated Social Development Centre [ISODEC], 2014; Ministry of Finance and Economic Planning [MoFEP], 2014).

At the end of Kwame Nkrumah's government in 1966, the allies of the country, specifically the Soviet and Romanian, left the country, marking a new phase from onshore to offshore oil exploration in 1967. The government brought in more private oil companies to explore oil in Ghana (PC, *ibid*). With remarkable interest expressed in continental shelf exploration, the companies commenced offshore exploration in the country. Such activity led to the division of the whole continental shelf into 22 blocks in 1968 for rent licensing. The exploration of oil in commercial quantities heightened in Ghana between 1972 and 1979 (PC, *ibid*). Since 2001, Ghana's O+G exploration has undergone a significant turning point, marked by the discovery of new and substantial finds (Siakwah, 2017). This feat was made possible when private participation in the sector was prioritised by inviting companies such as Kosmos Energy, Hess Corporation, and Tullow Oil with investments into the commercial production of

petroleum. With their financial and technical capacities, these companies acquired exploration and production rights over areas in deep water, leading to the country's breakthrough in commercial oil production in 2001. Thus, oil production increased significantly between 2001 and 2007 (PC, *ibid.*).

The Ghana National Gas Company (GNGC) was set up by the state in 2011 as a limited liability company with the authority to build, own, and operate the appropriate infrastructure to produce, process, transport, and market natural gas resources within the country (Ghana Gas, 2020). To enhance the governance architecture of the O+G industry, the Petroleum Commission Act of 2011 (Act 821) established the PC to promote effective policies on upstream petroleum activities and regulate and manage the utilisation of Ghana's oil revenues (PC, *ibid.*).

Under an improved regulatory environment, rent share considerations, and the favourable fiscal regime in Ghana, both local and multinational companies have been incentivised to continue exploring opportunities to operate in the O+G sector. Among these reputable companies are Exxon Mobil, an American company; Tullow Oil, an Irish company; and Norwegian Aker Energy, which is currently procuring businesses owned by Hess Corporation in Ghana (Owusu-Adjapong, 2018). Currently, Ghana is a net producer of oil, culminating in budgetary support for its social and infrastructure development. The discovery of oil in commercial quantities under the Fourth Republic of Ghana naturally signaled a hope for economic transformation among the populace (Owusu-Adjapong, *ibid.*). To manifest the expectation of the people into reality, the “Oil for Development Programme” was outdoored in 2005 to help the country to

effectively manage its oil resources. Even though the people are hopeful about becoming wealthy from the oil profits, many problems could prevent this from happening in the future, such as corruption that affects how the money is shared, unclear contracts, poor management of revenue, lack of protection for the environment and communities, and a general lack of transparency and accountability.

2.5.2 Institutional and Legislative Development in the O+G Sector in Ghana

Ghana's institutional and legislative development in the O+G sector highlights the need for developing countries to adopt oil governance regimes to reduce opacity in extractive revenue spending and enhance accountability in government payments and receipts for the welfare of citizens. Ghana's upstream oil governance regime is modeled on the Norwegian system, implementing stabilisation funds and separating commercial mechanisms from policy and regulatory regimes. Many laws govern the upstream oil sector, including the Ghana National Petroleum Corporation (GNPC) as the principal institution. The GNPC is a statutory body established by law to be the leading public institution in charge of business operations, petroleum exploration and production, and ensuring that environmental laws are followed to achieve optimal resource utilisation. However, failure to adhere to legal regulations, issues with local content, and poor financial management are the primary issues with Ghana's oil governance laws and institutions (Quartey & Abbey, 2020).

The following sections espouse the regulatory frameworks that govern Ghana's O+G sector and assess how well they ensure compliance with the UNGPs.

2.5.2.1 Constitutional Framework on Oil and Gas

This section looks at the parts of Ghana's 1992 Constitution that affect BHR in the oil industry and discusses what they mean for corporate responsibility, community rights, and long-term resource management. The Constitution serves as the supreme legal framework governing the country's political, economic, and social structures, including the regulation of natural resources and human rights protection. As the foundation of Ghana's democratic governance, the Constitution establishes key principles such as state ownership of natural resources, environmental protection, social justice, and economic equity, all essential in addressing human rights concerns within the O+G sector. Article 12 (1) sets the tone for the state and its organs and agencies, and all natural and legal persons, including business entities, whether local or foreign, to respect the fundamental human rights and freedoms enshrined in the Constitution, and ensure enforceability by the Courts as provided for in the Constitution. The Constitution, therefore, provides an institutional architecture by establishing CHRAJ under Article 216 to oversee the achievement of the human rights obligations imposed on the state and non-state actors.

The Constitution mandates the state to ensure that the exploitation of natural resources, including petroleum, benefits all Ghanaians while safeguarding the rights of affected communities and workers. Provisions on labour rights, environmental sustainability, and access to justice underscore the state's responsibility to prevent human rights violations, such as environmental degradation, displacement, and unfair labour practices by O+G companies. The Constitution does protect human rights and social welfare in general, but how these rights are used in the O+G industry depends on laws, regulatory bodies,

and enforcement systems specific to that industry. Although the Constitution of Ghana does not explicitly mention BHR concerning petroleum activities, several provisions establish the legal and human rights framework within which businesses, including those in the O+G, must operate. For example, Article 257(6) mandates that all natural resources, including petroleum, be managed by the President of Ghana in trust for and on behalf of the people. It implies that the government is responsible for exploiting petroleum resources to benefit all Ghanaians. Again, Article 268(1) requires parliamentary approval for agreements relating to the exploitation of natural resources, ensuring oversight in the governance of petroleum activities.

On “Directive Principles of State Policy,” Article 36(9) mandates the state to take appropriate measures to protect and safeguard the national environment for future generations. This provision ensures that petroleum activities do not lead to environmental degradation that negatively impacts communities. Article 41(k) also imposes a duty on citizens, including corporate entities, to protect and safeguard the environment. This provision indirectly forces O+G companies to comply with environmental laws and respect community rights. The economic and social rights principles of the Constitution require that the state ensure that the economy is managed in a way that maximises the welfare of all Ghanaians (Article 36(2)[d], 1992). This implies that petroleum revenue management should prioritise socioeconomic development, including articles that call for the state to promote decentralised economic policies to ensure that national resources benefit all regions equally. Again, articles 36 (2) (b) and (c) require the state to create ample opportunity for individual initiative and creativity in economic activities and foster an enabling environment for a

pronounced role of the private sector in the economy; and ensure that individuals and the private sector bear their fair share of social and national responsibilities including responsibilities to contribute to the overall development of the country. These provisions directly place responsibilities on the private businesses in the O+G industry, as a component of the overall private sector, to be accountable and compliant, to achieve greater welfare of the citizens and ensure sustainable resources utilisation.

As far as the Constitution is concerned, there are elaborate procedures to be followed by the state to enact any instrument for the regulation of a specific sector, which requires national attention for resource, social, and economic sustainability.

2.5.2.2 The Ghana National Petroleum Corporation Act, 1983 (PNDC Law 64)

The O+G industry in Ghana has undergone significant changes since the discovery of central offshore oil reserves in 2007 (Oppong et al., 2015). PNDC Law 64 established the GNPC as the state-owned national oil corporation to oversee the development, production, and disposal of petroleum resources in Ghana. Ghana established the GNPC as a strategic national oil company in charge of the upstream sector (Quartey & Abbey, *ibid.*). However, the effectiveness of this legislation in ensuring compliance with the UNGPS in the O+G sector has been a subject of ongoing debate. PNDC Law 64 established the GNPC to explore, develop, produce, and dispose of oil. However, it does not directly address human rights protections or ways to enforce the UNGPs. This omission has raised concerns about the law's adequacy in safeguarding human rights within the industry. The Corporation is responsible for developing

the country's petroleum resources and promoting exploration efforts to ensure that Ghana derives maximum benefits from its O+G industry. Initially, under the governing legislation, GNPC was not only actively involved in the commercial activities of oil exploration and production but also served as the regulatory authority for the sector. As part of its mandate, the Corporation undertook petroleum operations, negotiated and entered into contracts on its own or in partnership with other entities.

Additionally, GNPC was responsible for training Ghanaians and building national expertise in petroleum-related activities. For over two decades, the Corporation operated with overlapping responsibilities, serving both as a commercial entity and the industry's regulatory body, creating a conflict of interest. However, the enactment of the Petroleum Commission Act, 2011 (Act 821) transferred GNPC's regulatory, monitoring, advisory, and licensing functions to the newly established PC. GNPC redefined its role to concentrate solely on the commercial aspects of exploration, production, and industry development. Notably, the legal framework does not have explicit protections for human rights or ways to hold industry leaders responsible for breaking the law while the GNPC watches over them.

2.5.2.3 Petroleum Commission Act, 2011 (Act 821)

The O+G industry is a crucial component of Ghana's economy, contributing significantly to the country's GDP and providing employment opportunities for many. However, the industry's environmental and social impact has been a growing concern, leading to the enactment of Act 821 to address these issues (Buchman et al., *ibid.*). The PC was established by the Act to monitor the

management and regulation of Ghana's O+G resources and to implement the general rules of international law for safety in the sector. The Commission ensures that petroleum operations are carried out to protect the environment and respect local communities' rights (Hilson, 2002). One of the key objectives of the Act is to enhance compliance with international human rights principles and address adverse impacts associated with the operations of OMCs. The Act empowered the Commission to monitor and enforce compliance with environmental regulations and promote transparency and accountability in the industry (Zakaria & Zakaria, 2024).

Its regulatory duties include making it easier for International Oil Companies (IOCs) to get licences in compliance with the laws of the country. Before, the GNPC oversaw and regulated the PC, and the PNDC Law 64 set limits on what they could do. However, the GNPC passed Act 821 to ensure accountability, reduce inefficiency, and eliminate potential conflicts of interest (Ainuson, *ibid.*). In partnership with the IOCs, the GNPC explored further opportunities to strike oil through the vehicle of subsidiaries in the sector (Ainuson, *ibid.*). Act 821 tasked the PC with promoting local content and participating in petroleum activities. Studies have shown that companies that have adopted the concept of corporate governance tend to display excellent performance (Zakaria, *ibid.*), and Act 821 was designed to strengthen corporate governance in the O+G sector. Research suggests that the Act has been instrumental in improving environmental governance and regulation in the O+G industry. However, uncertainty persists regarding the effective implementation of the Act's provisions and their compliance with the UNGPs. In 2011, a study called 'Needs Assessment of Capacity Building for Environmental Governance and

Regulation of the Oil and Gas Industry’ found that more training was needed in several areas to improve the rules and ensure the industry's environmental and social effects were better managed. On the other hand, other studies have demonstrated that the sector continues to face numerous health and safety issues, including hydrocarbon leaks, falling objects, fires, explosions, and hydrogen sulphide emissions that pose a risk to workers (Liu et al., *ibid.*). The PC has been working to improve its regulatory capacity and enforcement mechanisms to address these challenges. Additionally, the Commission has collaborated with industry stakeholders, CSOs, and international partners to promote and ensure compliance with international best practices.

2.5.2.4 Petroleum Revenue Management Act, 2011 (Act 815)

Act 815, also known as the PRMA, is the law that governs the financial affairs of collecting, sharing, and managing petroleum revenues in Ghana. It seeks to ensure accountability. To achieve this objective, the Petroleum Holding Fund (PHF) is mandated under the auspices of the Bank of Ghana (BoG) to accumulate funds through reserves determined by law and to disburse the same (BoG, 2022). The practical disbursement of the PHF is done through the Ghana Stabilisation Fund (GSF) and the Ghana Heritage Fund (GHF). While the GSF is required to monitor the expenditure of the government during the world market price of the commodity, the GHF was created as an endowment in anticipation of resource depletion, mandated to provide financial support for future generations at such a time.

The law stipulates that an annual budget funding amount (ABFA) of not less than 70% of the revenue allocation to the PHF should be channelled into long-

term development by way of investment. The allocation and expenditure of this fund are supervised by the Parliament of Ghana. Under the Act, two main quasi-public interest entities were established: the Investment Advisory Committee (IAC) and the Public Interest and Accountability Committee (PIAC). While the IAC is entitled to advise the minister on the management of the petroleum fund, the PIAC has the role of monitoring and evaluating the government's compliance with the PRMA. PIAC has the additional mandate of assisting parliament and the executive with oversight to put the oil revenues into prudent ventures (PRMA, 2011, p. 45). The object of the Act 815 is primarily to ensure the sustainability of the oil resource and the allocation of proceeds for the advancement of the welfare and economic rights of the citizens.

2.5.2.5 Petroleum (Local Content and Local Participation) Regulations, 2013 (L.I. 2204)

This regulation aims to promote job creation and value addition by employing the expertise of the local people, especially for those in the immediate localities of petroleum activities. It encourages the participation of local people by utilising their capabilities in the value chain. The areas of expertise of interest include education, skill transfer, and technology transfer. For this reason, the regulation demands that contractors, subcontractors, licensees or companies undertaking any petroleum venture are required to have the participation of local content. It requires that Ghanaian-owned enterprises be given priority when petroleum agreements are envisaged (Amofo, 2022). The rationale is to develop the capacities of local businesses to survive in the petroleum sector. Again, the law requires that interested Ghanaian businesses in the sector have a minimum of 5% equity with any foreign entity in a petroleum contract. Existing

law provides that local companies that are interested in providing goods and services to contractors or agents in any joint venture in the country are to acquire at least 10% of the equity in such agreements (Ghana Investment Promotion Centre Act, 2013, (Act 865), s. 28). Additionally, the local content regulation envisages the employment or engagement of local people, training, research and development programmes, technology transfer, and the utilisation of the legal, financial and technical services provided with the capacities of the local people (Amoah, *ibid.*). To monitor compliance with this regulation, PC is required to receive annual reports from contractors on the local content profile. The PC receives complaints on non-compliance, investigates, and where a contractor or its subcontractor is found liable for any breach, penalties, including fines and sanctions, are applied (L.I. 2204, Reg. 46).

2.5.2.6 The Petroleum Exploration and Production Act, 2016 (Act 919)

The rapid development of the O+G sector in Ghana has also brought about concerns regarding environmental governance and the protection of human rights (Liu et al., *ibid.*). Act 919 aims to address these issues by ensuring compliance with the international legal frameworks in the sector. The Act is based on the need for a comprehensive legal framework to regulate Ghana's burgeoning O+G industry. Before the Act, the industry faced challenges related to occupational health and safety, environmental management, and the protection of local communities' rights. The objectives of the Act are to promote sustainable development, ensure responsible extraction of petroleum resources, and safeguard the interests of the Ghanaian people (Buchman et al., *ibid.*). The effectiveness of the Act in ensuring compliance with the UNGPs can be examined through various lenses.

A joint report issued by the Ministry of Environment, Science and Technology, and Kosmos Energy in 2011 on the needs assessment of environmental governance in the O+G sector revealed some areas for improvement and strengthening to build a better ecosystem for environmental and social governance. The report highlighted the need for a robust monitoring regime to prevent environmental abuse, which the Act aims to address. Furthermore, the O+G sector in Ghana remains one of the most hazardous industries, with workers facing risks such as hydrocarbon leakages, falling objects, fires, explosions, and hydrogen sulphide emissions. Act 919 aims to improve health and safety at work, but it needs to be paired with vigorous enforcement and training programmes to ensure that workers' rights are protected in line with the UNGPs through a strong legal instrument. On its own, the law does not provide adequate hedges to protect various human rights in the sector.

The precursor legislation to Act 919 was the Petroleum Exploration and Production Act, 1984 (PNDC Law 84), which governed petroleum rights and agreements in Ghana. According to the law, all petroleum resources within Ghana's jurisdiction were owned by the Republic of Ghana and held in trust by the PNDC on behalf of the people (Quartey & Abbey, *ibid.*). The law further stipulated that no entity, apart from the GNPC, was permitted to explore, develop, or produce petroleum unless a formal agreement existed between an external party and the GoG. PNDCL 84 outlined all the financial obligations associated with oil operations, including rent, taxes, and royalties. It also discussed the need for decommissioning and removing facilities after oil extraction. Under this law, the MoE oversaw the bidding process for petroleum

agreements. However, it was argued that these functions were within the technical capacities of the PC (Quartey & Abbey, *ibid.*).

One of the law's key provisions was the adoption of a direct negotiation approach, known as the 'open-door policy', for awarding petroleum blocks. This system granted the minister significant discretion in licensing decisions, potentially creating opportunities for rent-seeking and corruption. Due to concerns regarding transparency and fairness in the licensing process, the law was repealed in 2016 with the passage of Act 919. The amended Act introduced more structured and transparent procedures for the licensing and bidding of oil blocks in the upstream sector. This amendment aims to create a more accountable system by enhancing regulatory oversight and limiting undue political influence in petroleum agreements. Furthermore, Act 919 strengthens governance mechanisms by requiring greater disclosure of petroleum contracts and agreements (Quartey & Abbey, *ibid.*). Additionally, the Act seeks to balance state control and private sector participation by fostering a competitive investment environment.

Despite these improvements, challenges remain in fully implementing the revised framework. Some scholars agree that Ghana's model under Act 919 does not align with international best practice. For instance, Mark Langan, in his work *Neocolonialism and the Poverty of 'Development' in Africa*, argues that Ghana's adoption of the hybrid model does not align with international best practice (where the predominant approach is the production sharing agreement (PSA) system (Langan, 2018). He argues that experts estimate that, had Ghana adopted a PSA as opposed to the hybrid system, it would have earned US\$60

billion from the entire production life of the Jubilee fields, and not the US\$19.2 billion that the World Bank estimates as the potential earnings from the production life of the fields (Langan, *ibid.*).

Effective enforcement of transparency provisions requires strong institutional capacity and political will (Quartey & Abbey, *ibid.*). Moreover, the question of whether reforms have sufficiently addressed corruption risks associated with licensing and contract negotiations persists. Consequently, while PNDCL 84 initially provided the foundation for Ghana's petroleum governance, its shortcomings necessitated reforms through Act 919. A big step toward making the country's O+G sector more accountable and efficient is the addition of competitive bidding systems and more openness measures in the amended law (Act 919, *ibid.*). However, more work is needed to improve supervision and make sure the new rules are followed for the good of the people, especially those living in areas impacted by the O+G companies. Some studies have found that while Ghana has made efforts to increase awareness of SDGs among stakeholders, there is still room for improvement in implementing and enforcing relevant regulations (Moses & Lawani, 2023).

Additionally, a needs assessment study conducted in 2011 identified several areas where Ghana's capacity to govern the human rights impacts of the O+G industry needed to be strengthened (Buchman et al., *ibid.*). One of the key challenges in ensuring compliance with the UNGPs in the Ghanaian O+G is the limited capacity of the government agencies responsible for oversight and enforcement. The study found a strong monitoring system in place, but environmental impact assessments have not paid enough attention to the

necessary hydrogeological detail. Such information is important for understanding and reducing the possible groundwater effects of O+G activities (Kuma et al., 2002). Also, the industry's laws may be inadequate; policies are only hopes and goals if there aren't enough laws to enforce them. The experience of Nigeria's natural gas industry suggests that Ghana should urgently address the situation to prevent investors and market share loss. This aim can be achieved by implementing a robust legal instrument that addresses specific concerns about human rights violations in compliance with the UNGPs. Some things that make it harder for the law to protect human rights are limited capacity, holes in the law, and not paying enough attention to important social and environmental issues.

2.5.2.7 Environmental Regulation in the Oil and Gas Sector in Ghana

Environmental pollution is one of the significant challenges countries engaged in exploiting natural resources, and the petroleum industry, in particular, must tackle. There are equal concerns about the likelihood of environmental catastrophe in the catchments of O+G production. Such concerns have called for forward thinking about how to put the measures in place to avert any eventualities. Adopting control and mitigation measures requires an effective legal environment and infrastructure. Ghana is not alien to environmental damages arising from extractive resource exploitation. Even in the petroleum sector, there have been reported cases of such incidents, including oil spillage, such as the one witnessed in November 2011. The incident occurred along the coast in the Ahanta West District in the Western Region (Baah & Kharlamova, 2016).

A tremendous body of international law addresses oil pollution, including construction and seaworthiness of ships, safety of navigation, pollution response, and liability. In 1926, the International Maritime Conference adopted the first international convention on oil pollution in Washington, which regrettably failed to receive the necessary ratification (Anyanova, 2012). Unfortunately, this environmental convention did not cover issues concerning maritime pollution and O+G in particular. Therefore, in 1972, two significant protocols were adopted by the UN Conference on the Human Environment (UNCHE), namely, the Declaration on the Human Environment (Stockholm Declaration) and the Action Plan, which provided for marine pollution (Sokolova, 2005).

Furthermore, the Geneva Conventions (1958) established regulations for ocean protection against oil pollution caused by oil spills. It was observed that the provisions of the 1958 Convention were inadequate, differing from the duty to make laws on ocean pollution for individual states (The Geneva Convention on the High Seas, Article 24). However, the passage of the Oil Pollution Act (OPA 1990), following the Exxon Valdez oil spill in 1990, prompted several nations to enact legislation to mitigate oil spill disasters. The UN Convention on the Law of the Sea (UNCLOS) was also adopted in 1982 and came into force in 1994 to address different aspects of continental shelf development, particularly on marine environment protection. Critics pointed out that the framework document lacked specific guidelines for protecting the marine environment. This pause necessitated the need for additional regulations to effectively enforce its provisions. Zhu (2006) states that the implementation of these rules will rely on further regulations of international law. Article 192 of the Convention

vaguely demands that countries protect the marine environment and ocean resources. Article 194(k) of UNCLOS specifically requires countries to ensure that any activity undertaken in their jurisdiction does not harm their environment or that of other states, resulting from such activities over which they have control. As a principle of customary international law, this provision puts a general duty on countries to be responsible for pollution that occurs in their jurisdiction, and that transcends into other states. In 1954, London adopted the first international treaty on oil pollution, the International Convention for the Prevention of Pollution of the Sea by Oil (OILPOL), to address oil spillage into the ocean. Due to the technical deficiencies of OILPOL, which did not meet global expectations, the International Convention for the Prevention of Pollution from Ships (MARPOL) was enacted under the auspices of the IMO in 1973. MARPOL is intended to address pollution from oil, chemicals, and harmful substances packaged in sewage and garbage. The power to initiate national action against a party contaminating its ocean resources with pollution gave this convention its strength. MARPOL effectively superseded OILPOL 54.

Ghana became the 150th country to ratify the UNCLOS on September 23, 2016, upon discovering oil in commercial quantities in 2007 (http://www.un.org/depts/los/reference_files/chronological_lists_of_ratifications.htm). The Constitution, PNDC Law 64, Act 919, and Act 821 are the legal frameworks for managing Ghana's petroleum resources. Ghana has also ratified the London Convention on the Prevention of Maritime Pollution by Dumping of Wastes and Other Matter (1972) and incorporated its provisions into the nation's Marine Pollution Act, 2016 (Act 932), which empowered the Ghana Maritime Authority (GMA) to regulate marine pollution. The GMA works

closely with the EPA and other state agencies to ensure effective environmental protection in the marine and coastal environments. For compliance and effective implementation, Act 932 provides for penalties in the event of violations and ensures compliance with international maritime environment and safety regulations, such as the MARPOL.

Despite the challenges with both national and international law on controlling oil spillage by O+G production activities, there is a high expectation from companies to comply with the legal regimes under which their respective production agreements were assigned (National Oil Spill Contingency Plan [NOSCP], 2010). The petroleum contract regime in Ghana demands strict compliance with the environmental laws of the country, specifically the Environmental Protection Act, 2025 (Act 1124) and its subsidiary regulations. It also requires strict adherence to international best practices for oil and the environment. In line with this, Section 79 of Act 919 enjoins Ghana to put in place measures of safety in the industry to conform to international best practices

(<http://epaoilandgas.org/national%20oil%20spill.html>). Again, section 24(3) of Act 919, under exploration, requires a contractor to comply with "relevant environmental requirements as prescribed in [Act 1125] and other applicable enactments" before commencing exploration. Ghana has fairly addressed the omission in the international law regime with Act 919. As long as states take steps to prevent pollution from harming other states, they are protected from pollution damage themselves, in the spirit of Article 194(2) of the LOSC. Fortunately for Ghana, Sections 83 and 84 of Act 919, which deal with offences

and penalties that may apply to environmental damage, seem to have no liability cap, and this provision needs to be commended.

The Ghana Petroleum Development Master Plan (GPDMP) and the National Oil Spill Strategic Plan (NOSSP) are the foundational policies for a national response to oil catastrophes and environmental degradation. Since 1986, Ghana has operated the NOSCP, which has undergone revisions, with the latest revision done in January 2010. The NOSCP aims to bring together the combined resources of the nation, the oil industry, and the shipping and exploration industries to provide a level of preparedness for the threat posed to the environment by oil and chemical spills (Managing Oil Spills, Ghana's Legal Framework, *ibid.*). The NOSCP clearly defines the responsibilities of the major participants: the government (through the EPA) and the industries, such as the O+G companies. The guidance is provided in a set of national arrangements through an Inter-Agency Agreement (IAA) and also outlines matters such as divisions of responsibilities, contingency planning, access to national equipment, and the management and control of financial affairs.

Ghana is enjoined under "to protect and safeguard the environment" (Constitution, *ibid.*, article 41(k)). The directive principles of state policy underpin all laws that regulate and enforce environmental regulations in the country. In 2025, the Environmental Protection Authority Act, 2025 (Act 1125) repealed the Environmental Protection Agency Act, 1994 (Act 490). Act 1125 amended and consolidated all laws relating to environmental protection and established the Environmental Protection Authority (EPA). Regarding O+G operations, the EPA's mandate under the law is to regulate and protect the

environment and provide for the control, management, and disposal of hazardous waste from O+G production.

2.5.2.8 Safety and Health Regulations in the Oil and Gas Sector

The O+G industry in Ghana has long been a source of economic opportunity, but discrimination against indigenous communities has also plagued it (Erinosho, 2020). Incidents such as hydrocarbon leakages, falling objects, fires, explosions, blowouts, and hydrogen sulphide emissions pose significant risks to workers in the sector, with explosions being a particular concern (Liu et al., *ibid.*). Unfortunately, Ghana's current occupational health and safety systems do not seem to handle these problems, as shown by the fact that work-related injuries and illnesses are not reported or are misclassified (Annan et al., *ibid.*). Furthermore, Ghana has yet to ratify the ILO's Convention No. 155, which would provide a more robust legal framework for protecting workers' safety and health. Despite the clear risks faced by workers in the O+G industry, there is evidence that the negative consequences of this sector disproportionately impact indigenous communities in Ghana. This situation is particularly concerning given that Article 17 of the Constitution explicitly prohibits discrimination based on, among other factors, social or economic status. The government has not done enough to address the safety and health concerns of indigenous workers and these communities have not been consulted or involved in the development of the O+G industry. The lack of consultation is a troubling pattern of discrimination against the constitutional protections to which all Ghanaians are entitled.

To address this issue, Ghana must take a more proactive approach to ensuring the occupational health and safety of all workers, particularly those from indigenous communities, to achieve compliance with the UNGPs. It may involve promulgating a BHR legal instrument, improving data collection and reporting on work-related incidents, and ensuring indigenous communities have a meaningful voice in decision-making. Failure to do so not only jeopardises the well-being of the country's workers but also frustrates the very values of equality and nondiscrimination enshrined in the Ghanaian Constitution.

2.6 Judicial and Non-Judicial Mechanisms for Enforcing the UNGPs

The development and subsequent endorsement of the Guiding Principles by the UNHRC in 2011 presented a significant advancement in the international human rights framework. They have since become a widely recognised standard for responsible business conduct, informing the policies and practices of MNCs, governments, and CSOs worldwide.

Despite the ongoing challenges in implementing the Guiding Principles, the growing body of research and evidence underscores their growing significance. Despite providing companies with a framework for addressing human rights and responsibility, the Guiding Principles lack sufficient enforcement. This is why some people argue that the best way to ensure the O+G sector in Ghana adheres to the principles is for the country's laws to be based on the guiding principles. Such an effort is not a novel enterprise for the country, as it is lauded in admiration of its constitutional and democratic disposition to uphold human rights obligations. For example, through legislation and resolutions, Ghana has signed and ratified eight out of all 14 of the core international human rights

treaties. The UNGPs prescribe two main state-based approaches to facilitate the implementation of the standards in the framework.

2.6.1 The State-Based Judicial Mechanism

Principle 26 of the UNGPs demands that states take every appropriate step to ensure the effectiveness of domestic judicial mechanisms to resolve BHR abuses with the view to removing all technical, legal and other impediments to accessing remedies for victims of human rights violations. An effective Principle 26 of the UNGPs demands that states take every appropriate step to ensure the effectiveness of domestic judicial mechanisms to resolve BHR abuses with a view to removing all technical, legal and other impediments to accessing remedies for victims of human rights violations. An effective domestic judicial mechanism should include an appropriate domestic instrument that elevates the framework from a mere non-binding instrument to a binding framework.

Scholars have focused on adopting the judicial path to enforce international law since the debate on compliance with the Guiding Principles began. The mandatory HRDD theory forms the foundation of the school of thought that supports the judicial approach. Zamfir (2018) posits that MNCs have proven in recent times that their operations result in numerous examples of human rights abuses. Zamfir (ibid.) argues that due to the loose regulatory environment and corruption in developing countries, many MNCs avoid liabilities for violating human rights principles in their operations. The absence of an enforceable regulatory framework to demand accountability is the root cause of the problem. This problem has led to demands for a new solution, like a global treaty or

national laws, to make sure the rules follow the UNGPs, instead of relying on a soft law approach that encourages businesses to voluntarily follow the guidelines. An attempt to enforce BHR standards through an international binding treaty did not materialise because the UNCHR in 2004 failed to adopt the draft UN Norms on the Responsibilities of Transnational Corporations and other Business Enterprises concerning Human Rights. The Draft UN Norms establish obligations requiring MNCs to respect, protect, and provide remedies for violations of internationally recognised human rights. Victims of human rights abuses continue to face significant challenges in accessing justice and obtaining redress through the international framework mechanism (Zamfir, *ibid.*, p. 4).

Using a legal method with strong national laws is better than relying on soft law to resolve the problems and ensure that MNCs in the sector are held accountable for human rights violations. A judicial approach to enforcing the UNGPs means creating strong laws that require MNCs in the O+G sector to follow clear rules and hold both businesses and the government responsible, along with having a way to enforce these rules in court. This position falls in line with the Guiding Principles, which encourage individual states to enact laws to compel businesses to respect human rights and provide adequate remedial measures for violations.

According to Casis (2021, p. 129), applying international law within domestic jurisdictions is best achieved through domestication. Domestication is defined by Casis (*ibid.*) as the process by which national law applies to international law. This theory implies that a rule of international law is domesticated when a state integrates it into its national legal framework and aligns it through its

legislative and rulemaking processes (Casis, 2019). Through this approach, the national laws adopt these rules through incorporation clauses. A country may take one or two approaches when discussing the domestication of international law. In dualist states, the issue is that international law and national law are treated as separate systems, unlike in monistic states, where international law automatically becomes enforceable national law. The dualist perspective distinguishes between international and national legal systems as independent (Crawford, 2012, p. 48). Other scholars emphasise that a dualist legal system acknowledges that international law and national law are distinct legal systems that exist alongside each other (Ferreira & Ferreira-Snyman, 2014). This implies that there are different perspectives on integrating international law into national legal systems to ensure the effectiveness of the law (Casis, *ibid.*; Crawford, *ibid.*; Bix, 2005). In Ghana, the sources of law espoused under Article 11 (Constitution of Ghana, 1992) do not incorporate international law unless it is found in another source that qualifies as part of the country's laws (Dei-Tutu & Atuguba, 2023, p. 4). Ghana is a dualist state, which means that an unincorporated international law is not a primary source of law in Ghana, as international law is a secondary source of law. This means any international law that the country agrees to is only law when it is ratified by parliament and made part of Ghana's domestic law through the Constitution's incorporation clauses. According to Dei-Tutu and Atuguba (*ibid.*), there are at least seven normative bases for the domestication of international law. The thesis makes a case for using an appropriate normative approach to bring the UNGPs into Ghanaian law so that the O+G industry in Ghana follows them. This syncs with scholarly

interventions proposed by international law literature (see Dei-Tutu & Atuguba, *ibid.*; Casis, *ibid.*).

With a dualist legal system, treaties to which Ghana is a party become part of national law only through enabling legislation or resolution of parliament to achieve domestic enforceability (The Constitution, art. 75). This means that until the parliament of Ghana turns the UNGPs into any law that follows the human rights provisions in the 1992 Constitution (The Constitution, chap. 5), it will be harder for people to get companies to respect and protect their rights and get the right quantum of damages and restitution when those rights are violated.

According to Ruggie (2013), until recently, attempts to require human rights responsibility from MNCs through a legal mechanism proved untenable, a universally abhorred situation. This pushback is a lobby phenomenon backed by the MNCs to escape obvious responsibility and to forestall credibility crises (Korankye-Sakyi, *ibid.*). Based on this perspective, this thesis argues that a specific national legal instrument is needed to properly control the complicated nature of BHR and ensure that the O+G industry follows the UNGPs. This idea is supported by Koenig-Archibugi (2004), who says that in the development paradigm of the 20th century, the lack of binding legal instruments to regulate the activities of MNCs has become a universal socio-economic dilemma in developing countries in particular. Ghana is a country that gets many expats and local investments in the extractive sector. Because of this, the country should be encouraged to pass laws that will protect its citizens' human rights and meet the requirements of the UNGPs as a way to stop violations.

2.6.2 State-Based Non-Judicial Mechanism

Principle 27 of the UNGPs offers an alternative approach to implementing the standards of the framework. The principle encourages states to use any appropriate non-judicial grievance mechanisms (along with judicial mechanisms) to constitute a comprehensive state-based approach to address BHR violations. The enunciation of this principle reveals the challenge with solely employing non-judicial grievance mechanisms in seeking for remedy for BHR victims, hence the complementary role of the judicial approach. Although a non-judicial mechanism may be favourable in resolving some categories of rights, the benefit of acceding to a judicial mechanism may be timeliest.

The non-judicial approach to enforcing international law depends on different means of influence and persuasion for the right violators rather than legal force. These forms of persuasion include market and social pressures, diplomatic and economic sanctions, and reputational consequences, all of which aim to encourage voluntary compliance with non-binding norms. Unlike a hard law that is strengthened by its legally binding obligations, a non-binding soft law is based on dialogue and consensus, which results in its flexibility and voluntary compliance (Meyer, 2020, p. 62; Widdows, 1979, p. 121).

According to Snyder (1993: p. 64), a soft law consists of rules of conduct with no legally binding force but rather has legal and practical effects. The European Centre for Not-for-Profit Law (ECNL) (n.d.) describes soft law as “international norms, principles, and procedures that lack the requisite degree of normative content to create enforceable rights and obligations but are still able to produce certain legal effects.” Due to its non-binding effects, the EU has regarded such

laws as having no regulatory value but only functions as a gap-filler, offering guidance to states and stakeholders (Stefan, 2024, p. 1). Treib et al. (2007) argued that soft law instruments may be an international law approach to governance, but legally binding instruments have the advantage of executive implementation and judiciary involvement in ensuring scrutiny and compliance. Various studies have explored the legal validity of soft law in international human rights legislation. For example, Bodig (2018) explored the “institutional normativity” of soft law and how it functions under different legal systems having different constructs of validity. This implies that jurisdictional interpretations defer the validity of soft law. This implies that different legal systems and practices, such as monist and dualist systems, also influence the enforcement of obligations. According to Bodig (ibid.), the proliferation of soft law has resulted in legitimacy challenges under international human rights law. Soft law has various advantages, which have contributed to its proliferation today more than in the past (Ginsburg, 2020: p. 231). Their endorsement, which does not require parliamentary approval, expedites their implementation and allows for easy amendment or termination (Peters, 2018: p. 4). Unlike hard laws and the making of binding treaties, they do not go through tedious procedures and formalities of passage (Aust, 2013: pp. 40-430; Aust, 2012). Though they are non-binding legal instruments, they establish political commitments (Hollis, 2020: p. 35).

Given that the monitoring bodies of the international human rights instruments are not courts but are restricted to supervising the implementation of such instruments by governments (Smith, ibid., p. 256), it is left to any state

demanding corporate accountability in the O+G sector to consider a legal instrument to enforce compliance with the UNGPs. This is so because, under the UN framework, committees overseeing the implementation of human rights instruments only deliver opinions based on the compliance obligations voluntarily assumed by the states under such instruments.

2.7 Conceptual Framework

After going through a thorough literature review in the previous sections to find theories that are already out there on the subject, this section lists the main variables and how they relate to each other. It also shows the research framework visually using ideas from Creswell (2018), Miles et al. (2014), Grant & Osanloo (2014), and Maxwell (2012). Miles and Huberman (1994) state that the purpose of the conceptual framework is to visually or narratively present the main areas of study. This framework serves as a roadmap, guiding the research by connecting the theoretical foundations to the research objectives and questions.

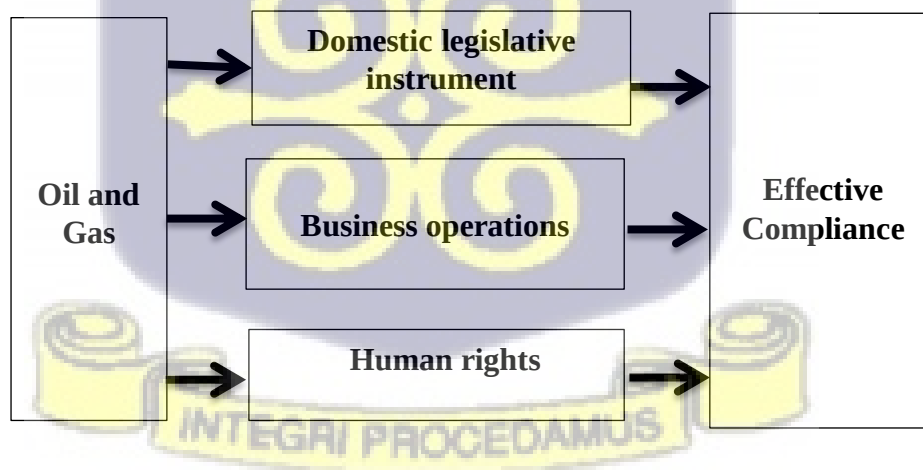


Figure 1: Conceptual Framework

Source: Author's Construct (2023)

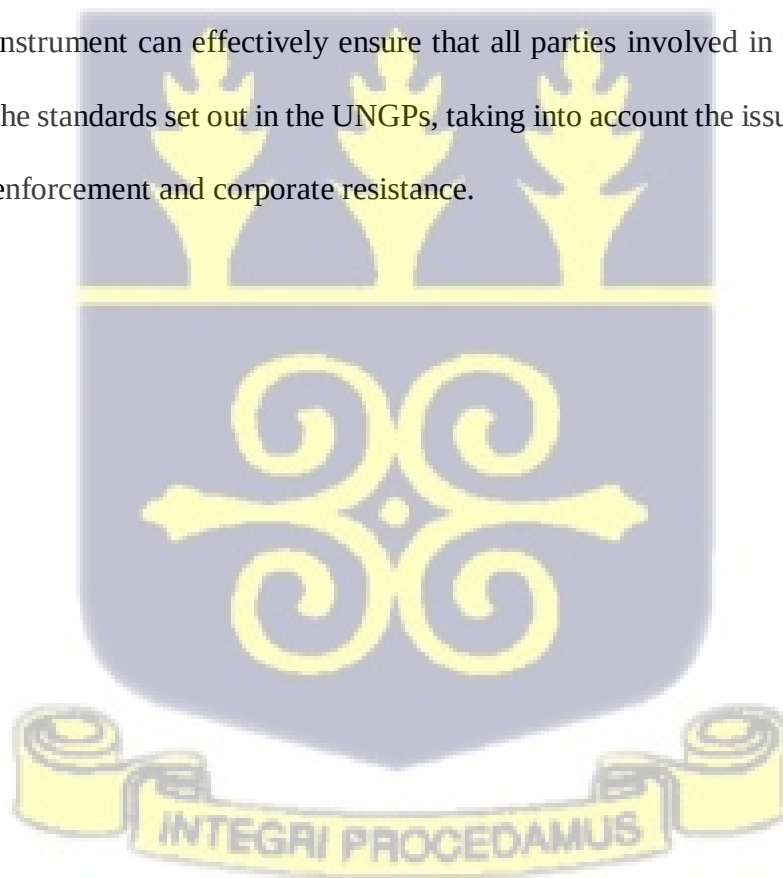
It is evident that in the O+G industry, the relationship between laws, business activities, human rights, and how they follow rules can be shown in a framework that highlights how they connect and affect each other. By understanding and managing these, O+G companies can ensure that their operations are legally compliant, ethically sound, and socially responsible, as illustrated below:

- *Legislative Instruments and Business Operations:* Legislative instruments provide the regulatory framework for business operations. They dictate the permissible scope of activities and set the compliance standards for the industry.
- *Business Operations and Human Rights:* How business operations are conducted directly affects human rights. Companies must implement policies and practices that safeguard the rights of all stakeholders affected by their operations.
- *Human Rights and Effective Compliance:* Upholding human rights is critical to effective compliance. Companies that respect human rights not only fulfil their ethical obligations but also mitigate legal and reputational risks.
- *Effective Compliance and Legislative Instruments:* Effective compliance demonstrates a company's commitment to adhering to legislative instruments. This compliance is essential for legal operation and for maintaining public trust.

2.8 Chapter Summary

The literature on BHR frameworks highlights the increasing global emphasis on corporate responsibility, particularly in high-risk industries like O+G. While international standards such as the UNGPs have laid foundational guidelines and pillars, the practical implementation of these frameworks in specific

national contexts remains inconsistent. The complex interplay between regulatory environments, corporate practices, and state obligations suggests more potent legal instruments to ensure compliance, especially in resource-rich developing countries like Ghana. The literature further reveals that voluntary mechanisms can improve corporate behaviour, while legal instruments may provide a more enforceable and structured approach to safeguarding human rights in the O+G sector. With its expanding O+G industry, the urgency for a practical legal framework to bridge the gap between policy and practice is evident in the Ghanaian context. As far as this researcher is aware, no studies explore the subject in Ghana. Hence, this study aims to determine if a legal instrument can effectively ensure that all parties involved in the sector follow the standards set out in the UNGPs, taking into account the issues that arise with enforcement and corporate resistance.



CHAPTER THREE

RESEARCH METHODOLOGY

3.1 Introduction

A primary purpose of a research methodology in legal research is to ensure the validity and reliability of the findings (Haris et al., 2020). This chapter outlines the research methodology employed in exploring the topic. The aim is to pursue valid and reliable findings by adopting a structured and well-defined approach to minimise the potential for bias and ensure that the conclusions of this research project are grounded in sound empirical evidence. This chapter will provide an overview of the underlying methodology. It will also discuss the research paradigm or philosophy employed in this socio-legal study. The chapter will elucidate the rationale behind selecting the methodology for this study and outline its limitations. It will further discuss the research design and rationale for selecting qualitative in-depth interviews. It will then outline sampling and sampling techniques; the participant selection process, data collection, and the analytical techniques employed to interpret the data. It will reveal the role of the researcher in the process. The chapter will also address the ethical considerations of the methodology, laying the groundwork for the subsequent data analysis.

3.2 Research Methodology

Research methodology is a term that often assumes conflicting interpretations and is considered a problematic concept (Dunne et al., 2005, p. 162). As is often held, it is a concept used interchangeably with “methods” by upcoming researchers. While method means the way to accomplish a task, “methodology” is "the study of, or the theory of, the way that methods are used" (Dunne et al.,

2005, p.163). Research methodology is the approach a researcher adopts to achieve the researcher's objective in a study. Robson (2012, p. 549) defines research methodology as "the theoretical, political, and philosophical backgrounds to social research and their implications for research practice and the use of particular research methods." Because our perception or acceptance of reality is usually based on how knowledge about reality is developed, it is understandable that this reality also influences how research is conducted, leading to the knowledge it develops (Clark & Maynard, 1998). We refer to this process of acquiring knowledge about a phenomenon as 'methodology.' In this light, research methodology has been defined as "the theory of methods" (Sarantakos, 1998, p. 465).

Morvaridi (2005, p. 2) argues that quantitative and qualitative research methodologies are the widely known methodologies employed in the study of social sciences and humanities. Sarantakos (ibid.) concurs that researchers primarily conduct studies in the humanities using either a quantitative or qualitative approach.

According to Crotty (1998), to be taken seriously by other researchers, every researcher needs to identify and explain the need for a particular choice of a central point and why they chose a particular technique and the analysis techniques employed in the research process. According to Saunders (2016), "Just as our beliefs and assumptions influence our decisions, they can also significantly influence the research we choose to conduct and the methods we employ." Based on these assumptions, a researcher may choose a

methodological approach to determine the appropriate research tools for the activity.

Kuhn (1970) identified various research paradigms. The essence of these paradigms is to influence the research process from the researcher's worldview (Anand et al., 2020). As Long (2007, p. 196) captures the summary of Kuhn's thought, "A paradigm is a prerequisite of perception itself-what you see depends on what you look at, your previous visual/conceptual experience (the way you have been taught to think), and how you look." A paradigm is a set of philosophical assumptions guiding a research process (Creswell, *ibid.*). This is the rationale behind the term 'worldview assumption.' Paradigms are based on philosophical frameworks defined by some assumptions: epistemology, ontology, and axiology. Everyone has his viewpoint about the world around him; there has been an attempt to restrict this worldview to two conventional paradigms by which the world can be "looked at" (Clark et al., *ibid.*).

The first view sees the world objectively, which gives regard to one truth or reality or a set of acceptable worldwide truths. Only quantifiable variables or numbers can measure and explain this ontological assumption. The second view argues that the realities are subjective. At any point, different people may hold different versions of the truth and discover new knowledge about a phenomenon. It accommodates multiple perspectives and many interpretations; there are several worldviews. In this context, not only can we interpret numbers, but we can also decode words to reveal accurate nuances. Clark et al. (*ibid.*) described these paradigms as quantitative and qualitative approaches,

respectively. The following section, thus, discusses the paradigm adopted for the research and the basis for the choice for this study in particular.

3.3 Qualitative Research

Qualitative research is a systematic and structured approach to gaining knowledge grounded in real-world experiences and interpreted through individuals' understanding of their experiences (Shank, 2002). It is "a form of systematic empirical inquiry into meaning" (Shank, *ibid.*, p. 5). Qualitative methodology employs a data collection approach that relies on non-numeric information, including interview transcripts, audiovisual materials, pictorial representations, and textual documents. We analyse qualitative data using content analysis, discourse analysis, narrative analysis, grounded theory, and framework analysis. Dunne et al. (*ibid.*, pp. 136-137) maintained that reading and writing are initial components of qualitative research. This process entails interpretation, narration, or experiences. In quantitative data analysis, researchers apply inductive reasoning and allow subjectivity due to their interactive and inseparable nature. In other words, the qualitative methodology allows considerable room for bias on behalf of the researcher. The qualitative approach focuses on words and observations to express reality and describes participants and research phenomena in natural situations (Amaratunga et al., 2002, p. 19). The steps involved in qualitative data analysis are developing and applying codes, identifying themes, patterns, and relationships, and summarising the data.

Denzin and Lincoln (2002) summed up the features of qualitative methodology as follows:

Qualitative research encompasses multiple aspects simultaneously. It is multi-paradigmatic in focus. Its practitioners are sensitive to the value of the multimethod approach. They are committed to the naturalistic perspective and the interpretive understanding of human experience. At the same time, the field is inherently political and shaped by multiple ethical and political allegiances.

Denzin and Lincoln (2004) again argued that qualitative research imbibes the interpretive and naturalistic research paradigms. According to them, "...qualitative researchers study things in their natural settings, attempting to make sense of, or to interpret, phenomena in terms of the meanings people bring to them" (Denzin & Lincoln, *ibid.*, p. 3).

The research adopts a qualitative phenomenological approach (Bhandari, 2020; Bell, 2016; Cownie & Bradney, 2013; Groenewald, 2004; De Vos, Strydom, Fouche, & Delpont, 2002). The researcher is using the qualitative phenomenological approach to the subjective variables and data because the external factors are difficult to control and not necessary to quantify the impacts of such behaviour (Bhandari, *ibid*; Groenewald, *ibid*). This research used a qualitative approach because its main idea is interpretivism, which is related to social constructivism and naturalistic research paradigms (Tombs & Pugsley, 2020). Interpretivism is a framework that is purely associated with qualitative research. Collins (2010) says that the interpretivism paradigm is connected to idealism and is used to group different approaches, like social constructivism, phenomenology, and hermeneutics. These approaches disagree with the

objectivist view that meaning exists in the world apart from consciousness. As Myers (2008) argues, "Interpretive researchers assume that access to reality (given or socially constructed) is only through social constructions such as language, consciousness, shared meanings, and instruments."

The choice of the qualitative approach in this project was based on the epistemological assumption that the researcher was not expected to give too much distance between himself and the researched phenomenon. It supports the assumption that interaction between the researcher and the researched helps the former see through the respondents' eyes in qualitative research. The nature of the knowledge sought required adopting a data collection method that fosters personal interaction. The ontological basis for this approach was that the researcher expected the realities to vary from one participant to another, so the social phenomenon was constructed differently according to each person's worldview.

Unlike positivists, naturalists argue that a social entity cannot be studied in the same manner as the physical world outside the influence of the realities of a particular phenomenon. In this case, this approach makes sense because the researcher wanted to get a personal understanding of the phenomenon. Applying general rules to all participants was not an option. This approach also agreed with the interpretivism view that the researcher, as a social scientist, understood the differences between people and allowed their independent experiences to be factored in when making conclusions (Saunders et al., 2012). Because the researcher was likely to be affected by the contact with variables or participants, the research was expected to be value-laden; hence, the qualitative

methodology. This reasoning conforms to the axiological assumption that the researcher's personal experiences play a significant role in qualitative research. The research outlined how the researcher would address ethical issues to prevent biases from influencing the outcome or conclusions. Communities in the O+G industry constituted the sample area for the study. The interview participants for the study included all stakeholders in the O+G industry in Ghana. The researcher selected participants based on their relevant characteristics and knowledge (Babbie & Mouton, 2001; Stead, 2001; Sarantakos, *ibid.*).

Given the complex interplay between business operations and human rights obligations within this sector, a qualitative research approach was adopted, utilising in-depth interviews as the primary data collection method. This method allowed the researcher to learn more about the thoughts, experiences, and ideas of relevant stakeholders in Ghana's O+G sector, like industry experts, lawyers, government officials, community members, and representatives from civil society. A qualitative approach was particularly suitable for this study as it provided an opportunity to capture the nuanced understanding of how BHR frameworks are perceived and operationalised in practice. It allowed the researcher to delve into the complexities of the legal and regulatory environment, examine the international laws and instruments in place and see how they are interpreted, implemented, and enforced within the industry. Through in-depth interviews, this study aimed to collect rich, contextual data that could show where the current legal framework is lacking and determine how useful it would be to have a specific legal instrument to ensure compliance with the UNGPs.

3.4 Research Philosophy

The previous section's discussion on the research paradigm served as a foundation for this section, providing a clear basis for selecting the research study's philosophy. Practical implications influence the choice of research philosophy (<https://research-methodology.net/research-philosophy/>). Based on the study's background, objectives, research questions, and method, it used the interpretivism (social constructivism, naturalistic constructivism, or just constructivism) paradigm to build knowledge. As the research problem concerns a social phenomenon, the interpretivism paradigm was chosen because it aligns with the study's focus on social phenomena and qualitative research. Interpretivism is linked to the idea of idealism and includes different methods like social constructivism, phenomenology, and hermeneutics, which all disagree with the belief that meaning exists in the world on its own, separate from our thoughts.

The researcher used the qualitative approach to the subjective variables and data because the external factors were difficult to control and not necessary to quantify the impacts of such behaviour (Groenewald, 2004; Easterby-Smith, Thorpe, & Jackson, *ibid.*). The interpretivism philosophy was the best choice because primary and secondary data, like laws, bilateral treaties and conventions, books, case laws, regulations, journal articles, internet materials, and other obligatory tools were compared to the UNGPs and analysed subjectively (<https://research-methodology.net/research-philosophy/>). This selection was because, in this type of study, the researcher expected inductive reasoning to emerge at the end of the research process. The selection of this

approach also stemmed from the research study's reliance on qualitative analysis rather than quantitative analysis.

Interpretivism, which relies on a naturalistic approach to data collection, underpins this method of gathering information (Saunders, Lewis, & Thornhill, 2016). This philosophy was necessary due to its epistemological basis, as the researcher used a data collection method involving personal interaction. Based on ontology, the researcher chose the interpretivist paradigm, anticipating that different people would perceive the studied object differently. The constructionist paradigm asserts that universal rules cannot explain a phenomenon to everyone. This study, therefore, approached the phenomenon from a subjective perspective.

Because reality is socially constructed, this study puts much weight on how experiences affect how people interpret things by changing the meanings they give to them; this process is the paradigm. The study's significance necessitated the use of interviews, a component of the interpretivist paradigm, for data collection. Interpretivism accepts the personal experiences of the researcher. This understanding required an outline of how ethical issues would be addressed or overcome by the researcher in order not to influence or bias the outcome or conclusions of the research. Hence, this research addressed ethical issues.

To sum up, this philosophy was chosen for this research study for three main reasons: first, it looked at knowledge from the researcher's subjective perspective, focusing on physical and social interactions and actions with the social entity being studied; second, it acknowledged that reality is socially constructed, with external experiences shaping interpretation through the

meanings people attach to a phenomenon; and third, it used methods like structured and unstructured interviews to gather data to build knowledge about the phenomenon. The interpretivism philosophy encompasses all these aspects, making incorporating it into the research study's methodology essential.

3.5 Research Type

In a doctrinal review, a systematic analysis is done based on legal sources, such as statutes, regulations, case law, and policy instruments, to evaluate the content, meaning, scope, coherence, and gaps within the law. While doctrinal research is often associated with deductive reasoning, it can also be firmly grounded in inductive reasoning, depending on how conclusions are derived. In this study, the doctrinal review was conducted through an inductive process. This means that, rather than beginning with a fixed legal conclusion, the study closely examined specific legal texts and regulatory practices in Ghana's oil and gas (O+G) sector, particularly the statutory, regulatory, and policy provisions analysed in the literature, and progressively identified recurring patterns, inconsistencies, enforcement gaps, and normative weaknesses. From these observations, broader conclusions were drawn regarding the inadequacy of voluntary standards and the need for a binding legal instrument to ensure compliance with the UNGPs. Thus, general propositions about the Ghanaian BHR framework emerged from the detailed examination of individual legal rules and practices.

Legal reasoning refers to the intellectual process by which legal conclusions are reached through the interpretation and application of legal norms to specific facts, contexts, or problems. It provides coherence and justification for legal arguments and decisions. In deductive reasoning, general legal rules or

principles are applied to specific facts to conclude. It typically follows a syllogistic structure (rule-acts-conclusion), commonly applied in judicial decision-making. The deductive approach involves developing (or adopting) a theory and hypothesis and then designing a research strategy to test it (Hyde, 2000). This style is suitable if you are testing a theory, you or someone else has already developed. It is a structured approach grounded in scientific principles (Hyde, *ibid.*). Typically, you collect and collate valid and reliable data and analyse and interpret it sequentially and organised manner.

Adopting an inductive approach, on the other hand, typically results in overlapping data collection and collation, and more flexible analysis and interpretation. The inductive approach involves collecting data and developing a theory from it as you "make sense" of the data (Saunders, Lewis & Thornhill, 2003; Hyde, *ibid.*). This method is suitable if you aim to build a new theory based on the data you have collected rather than testing a specific theory. This study, therefore, adopted the inductive approach as it collected data, analysed it, and interpreted it around existing theories. Inductive moves from specific instances as statutory provisions, regulatory practices, or case outcomes, to broader generalisations or principles. It is particularly useful in identifying systemic patterns, regulatory gaps, and emerging norms within a legal regime. Thus, making it consistent with the research strategy of this study. Another legal reasoning type is analogical reasoning which entails reasoning by comparison, where conclusions are drawn by identifying similarities or differences between cases, legal regimes, or jurisdictions. On the other hand, the interpretative (hermeneutic) reasoning

focuses on construing the meaning of legal texts using interpretative tools such as literal, purposive, contextual, or teleological approaches.

The inductive approach to legal reasoning was deliberately adopted because of the exploratory and reform-oriented nature of the study. The research sought not merely to apply existing legal rules, but to evaluate whether Ghana's current legal and regulatory framework is capable of ensuring compliance with the UNGPs and preventing human rights violations in the O+G sector.

Given the absence of a comprehensive, binding BHR law in Ghana, a deductive approach based on established legal propositions would have been insufficient. Instead, the study examined specific legal instruments, regulatory practices, and institutional arrangements, and when combined with insights from the interview data, inductively derived conclusions about systemic weaknesses, enforcement deficits, and the limitations of voluntary compliance mechanisms.

3.6 Research Strategy and Design

A research strategy is a methodological approach that speaks to the researcher's broader strategy concerning the study's conduct, considering the research's objectives (Lancaster, 2007). A research strategy is "a general plan for how the researcher will question" the research objectives. There are eight distinct research strategies: experiments, surveys, case studies, grounded theory, ethnography, action research, cross-sectional/longitudinal studies, and exploratory studies (Robson, *ibid.*). Survey research involves collecting data from predetermined participants to discover insights into a phenomenon. According to Isaac and Michael (1997, p. 136), a survey is employed

to answer questions that have been raised, to solve problems that have been posed or observed, to assess needs and set goals, to determine whether or not specific objectives have been met, to establish baselines against which future comparisons can be made, to analyze trends across time, and generally, to describe what exists, in what amount, and in what context.

In a survey research strategy, the data collected from participants are subjective, and samples from a population are used to generalise the research findings (Kraemer, 1991). Given the research objectives, methodology, and data collection tools, the study employed survey research as its strategy.

This research employed a descriptive research design, utilising semi-structured one-to-one and one-to-many interviews for data collection. Descriptive research design describes social events, social structure, and social situations and is used to study current situations (Akhtar et al., 2016). A descriptive study is concerned with the attitudes or views of people toward any phenomenon. According to Aggarwal and Ranganathan (2019), a descriptive research design "allows the researcher to study and describe the distribution of one or more variables, without regard to any causal or other hypotheses." The researcher employed the descriptive research design because its purpose is to examine the uniqueness of the phenomena as they exist. Since the study's goal was not to prove a cause-and-effect link but to provide useful information about the phenomenon and help guide future research, the descriptive research design was the best choice. This design helped the researcher to identify and obtain information on the characteristics of the variables under study.

3.7 Sample and Sampling Techniques

Thematic saturation in data collection in qualitative studies persists as long as no other theme emerges. Guest et al. (2006) posit that saturation happens within 12-26 interviews. However, complex studies encompassing a diverse range of participants would require a larger sample size (Guest et al., *ibid.*). This study looked at how well a legal instrument can ensure that the UNGPs are followed in the O+G sector, and because legal compliance is complicated and involves many different actors, a sample size of 47 was used to ensure a representative population. The sample size of 47 participants for in-depth interviews was settled on for a rigorous data analysis to address issues of validity and reliability of the findings (King et al., 1994). This sample size was consistent with the qualitative research approach adopted for this study (Saunders, Lewis, & Thornhill, *ibid.*).

Following O'Reilly and Parker (2012) and taking into account the purpose of the study, the researcher chose no more than five interviewees at a time using the purposive non-probability sampling method (Myers, 2008; Small-Sample Techniques, 1960). This sampling method allowed the researcher to choose only interviewees who fit the research criteria and the end objectives. This sampling was beneficial in qualitative research and had the advantage of being time- and cost-effective to perform while resulting in a range of responses (Myers, *ibid.*).

The research study areas were Ghana's Western and Greater Accra regions. The selection of the settings was relevant to the research questions, the ease of access to participants and data, and their representativeness of the broader industry. First, these regions have significant O+G activities, both upstream and

downstream. The relevance of the settings ensured that the study findings were applicable and contributed meaningfully to the existing knowledge in the field. Again, the practicality of accessing participants and relevant data was a critical consideration. The research process goes more smoothly when key stakeholders are easy to reach. Key stakeholders included industry professionals, regulatory bodies, or local communities impacted by O+G activities. Additionally, proximity to data sources, such as company records, environmental data, and community reports, enhanced the efficiency and effectiveness of data collection, contributing to the overall success of the study. These justifications helped contribute to the research findings' validity and applicability.

The study focused on inclusion and exclusion criteria to ensure the study population was consistent, reliable, uniform, and objective. The inclusion criteria involved, first, experience and expertise. This means individuals with specific experience or expertise related to the research topic and participants with a minimum of two years of experience in the relevant field were considered. Again, availability and willingness were key inclusion criteria. Participants were willing to participate voluntarily and had the time commitment to engage in in-depth interviews. Geographical locations were considered to select participants who either resided in the area or had relevant experience related to the study's objectives. For the exclusion criteria, the study took into account age restrictions, excluding individuals under the age of 18. Individuals with inadequate experience and expertise, such as those with less than two years of experience in the relevant field and lacking expertise directly related to the study, were excluded. The study avoided repetition by excluding individuals who had participated in similar research to avoid redundancy.

Addressing gender equity in a qualitative study involves considering and integrating gender-related perspectives and experiences throughout the research process. First, the research used an inclusive sampling method to ensure that the sample included participants of different genders, such as men, women, and non-binary individuals, to capture diverse perspectives on the topic. Second, the study engaged a diverse group of stakeholders, including women working and affected in the O+G sector and community members, to ensure a comprehensive understanding of the gender dimensions involved. Finally, the researcher paid attention to ethical considerations related to gender by ensuring that the research respected and protected the rights and dignity of all participants, particularly those who could be vulnerable due to their gender.

3.8 Data Collection Methods and Tools

This research utilised a qualitative, in-depth interview schedule to understand the participants' lived experiences around the research phenomenon (Bhandari, *ibid.*). The data collection approach was grounded in the interpretivism philosophy based on a naturalistic approach to data collection (Lincoln & Guba, 1985; Creswell & Poth, 2018; Schwandt, 2000). The qualitative narrative gave the rationale behind the method of data collection (Olsen, 2012; Creswell & Poth, *ibid.*; Patton, 2015; Riessman, 2008).

The research tool consisted of a semi-structured or unstructured interview schedule for the qualitative primary data in line with the data collection method (Olsen, *ibid.*; Bryman, 2016; Kvale & Brinkmann, 2015; Merriam & Tisdell, 2016). An in-depth interview schedule was developed to elicit the opinions of respondents. The schedule had both closed-ended and open-ended questions.

This data collection tool facilitated quicker and adaptable interaction between the respondents and interviewers. It facilitated the interview and offered high response rates. Though the interview schedule was helpful, it was time-consuming and intensive (Yin et al., 2021). To curtail high variability, the researcher was solely involved in administering the interviews (Bryman, *ibid.*; Kvale & Brinkmann, *ibid.*; Merriam & Tisdell, *ibid.*).

3.9 Data Analysis

Qualitative data analysis is a crucial step in understanding complex social phenomena, as it allows researchers to uncover rich insights and nuances that may not be captured through quantitative methods alone. An effective analytical tool that has gained widespread adoption in qualitative research is NVivo, a software package designed to assist in managing and analysing qualitative data (Wong, 2008; Zamawe, 2015). In-depth interviews have become a standard data collection method, and analysing the resulting qualitative data using NVivo has proven invaluable in generating insights that can inform policy and practice. It helped to organise, manage, and analyse large volumes of qualitative data, such as the interview transcripts in this study (Jackson & Bazeley, 2019). As the researcher delved deeper into the data, the NVivo tool allowed me to identify patterns, themes, and relationships that were then used to refine the theories.

The researcher coded and organised the data from the aforementioned sources into themes for analysis, followed by a detailed discussion. Additionally, a doctrinal review of secondary materials was done, including laws, bilateral treaties and conventions, books, case law, regulations, journal articles, online

resources, and other obligatory tools. I used the UNGPs as a guide to identify gaps in the research.

3.10 The Role of the Researcher

Maxwell (2005) states that qualitative research does not follow a single, perfect method of approach; it depends on how the researcher can employ the appropriate instrument, organise the study, and analyse the collected data. I was involved and solely took responsibility for the study process from the start to the end. I exclusively did the data collection and analysis.

My role was to gather reliable data from the participants by maintaining a closer relationship with them. This regular interaction facilitated a successful data collection process, which included introducing me, establishing telephone and email contacts, and conducting the actual interviews. In the data analysis, I coded the questions and presented them in themes by applying the objectives to the literature to present sound arguments and findings. I depended on my literature review and personal knowledge of the participants to select my research approach.

Undertaking such academic research towards a PhD requires a sufficient background to succeed. Yin (2009, p. 161) argues that the researcher's background knowledge validates his appreciation and understanding of the study. My broad practical experience in teaching, governance, policy, and research spanning over twenty years was useful. I presently work as a senior lecturer in law at the University of Cape Coast on a full-time basis and at the University of Ghana School of Law on a part-time basis. My prior teaching and research experiences gave me enormous confidence and assurance to complete

this thesis successfully and on time. On the other hand, Yin (ibid., p. 69) cautioned that a researcher's prior knowledge in an area of study must not confine their research to some ideologies or preconceptions that allow for contradictory findings. I recognised these issues before starting the research and declared no interest or personal bias, as this research was sponsored solely by me based on pure academic and policy convictions.

3.11 Ethical Considerations

A basic ethical principle of research is that participation in it must be voluntary. For informed consent, people must know what they are participating in. It is the right of the participants to be made aware of the scope and nature of what they are signing with informed consent (Neuman, 2007).

The researcher asked participants in this research to choose to participate in the interviews voluntarily. Consent was sought from such participants through a consent agreement before the data gathering was done. The researcher guaranteed the privacy and confidentiality of research participants during the presentation of the processed results. The researcher took this measure to prevent the willful disclosure of their identities during reporting (Alderson & Morrow, 2020). Pseudonyms were preferred to participants' real names, except when anyone had expressly agreed to have his or her real name mentioned. As Neuman (ibid., p. 49) further opined, a social researcher's confidence to conduct his research with the trust of his participants is the wholesome ethical responsibility he exhibits towards the population being studied.

The research was honest to ensure that the results could be trusted and used in other situations, such as triangulation, member checking, peer debriefing,

reprocessing, or reflexivity. The researcher assured business owners, in particular, that the research data would not haunt and blackmail them out of business. To convince participants to engage in the research with truthfulness and openness, they were assured that, though the research may not benefit them directly today, it would eventually inform future legal and policy-making governing BHR issues. Finally, the researcher applied for and received ethical clearance from the Ethics Committee of the University of Ghana before beginning the fieldwork.

3.12 Chapter Summary

This chapter presented the research methodology used in the study, explaining the rationale for the selected research design, data collection methods, and analytical techniques employed in arriving at the conclusions. Using a qualitative approach, the researcher ensured a comprehensive understanding of the research problem, with precision on qualitative in-depth interviews in legal research. The sampling strategies and ethical considerations addressed were crucial to maintaining the integrity and reliability of the findings.

Chapter four will present the results and discussion of the research data, having established the framework for its collection and preparation. The chapter will explore the results, apply the analytical techniques discussed, and relate these findings to the key research questions. The researcher will then critically discuss the data, looking at both expected outcomes and new patterns. The researcher will then figure out theoretically what these patterns mean to come to valid conclusions and recommendations in the final chapter.

CHAPTER FOUR

RESULTS AND DISCUSSIONS

4.1 Introduction

The chapter presents the results and discussion of the study. The overarching aim of the research project is to investigate how a domestic legal instrument can be used to ensure compliance with the BHR framework in Ghana's O+G sector. The specific goals of this project are to review the current laws and policies about BHR in Ghana, find out what works well and what does not; to examine how the O+G industry in Ghana comply with the UNGPs; and to evaluate how effective a new national law could ensure that the O+G sector in Ghana follows the BHR framework.

This study adopted a qualitative methodology. The interpretive philosophy influenced the data collection, the qualitative approach, which allowed the researcher to gather in-depth information with observational experiences as well. The researcher gathered empirical data through structured and semi-structured in-depth interview schedules. The interview guides engaged relevant stakeholders, including representatives from O+G companies, government agencies, CSOs, and local communities. Aside from being time-consuming, this data collection tool allowed for rapid and flexible responses from the participants. The purposive sampling method was employed to identify the interviewees based on their positions, experiences, and the information they could offer due to their proximity to the O+G business in Ghana. By asking participants about their thoughts and experiences, the study looked into many different areas and themes, including how well participants know about the UNGPs, the problems that might arise in their implementation and possible

solutions, and the possibility of a national legal instrument to achieve compliance. I manually coded the data from the transcripts of the in-depth interviews into themes using NVivo software. I also conducted a doctrinal analysis of other legal data sources. These legal primary data sources had persuasive relevance to the theoretical and real-world implications of the study (Kara et al., 2022).

4.2 Research Areas

The research areas of the study were the Western and Greater Accra regions of Ghana. The selection of the settings was relevant to the research questions, the ease of access to participants and data, and their representativeness of the broader industry. Firstly, these regions have significant O+G activities, both upstream and downstream. The settings were intended to ensure that the research findings would be applicable and meaningfully contribute to the existing knowledge in the field. The researcher selected the Western and Greater Accra regions as the research area because they had a study population that was consistent, reliable, uniform, and objective. Knowing how these two areas affect each other gives a complete picture of how BHR issues affect different groups in Ghana's O+G industry.

The Western Region (W/R) is central to O+G activities in Ghana. O+G activities significantly affect local communities, particularly in the W/R, where offshore exploration has led to environmental degradation, displacement of fishing communities, and other human rights concerns. The W/R, particularly the coastal districts such as Ellembele, Jomoro, and Ahanta West, is home to offshore oil fields, including the Jubilee, TEN, and Sankofa fields. Oil

exploration and production's socio-economic and environmental impact is most pronounced in these communities, making them critical to the study.

The context of this section is to provide a socio-economic profile of affected communities, examining how oil extraction has influenced livelihoods, land use, and corporate-community relations. Including data on local employment, CSR initiatives, and environmental protection measures will offer insights into how BHR principles are being upheld. The researcher selected this research area to collect reliable research data from participants impacted by the operations of the O+G companies. In this context, the researcher chose participants from Takoradi (Secondi-Takoradi Metropolis), Atuabo, Sansule, Asem-Nda Suazo (Ellembele district), and Upper and Lower Dixcove (Ahanta West district).

The region shares boundaries with the Western North region to the north, the Central region to the east, and part of La Côte d'Ivoire and the Western North region to the west. The Gulf of Guinea (the Atlantic Ocean) borders the southern part of the region. The region has a total land size of 13,842 sq. km and a total population of 2,060,585 (Ghana Statistical Service [GSS], 2021). It has a population growth rate of 1.8%, below the national average of 2.1%. According to the 2021 PHC, it has a population density of 149 per sq. km. The natural-resource-endowed region can boast of cocoa, gold, bauxite, manganese, oil, rubber, coconut, and oil palm. It also has kaolin, timber, other forest resources, wildlife, fisheries, natural gas, and clay. An estimated 70% of the region's population works in the agricultural sector. About 30% are involved in the industry and service sectors. According to the GSS report, the unemployment

rate in the Western region was 7.8% while the Greater Accra region was 5.0% in 2023.

The region is very diverse, and its leading ethnic group is the Akan, which comprises the Ahanta, Nzema, Wassa, Pepesa, and Fante, each with 17 traditional paramountcies. The minority groups (Ewes, Gas, Gonjas, and Dagombas) are mainly settlers who have travelled from different parts of the country to undertake different economic activities. Significantly, the region is also home to foreign nationals, mainly Chinese and migrants from neighbouring African countries, who are primarily involved in cocoa farming, mining, and petroleum-related activities.

The W/R, as the epicentre of the country's O+G activities, faces a heightened vulnerability to human rights violations. The region's coastal and rural communities, traditionally reliant on fishing and agriculture, have been disrupted by oil exploration and production. Environmental degradation, such as potential oil spills and pollution, threatens the livelihoods of these communities, which may lead to displacement and loss of income. Additionally, there have been reports of inadequate compensation, labour rights violations, and a lack of meaningful community consultation in the decision-making process. These factors contribute to a growing tension between economic development and the protection of human rights in the region. Given these vulnerabilities, a study focused on compliance with the UNGPs is particularly appropriate. Investigating how well O+G companies in the W/R follow the UNGPs can show where companies are not held accountable or where states are

not enforcing the rules. Such an investigation can help protect human rights in this critical area.

The Greater Accra (G/A) region, on the other hand, hosts key industry players, including regulatory agencies, IOCs, and policymakers. The G/A region, as Ghana's administrative and economic hub, houses the headquarters of key O+G companies, regulatory bodies, and policy-making institutions. Despite its relative economic development, Accra faces significant human rights challenges related to the O+G sector. Rapid urbanisation and industrial activity have heightened concerns over labour exploitation, inadequate corporate transparency, environmental pollution, and the displacement of vulnerable communities, especially in poorer areas where administrative activities take place. The concentration of oil companies in the region also raises concerns over governance, corporate accountability, and the effectiveness of regulatory oversight.

The G/A region is found at the southeast of the country along the Gulf of Guinea and with a stretch of beautiful rural coastline. It is made up of a population of 5,455,692 (PHC, 2021). It is the second most populated region after the Ashanti Region, with approximately 17.7% of Ghana's population. As the capital of Ghana, Accra is highly populated and urbanised, with 87.4% of its population in urban centres. It has a population density of 1,681 per sq. km, up from 1,205 in 2010 (PHC, *ibid.*).

A study focusing on compliance with the UNGPs is relevant in this context, as the UNGPs provide a global framework for addressing corporate impacts on human rights. It is possible to find out how well Ghana's laws and rules follow

international human rights standards by checking if O+G companies in Accra follow these principles. In particular, they must respect human rights, do their research, and offer solutions for violations. This information is crucial for ensuring that the rapid growth of the O+G sector does not come at the cost of human rights in the region. Apart from the GNPC, which has its headquarters (annexe) at Takoradi, and the EPA regional office at Secondi, where the researcher engaged some participants for the study, all other participants from public institutions, CSOs, and O+G companies were found and interviewed in Accra and Tema. Organisations that participated in the data collection include CHRAJ, the Ministry of Energy and Green Transition, PURC, EPA, the Attorney General, the Ministry of Justice, ENI-Ghana, NPA, PIAC, ISODEC, GHEITI, the PoS Foundation, IES, NPA, PC, Ghana Gas Company, GNPC, and COPEC.

Choosing the Greater Accra region made it easy to connect with key stakeholders in the O+G industry, such as industry professionals, regulatory bodies, and MNCs. This made the research process go more smoothly. Additionally, proximity to data sources, such as company records, environmental data, and community reports, enhanced the efficiency and effectiveness of data collection, contributing to the overall success of the study. These indicators were meant to contribute to the validity and applicability of the research findings.

4.3 Participants

Participants were purposively sampled from communities (citizens, leaders, and chiefs), directors of CSOs, officials of O+G companies, and officials of state

institutions. I selected participants with years of experience in all O+G activities in Ghana and human rights protection. Creswell (2012) affirmed that purposive sampling helps a researcher to understand the research problem and answer the research questions. According to Merriam (1998), a purposive sample technique in qualitative research assumes that the researcher selects experienced and knowledgeable participants on the subject under study. I undertook my initial background study to identify potential participants through telephone calls and emails, as the case may be. Some potential participants initially refused to participate or directed me to more knowledgeable participants. This confirmed the position that relying on the recommendation of initial respondents for research participants is an effective means of sampling the desired number of participants (Rudestam & Newton, 2014, p.91).

The inclusion criteria involved experience and expertise. These requirements meant selecting individuals with specific experience or expertise and familiarity related to the research topic, as well as participants with minimal experience in the relevant field. However, some organisations could not engage the researcher due to the absence of officers with necessary experience, while others indicated their unwillingness to partake in research as a result of institutional policies. Some organisations did not respond to the researcher's request to volunteer to participate in the research. The researcher considered participants' willingness, availability to participate voluntarily, and time commitment to engage in in-depth interviews. Finally, the Western and Greater Accra regions were geographical locations considered to select participants who resided in specific areas relative to the research objectives or had experience with the study's aim in that location.

I purposively reduced my initial list of 65 participants to 55, and finally, 50 of them agreed to participate. Three participants later declined to participate in the interviews, citing personal reasons, leaving 47 participants. I reached out to the participants over the phone to discuss the scope of the research and its objectives. I subsequently sent introduction letters from my supervisor to all participants, either personally or via email. The final list of participants pleaded for anonymity and non-disclosure of identity, which the researcher assured would be maintained.

The participants selected were mature and had varied educational backgrounds, ranging from JHS, SHS, diplomas, first degrees, master's, and PhD holders. Participants' ages ranged between 27 and 75 years. Participants had various occupational backgrounds: civil servants, corporate managers, farmers, fishermen, traditional leaders, lawyers, public servants, lecturers, politicians, local government practitioners, public relations officers, and directors. The participants held various positions in their respective organisations and communities. This evidence indicates that responses critically reflected the detailed information on the topic under study.

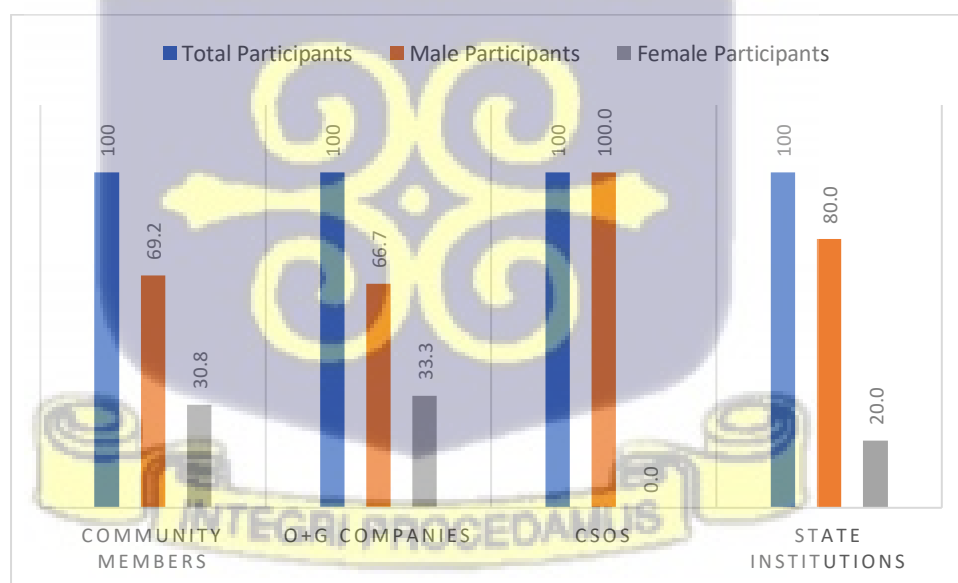
In the study, there were thirty-five (35) males and twelve (12) females from the population under study. The units for the analysis were representatives from O+G companies, government agencies, CSOs, and local communities, as illustrated in the table below:

Table 1: Distribution of Participants

Unit	Number	Male	Female
Community Members	26	18	8
O+G Companies	6	4	2
CSOs	5	5	0
State Institutions	10	8	2
Total	47	35	12

Source: Field Data (2024)

The following participants were purposively selected: 26 community members (18 males and 8 females), 6 officials from O+G companies (4 males and 2 females), 5 CSO officials (all males), and 10 officials from state or human rights institutions (8 males and 2 females). Their knowledge and experiences with O+G production in Ghana influenced the selection of the participants. Using the interview guide for the data collection, the participants could freely volunteer information.

**Figure 2: Percentage Distribution of Gender of Participants**

Source: Field Data (2024)

Figure 2 presents the distribution of participants across the four categories of participants involved in the study. The Figure shows that community members constituted the largest portion of respondents, with 26 individuals, of whom 69.2% were males and 30.8% were females. Their inclusion in the study was essential because they experience the immediate socio-economic and environmental impacts of O+G operations. Their perspectives, therefore, offered insight into how business practices in the sector affect the daily livelihood of individuals. Also, the O+G companies were represented by six participants, with males forming 66.7% and females 33.3%. These companies were included in the study because they are the primary operational actors whose decisions and actions influence compliance outcomes. Furthermore, the CSOs also constituted five respondents, all of whom were male. The participation of the CSOs was vital because these groups had long monitored extractive governance, advocated for transparency, and supported human rights. They also serve as a bridge between affected populations and state authorities. Finally, state institutions accounted for 10 participants, with 80% being male and 20% female. Their involvement was necessary because they held statutory authority to regulate the O+G sector, enforce standards, and shape national implementation of business and human rights principles. Through their perspectives, the study gained a clearer understanding of how oversight mechanisms functioned. Notwithstanding the above, the gender pattern observed across state institutions, CSOs, community members, and the oil and gas sector, confirms the notion that there is male-dominance in higher positions across various industries in Ghana.

I present the background of the participants to highlight the state of their awareness and knowledge about the phenomenon over time.

4.3.1 Community Members

The researcher selected 26 community members: 18 males and 8 females.

Community Participant 1 was an assembly member who had lived and worked in the research area for more than 15 years. He was 35 years old and also worked for a gas company. He had been an assembly member in his electoral area for five years. He had been involved in community advocacy and consultation with the O+G companies on his people's behalf since the gas company's inauguration.

The interview with the assembly member took place in his store in the presence of a unit committee member and his wife. He took me to his piggery and affiliated farms. He also took me to the houses of other participants in other communities that fall under his electoral area. He had been involved in community engagement and advocacy for better treatment for the communities.

Community Participant 2 was an elder (Asafohen) and represented the chief in the interview. He had permission from the chief to represent him in the interview. He was 54 years old and had been a community leader for a long time. The assembly member and another community leader were present during his interview. He guided me to his farm, where the gas flaring from the company had caused significant damage. He showed me the CRS project undertaken by the community, which is an incomplete teachers' bungalow. He was involved in all community engagements with the gas company.

Community Participant 3 served as a leader and linguist for the chief, and he had the chief's permission to communicate with me. He was an elderly local who had seen the O+G operations start, but did not disclose his age. He had no

formal education. He spoke extensively about the human rights impacts of the O+G operations on their livelihood and environment. He offered to take me to his farm to see firsthand how the flaring of gas had affected their agricultural activities.

Community Participant 4 was a youth leader in his thirties who hails from the community but migrated temporarily to another city due to economic difficulties. He was an SHS graduate. He granted the interview alongside gentlemen who were playing draughts. The assembly member recommended him for his participation in the interview.

Community Participant 5 was a 46-year-old farmer. He had no formal education but lived in the community for many years. I had the interview with him at his house.

Community participant 6 was a man aged 40 who had a secondary school education and worked as a self-employed. He granted the interview in his house.

Community Participant 7 was a JHS graduate who is unemployed. He was 27 years old and had lived in the community all his life. He granted the interview in the presence of other youth in front of his house.

Community Participant 8 was a political party branch chairman and former unit committee chairman who had lived in the community for 32 years since his birth. He was an SHS graduate and a key stakeholder in the community's welfare. He granted the interview in the presence of the assembly member.

Community Participant 9 was a 66-year-old woman with no formal education who granted the interview in her house. Originally a farmer, she engaged in petty trading in front of her house, where the interview took place.

Community Participant 10 was a woman who was 29 years old and a food vendor. She was a JHS graduate. She gave the interview at her house.

Community Participant 11 was a woman with no formal education who engaged in petty trading and granted the interview in her house.

Community Participant 12 was a caretaker chief who is a retired farmer. He was 75 years old and partially blind. He granted the interview in the presence of three of his subjects, including the assemblyman and a son. He provided me with a video depicting the nighttime experiences during the gas flaring process. He had lived as the chief of the community before he went blind and experienced the stages of gas production there. He could recount the number of engagements with the gas company and asked his subject to take me to a renovated school CSR project.

Community Participant 13 was a 32-year-old woman who was a university graduate. She granted the interview in the chief's house and later sent the videos of the gas flaring to me.

Community Participant 14 was a 45-year-old man who came from the community but lived in Accra. He was the son of the chief and spoke about his unfortunate disagreements with the gas company. He was a secondary school graduate and a businessman.

Community Participant 15 was a woman with no certainty of age but an opinion leader in the community. She was a farmer but had turned to petty trading because of unproductive farming activities. She granted the interview in her house.

Community Participant 16 was a sub-chief (Mmerantsihen) in a fishing community. He was a secondary school graduate who was 45 years old. He granted the interview with a group of community members numbering 15, made up of males and females. A community shed near the beach served as the venue for the interview. He had been involved in fishing as a profession for 20 years and owned canoes, and he was responsible for overseeing other fishermen.

Community Participant 17 was a 36-year-old university graduate and a fisherman who had been involved in fishing for over 15 years. He owned his canoes and was considered a key stakeholder in the fishing industry in the area. The interview with him took place in his house.

Community Participant 18 was the chief fisherman for eight years and a former assembly member. He was 56 years old with vast experience in the fishing business. He had a formal education. The interview took place with 10 other community members under a shed at the fishing landing beach.

Community Participant 19 was the registrar of a traditional council with a master's degree, who spoke to me with the permission of the Paramount Chief (Omanhene) of the area. He was 31 years old and granted the interview in the office of the traditional council.

Community Participant 20 was a woman who could not tell her age but had been involved in fish trading in the community for a long time. She granted the interview under a community shed.

Community Participant 21 was a driver who was a JHS graduate and aged 33, who comes from the community and plies his trade along the way of the community. He granted the interview at the car station.

Community Participant 22 was a 51-year-old former assembly member of one of the communities and an opinion leader with a first degree who was then involved in fishing activities. I interviewed him in the chief's palace.

Community Participant 23 was a woman aged 28 who was involved in the smoking and sale of fish in the community. She was a resident of the community and had only formal education up to JHS. The interview took place under a community shed.

Community Participant 24, a woman who described herself as an opinion leader for the women in the community. She had no formal education but said she was 55. The interview took place in her house.

Community Participant 25 held a master's degree and worked as a staff member of the traditional council. He was 28 and served as the personal assistant to the Omanhene. He comes from the community and is a royal as well. He granted the interview in the traditional council office.

Community Participant 26 was an opinion leader who granted the interview with eight other community members under a community shed. He was 57 and traded in fishing equipment.

4.3.2 Officials of Oil and Gas Companies

In all, six officials from O+G companies volunteered for the interview, consisting of four males and two females.

Company Participant 1 was a 45-year-old man with a master's degree who served as the relations manager of the company. He had worked for the company for four years, having held similar positions at other companies. The interview took place in the company's conference hall.

Company participant 2 was a lady who worked as the client relations officer in the company for 6 years with a master's degree. She kept her age anonymous from me. She, along with another male staff member, conducted the interview with me in the company's office.

Company participant 3 was a lady with a first degree who worked with the company for two years as a local content officer. The interview took place in the company's training hall.

Company participant 4 was a 48-year-old local content officer who had worked with the company since its inauguration. The interview took place in a guest house. He had a master's degree and came from one of the communities.

Company Participant 5 was a senior officer who pleaded anonymity and had a master's degree in petroleum management. He had worked with two other

O+G companies outside the country before joining his current company in Ghana. He had over 10 years' experience in the industry. The interview was conducted in his office.

Company participant 6 was the relation manager of the company with over 6 years' experience in the sector. He did not disclose his age but held a master's degree in human resource management and a certificate in O+G studies. The interview took place in a hotel lounge.

4.3.3 Civil Society Organisations

All five participants interviewed were male.

CSO Participant 1 was a senior retired public servant with over 30 years' experience in the extractive industry. He was over 60 years old and currently heads one of the country's vibrant CSOs. He had a PhD and was a private consultant for national and international organisations in the extraction industry. I interviewed him at his house.

CSO Participant 2 was the chief executive officer, who had worked with the organisation for 10 years and had a master's degree. The interview took place in his office.

CSO Participant 3 was a 51-year-old executive director of a CSO directly involved in O+G activities in Ghana. He doubled as a chief with over 15 years' experience, having worked in the public and private sectors relating to O+G. He held a master's degree. The interview took place at a hotel lounge.

CSO Participant 4 was the executive secretary of one of the most vibrant CSOs in the country with over 10 years' experience. He held a master's degree in O+G studies. I interviewed him in his office.

CSO Participant 5 was a 46-year-old executive of a CSO involved in human rights advocacy. He held a master's degree and had been involved in CSO for five years. The interview took place in his office.

4.3.4 State Officials

There were 13 state officials interviewed, made up of 10 males and three females.

State Participant 1 was the head of the department in charge of BHR in a human rights institution. He did not disclose his age but had a master's degree in human rights studies and had worked for many years with the institution. He granted the interview in his office.

State Participant 2 was a 38-year-old senior lecturer at a public university with a PhD in petroleum management studies. He had taught O+G-related courses at the university for more than five years before being appointed to head a public utility institution. I interviewed him in his office. He also holds a law degree.

State Participant 3 was a lawyer with over 15 years of practice. He doubled as a lecturer with 13 years' experience teaching petroleum and natural resource law at the university. He also holds a Master of Laws degree in petroleum studies. He was the chairman of the public institution responsible for petroleum fund management and monitoring in Ghana. He granted the interview in his office.

State Participant 4 was the national head of research and corporate affairs at its headquarters in the Western region. He was over 40 years old and held a PhD in economics and management. He had been working for the organisation for more than five years. I interviewed him in his office.

State Participant 5 was the regional director of an environmental protection authority. He had worked with the institution for over 20 years, leading the organisation in three other regions. His highest qualification was a master's degree, with other international professional and competency certifications. A hotel lounge was the venue for the interview.

State Participant 6 was the national head in charge of petroleum regulation of an environmental protection authority. He held a master's degree and did not disclose his age. He had worked for the organisation for more than 15 years. He granted the interview at a hotel.

State Participant 7 was a lady with five years' experience at the institution. She was 36 years old with a master's degree and headed the public relations department. The interview was conducted in her office.

State Participant 8 was in charge of local content at the organisation and had seven years of experience in the office. She pleaded anonymity with her age. She had a master's degree and direct working experience with O+G companies. She granted the interview in her office.

State Participant 9 was an officer of an environmental protection organisation, held a master's degree, had accumulated over 10 years of experience, and served as the compliance officer. He granted the interview at a hotel.

State Participant 10 was a senior civil servant who served as the local content director for the state organisation. He was 51 years old and held a master's degree. He granted the interview in his office.

4.4 Data Collection

According to Stake (1995, p. 51), in a data collection organisation, the definition of research questions, the identification of data sources, the allocation of time, and the reporting procedure should all be considered by the researcher. The framework of the researcher's data collection and analysis was based on the research questions and interview guides. The context of the reviewed literature and the theories of HRDD and CSR guided the analysis. I framed the interview questions based on the research objectives, which shaped the outcome and discussion in this chapter. According to Yin (2003), a researcher is required to build up a general explanation that elucidates the research problem. Yin (ibid., p. 59) stated that a good researcher is “adaptive and flexible, having a firm grasp of issues being studied and being unbiased by preconceived notions.”

In line with the positions of Yin (ibid.) and Skate (ibid), I converted my interview questions into meaningful sentences for the participants while maintaining their meaning and context: 1. Your knowledge about the existing legal frameworks for BHR in Ghana; 2. Your familiarity with the UNGPs. 3. Your familiarity with the O+G industry in Ghana. 4. Provide examples of how your institution has worked to promote corporate respect for human rights within the O+G sector in Ghana. 5. Describe the mechanisms or tools your institution employs to monitor and assess the impact of O+G businesses on human rights. 6. Your institution's engagement with O+G businesses operating

within the state to ensure compliance with human rights standards. 7. Your success stories or best practices for effectively addressing and remedying human rights abuses by O+G businesses. 8. The key benefits of implementing the UNGPs for the state. 9. Any training opportunities with state and international organisations on the UNGPs. 10. The opportunities the O+G industry reaps by incorporating UNGPs into their operations. 11. The main challenges faced by your institution in implementing the UNGPs in the O+G sector. 12. Provide examples of your institution's efforts to follow the UNGPs. 13. The steps you would recommend your organisation take to raise awareness about UNGPs among public officials and the general public. 14. Your recommendations for achieving compliance with the UNGPs within the O+G sector in Ghana. 15. Your recommendations for legislating the UNGPs, and why.

The research participants were interviewed about their views on the existing policy and legal frameworks on BHR, how familiar they are with the UNGPs, how familiar they are with the O+G industry in Ghana, examples of how their institutions have worked to promote corporate respect for human rights within the O+G sector in Ghana, mechanisms or tools their institution uses to monitor and assess the impact of O+G businesses on human rights, and mechanisms or tools their institutions use to monitor and assess the impact of O+G businesses on human rights; their institutions' engagement with O+G businesses operating within the state to ensure compliance with human rights standards; any success stories or best practices in effectively addressing and remedying human rights abuses by O+G businesses; the key benefits of implementing the UNGPs; the opportunities for the O+G industry by implementing the UNGPs; the main

challenges faced in implementing the UNGPs in the O+G sector; how the institutions worked to promote corporate respect for human rights within the O+G sector; recommendations to the organisations to raise awareness about the UNGPs among public officials and the general public; recommendations for achieving compliance with the UNGPs within the O+G sector in Ghana; recommendations on a national legislative instrument on UNGPs.

To validate information provided by participants, I cross-checked with other views from other participants in the same category and the reviewed literature. The reviewed literature served as a guide to validate the data provided by participants, preventing biases and ensuring data reliability (Yin, 2004, p. 9; Merriam, *ibid.*, p. 206; Stake, *ibid.*, p. 112). Rudestam and Newton (*ibid.*) affirmed that data triangulation is crucial for qualitative research.

All the interviews took place in one year in the jurisdiction of Ghana, between February 14, 2024, and May 3, 2025. I had the cooperation of all participants in answering the questions, except for some personal data, which the researcher agreed to. The interviews took place at various venues according to the interests of the participants: homes, offices, hotels, conference rooms, community sheds, and shops. Participants had the freedom to choose convenient locations for recording in order not to violate their privacy. I did not conduct any interviews over the phone or via email. All respondents signed a protocol consent form before any interview session. The researcher explicitly sought permission from each respondent to record the conversation on a phone recorder, which was placed before the respondent's full glare. The researcher later downloaded the recorded voices onto a personal laptop for further processing. I spent an average

time of 40 minutes with each participant, with the shortest time being 15 minutes. I have reproduced a copy of the introductory letter in Appendix A. Appendix B contains the protocol consent form. Appendix C reproduces the four interview guides. To record my observations and field experiences, I took notes; digital photos and videos helped me to recall important information to supplement my interview transcripts. This conclusion was affirmed by Merriam (ibid., p. 104) and Stake (ibid.), who emphasised the credibility of note-taking as a source of data in qualitative research.

4.5 Results and Discussions

Studies have suggested that interview protocols and research questions are useful guides to the findings and reporting of research results (Stake, ibid.; Yin, ibid.). According to Stake (ibid., p. 77), “Every researcher needs, through experience and reflection, to find the forms of analysis that work for him or her.” The interview questions were organised in this section to shed light on the study's purpose and the concepts derived from research theories. I discussed the research findings resulting from the data collected from the participants, grouped in the same order as the interview questions. The questions were both open-ended and closed-ended. Open-ended questions helped the researcher freely elicit facts as well as the opinions of participants (Yin, 1984). The researcher coded the research responses and grouped them into themes that align with the project's objectives (Merriam, ibid). I developed major themes from the data using the NVivo software application to evaluate the research questions, as shown below:

Table 2: Themes from Qualitative Data

Objective	Themes
To assess the existing policy and legal frameworks for BHR in Ghana.	1. Awareness 2. Strengths 3. Weaknesses
To examine Ghana's O+G industry's compliance with the UNGPs.	1. Strict compliance 2. Human rights concerns 3. Environmental concern 4. Creation of awareness
To assess the effectiveness of a comprehensive national legislative instrument in ensuring compliance with the UNGPs in the O+G sector.	1. Legislation 2. Education and training 3. Enforcement

Source. Field Data (2025)

According to the table, the 10 themes that emerged from the analysis were awareness, strengths, weaknesses, strict compliance, human rights concerns, environmental concerns, creation of awareness, legislation, education and training, and enforcement. The themes illustrated the issues participants identified in the voluntary implementation of the UNGPs, as well as potential solutions to ensure compliance, as outlined in the discussions below.

4.5. 1. Existing Policy and Legal Frameworks for BHR in Ghana

The first objective of the research is to determine the current legal and policy frameworks for BHR in Ghana. To this extent, the study explored participants' knowledge about existing policy and legal frameworks for BHR, awareness of UNGPs, and familiarity with the O+G sector in Ghana. These questions were critical in answering the questions around the following themes: awareness, strengths, and weaknesses. The study showed that the policies and laws about BHR in Ghana mainly include the overall human rights policy and the rules that protect people's rights in communities. The responses from the participants confirmed the findings of previous studies, indicating that the majority of

participants were unable to identify specific laws within the existing legal frameworks related to BHR in Ghana.

Awareness

From the study, it was discovered that both existing literature and empirical information gathered from the interviews showed that there is little in terms of policy and legal environment on BHR in Ghana. The constitutional provisions under chapters five and six that deal with human rights and general economic and property rights have no specific mention of BHR. However, the broader discourse on BHR is far beyond the confines of economic rights. The results revealed that the only mainstream policy on BHR in Ghana is the National Action Plan (NAP) framework spearheaded by CHRAJ, which was recently launched under the auspices of the Ministry of Justice (Republic of Ghana, 2025).

On the existing policy and legal framework on BHR, the results indicated that participants mentioned laws that broadly addressed human rights and business activities. Participants generally lacked information on specific laws that regulated the BHR environment. These results pointed to a lack of awareness of the existing regulatory frameworks. However, participants who mentioned some laws were uncertain about their effectiveness in addressing human rights violations in Ghana's O+G sector. The general understanding from the results also indicated that participants in the O+G industry have limited appreciation of what constitutes BHR policy and legal framework as compared to general business laws.

Community participant 1 attempted to list some policy and legal frameworks on BHR but struggled. After receiving additional information, he narrowed his understanding to the labour regulations but was unable to pinpoint any specifics. He stated, “I am familiar with the labour laws on minimum wage because they help to ensure that workers are paid according to Ghana's laws” (Community participant 1). Community participant 13 echoed this sentiment, stating that “Ghana's labour laws help protect every worker from unlawful dismissal.” In confirmation, community participant 22 simply stated, “I am unaware of any such specific law. I know our laws protect human rights, but that is not enough for BHR.” Community participant 16 was rather pessimistic and attributed the lack of awareness about the existing laws to other authorities, other than understanding it was his responsibility to know the laws that exist to govern him. This position also pointed to the lack of general awareness among stakeholders about the regulations concerning resources that must accrue to their benefit. His point was that “they would not even show us if there was any law. They tell us how to help them and how to protect their businesses. They do not say anything about what you are saying” (community participant 16). To illustrate his knowledge about the existing policy and legal framework on BHR, community participant 19 was also unsure of any law, except to say, “I know of the Constitution and other laws, but I do not know any law of BHR.” The response from community participant 19 was unclear since he could not point to any example of “other laws” when the researcher pushed for more specific laws. To the extent that community participant 19 was privileged to be involved in the policy and programme implementation in the traditional area and could not specify any BHR legal framework was instructive. It pointed to the larger

picture of the lack of awareness about the legislative frameworks on BHR in the sector in Ghana.

State participant 1's understanding of the existing laws was about the direct legal framework that specifically covered BHR in the sector. He argued that existing laws, such as the Petroleum Revenue Management Act, 2011 (Act 815), were insufficient to address human rights violations in the business environment, and therefore, the NAP was necessary to achieve the objectives of the UNGPs. He further argued that the existing laws are general to the extent that they do not incorporate the specific principles of the UNGPs to engender compliance. His appreciation for the BHR law was unique due to his position as the focal person on the UNGPs in the institution. He answered that "We are finalising our NAP on BHR, which aims to address issues within the BHR sector. Additionally, it includes legislation and policies that pertain to businesses in general and address human rights issues. For instance, while the Act 815 contains certain provisions, it may not incorporate specific enactments considered fundamental human rights principles. Alternatively, the enactments may be too general, posing a problem" (State participant 1). This answer pointed out the weakness of the existing laws as well. To clarify the purpose of the NAP and whether it provides a good policy framework for BHR, he argued that "Yes, our NAP on BHR aims to promote a specific law and regulation addressing BHR issues. More importantly, we can narrow it down to a specific sector, such as the O+G sector" (State participant 1). State participant 3 could not specify any particular law beyond his reference to the constitutional provisions under Chapter 5. He was careful to say that the Constitution's Chapter 5 provisions were not the only laws. He provided that, "Apart from the constitutional

provisions under Chapter 5, I do not know of any law unless I check. While I am not claiming that such laws do not exist, no specific law addresses BHR. As an organisation, we also discuss human rights and protecting human rights, but there is no law on BHR, so we must think about that” (State participant 3). The position of the state participant 3, given his background, also showed a profound result about the awareness of stakeholders on the existence of policy and legal frameworks on BHR.

CSO participant 1 tended to avoid discussing international law in his answers, as he struggled to identify specific BHR within Ghana's legal framework. He was quick to advocate for specific laws since, in his experience with the extractive industry regulations, human rights violations are rampant and require specific enactment to deal with the issues. He responded that, “Though I cannot point to any BHR-specific law, I also know that international laws bind Ghana to protect human rights, including businesses. We should consider enacting new laws to address this issue, which has become important for the investigation. Ghana must take this issue seriously, especially considering how businesses exploit the country's petroleum resources” (CSO participant 1). CSO participant 2 was sure that there were general laws that protected the human and economic rights of the people, but was short to tell of any specific law on BHR. He said, “I know the general laws support the protection of human and economic rights, but I am not a lawyer, so I cannot tell of any law that specifically deals with BHR” (CSO participant 2). A similar sentiment was demonstrated in the response of CSO participant 5, who also stated that “I know of laws that guide various operations of the businesses, but not specifically on BHR. But to me, they are all BHR laws.” We expect CSOs to stay updated on the legal landscape

of the sectors they are involved. To discover that these CSOs are unfamiliar with the BHR legal environment was a critical finding of this research.

Company participant 3 could not point to any specific BHR laws but argued that there are general laws that concern businesses. Her answer, “I cannot say any specific law, but there are many laws in Ghana that deal with businesses” (Company participant 3) was surprising given her educational background and position in the organisation. She did not address the demand of the question because stating that there are laws on businesses does not mean provisions are made in such laws to cover human rights as well. That was the challenge with her appreciation of BHR laws. Company participant 4 was also unsure about any specific laws on BHR, but rather enquired if the general laws of the country would not be enough to deal with BHR matters. He contended strongly that, though there are specific human rights issues with businesses, the general laws were capable of dealing with them. He simply stated, “I cannot mention any law or policy now. I am sure that if we have the time, we can get one or two. Could the existing laws we have in place achieve the same outcome? Ghana has many laws on businesses, so I think that is fine” (Company participant 4). The responses from the company participants largely confirmed the concern about the lack of clear policy and legal frameworks on BHR in Ghana.

Concerning how participants were aware of the UNGPs, the results showed scant knowledge about their existence, particularly their implementation in Ghana. The following were some responses from the participants, indicating that the majority of participants were unaware of the UNGPs. Responses indicated that participants from especially non-state institutions and CSOs were

not aware of the UNGPs. These participants had various means of awareness, mainly in the O+G industry.

Community participant 1 was very clear, despite his work with the gas company in his community, there had never been an occasion when the UNGPs were referenced in any stakeholder engagement. According to him, in his role as a community member, he was aware of the operations of the gas company's activities and some CSR interventions, but could not tell if they were manifestations of the company's appreciation of the UNGPs. He stated, "I am unfamiliar with the UNGPs, but I am very familiar with the value chain in the O+G industry" (Community participant 1). As the local government practitioner and a staff member of the gas company himself, the responses of the community participant 1 were a reflection of the total oblivion of the general community's attitude towards the UNGPs. Community participant 8, who was once a unit committee member and a political party branch chairman, confirmed that he had never been aware of or heard about the UNGPs. He believed that the O+G companies were never transparent and was so keen that the researcher elaborated on the UNGPs to him, and asked if there were any benefits to negotiating with the gas company operating in their vicinity based on the UNGPs. According to him, "There is a very low awareness of the proper protection policies, which allows for abuse and forceful land acquisition. I am not aware of the specific principles you mentioned. I believe it is because the country has not taken an interest in it" (Community participant 8). Another community participant, while confirming his unawareness about the existence of the UNGPs, stated, "I do not know anything about the UNGPs. I understand that Ghana's Ministry of Energy formulates O+G industry policies and laws

(Community participant 19). Although he is a high official of the traditional council who is involved all the time with stakeholder engagements and other HRDD activities, he was clear that often, they expected state officials to make these norms available to them to inform their negotiations, but rarely had that benefit. A staff member of the same traditional council, who served as the personal assistant to the paramount chief, elaborated on the challenge with the lack of knowledge about the guiding principles by stating that “There are overwhelming problems that affect communities that the businesses in the O+G industry make, making it sometimes difficult in the implementation process. But particularly with the UNGPs, I am not aware of their implementation. Maybe it is being implemented in some way” (Community participant 25). When informed that it is yet to be launched as a policy, he intimated that “Our leaders will not facilitate its implementation because of corruption” (Community participant 25). This response from community participant 25 was revealing, as it demonstrated another dimension of how the communities perceived the implication of the state’s tardiness in effecting the action plan on the UNGPs. Community participant 25 further enquired if the UNGPs were a law that was binding on the parties to the oil production agreement, to the extent that they had lost anything for not being aware of its existence. The response was nothing short of his unawareness of the guiding principles.

CSO participant 3, who had been involved in energy consultancy and advocacy, conceded that despite his general knowledge of human rights issues in general, he had little knowledge about the BHR framework. Despite his fair understanding of the IFC framework, he lacked any understanding of the UNGPs. According to him, the first time he heard about it was when the

researcher contacted him for the interview, hence his initial reluctance to participate in the interview. His view was that “I am familiar with human rights issues. I possess a global perspective on human rights. We have both an African perspective and an internal Ghanaian perspective. That is the Ghanaian perspective, protecting human rights in all activities across the Ghanaian economy. However, I have no particular knowledge about the UNGPs” (CSO participant 3). This participant is a regular media resource person on energy matters in Ghana, and the extent of a lack of knowledge about the UNGPs brought into focus the need for effective stakeholder sensitisation on the principles to accrue their full benefits. CSO participant 4, while showing some discomfort and attempting to express understanding, finally stated, “Frankly, I have been involved in the sector advocacy for some time now, but, strangely, I do not know about these UNGPs, but I think the government is not pushing it into the public.” While acknowledging that his organisation has been involved in international human rights training and seminars, he could not express any prior knowledge about the UNGPs. Indeed, all other CSO participants could not indicate any familiarity with the UNGPs, and that raised concerns about how the CHRAJ engaged stakeholders widely on the preparation of the NAP.

State participant 1, who exhibited a lot of understanding of the UNGPs, gave a background to the adoption of the framework and how his organisation was working to bring its enforceability into being through the appropriate mechanism. He stated, “I am very familiar with the UNGPs. My MPhil was in human rights- incidentally, just a year after the UNGPs had come into being-so I happened to have taken a course on the UNGPs” (State Participant 1). This was an outlier from the general responses, and this was because the participant

was the focal point for the UNGPs in his organisation. It also indicated that the UNGPs are recognised within the Ghanaian legal framework regarding international law, especially concerning human rights law. The findings implied that Ghana cannot be excused from accountability for their non-implementation, a concern informing the aim of this study. State participant 2, while trying to bring his background into focus to underscore his knowledge in the O+G sector as a lecturer and head of a state institution, concluded that he had little knowledge about the UNGPs. His answer to the question was that “I hold a PhD in energy and sustainable development ...I worked for a university. Indeed, I am well-versed in the UN’s role in formulating guiding principles and regulations, which, while not legally binding, guide countries in conducting specific businesses or activities. However, I am not particularly familiar with the UNGPs,” said State participant 2. State participant 3 was very surprised that there were guiding principles because, according to him, apart from teaching and practising as a lawyer for a long time, he was also the chairman of a regulatory and enforcement agency that ought to have focused his attention on the UNGPs. He asked the researcher to engage more stakeholders after the study to bring attention to the framework. He reiterated that “I am frankly not aware of this framework. We do not know about it at all (State participant 3). State participant 4, after asking the researcher to give background on the UNGPs, espoused the role of his organisation, which is mandated by law to develop, produce, and dispose of petroleum resources in Ghana under PNDC Law 64. Yet he stated that he knows about such matters because sectoral implementation and regulation require it. “Such legislation has to be in sync with diverse international regulations. But I do not know anything, particularly about the

UNGPs” (State participant 4). State participant 7 showed knowledge about the UNGPs by her role at his organisation and provided that “I am familiar with the UN's guiding principles, but actively implementing them has proven challenging.” According to state participant 10, “I am familiar with UN guidelines, which establish guiding principles or rules and regulations. These guidelines are not binding on countries, but they provide advice on undertaking specific businesses or activities.” The response of state participant 10 was not borne out of prior knowledge about the UNGPs because before the interview, he requested a time to read briefly on the UNGPs before taking the questions. The general responses showed poor awareness and appreciation of the UNGPs in the O+G sector in Ghana.

The participants' familiarity with the O+G industry in Ghana showed that they all had different views on how the industry operates. The O+G sector is well-known to most Ghanaians, who have high expectations of it. Some participants showed profound knowledge about the industry and how it impacts them as stakeholders.

Community participant 2 provided an answer that reflected the responses of all the community participants who showed degrees of familiarity with the O+G operations in the communities. These answers justified the inclusion criteria for selecting the study areas for such research. This was espoused in his statement, “Yes, I am familiar. I have been aware of their operations since 2007. As for me, I have known them since [President] Rawlings' time” (Community participant 2). State participant 1 provided more details on how his organisation engaged with the sector to underscore how familiar he was with it. He

emphasised his familiarity with the sector by stating, "We know about it but have not done much in that area. I will hasten to add that around 2020, we were doing some work, conducting a baseline study on the voluntary principles of security and human rights in the extractive industry, and the O+G sector was key, so the work was supposed to be in three phases. Phase I involved the Western region, home to the O+G companies, but unfortunately, we did not receive much collaboration in this area. When we contacted certain companies (I will not name them), they were uncooperative. Once we complete our NAP on BHR, we aim to collaborate with them more closely. When our NAP takes effect, we look forward to working with them as a key sector" (State participant 1). While the response of state participant 1 showed an elaborate knowledge of the UNGPs, it also revealed a disturbing issue of the lack of cooperation from O+G companies in assessing human rights concerns in their operational areas. State participant 3 provided adequate information to indicate that he had an understanding of the sector. His response included the point that, "We have to provide feedback to the Energy Committee or Mines and Energy Select Committee, which is also responsible for ensuring that the agencies report or counter-report to them. So, Ghana boasts a robust O+G sector in addition to the Ministry of Energy. This sector is a key player in the country's economy, with upstream and downstream operations. The midstream is seamlessly integrated into the downstream, enhancing the sector's importance (State participant 3). State participant 6 and his colleagues, who participated in the interview, were unanimous that even though their regulatory functions were not limited to the O+G sector, they had an appreciation of the sector's operational responsibilities. He supported their point by stating that "We have a unit at the headquarters

responsible for petroleum regulations, and I am the head of that department (State participant 6). State participant 8 simply said, “We are responsible for regulating the sector's accountability and management of its proceeds. I am very familiar with the sector.” State participant 10 confirmed his knowledge about the sector by simply stating that, “We have worked in the sector for over a decade, so I know much about it.

CSO participant 3 supplied a lot of information to amplify his knowledge on this question concerning his familiarity with the O+G sector in Ghana. He posited that “I know that in Ghana, the Ministry of Energy is the main agency responsible for formulating policies and laws for the O+G industry. The Ministry of Energy and Management manages various institutions. Our energy sector contacts include the Ghanaian parliament” (CSO participant 3). CSO participant 4 demonstrated a deep understanding of the sector and provided additional information. He stated that “We have upstream O+G companies, including GNPC and the PC. The NPA regulates downstream petroleum activities. The Bulk Oil Distribution Company, Ghana National Gas Company, and some international O+G companies like Tullow operate in the upstream sector. These are examples of upstream O+G production operations. Then we have some service companies that are also upstream, and there are also international O+G companies. These issues are of great concern to us. We ensure that at all times, the rights of people engaged in the handling, sale, and resale discharge of petroleum products are not taken for granted, mainly because they are exposed to all kinds of health hazards, and it is a chemical (CSO participant 4). The responses from the CSOs affirm the general understanding of all participants about the UNGPs. The familiarity and the concerns of

participants make the aim of the study relevant, as its findings would be useful and applicable to solving societal challenges posed by O+G activities in affected host communities.

Strengths

In the context of this study, strengths refer to the benefits derived from the implementation of the UNGPs. Understanding the framework is crucial as it has the potential to benefit both citizens and the nation. It was revealed that the major strengths of the BHR framework are its ability to protect the rights of citizens and provide adequate remedies when rights are violated. Responses from the interviews demonstrated the significance of the BHR framework for citizens, businesses, CSO officials, and the state. The UNGPs provide the guidelines for how businesses should operate. It is mainly about respect for human rights. While businesses operate, they also ensure that community members benefit from them. This evidence confirmed the provisions of the CSR theory. The study's findings showed how the O+G sector is not just driven by profit but also helps to improve the lives around it by providing resources and amenities that make its existence appreciated. According to Jenkins (2004), the motivating factor of every O+G Company is to make a profit and make substantial benefits from the production activities. The study's results on the current policy and legal regulatory framework of BHR indicate that it provides guidelines for businesses to follow. They also consider how their operations affect the environment and the lives of those impacted, ensuring their rights are not violated. The study found that policy and legal frameworks of BHR are important for businesses, community members, officials of human rights institutions, and CSOs. They ensure the protection of individuals' rights. As they

steer the operations of businesses, they safeguard the rights of individuals potentially impacted by these activities. That is the primary goal of the BHR.

The findings from this study indicated that most participants were generally optimistic about the prospects of UNGPs for upholding human rights standards in the O+G sector if implemented through the appropriate level mechanism. State participant 1 opined that “My institution, because of our core mandate, understands how human rights principles in the UNGPs are key in achieving human rights standards in the O+G sector. We are finalising the NAP, and we believe it will complement the objectives of the UNGPs, so yes, the implementation of the principles will bring a lot of benefits to the sector.” CSO participant 1 contended that, “From all indications, the UNGPs, if adhered to by the oil companies, would be very good for their image and profitability.” This position aligned with the inclination of company participant 1, who said, “Definitely, the sector stands to benefit because we are the losers if we do not follow due processes in addressing human rights issues. We know the general importance of respecting human rights principles in our catchment operations areas, but the UNGPs give more details for accountability. That is the difference I can see. So, it is.” Other participants believed that the effective implementation of the UNGPs would ultimately benefit the O+G companies more than any stakeholder. This view was strongly emphasised by company participant 4, who stated, “We are aware that businesses gain a lot from respecting human rights principles by gaining social acceptance and protection from the communities they work with. By following the UNGPs, the O+G companies are the ultimate winners.” State participant 3 agreed that the effective implementation of the framework would result in greater benefits for the O+G companies. To state

participant 3, “The companies in the sector are not oblivious to the opportunities, but I think the cost of implementation is their challenge. However, if you do a very good analysis, they must understand that they gain much more if they follow the UNGPs rather than the cost put on compliance.” State participant 8 also observed that “There are always some beneficial outcomes from following and respecting human rights in the operations of businesses. So that would not be different, or perhaps it may be better for following the tenets of the UNGPs.” Community participant 19 strongly believed that when implemented properly, the BHR framework would be useful. He affirmed that “Sure, the implementation of the principles will help achieve more compliance with human rights standards in the petroleum sector” (Community participant 19). State participant 2 was also positive about the UNGPs, stating, “Yes, I believe the benefits from the implementation will be high as compared to what is the case now.” I know it is hard to enforce international laws, but it will be good if we do.”

The general agreement on the strengths of the UNGPs reflected stakeholders' expectations regarding how proper implementation of the framework would benefit citizens. Participants' responses were not based on their knowledge of the BHR framework but on the little education the researcher provided on the UNGPs' pillars.

Weaknesses

In this context, weaknesses imply the challenges with the implementation of the UNGPs. Most participants had little or no information about the UNGPs, which must be challenging, especially with enforcement. CSOs contended that some

businesses, mainly in the O+G industry, directly harm the environment. Such an action could be a clear violation of human rights, but the BHR framework lays out different rules businesses must follow to ensure they do not violate people's rights. The study's findings agreed with the intentions of the HRDD theory, revealing and confirming that businesses, despite the nature of their operations, should always respect both human rights and the sustainability of the environment through due diligence mechanisms. It can sometimes be a challenge when individuals whose rights might be affected are unfamiliar with the principles of the BHR. This presents a challenge to all parties involved, particularly businesses or other corporate bodies that advocate for human rights.

Despite indicating scant knowledge about the UNGPs, participants expressed general discourse on what the framework's weaknesses could be. For instance, State participant 6 addressed the question by stating that “Addressing human rights issues continues to pose a major challenge, making the fight for human rights an arduous task.” This response suggested the participant’s specific lack of insight into the BHR framework but indicated a general appreciation of international human rights law, which is often the case when its enforcement has always been a challenge for practitioners. CSO participant 5 predicted political interference as a cause to weaken the effective implementation of the framework, though he indicated that he did not know about the implementation of the framework. He explained that “political interference, such as the victimisation of companies, has become a challenge to human rights standards” (CSO participant 5).

State participant 1 argued that the extractive industry's lack of transparency is a common weakness in law enforcement, citing the O+G sector as a victim. In his view, “One of the [challenges] will be that the companies' fear of the unknown is not ready to open up. BHR in the O+G sector appear opaque compared to other sectors we have worked with. They exhibit a tight grip. They do not want us to come in to see what they are doing and offer solutions or initiatives to help them (State participant 1). This response also reinforced the transparency and corruption perceptions about the O+G industry. CSO participant 3 was honest and added, “I am unclear about the challenges because we have not implemented them yet. I think this is because the obligations are not binding; that is why the companies are reluctant to abide, and the state cannot enforce them.” In similar contention, state participant 3 stated that “Though I cannot state the challenges as a certainty, I can foresee a lack of enforcement and compliance, as with most international frameworks I know. Most of the challenges involve the enforcement mechanisms against noncompliance.” One weakness identified from the above response was the non-binding nature of the UNGPs as a soft law. Further responses were saturated with similar responses. CSO participant 2 suggested that “Businesses in the O+G sector consider the lack of risk assessment and the shortage of skilled personnel significant challenges. This has resulted in ineffectiveness when it comes to upholding human rights.” According to state participant 4, “Low levels of community engagement are causing more problems in implementing the framework to ensure compliance with human rights.” Given the various responses from the different classes of participants, the result showed that an effective mechanism would be required

to ensure compliance with the UNGPs and have their full impact on the O+G sector in Ghana.

4.5.2 Ghana's O+G Industry Compliance with the UNGPs

The second objective of the study examined Ghana's O+G industry's compliance with the UNGPs. This objective sought participants' views on the grievance mechanisms for addressing complaints and concerns related to human rights issues, experiences in their organisations on how they promote corporate respect for human rights, the mechanisms or tools used to monitor and assess the impact of O+G operations on human rights, and how institutions worked with O+G businesses in the state to ensure compliance with human rights laws. The objective was discussed around the following themes: strict compliance, human rights concerns, environmental concerns, and creation of awareness.

The study results indicated that firms in the O+G industry in Ghana significantly impact the welfare and livelihoods of stakeholders, and this impact also extended specifically to citizens of affected communities whose rights are violated. Thus, O+G companies must follow all rules to avoid being a nuisance. In Ghana, the O+G sector has no guide for implementing the BHR framework, as revealed by the participants' responses. The UNGPs provide the guiding principles that businesses of all shapes and sizes should follow in their operations and practices. However, it does not propose a set of management systems; instead, it gives firms the flexibility to apply the guiding principles within their circumstances. Recently, firms in the O+G industry have become increasingly responsible for understanding and addressing the range of human rights issues linked with their operations. This means that when they ignore

human rights issues and fail to adhere to the UNGPs, they can and do have negative impacts, leading to very real costs for individuals affected.

Compliance with the UNGPs is monitored and reported based on the operational principles covering the three pillars: protect, respect and remedy. The enforcement mechanism with international human rights instruments includes reporting systems to non-judicial committees for examinations and observations of the member state within specified periods. Since the UNGPs document is a non-binding soft law, other than a treaty, it currently has no such monitoring body. The UN Working Group on BHR (UNWG) was established by the UN Human Rights Council in 2011 through Resolution 17/4 to promote the dissemination and implementation of the UNGPs among member states. Data from the key participant indicated that Ghana has not submitted a report on the implementation of the UNGPs as of May 2025.

Strict Compliance

As explained earlier, in this study, compliance denotes successfully adhering to legislative instruments and human rights standards within business operations. Effective compliance ensures that companies operate within legal frameworks, maintain ethical standards, and uphold their social license expectations. The study has established that O+G firms do not strictly adhere to all these principles and guidelines. As established in the study, no legislative instrument backs the UNGPs in Ghana. Despite no legal backing, the O+G industry considers these guidelines and makes efforts to adhere to them, believing that they are very beneficial to their operations and the rights of individuals.

State participant 1 was clear that as a human rights institution, his outfit had policies that sought to guide parties to comply with the BHR framework. He recognised the BHR unit in his organisation as a setup towards the realisation of the objectives of the UNGPs. This scenario stood in contrast to the fact that the institution had not yet finalised the NAP, let alone begun its implementation. We can assess state participant 1's position by considering the overall impact of the violations on the stakeholders involved. According to his assertion, “We have policies in place to ensure compliance for all businesses. All our policies align very well with the BHR framework. First of all, my institution has recognised that UNGPs are a big thing and something outstanding... and created a BHR unit, which was not there, and the [institution] recognising how important issues of BHR are has created a new unit, which I am heading, mainly to help when complaints come... Additionally, they are expected to take the lead in the work related to these areas. Following that, the [institution] has specific policies related to BHR compliance, e.g., policies on confidentiality, sexual harassment, etc. All these align very much with BHR principles, so the [institution] is doing well” (State participant 1). This participant's response merely highlights the policies' requirements for compliance, without providing specific information about the compliance levels within the O+G sector. The responses addressed expectations instead of providing a practical report on compliance with the principles. Furthermore, the compliance metrics in the O+G sector are not limited to what the participant stated, even though they serve as examples. In the O+G sector, BHR concerns are related to housing, environment, labour, and health, as the findings pointed out. Compliance requires, as a first step, the incorporation of appropriate principles and rules into

enforceable policies and regulations. The responses from state participant 1 did not satisfy these metrics. Despite being a regulatory agency, State participant 2 was unable to determine whether they have incorporated the UNGPs for compliance. He said, “I do not know if we have incorporated the UNGPs into our practices and policies” (State participant 2). State participant 4 was clear that his outfit may not have been enforcing compliance because he was not even familiar with the principles. This revealed the state of the UNGPs, since his organisation directly interfaces with the O+G companies. State participant 4 provided that “I do not think we have. I need time to study the principles you mentioned.” As a state organisation directly involved in applying oil revenues to CSR activities, this response was concerning and pointed to how transparent and informed assessments are done to identify and select beneficiaries for CRS interventions.

Company participant 1 admitted that his organisation was not strictly guided by the UNGPs, but stated that by adhering to the IFC framework, it signaled enough compliance with the general international norms. This interpretation could be misleading since the IFC’s applicability and enforcement mechanisms are not the same as the UNGPs. For instance, IFC has requirements on environmental concerns, while the UNGPs do not, thus becoming one of the latter’s shortfalls. He stated, “Even though the principles of the UNGPs are not directly incorporated into our policies, I know that we adhere to the IFC policies on environmental safeguards, which I think are similar to the UNGPs. However, if the UNGPs become mandatory, we are prepared to implement them” (Company participant 1). The expectation to have the UNGPs compliance become mandatory is only feasible through an effective legal approach to

enforcement. In describing her company's compliance mechanisms, Company participant 3 reiterated a strategy similar to that of Company participant 1, stating, “Although we do not have the UNGPs as a policy document, we have integrated human rights issues into our internal corporate policies. This is why we prioritise CSR and can provide examples of our efforts for communities and individuals.” A company participant said, “We do not directly work with the UNGPs, so I cannot say exactly how we have integrated the principles into our policies, but I can confirm that we adhere strictly to human rights standards” (Company participant 3). According to company participant 4, “UN principles are commendable, but as you just explained to me, it appears that many institutions in the country are not aware of them. Therefore, I cannot confidently claim that we have incorporated them into our policies. I cannot pretend, but I know general human rights practices are followed in this organisation.” These results from the responses rather showed a lack of strict appreciation for the compliance regime under the UNGPs. The lack of awareness about the UNGPs reflects the responses provided by the companies that are accountable for compliance metrics under the BHR framework.

For the CSOs, compliance involves monitoring and reporting through their stakeholder engagements, which demand accountability from the relevant parties. CSO participant 1 made the point that “As a CSO, our office maintains a monitoring desk due to our involvement with international partners requiring our advocacy and funding reporting. Usually, we engage the companies directly and sometimes rely on government reports for follow-ups. This is sometimes difficult because some companies, I must be frank, report below the lines. They do not report accurate information, so we rely on our credible means of

verification.” To reiterate monitoring as a critical ingredient for compliance, state participant 3 stated, “Because our mandate requires us to report to parliament, we are key in monitoring the O+G sector to help it comply with its rights obligations. We cannot achieve 100 per cent, but we do a lot.”

The results indicated that communities confined their roles to ensuring compliance with reporting violations to the rightful stakeholders. These observations may not be well enough understood until the appropriate framework spells out the communities’ compliance responsibilities beyond merely reporting grievances, which are usually not addressed or remedied timeously. Community participant 18 had this to say: “We report any abuse to the companies or the traditional council to act on any human rights abuse. Occasionally, our assembly members channel the issues to the government. We also sometimes hold a durbar to discuss how to deal with issues. We have a committee that deals directly with the gas company. Nevertheless, they usually do not act the way we want. That is a big problem. We are suffering a lot.” I cross-checked this result with the responses from other community participants who shared similar concerns. For example, community participant 22 affirmed that “As [a leader], the reports we send to the company to act on are not followed through. Our community volunteers diligently observe how the company’s operations impact our environment, yet their efforts have yielded minimal results thus far. My people are not happy. They are not prepared to discuss their concerns with you, as they have grown weary of complaining” (Community participant 22). Community participant 4 showed frustration about how the communities are restricted in the level of their involvement in the compliance mechanisms, as shown in the foregoing responses. He asked, “How can we do

that? The companies are reluctant to discuss their policies, fearing we may challenge them. Encourage our community-based organisation to educate us on this issue. We will talk about it at the traditional council meetings” (Community participant 4). This frustration manifested during the interviews and community engagements when community members poured out their challenges with the operations of the O+G companies and how they had benefited less from resource exploitation while being negatively impacted by all the human rights concerns. Some community members openly incited the participants not to speak to me due to the disappointment with official engagement by mistakenly identifying me as one of them.

Human Rights Concerns

According to the Vienna Convention and Programme of Action (1993), “Human rights and fundamental freedoms are birthrights of all human beings; their protection and promotion is the first responsibility of governments.” The gamut of social, political and economic concerns recognised as human rights of people keeps expanding since the inauguration of the UN in 1945. Scholars admit that the UN Charter did not anticipate what should be covered as human rights and did not specify the state’s duty for the protection of rights and promotion of freedom (Smith, *ibid.*). The unprecedented increase in concerns about human rights violations is also due to the recognition of the domestic and international law approach to human rights. The researcher sought from participants what constituted human rights concerns and how violations of those rights affected them.

The results of the responses indicated that most participants did not agree that the O+G operations had brought them any good benefits. Community participants considered the O+G activities as rather a misfortune to their livelihoods. They complained of a polluted environment, destruction of marine life, ill health, injustice in the governance and distribution of the share of the wealth of the resource extraction. Scholars agreed that the lack of effective consultations and participation of communities in the governance and benefit allocation are factors behind the crisis in oil production communities (Ojakorotu, 2010; Watts, 2010; Ikediobi & Marvin, 2010; Mahler, 2010; Obi, 2010; O'Neil, 2007). The results of the study showed that participants had similar concerns about the common elements of human rights violations. Participants were worried about the state and MNCs ignoring their issues and the effects of O+G operations on their lives. From the field observations in the communities, I watched almost ghost communities with little economic activity and vibrancy. I found most of the youth in the streets engaged in menial work or playing one game or the other. Many people I met in the streets, who spoke to me informally and not as part of my research participants, expressed feelings of frustration and despair. The most common human rights concerns were the pollution of water sources, the effect of the exploration on the tidal waves that had eroded their permanent houses, the destruction of farmland and crops, the unavailability of decent jobs, lack of proper road infrastructure, loss of jobs, arrests of fishermen and deaths at sea, noise pollution, and distraction in network communications. These facts were communicated to me by participants from the O+G companies, although they indicated that their respective companies had initiated CSR projects and programmes to eliminate the

challenges, including giving affected community members skill training, farming inputs, school infrastructure, borehole water, accessible roads, community meeting centres, and fish preservation facilities. Though some participants from the communities testified to this, I found from the results that some of the facilities were either under construction or not serving the intended purposes. For instance, in two of the communities, the findings were that the teachers' quarters being built by a company had been under construction for many years. Again, in another community, I found that a borehole provided to serve as an alternative source of drinking water had not been efficient in providing what is needed because it often dried up. Community members complained that before the company came into existence, they used to rely on rainwater for many domestic activities, but were unable to use it again due to the darkness and contamination from the flared gas in the atmosphere. The gas flaring method used by the company in the communities was very dangerous, as flare stacks emit very long, noisy, radioactive and black horizontal or vertical flames that result in serious environmental harm (Ibaba, 2008). They showed me videos of the flared gas at night as part of my findings. In another fishing community, a fishing preservation facility for smoking and storage had been abandoned in the bush due to a lack of proper consultation and education before construction. Findings on the farmlands of the participants showed the destructive effects of the gas production on crops, showing coloured leaves and withered fruits. On the side of the state, participants indicated efforts by the government to resettle affected communities to avoid the impact of the production activities, but the facilitation was unsuccessful due to traditional litigation; this was peculiar to only two communities affected by the sectoral

activities. The state's intervention in the communities included the building of landing beaches, sea defences, and school infrastructure. Fishing communities complained about the unprofitability and destruction of the fishing activities due to their inability to fish in the deep seas due to naval protection against the invasion of the oil rigs. However, neither the state nor the O+G companies had provided alternative sources of employment to make up for their losses. Some communities reported deaths at sea due to boat crashes on a breakwater constructed off the shores of the sea to prevent tidal waves.

CSOs were concerned about human rights abuses in both upstream and downstream activities in the O+G gas sector. Participants confirmed that CSOs play a critical role in addressing human rights issues in O+G companies, mainly through their active involvement in investing in safety tools and health and safety environments. The CSOs' observations on common human rights violations focused on housing, water, security, safety, and employment. According to the CSO participants, there were concerns about the lack of consultation and proper community engagement with stakeholders within the sector.

Community participant 1 explained that over the period when the O+G operations began in their communities, where he led as a local government representative, they had collectively lost far more than they had gained. He enumerated some of the human rights concerns, including the lack of portable drinking water in their homes, the destruction of farmland and crops, the destruction of homes through tidal waves, the pollution of their rainwater sources, and the lack of decent jobs for the youth. He complained that "We cannot say that we have gained any good benefits from the companies. The

human rights violations and the losses we have suffered are far outrageous compared to the offers they make to us” (Community participant 1). Community participants 2 and 3 were not happy about how the operation of the companies had negatively impacted their sources of livelihood and threatened their survival. They lamented the slowness of the companies' responses to their concerns. The citizens had always thought the paramount chief and his council were bribed or compromised, and the elders said this led to distrust. They recounted how many times they had contested the state's decisions without any tangible outcomes. Community participant 2 stated that “The major human rights issues that worry us include the lack of proper drinking water, the destruction of our farming lands, and the lack of access to a good communication network. When they come, like you have come, they hold durbars with us to hear our concerns, but little is done about them.” To prove their case, community participants 1, 2 and 3 led me to their farmlands to see firsthand how the gas flaring activities had destroyed their farms; led me to see incomplete school infrastructure that had taken years to be completed by the company; and led me to speak to other community members randomly to confirm their assertions. I found that most of the community members had lost trust in future engagements and mistook me for a state actor, thereby showing scorn for me. This made me realise the seriousness of the situation. Community participant 3 pointed out that “There has never been any proper support after denying us livelihoods.” The concern of some community participants was echoed in the response of a community: “When people's lands are taken for O+G production purposes, money is paid in return, but since their livelihood depends on it, the amount eventually disappears, bringing them below the poverty line”

(Community Participant 22). Community participant 5 was furious about how his entire tenure as a tree crop farmer had been ruined due to the environmental destruction of his farm, thereby rendering him poorer. He recounted his harvest from the coconut plantation before the company did its work, and how he was worse off at the time of the interview. This ordeal was corroborated by community participant 9, who pointed out that she had engaged in petty trading despite her age because her farmland had been polluted and she could no longer make the yield she used to. According to her, farming was no longer viable; she only went to the farm to occupy herself and get some foodstuffs for domestic consumption. Community participant 10 stated that, though she was a food vendor, she rarely made any profit and had no employment options as a JHS graduate. She stated, “I completed JHS, but my parent could not afford my secondary school education because there was no free senior school at the time. But I can work with my JHS knowledge; there is no job. That is why I am selling, but you can see they are not buying because there is no money. We do not have water, so if you go, tell them” (Community participant 10). Community participant 14 complained that he had been labeled a radical person for his incessant demands on companies and state actors to compensate them adequately for the destruction of their lands and source of livelihoods. It is argued that the only tangible CSR initiative from the company is the building of primary school block for the community. He added that the promise to build a community meeting centre was yet to commence. He added, “My brother, I would rather not talk to you. I would not have accepted your approach if you were a state official. My father is the chief here, and he has lost interest in the engagements because of the break in trust” (Community participant 14).

In the fishing communities, human rights violations centred on the lack of decent jobs as an alternative to the diminishing profitability of the fishing work, bad road networks, shortage of water, the abuse, arrests and death suffered in the hands of the Navy on the sea, the lack of modern facilities to support their occupation, environmental pollution, lack of consultation, and the high cost of living. Many studies have explored the consequences of using the military to intimidate oil-producing communities to divide and rule, which strategy breeds violence and distrust (Zalik, 2009; Obi, *ibid.*, Frynas, *ibid.*; McLennan & Stewart, 2005; Wheeler & Boele, 2002; Abidde, 2011; Ngomba-Roth, 2007; Michael, 2010). These studies confirmed the apprehensions noted along with the fishing communities affected by naval arrests and harassment.

Community participant 16 informed me that the most serious concern of the community was the high cost of living and unemployment due to the lower activities by the fishermen because of the restrictions on deep water fishing. He contended that “This village is the largest fishing shore in Ghana for salmon fish and landing for canoes, but due to inactivity in the sea as a result of the oil exploration on the waters, we are unable to do normal fishing” (Community participant 16). Community participant 17 criticised a nearby company, accusing them of providing insufficient CSR support, which he attributed to a lack of respect for their human rights. He added to his submission that “The support the companies and government give us cannot atone for the losses we suffer. They are inadequate. We have become miserable after taking our lands (Community participant 17). This statement was, however, contradicted by a company participant who said, “Our company is known for respecting human rights; our communities will confirm this. No problems have arisen, and we help

community members' livelihoods. I can take you around to show you some of the programmes we have in place to support our people (Company participant 2). When confirmed by other community participants, it was found that the company had provided support to some community members in piggery, skills training, and social amenities, such as the construction of teachers' housing and borehole water. Some of the facilities were incomplete, malfunctioning, or not serving their intended purposes. According to Howard, Gardner, and Thompson (2007), any authority that often takes advantage of the underprivileged in society only manifests disregard for the people. Community participant 21 lamented about his ordeal as a driver on the roads in the community, despite the resources he claimed had been given by the community. He was unhappy about the cost of transportation due to the poor nature of the road and how reluctant community members are to travel and fight the drivers for exorbitant charges. Community participant 26 reechoed the driver's concern in more succinct words by stating, "You saw our roads; does that befit us? Our regular fishing activities are slowed down because we are barred from fishing closer to the rigs, and our people are arrested and maltreated with injustice. All that they did for us was an oven and a fish drying house, which serves no purpose. We have complained to the government, but there is no action." Community participant 22 stated some of the human rights concerns as loss of livelihood sources, health challenges and lack of safety on the seas.

CSO participant 1 mentioned violations of human rights as a concern for the industry and cited examples such as lack of safe water, health complications, and access to skilled job opportunities. He contended that often the state negotiates oil deals outside the communities' involvement and assumes that they

would be approved by the communities at a later time. He deplored the lack of gross accountability in petroleum fund management, as contained in many PIAC and Extractive Industry Transparency Initiative (EITI) reports. CSO participant 5 stated that as a human rights advocate, one of the sectors he had reported on so well was the O+G sector, where many human rights are directly or indirectly violated. He mentioned some of the violations, such as oil spills, environmental pollution, land degradation, job losses, and human trafficking. He posited that “I have been in this advocacy for some time, so I can confirm that the oil sector has had many human rights issues. I can mention land degradation, child trafficking, loss of jobs, and health-related issues” (CSO participant 5). CSO participant 2 expanded the definition of violations to include discrimination against local enterprises, which violates LI2204. He submitted that “The extractive industry's inability to protect, respect, and repair has led to the development of diverse forms of human rights abuse because most of them lack proper structure. There is also the issue of discrimination against local companies” (CSO participant 2). This position is backed up by real-life examples, like Waritimi's (ibid.) study of Nigeria's oil-producing Niger Delta region, which found that local content and policies that involve local people helped break the cycle of inequality that led to local unrest. Even though multinational oil companies do CSR projects in poor areas, it is becoming more apparent that putting LCPs at the top makes a big difference in people's ability to make a living. A survey administered among local content professionals revealed that 8% of participants considered local content effective in Ghana (Oil & Gas IQ, ibid.). The survey results indicated the need for improvements to Ghana's LCPs.

The results from the responses indicated various human rights concerns and the level of responsiveness of the state and MNCs operating in the sector to addressing the challenges. In 2005, the World Summit Outcome developed from the Millennium Summit of 2000 emphasised that human rights, peace and security, and development are interconnected and mutually reinforcing (UNDP, 2016). This means that human rights are innately connected to all the fundamental socio-economic issues of development. The core values of human rights include equality and nondiscrimination, accountability, justice, and transparency (UNDP, *ibid.*). To enhance these values, state and non-state actors must apply a human rights-based approach to development to make an impact on the lives of the people. Given the responses of the participants on their human rights concerns, it is clear that the state and government institutions responsible for protecting human rights in the O+G sector adopt a comprehensive framework to achieve these values. Human rights are holistic and interdependent, and the so-called CRS initiatives must not be restricted to a few convenient projects but should take into account the general welfare, participation, security, and safety issues identified by the participants in this study.

Environmental Concerns

Participants' concerns extended beyond economic, social, and cultural rights to environmental rights, which implied both positive and negative obligations for the government. While positive environmental rights require the state to make active provisions or provide support for victims of violations, negative environmental rights are against interference and obligations not to harm. The African Charter specifically enunciates environmental rights, but the

international recognition of these rights is a relatively recent development. Article 24 of the African Charter states that “all people shall have the right to a general satisfactory environment favourable to their development.” The UDHR only provided for the protection of a dignified standard of living adequate for the health and well-being of individuals and families (UDHR, 1948, article 25). This implies that neither the UDHR nor the UNGPs protect the right to the environment. Debates have been sustained over whether international law or national law should be the appropriate means to establish a regulatory framework to mitigate the effects of corporate operations on the environment. Individuals have proposed national laws to expedite the adoption of international principles (Smith, *ibid.*, p. 368).

Environmental pollution was a major concern among the human rights issues raised by participants. The findings show that the O+G companies did little to address the complaints of the affected communities, who bore the brunt of the pollution in their health, farming, housing, and water sources. While expressing concern for environmental sustainability, firms in the O+G industry and other stakeholders involved in driving O+G operations have made minimal efforts to promote adherence to human rights protocols. Ojakorotu and Okeke-Uzodike (2006) and Obi (*ibid.*) opined that communities affected by the operations of O+G companies turned violent against the companies when their operations adversely impacted their sources of livelihood.

Environmental pollution constituted a serious concern for the participants. The findings showed that participants were concerned about how to protect the sea from spills from the companies and warned of serious consequences for their livelihoods if it occurs. According to them, the state may not be able to hold the

MNCs to account properly and remedy any eventual violations if such accidents happen. This concern was heightened by the responses of participants from the communities, in particular. According to community participant 17, "We know that the government agencies are compromised when it comes to protecting our environment. We know how much power these companies that are polluting our environment hold and influence the authorities with money. However, we want to ask that they consider the health and welfare of the citizens who voted for them. On many occasions, it seems like they are concerned about money than our survival. If they properly consult us, they would know our concerns and factor them into all their operations." Community participant 26 said that "Because we often hear that the government take a lot of money from these companies, it often drags its feet when it comes to holding the companies accountable for enforcing environmental controls." The results showed that the affected communities, plagued by abject poverty, are deeply concerned about the potentially devastating effects of environmental pollution. Some communities that had been affected by tidal waves and their homes swept away complained of the tardiness of the state to intervene on their behalf. This distrust sometimes compelled the communities to find alternative methods for obtaining redress. Responses from participants were varied but pointed to a serious concern for advocacy for the rights of community members to enjoy a safe and unhindered environment.

According to Amabipi (2016), extensive engagements, negotiations, and trust building are lacking among stakeholders in the O+G industry against the dictates of the social exchange theory that argues that community distrust against oil companies for lack of community engagement, negotiation, and trust

building can lead to serious violence. In many cases, participants visibly expressed their displeasure about how they are neglected in effective negotiations when their lands and properties are taken over as O+G concessions for exploration and production. According to participant 25, whose response echoed the same sentiments of others, “Sometimes, our youth are convinced that they have to take the law into their hands to exact their due from the production value chain. The reason is that we all feel we have not been treated fairly, and that makes us feel we can fight our fight.” Community participant 19 believed that “blatant environmental abuse occurs with less regard to regulations in Ghana, which affects the communities.” His contention was not far different from what the majority of participants expressed. To most of the participants, environmental concerns were the least considered for CSRs. Often, it is the companies that misinterpret the regulations and dictate how to address the environmental concerns. Community participant 26 added, “The livelihood support is just for the immediate and cannot compensate for what we suffer in terms of our water pollution and loss of farms. The flared gas has significantly impacted our crops. They are not even safe to consume.” I observed frustration and despair on the faces of participants on the farm. Community participant 12 indicated a very disturbing routine that impacts their health due to the unannounced flaring of gas and its attendant noise and air pollution. The chief said that “most of the time, we cannot sleep at night because of the excessive noise when the gas is flared and the smoke covers the skies. I invite you to spend the night here to experience what we are talking about. My children will show you videos” (Community participant 12). It was found that they cannot collect rainwater, which used to be one of their sources of water, because it turned dark

and became unusable. Most of the youth had abandoned the town. The narrative from Community participant 1 concerning the environmental impact of the O+G gas was worrisome. He informed me that “Our seashore is polluted, and we experience tidal waves that destroy houses regularly. The tidal waves have rendered many people homeless in my community. Because of the air pollution, our crops are not performing well. We will take you to the farms to see for yourself. Our sources of drinking water are not regular, and it is affecting the health of the communities around. Meanwhile, the boys and girls here are not given meaningful jobs to do at the companies, only the menial jobs” (Community participant 3).

State participants decried the environmental challenges but indicated some measures were put in place through the review of the environmental laws and regulations to tighten the monitoring and sanctions regime to achieve compliance. One such initiative is the repeal of the Environmental Protection Agency Act, 1994 (Act 490), with the Environmental Protection Authority Act, 2025 (Act 1125). State participant 5 informed me that the government's effort to secure the environment is evident in the regular amendments of the laws to meet the need, confirming the role of the state in ensuring environmental safety and sustainability with Act 1125 of the time. “So, it is not a coincidence that a new EPA law has been passed just this year, and we are working on a new regulation to aid our work” (State participant 5). He explained that to the EPA, environmental rights encompass social and cultural conditions that make up the human habitat. State participant 9 faulted the communities for sometimes exaggerating the perceived environmental challenges. He contended that “I agree that the O+G operations pose enormous environmental challenges.

As an organisation, we engage the communities on the environmental issues through the environmental impact assessments that we conduct and educate them, but they always seem to create different pictures.” Though this response was verified, the community responses were opposed to it because an evaluation of the environmental challenge as given by the communities was not limited to the pre-assessment protocols by the EPA, but also the issues that arose during the operation of the companies in the production value chain. For instance, while state participant 9 contended that the communities were consulted before the construction of the breakwater sea defence, community members intimated that they made suggestions for the siting and direction of the project, but their suggestions were never considered. “We were here when they came. We told them about the direction of the sea breeze and our landing navigations, but they ignored us, and now I can tell you we have lost about four lives because of crashes into the breakwater during the night when the boats are landing (Community participant 18). This finding aligns with Deegan et al. (2002), who examined the relationship between community concern for social and environmental issues and the firm's annual report disclosure and found a significant positive correlation. Companies publish positive social and environmental information in response to negative media attention (Deegan et al., *ibid.*, p. 312). Chu et al. (*ibid.*), who examined the factors driving companies to publish greenhouse gas reports of Chinese firms, also corroborate this result. The author found that those big firms operating in an industry that produces higher levels of carbon dioxide and has negative publicity tend to publish only neutral and positive news. If a collective right, if environmental rights are

clearly defined under a national binding instrument, they can be enforceable through existing rights (Smith, *ibid.*, p.369).

Creation of Awareness

Awareness creation was investigated as a critical factor of compliance because most participants agreed that to achieve compliance with any rules and regulations, the awareness of the existence of the protocol is essential. As indicated earlier, the result of the findings pointed to a lack of awareness about the UNGPs and their objectives, hence the challenges with demanding accountability based on their principles. The results from the information agreed with existing literature that awareness creation is important to achieving compliance. This theme explored the interview question about steps participants would recommend to their organisations to raise awareness about UNGPs among public officials and the general public. The results showed that participants preferred public education to create the awareness needed to achieve compliance with the UNGPs. Awareness creation was considered a factor of HRDD. The process of HRDD revolves around commitment, identification of code or principles, addressing and remediation, monitoring and tracking of compliance and reporting and communicating feedback. Central to meaningful due diligence is the creation of awareness, which was found to be lacking, leading to noncompliance with the UNGPs.

Awareness creation for stakeholders invites commitments, opens the channel for reporting violations, and for the appropriate grievance mechanism to be activated to ensure compliance. State participant 1 admitted that his organisation had not done enough to aid sensitisation about the BHR framework and

expressed confidence that the NAP would be a milestone in creating awareness about the UNGPs. He detailed how his organisation was keen on achieving the principles' enforceability through awareness creation, advisory services, and sensitisation. He responded that, "We have already recognised that we have much work to do in that space' so we are just waiting to finish our NAP. We will put in place a roadmap for some key sectors, like this one, where we will do a lot of public education, awareness creation, and sensitisation on the issues. We will also issue advisories from time to time to help [O+G companies] understand the issues in that sector and also to encourage them to collaborate more so that we can deal with the issues in that sector" (State participant 1).

State participant 4 was keen on public education and suggested that to achieve compliance, companies must be required by law to undertake stakeholder engagements as accountability metrics. He stated, "I strongly advocate for repeated emphasis on public education. We must pass a law requiring companies to engage their stakeholders on these principles" (State participant 4).

Community participant 19 indicated that his community tried to have community meetings regularly and thought engaging stakeholders at such meetings would be ideal for educating them on the UNGPs. According to him, "Public education at community meetings is excellent. Every month, we practically hold community meetings to educate the public" (Community participant 19).

CSO participant 1 was sure that public education and awareness are critical to achieving compliance and suggested that both the state and the companies must play key roles in raising awareness of the UNGPs. In his view, "We need public education and awareness creation on the UNGPs by the state and the companies" (CSO participant 1).

State participant 9 opined that "I think

the state institutions must be empowered with adequate knowledge on the UNGPs to undertake public education on the principles. The discussion today indicates a deficiency in public education on the principles.” A CSO participant observed, “I do not think these UNGPs have received the attention they deserved because CHRAJ has not even engaged us on this. I am unsure of the exact moment when CHRAJ began educating those of us in the sector about these principles” (CSO participant 4). Raising awareness usually goes to firms in the O+G industry; however, key parties of interest, like CHRAJ in the country, are involved in driving the extent to which UNGPs are publicised, the result affirmed.

4.5.3 Effectiveness of a Comprehensive National Legislative Instrument in Ensuring Compliance with the UNGPs in the Oil and Gas Sector

The study examined how well a comprehensive national legislative instrument might work to ensure that the O+G industry complies with the BHR framework. This objective was to assess how a comprehensive national legislative instrument could ensure compliance with the UNGPs in the O+G sector in Ghana. To explore this objective, questions around recommendations on national legislative instruments, training opportunities on the UNGPs, and specific measures for the enforcement of the UNGPs were asked. These questions were themed into the following: legislation, education and training, and enforcement.

Legislation

The responses were overwhelmingly affirmative concerning whether a national legislative instrument on UNGPs is ideal to ensure compliance. Based on the interviews, most participants believed that a national legislative instrument

would be beneficial. They also suggested that a strict policy would be more effective if all firms incorporated it into their values and staff conduct codes. In contrast to other groups, the O+G industry showed that laws alone were not enough to solve the problems. However, human rights issues are highly sensitive and require unique approaches. This means that all firms in the sector could comply with the BHR framework if they were made aware of it and encouraged to prioritise it so they do not hurt people or violate their rights. Participants generally agreed that introducing a national legislative instrument could help ensure compliance with the BHR framework. A common justification supplied by the participant was that a national legal instrument, as compared to the current voluntary status of the UNGPs, would have the state's coercive powers of enforceability and accountability.

The findings showed that using a legislative instrument to push for compliance with the BHR framework is the best and most appropriate solution. The study showed that using the BHR framework as business guidelines may not be enough to make compliance effective because of the voluntary nature of its compliance mechanism and the unpopular status of the guiding principles among stakeholders. According to the Ghana national baseline assessment of BHR, the UNHRC unanimously backed the UNGPs, a non-binding BHR regime. The goal of the UNGPs is to help stop and fix business abuses of human rights. I benchmarked various legislation, case laws, and bilateral treaties against the UNGPs to determine the extent of compliance by the companies in the O+G sector in Ghana. To find out how to ensure compliance with human rights responsibilities in the O+G sector, the researcher asked participants if they thought having a national law would help meet the UNGPs and why. The

results showed that most participants preferred a legislative instrument rather than a voluntary enforcement of the principles, which is non-binding in its present state.

State participant 1 indicated that his organisation's ultimate goal after the NAP was to push for a legislative instrument that would hold O+G companies accountable for human rights violations. As the person in charge of the UNGPs' implementation, he was clear that developing the NAP was not going to be enough to achieve compliance because of the complicated structures of the MNCs that usually found means to avoid responsibility under soft law protocols, especially in developing countries. He concluded that the NAP would eventually evolve into a legislative instrument that carries legal force. He contended that "Yes. I will support a legislative instrument. That is one thing we are considering, that when the NAP comes out, it should be adopted as legislation to deal with the issue because if the force of law backs it, it is easy to protect, and then you know there are redress mechanisms; the UNGPs provide provisions for both state and non-state judicial mechanisms, depending on the situation. We know that if the issue is of this nature or magnitude, the court is there to deal with it. I support the legislative implementation of the UNGPs to address all issues within the O+G sector" (State participant 1). He reinforced this point that "Yes, our NAP on BHR seeks to push for a specific law and statute dealing with BHR issues. More importantly, we can narrow it down to a specific sector, such as the O+G sector" (State participant 1). Even though CSO participant 1 indicated that he had little knowledge of the UNGPs, his experience with extractive industry players and their adherence to voluntary protocols convinced him to appreciate a legal instrument with binding force to

achieve compliance. He quickly added that his experiences showed that most Ghanaians dislike poorly enforced laws. To achieve acceptance among stakeholders, he suggested a broader engagement with stakeholders to ensure effective implementation. He opined that “Relying on national legislation will be helpful, given the constant reporting of human rights violations in the sector, rather than the non-binding UNGPs. I have dealt with the extractive industry for a long time, but I have rarely heard about the UNGPs. I understand Ghanaians are fed up with laws, but with these issues, we know about human rights in the extractive industry, so this legislation will be welcomed. I suggest a broader stakeholder engagement to create a lasting law. Your research will be a successful start” (CSO participant 1). CSO participant 2 elaborated more on the nature of the legal instrument if contemplated. Given that the UNGPs are silent on environmental concerns, he suggested that to have a holistic legal instrument, environmental concerns must be added to make a good law. His view was that “We must pass a law that integrates all relevant principles, including those related to environmental issues. Human rights violations in the O+G sector are real. The earlier we take it seriously, the better” (CSO participant 2). CSO participant 3 believed that “a new legislative instrument would be ideal for the country to set an example for emerging economies in the exploration and production of O+G while respecting human rights. We should not always wait to copy others. It is neither too early nor too late. I am interested in this.”

Community participant 16 expressed certainty about the potential for a new law to be passed. He would only approve of a separate legislative instrument because the UNGPs may not specifically cater to the special human rights concerns of the O+G industry. He concluded that the creation of a new law

would be more time-consuming but appropriate. “My problem is that these principles may not have obligations specifically binding on businesses in the O+G sector, which may be the main reason I will support a new legislative instrument” (Community participant 16).

State participant 10 supported a separate legislative instrument to achieve compliance. He believed that the state should demand accountability through an enforceable law due to the UNGPs' involuntary application. He stated that “Our department is ready to assist in promulgating the law to ensure that businesses do not come into the country and abuse citizens' rights without appropriate recourse to any remedy and sanctions. We need to prescribe an appropriate enforcement and sanctions regime to make it compelling” (Community participant 10). State participant 3 asserted the necessity of establishing national legislation to tackle the issues raised. “The law will serve as a blueprint for a nationalistic approach to the cases of human rights abuse and noncompliance” (State participant 3). Community participant 8 said, “I know of the UNGPs now; they are not binding, so if we can see their benefits, then it has to be binding. Otherwise, we cannot discuss its benefits since we are not even aware of it. It must be made into law.”

The results also showed that not all participants favoured new legislation but suggested, through their responses, the consolidation of existing human rights laws. Such respondents said that most human rights laws align with the UNGPs and that a new piece of legislation would mean that old laws would have to be merged. Therefore, consolidating these laws and bringing out a standard legislative instrument could be helpful, but might also lead to issues like confusion or overlapping while implementing them. The available human rights

laws should be well enforced, equipping all law enforcement agencies with the right tools and information to ensure effective compliance with UNGPs. This theory, however, was in contrast with the findings based on the existing policy and legal framework for BHR. In other words, the findings showed that there are no specific policy and legal frameworks on BHR, except for NAP, which is yet to be launched. The following participants made strong contentions for the consolidation of existing law without necessarily passing new legislation.

State participant 4 reiterated that “It was just a matter of enforcement. The state should strictly enforce the guidelines outlined in the UNGPs.” Company participant 4 agreed that “We can call for the enforcement of laws in Ghana. Although I acknowledge it might not suffice, the state should strictly enforce the guidelines outlined in the UNGPs. A compromise may be possible, but they could ensure strict enforcement and restore compliance.” State participant 6 believed that “Because we cannot have the benefits, we need to see how the state is ready to implement. Ghana has signed many treaties, but we would rather not implement them.” Before he concluded on this note, he indicated that a separate law may be useful in the circumstances of the UNGPs' non-enforceability. State participant 19 supported the non-legislation of the UNGPs, advocating for the necessary attention to the UNGPs to facilitate compliance. His answer was, “I think the UNGPs have not even been well received and known to us. Therefore, I believe we should not only push for its compliance within the O+G sector but also ensure its general application in the extractive industry. I do not think the state is ready to sponsor such a bill. The state institutions are not even familiar with the UNGPs” (State participant 19).

Education and Training

The study also revealed that the state and other stakeholders could provide education and training programmes for firms in the O+G industry on applying the guidelines and principles of the BHR in their company's code of conduct or values, which could contribute to ensuring compliance with the framework. Participants were required to indicate whether their organisations had any training opportunities with state and international organisations on the UNGPs in their implementation. To achieve an effective legal environment, participants made suggestions as to how education and training can be incorporated in the legislative process to ensure effective compliance with the guiding principles. State participant 1 indicated, “Ok. We primarily conduct field visits to learn about these places. Furthermore, when we receive complaints, as part of investigating them, we go around seeing what is happening in these areas. We also have district offices dotted across the country. Therefore, the reports we receive from our officers provide us with an understanding of the current situation in this field. We use this information to conduct public education and raise awareness among the public, businesses, and institutions about certain practices that may be detrimental to the human rights of their constituents. State participant 1 stated, “I have worked in [this institution] for six years. One of our functions is public education, as outlined in the 1992 Constitution, specifically Article 218. We also provide public education on human rights. Therefore, as part of our work, we generally conduct public education on all issues related to human rights, and the O+G sector is no exception.” CSO participant 2 believed that “The O+G industry just offers legal aid and no comprehensive and structured forms of training to victims of abuse.” Community participant 1

confirmed that part of the effort to achieve compliance with human rights standards had been the training for alternative livelihoods. He stated that “The company gave us some training in farming and support for animal rearing, but that is not enough to keep us for long since our normal farming activities are not sustainable” (Community participant 1).

CSO participant 2 demanded that state institutions take up the mandate to do more education to assist in ensuring compliance and suggested collaboration with CSOs to achieve that objective. CSO participant 2 stated that “The Ministry of Energy and CHRAJ are responsible for educating the public on the UNGPs. They can do this through the CSOs and the community sensitisation forums.” CSO participant 4 also added that “There is a need for diverse forms of training with national authorities to ensure the effectiveness of compliance.” A company participant assured that to have an efficient legal environment, “An initiative is underway to provide human rights training and increase community engagement and advocacy (Company participant 5). A company participant 4 said, “I do not think these UNGPs have received the attention they deserve because CHRAJ has not even engaged us on this. I cannot recall any instance where they trained us in the sector about these principles.” A community participant, 22, simply said, “We don’t have any training on this. We are not familiar.” The result of the responses showed that, to ensure compliance with the UNGPs in the O+G sector, a legal instrument alone may not be enough unless education, sensitisation and training of stakeholders are added to the mechanisms.

Enforcement

Smith (ibid., p. 31) notes that, although the UN has championed universal rights for many years, the enforcement mechanisms of its conventions and protocols have been flawed. This challenge to enforcement relates to both the legal standing of the rules and principles and the lack of legal resources available to remedy rights infringements against vulnerable individuals (Smith, ibid., p. 32). Therefore, creating working instruments to respect and protect inalienable rights and remedy violations has become a focus for international law concerns.

Many participants expressed concern over the lack of enforceability in existing legal frameworks. To many of the participants, many laws in Ghana collapse in enforcement. Stakeholders across the sector, particularly those in civil society and communities, echoed this perception. Interestingly, participants within the state organisations agreed with this position. However, participants from the companies in the O+G sector addressed the issue, focusing on the complexity of compliance rather than the failure of enforcement. The study further showed that strict enforcement should be required if legislative instruments were in place. Therefore, including law enforcement agencies and equipping them with the necessary information and tools is crucial. By doing this, we can achieve the desired outcome. According to a state participant, there are elaborate means of receiving complaints, but the challenge with the enforcement of findings is the absence of a strict compliance mechanism under the UNGPs to demand full accountability. He explained that “We typically receive complaints from various sources. We investigate alleged violations of human rights principles, and if confirmed, we communicate with the involved parties to advise on necessary corrective actions. As a result of our work, a growing body of

knowledge has led these businesses to seek our assistance in conducting BHR due diligence. This approach enabled them to stay on top of these issues and identified potential mitigation strategies in cases of violations” (State participant 1). A participant intimated that before the UNGPs can have full enforcement deals, CSOs must be encouraged to show understanding of the principles since some CSOs are already involved in advancing the course of other human rights principles. He added that “We have been part of the voluntary principles of human rights, and Ghana is a signatory to the O+G sector protocols and others in the mining sector. What needs to be done is to have a specific interest in the advocacy on the UNGPs to achieve enforceability” (CSO participant 2).

A company participant shared the view that her company was doing enough on human rights issues as they are guided by the IFC principles, but not specifically in strict compliance with the UNGPs. She added, “As a company, we take human rights issues seriously and do a lot to promote them. We have a checklist outlining how we promote and respect human rights” (Company participant 2). According to another company participant, respect for human rights is core to their operations and pointed out that “respecting human rights is part of our corporate mandate. We do this by prioritising the safety of our permanent and temporary workers. I hope you noticed the protocols we implemented for your safety. It is part of our measures to ensure the safety of our workers and visitors” (Company participant 4). State participant 5 explained that enforcement is key to their mandate. He explained that “We are not directly in contact with human rights protection, but our mandate requires that we ensure environmental conditions are followed as part of our permit regulations. To us, social factors

are part of the environment, so ensuring environmental compliance implies that human and social rights are respected in line with the laws (State Participant 5). CSO participant 1 said, “In the past, there has been more support for victims of human rights abuses in the mining sector. I cannot confirm that the O+G industry assists victims of human rights violations. Our organisation monitors and gets updates on that.” To ensure enforcement, company participant 5 revealed that his company used different mechanisms to ensure compliance. He said that “We monitor our activities and their impact through interactions and feedback from our staff and other stakeholders. For example, our regular safety officers must report regularly and update management on the strengths and weaknesses of our efforts. We also organise stakeholder meetings and seminars to gather feedback. These are some of our mechanisms” (Company participant 5). State participant 9 said the organisation employs different tools to ensure enforcement of human rights principles by stating, “We have various monitoring mechanisms, such as our social and governance tools that require regular reporting on the companies and their activities” (State participant 9). According (Quartey & Abbey, *ibid.*), the effective enforcement of transparency provisions requires strong institutional capacity and political will as essential tools for achieving compliance with human rights standards.

Smith (*ibid.*, p. 35) has posited that, although international human rights law has evolved as a documentary reality, it is only known in theory, which requires states to equip their legitimate courts to realise the enforcement of these laws. The data from the participants suggests that the enforcement of the UNGPs will require an appropriate domestic legal mechanism to enforce them in the O+G sector and elevate it from a theory to a reality.

4.6 Chapter Summary

This research project aimed to investigate how a domestic legal instrument can be used to ensure compliance with the BHR framework in Ghana's O+G sector. The chapter focused on the results of the study and the discussion. It looked at what participants said about specific goals, like assessing the current policies and legal frameworks for BHR in Ghana, looking at how well the O+G industry in Ghana complies with the UNGPs, and evaluating how well a consolidated national legal instrument would compel the O+G industry to comply with the UNGPs. The areas of study were the Western and Greater Accra regions, where the upstream and downstream O+G operations are concentrated in the country. After reviewing the literature, I settled on 65 participants as my target population. I selected 50 participants through purposive sampling, and 47 of them eventually participated. My interview schedule was designed for four groups of participants, namely, community participants, state participants, company participants and CSO participants, who were settled on after my inclusion and exclusion criteria were applied. Though a complex demography, I was convinced by the objectives of the study as a reliable source of empirical data to address my research questions.

The final chapter five of the study will present the findings, make recommendations for policy, legislation, and further research, given the limitations of the study. It will conclude with the synopsis of the study.

CHAPTER FIVE

FINDINGS, RECOMMENDATIONS AND CONCLUSIONS

This final chapter of the study presents the findings, as well as the legal and policy recommendations. Before drawing down on the conclusion, it will present the limitations and suggestions on areas for further research based on the limitations.

5.1 Findings

The analysis concluded on six key findings supported by the existing literature and presented as follows.

First, the data revealed that participants were generally unfamiliar with the BHR policy and legal framework and had little knowledge and understanding concerning the UNGPs. Principle one of the UNGPs requires that all parties be adequately aware and prepared with the capacity to effectively address human rights concerns arising out of business operations. Principle eight specifically requires governmental institutions to create awareness of and observe their part of the obligations. The lack of familiarity was identified as the reason participants could not assess their compliance with the principles. However, the study found that almost all participants had some or extensive familiarity with the O+G sector. This finding aligns with existing literature that showed many empirical studies on various sectors of the extractive sector portray the awareness about the O+G sector in Ghana (World Bank, *ibid.*; Hoedoafia, *ibid.*; Diao & Hazell, *ibid.*; Ackah et al., *ibid.*; Quartey, *ibid.*; Alagidede et al., *ibid.*; Senadza & Laryea, *ibid.*; Jedwab & Osei, *ibid.*; Aryeetey et al., *ibid.*). This finding implies that state agencies and CHRAJ in particular must double their

efforts in sensitising stakeholders on the UNGPs and publish the NAP, which is the first step in implementing the UNGPs. It also requires that stakeholders in the sector be actively involved in the implementation process of the UNGPs.

Second, the study found that the implementation of the UNGPs among O+G companies lacked verifiable records, and this means that MNCs cannot disclaim responsibility as far as human rights abuses in Ghana are concerned. The essence of principle eight of the UNGPs is to the effect that the state and its institutions can monitor the compliance of businesses with the relevant standards to protect human rights. This finding supports the conclusion of Bodig (ibid.), who stated that the proliferation of soft law has rather resulted in legitimacy challenges under international human rights law than seeking responsible corporate conduct. Despite demonstrating political commitment by signing UN protocols, Ghana has yet to enforce the principles of the UNGPs as part of the guidelines for HRDD protocols in the O+G sector, as indicated by the data. The result suggests that to ensure compliance, an effective enforcement approach needs to be adopted to have the full impact on the operations of the O+G sector in Ghana. This may include enacting a comprehensive legal instrument to cater for the complex human rights issues in the O+G sector.

Third, the results of the data analysis showed that the common human rights issues in the communities included many concerns that may not ordinarily engage the attention of human rights discourse, such as a lack of decent jobs as an alternative to the diminishing profitability of fishing work, bad road networks, shortage of water, the abuse, arrests, and deaths suffered at the hands of the Navy on the sea, a lack of modern facilities to support their occupation,

environmental pollution, a lack of consultation, and a high cost of living. Other violations affected the housing, labour, health, security, and safety of the people. These rights were found to fall under economic, social, and cultural rights, which are considered second-generation rights, with some, such as environmental rights, falling under third-generation rights or group rights because they are exercised collectively (Smith, *ibid.*, p. 46). Principle two of the UNGPs stipulates that the state identifies clear human rights standards that all businesses domiciled in its jurisdiction are expected to protect and respect. This finding confirms the reviewed literature that pointed out that challenging BHR issues related to the environment, participation, access to information, and compliance in the O+G industry have led to inequality in many societies (Álvarez Rubio & Yiannibas, *ibid.*; Robinson, *ibid.*). Prior studies revealed that despite the rapid expansion of the O+G sector over the last two and a half decades, the industry has continued to underestimate the necessity of human rights standards and compliance (Pascal, *ibid.*). According to Zamfir (*ibid.*), Recently, MNCs have proven that their operations result in numerous examples of human rights abuses in the O+G sector, confirming the research findings. Principle 17 of the UNGPs concerns the theory of HRDD, which requires businesses to actively monitor and address actual and potential human rights abuses throughout their global supply chains. This finding indicates that the state does not do enough on HRDD to address clear human rights issues and needs, recognising the struggles and weaknesses of the communities impacted by O+G operations, so that proper actions can be taken to build confidence and trust between the communities and the companies.

Fourth, the data showed that CSR initiatives in the communities have not been effective and adequate, as the communities and stakeholders had been assured before establishing operations in the communities began. The limited scope of CSR included school infrastructure, farming support, skills training, and alternative water sources, all of which proved to be insufficient. More significantly, it was realised that the communities were not involved in what were considered CSR initiatives on their behalf, which defeats the core theory of HRDD that underpins the framework. To achieve effective implementation, principle eight demands that the HRDD process involve stakeholders in meaningful consultations, giving consideration to the nature and size of the business's operations. Failure to comply with negotiated CSR results in distrust and can culminate in stakeholder conflicts within the sector. Where the communities lack the expertise in negotiation relative to the nature, size and operations of the companies, principle 18 prescribes that an independent external human rights expert be engaged. Ibaba (ibid.) argues that companies that adhere to CSR programmes tend to maintain peace in their operational areas. Again, Adeyemo (2002) asserts that when communities receive adequate compensation, they reciprocate with cooperation. Stone and Ostrower (2007) further argued that an agreed memorandum of understanding is protection enough for communities to rely on as binding liability on the O+G companies to fulfil commitments to the communities. Homans (1958), who propounded the social contract theory, posited that people are loyal when their goodwill is reciprocated with respect but become aggressive when disrespected for being fair with their options. According to Homans (1974), "unfulfilled expectation breeds aggression." This finding suggests that the state must prioritise

stakeholder engagement with parties at all levels during the oil production contract. This could help eliminate mistrust and violent encounters with companies by affected communities. A seminal study by Honger (1982) supports the findings by elucidating the legitimacy concept in corporate social reporting. The author examines corporate social reporting trends in the US steel industry and the disclosure content. The results showed increased variation in social disclosure practice over the examined sample period, concluding that a change in disclosure occurs in response to society's changing expectations of corporate behaviour.

Fifth, the study found that compliance with the UNGPs was virtually non-existent, as most participants showed little knowledge about the UNGPs and their enforcement mechanisms. In corporate regulation, compliance is the measures and practices put in place to make sure those specific legal and regulatory requirements and commitments are met and strictly adhered to (Hawtrey, *ibid*). Effective compliance ensures that companies operate within legal frameworks, maintain ethical standards, and uphold their social licenses to do so. Compliance with the UNGPs implied adhering to the three pillars: the government must protect people's rights from third parties, like businesses, violating those rights through the right laws, rules, and court cases; businesses must respect human rights, which means they should not violate other people's liberties and should resolve any problems that they cause; and victims must have easier access to adequate legal and non-legal remedies. The responses of the participants revealed a lack of strict adherence to these pillars. Indeed, Ikporukpo (1985) opined that due to the strengths of most MNCs in the O+G sector, they can use their influence to bypass compliance obligations in policy

and legal environments, employing lobbying strategies to secure more favourable investment terms with the state. This finding aligns with Meyer (ibid.) and Widdows (ibid.), who contended that, unlike a rigid law that is strengthened by its legally binding obligations, a soft law is based on dialogue and consensus, which results in its flexibility and voluntary compliance.

Finally, the study found that most participants believed that to ensure strict compliance with the UNGPs to protect human rights in the O+G industry, a domestic legal instrument embodying the principles of the UNGPs should be pursued. Human rights scholars and activists advocate for developing binding BHR legislation instead of just a framework embodying non-binding principles (Bilchitz, ibid.; de Schutter, ibid.). According to Dei-Tutu and Atuguba (ibid.), there are at least seven normative bases for the domestication of international law in Ghana. Results from data showed that UNGPs can be domesticated by what Dei-Tutu and Atuguba (ibid) described as “domestic ratification of international convention through the mechanism of a law passed by her parliament.” This idea is supported by Koenig-Archibugi (ibid.) in the literature, who argued that the lack of binding legal instruments to regulate the activities of MNCs has become a universal socio-economic dilemma in developing countries in particular. However, the participants requested the inclusion of environmental concerns within this framework. This was because the majority of the human rights issues raised by the participant were related to environmental damage caused by the operations of O+G companies. According to Abe (b) (ibid.), human rights violations in the O+G industry include environmental damage, such as water and air pollution. This concern aligns with studies that had identified challenging BHR issues to include environmental

pollution (Álvarez Rubio & Yiannibas, *ibid.*; Robinson, *ibid.*). This finding is supported by a prior study by Treib et al. (*ibid.*) who argued that soft law instruments may be an international law approach to governance, but legally binding instruments have the advantage of executive implementation and judiciary involvement in ensuring scrutiny and compliance. Appendix D provides a framework for a proposed draft bill outlining the possible contents of such an instrument.

5.2 Recommendations

The study's findings inform the following recommendations for stakeholders in terms of policy and legislative considerations.

First, to address the first finding, stakeholders should prioritise continuous and targeted capacity building on the BHR policy frameworks, especially the UNGPs. State institutions, O+G companies, and CSOs should be interested in collaborating to educate actors and stakeholders in the industry to understand and appreciate the essence of the BHR framework and how compliance is in the sustainable interest of the O+G sector.

Again, this study recommends that HRDD should be prioritised in any future legislative framework to address the lack of accountability in the implementation of UNGPs among MNCs in the O+G sector of Ghana. A good HRDD recommendation should entail clear reporting obligations, independent monitoring mechanisms, and penalties for non-compliance.

Additionally, state agencies such as CHRAJ, PC, and other relevant actors are encouraged to develop an enforceable community engagement and BHR framework with clear compliance metrics, considering the third finding

regarding the widespread human rights issues raised in the communities. To achieve this, the framework should require the MNCs in the industry to:

- 1) clearly outline their sustainable alternative livelihood programmes on skill development and job creation;
- 2) provide their blueprints for basic infrastructure projects, including water, health, education, recreation, and road facilities;
- 3) provide regular and updated plans for meaningful community engagements and consultations with the host communities;
- 4) provide plans that ensure strict protection of the environment and the safety of the people; and
- 5) ensure a clear grievance mechanism structure that allows communities to report violations of their rights and safety.

The study recommends backing this framework with a legal instrument that outlines monitoring mechanisms and clear sanctions to ensure compliance and accountability.

Further, to make CSR initiatives effective and trustworthy in local communities, the study suggests that planning and implementation should follow good governance practices and involve the community in a way that respects their rights. O+G companies are to ensure meaningful consultations with all stakeholders in the industry at every phase of any initiative, such as needs assessment, design, implementation, and evaluation, to ensure that CSR initiatives align with the communities' critical needs. Binding community-company agreements should enforce CSR commitments, build trust and prevent conflicts in the interest of beneficial co-existence between O+G companies and communities.

Furthermore, this study also recommends an urgent awareness and sensitisation programme on UNGPs for all stakeholders in the O+G sector, such as companies, CSOs, regulators, and affected communities. The government may collaborate with CSOs and international human rights organisations on structured sensitisation programmes while integrating the UNGPs as a national legal instrument to ensure compliance.

Finally, the study recommends that the government enact a comprehensive domestic legal instrument that incorporates the UNGPs. Principle 26 of the UNGPs allows for state-based judicial mechanisms, including but not limited to taking appropriate steps to ensure an effective domestic judicial approach to address BHR violations. This prescription allows every nation to adopt an effective judicial mechanism to ensure easy access to remedies for victims of abuse. While the principles support using non-judicial methods alongside judicial ones, this study strongly recommends focusing on judicial methods through local laws. It is suggested that such local law should clearly explain the responsibilities for BHR in the O+G sector, outline ways to monitor and enforce these responsibilities, and provide easy access to remedies for local communities and individuals who are affected. By integrating the core principles into the national legislative instrument, it would ensure accountability and align Ghana's O+G regulatory environment into conformity with international standards on responsible business conduct.

5.3 Limitations

This study employed in-depth interviews and doctrinal analysis, making the findings context-specific. This qualitative research approach did not adequately

generalise the study's findings across the O+G sector and beyond. Although the insights from the findings may be profound, they might not accurately reflect the practical experiences of the sector throughout the country.

Subjectivity influences the interpretive research philosophy. As a qualitative study, the discussions of the interview responses were subject to biases, particularly in evaluating the utility of a legal instrument in achieving compliance with the UNGPs. The researcher's theoretical perspective, rather than an objective point of view, may have influenced the conclusion.

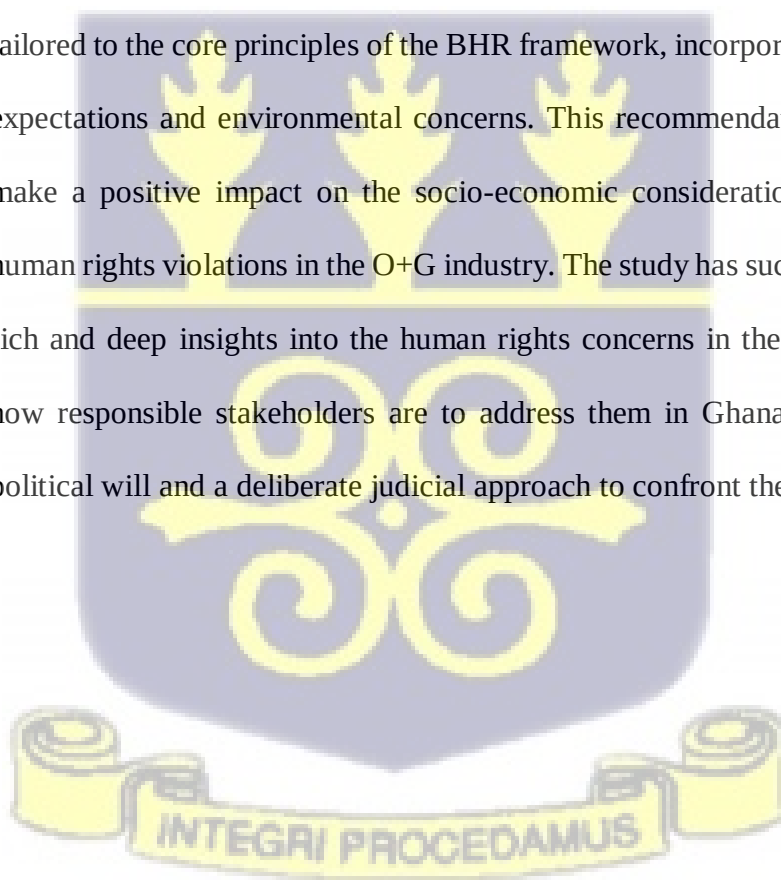
Finally, due to the characteristic reluctance of the O+G companies to open up for participation in such studies, obtaining key stakeholders in the sector to participate in the study was frustrating, thereby allowing the researcher to rely on a limited number of participants from the O+G companies for credible qualitative data. This constrained the depth and robustness of the discussions on the human rights concerns and accountability mechanisms to achieve compliance.

5.4 Further Research

The research participants' views were varied on the issues that concerned the stakeholders in the O+G sector in Ghana. However, one common issue that received unanimous concern was the government's inability to address their livelihood concerns. The study suggests conducting additional research to evaluate the comprehensive and intricate livelihood issues that plague the O+G communities. The research was limited to the O+G sector of the extractive industry. It is expected that future studies will extend to other sectors of the extractive industry.

5.5 Conclusion

The study aims to investigate the utility of a legal instrument in ensuring compliance with UNGPs in the O+G sector in Ghana. The results and findings, as well as the literature, have unveiled the challenge of the stakeholders' awareness of UNGPs and their compliance mechanisms, despite their extensive familiarity with the O+G sector operations. It has provided evidence that CSR initiatives for communities affected by O+G operations are not well implemented due to a lack of effective HRDD in the sector, confirming the theories that underpinned the study. Given the recommendations offered by this study, compliance mechanisms should include an appropriate legal instrument tailored to the core principles of the BHR framework, incorporating stakeholder expectations and environmental concerns. This recommendation will directly make a positive impact on the socio-economic considerations for assessing human rights violations in the O+G industry. The study has successfully offered rich and deep insights into the human rights concerns in the O+G sector and how responsible stakeholders are to address them in Ghana, which requires political will and a deliberate judicial approach to confront them.



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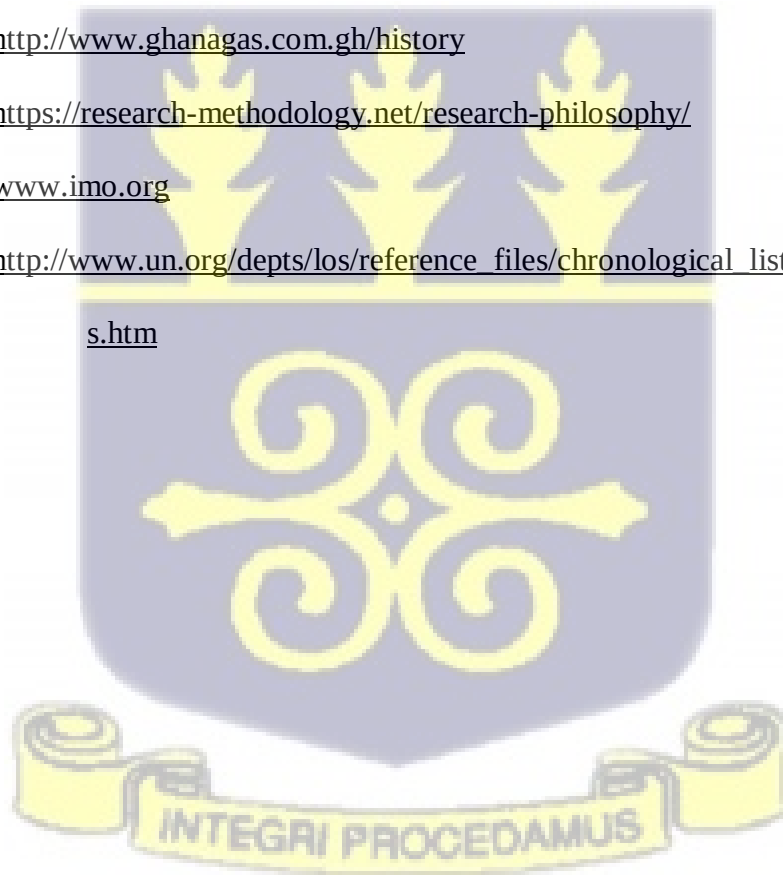
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APPENDICES

Appendix A: Letter of Introduction from Supervisor



UNIVERSITY
OF GHANA

SCHOOL OF LAW
COLLEGE OF HUMANITIES

UGSol/G.95

7th February 2024

TO WHOM IT MAY CONCERN

Dear Sir/Madam,

LETTER OF INTRODUCTION FOR DATA COLLECTION

I hope this letter finds you well. I am writing to introduce **Mr Francis Kofi Korankye-Sakyi**, pursuing his doctoral studies in law under my supervision at the University of Ghana School of Law.

Mr Francis Korankye-Sakyi is researching the topic: **'The Business and Human Rights Framework and the Oil and Gas Sector in Ghana: The Utility of a Legal Instrument for Ensuring Compliance'**, which requires the collection of data from various organisations and stakeholders in order to gain valuable insights and contribute to the advancement of knowledge in this field. Given the relevance and objectives of his research, your organisation and yourself would be ideal resources for his data collection.

Mr Francis Korankye-Sakyi has a strong background in research ethics and data collection, which makes him well-equipped to handle the dynamics of data collection. He has demonstrated exceptional analytical and data-collection capabilities throughout his academic work at this University, and I have complete confidence in his ability to conduct thorough and accurate research.

Mr Francis Korankye-Sakyi has received ethical clearance from the University's Ethics Committee for Humanities (ECH). As his supervisor, I assure you that Mr Francis Korankye-Sakyi is committed to maintaining the highest ethical standards in his research data collection process. He will adhere to all necessary protocols and guidelines to ensure confidentiality and privacy of any data collected from your organisation. Again, Mr Francis Korankye-Sakyi is open to collaborating with you and incorporating any specific requirements or choices you may have regarding the data collection process. This collaboration would benefit Mr Francis Korankye-Sakyi's research and provide your organisation with valuable insights and solutions to the challenges in business and human rights. By participating in this research, you can advance knowledge in the business and human rights industry and gain new perspectives on the issues faced.

I request your consideration and support in allowing Mr Francis Korankye-Sakyi to collect data from your organisation.

Professor Raymond A. Atuguba
Dean

P. O. BOX LG 70, Legon, Accra, Ghana | Tel: +233 (0) 303 963 750
Email: lawschool@ug.edu.gh | Website: www.ug.edu.gh



INTEGRI PROCEDAMUS

Appendix B: Protocol Consent Form

UNIVERSITY OF GHANA



Official Use Only
Protocol number

Ethics Committee for Humanities (ECH)

PROTOCOL CONSENT FORM

Section A- BACKGROUND INFORMATION

Title of Study:

Principal
Investigator:

Certified
Protocol
Number

Section B- CONSENT TO PARTICIPATE IN RESEARCH

General Information about Research

- **The purpose of the study are as follows:**

To gain a deeper understanding of how the making of a national business and human rights legislation presents appropriate and effective responses to the violations of the rights of citizens by businesses in the oil and gas industry in Ghana.

- The expected duration that will be required of participants is December, 2023 to April, 2024.
- The data collection tool that will be employed in the research is interview schedules based on the semi-structured method.

Benefits/Risks of the study

The benefits of this study are to contribute to the existing body of knowledge in the field of business and human rights law and potentially inform the making of effective legislation for compliance with the UN Guiding Principles on business and human rights in the oil and gas sector in Ghana.

The risk of the study is that participants will be required to disclose very sensitive information on the extent of human rights violations by the oil and gas

businesses, the compliance and enforcement of human rights protocols in the affected study areas.

To minimise the risks of the study, steps will be taken to ensure the confidentiality of the data obtained and anonymity of the participants in the analysis of the data obtained.

Confidentiality

The data obtained from the research will be kept highly confidential. Only the researcher and the supervisor of the study will have access to such data. Also, the names, addresses, e-mail addresses, audio recordings of the interviews, etc. will not be disclosed in the data analysis.

Compensation

There will be no compensation either in cash or kind available to the participants.

Withdrawal from Study

There will be no coercion on any of the participants to take part in the interviews. Furthermore, participants who voluntarily take part in the study will have the right to withdraw at any time during the research without penalty.

Participants will not be adversely affected if they decline to participate or later stop participating.

Participants or their legal representatives will be informed promptly if information becomes available that may be relevant to the willingness of participants to continue participation or withdraw.

Contact for Additional Information

Should you require any answers to any questions concerning the research, you can contact the following:

Email address:

Mobile no.:

- If you have any questions about your rights as a research participant in this study you may contact the Administrator of the Ethics Committee for Humanities, ISSER, University of Ghana at ech@ug.edu.gh or 00233- 303-933-866.

Section C- PARTICIPANT AGREEMENT

"I have read or have had someone read all of the above, asked questions, received answers regarding participation in this study, and am willing to give consent for me, my child/ward to participate in this study. I will not have waived any of my rights by signing this consent form. Upon signing this consent form, I will receive a copy for my personal records."

Name of Participant

Signature or mark of Participant

Date

If participant cannot read and or understand the form themselves, a witness must sign here:

I was present while the benefits, risks and procedures were read to the volunteer. All questions were answered and the volunteer has agreed to take part in the research.

Name of witness

Signature of witness / Mark

Date

I certify that the nature and purpose, the potential benefits, and possible risks associated with participating in this research have been explained to the above individual.

Name of Person who Obtained Consent

Signature of Person Who Obtained Consent

Date



Appendix C (1): Community Members/Stakeholders

INTERVIEW GUIDE

I am a Doctor of Philosophy Candidate of Law at the University of Ghana School of Law, conducting research titled: “The Business and Human Rights Framework and the Oil and Gas Sector in Ghana: The Utility of a Legal Instrument for Ensuring Compliance”. This interview schedule is designed to explore the complex relationship between businesses operating in the oil and gas industry and their impact on human rights in Ghana. Specifically, it aims to investigate how these businesses comply with the United Nations Guiding Principles (UNGPs), and the challenges faced in implementing these principles in a developing country context.

The exploration and extraction of oil and gas have significant economic potential for countries like Ghana, but they also pose potential risks to human rights, socio-economic development, and environmental sustainability. Against this backdrop, the UNGPs on Business and Human Rights (BHR) were developed to emphasise the responsibility of businesses to respect human rights, and the role of states in regulating and providing access to remedies for rights violations through appropriate legal interventions.

This interview schedule intends to engage relevant stakeholders, including representatives from oil and gas companies, government agencies, non-governmental organisations, and local communities. By seeking your perspectives and experiences, the research aims to comprehensively explore various aspects such as the awareness, adoption, challenges, and potential solutions related to the implementation of the UNGPs.

The findings from this research will contribute to the existing body of knowledge on the intersection of business, human rights, and sustainable development in the oil and gas sector. It can inform policy recommendations, best practices, and strategies to ensure responsible business conduct and accountability, while safeguarding the rights and well-being of affected communities.

The successful execution of this interview schedule will rely on your expertise and willingness to share your insights, experiences, and ideas. The research strives for an open and constructive dialogue, fostering mutual understanding and creating space for innovative approaches to promoting human rights in the context of the oil and gas industry in Ghana.

Thank you for participating in this research endeavour and your valuable contribution will undoubtedly shape and inform the wider discourse on promoting BHR in Ghana's oil and gas sector, while advancing sustainable development goals.

CONSENT STATEMENT

Your identity will never be disclosed by this study. By participating in this interview, you are deemed to have authorised the researcher to access and use your responses, but for academic purposes only. Your participation is voluntary, and may be withdrawn at any time with no consequences to you or your organisation. Participation will bring you no personal benefit or compensation, and carries no personal risk, danger or hazard. The potential benefits of your participation lie with your larger community, Ghana and Ghanaians as a whole. Should you have any concerns or questions, you may contact the **Administrator, Ethics Committee for Basic and Applied Sciences, College of Basic and Applied Sciences, University of Ghana, P. O. Box LG 68, Legon – Accra, IP No.: 3014, Email: ethicscbas@ug.edu.gh.**

COMMUNITY MEMBERS/STAKEHOLDERS

SECTION A. BACKGROUND INFORMATION

Name (Optional):

Age:

Gender:

Education Level:

Occupation:

Position:

Religion:

Social Status:

Ethnicity/Tribe (Optional):

SECTION B: RESEARCH TOPIC/AREA

- A. What is your understanding of the United Nations Guiding Principles (UNGPs) on Business and Human Rights (BHR)?
- B. How familiar are you with the relationship between businesses and human rights?
- C. Do you think businesses have a responsibility to respect human rights? Why or why not?

SECTION C: EXPERIENCES

- D. Have you ever encountered or witnessed any instances where the oil and gas businesses in your community have either positively or negatively impacted human rights? If so, could you provide some examples or describe the situations?
- E. Are you aware of any local initiatives or efforts by the oil and gas businesses to respect human rights in your community? If so, what are they, and how effective do you consider them to be?
- F. What impact have you seen from the implementation of the UNGPs on BHR in the corporate sector in your community?
- G. Are you satisfied with the level of transparency and accountability demonstrated by oil and gas companies in this community? What improvements would you like to see?
- H. Can you provide examples of successful collaborations between your community and the oil and gas businesses to promote the UNGPs on BHR?

SECTION D: PERSPECTIVES

- I. What are your perceptions of the current level of respect for human rights by oil and gas companies operating in this community?
What roles can citizens play in encouraging oil and gas businesses to respect human rights in your community?
- J. Are there any specific human rights issues or concerns that you believe the oil and gas businesses should prioritise in your community?

- K. Have you noticed any efforts made by the oil and gas companies to mitigate environmental impacts and ensure the sustainable development of the community?
- L. How do you perceive the level of awareness and understanding of the UNGPs on BHR among oil and gas businesses in your community?
- M. What are your expectations from oil and gas companies to contribute positively to the social and economic development of the community, while respecting human rights?

SECTION E: OPPORTUNITIES

- N. What do you believe are the key benefits of implementing the UNGPs on BHR for citizens?

SECTION F: CHALLENGES AND BARRIERS

- O. In your opinion, what are the primary challenges faced by oil and gas businesses in ensuring respect for human rights in your community?
- P. In your experience, what are the main challenges faced by your community in demanding compliance with the UNGPs in the oil and gas sector?
- Q. How effective do you think the existing grievance mechanisms are in addressing human rights concerns related to the oil and gas industry?

SECTION G: RECOMMENDATIONS

- R. What role do you think the government should play in promoting and enforcing the UNGPs on BHR in the oil and gas sector in Ghana?
- S. What strategies or approaches do you recommend to engage oil and gas businesses to encourage them to adhere to the UNGPs?
- T. In what ways do you believe the oil and gas companies can better engage with local communities and ensure their human rights are respected?
- U. What recommendations or suggestions do you have for policymakers or organisations to enhance the implementation of the UNGPs on BHR?
- V. In your opinion, what coordination mechanisms should be established to enhance dialogue and collaboration between oil and gas companies, local communities, and other stakeholders?
- W. How do you think the UNGPs can be more effectively implemented and monitored in this sector?

- X. What will be your recommendations for achieving compliance with the UNGPs within the oil and gas sector in Ghana? Would your recommendation include a national legislative instrument, and why?

WRAP-UP

This interview sought your honest perspectives and experiences in line with the research aims to comprehensively explore various aspects such as the awareness, adoption, challenges, and potential solutions related to the implementation of the UNGPs on BHR in the oil and gas sector in Ghana and to make recommendations for appropriate legal mechanism to achieve compliance.

I thank you for your time and participation. You may address any questions or concerns you have directly to me after this interview.



Appendix C (2): Officials of Oil and Gas Companies in Ghana

SECTION A. BACKGROUND INFORMATION

Name of Official (Optional): Sally Afia Adjei

Age:

Gender: Female

Education Level:

Nationality: Ghanaian

Name of Company: ENI Ghana

Occupation:

Position: Local Content Support

SECTION B: RESEARCH TOPIC/AREA

- A. How is your company aware of the United Nations Guiding Principles (UNGPs) on business and human rights (BHR)?
- B. How do you perceive the role of the oil and gas sector in promoting and respecting human rights, as outlined by the UNGPs?
- C. What steps has your company taken to integrate the UNGPs into its business practices?

SECTION C: EXPERIENCES

- D. How long have you worked with this institution? 2 years
- E. Can you provide examples of specific initiatives or programmes implemented by your company to respect human rights in your operations?
- F. What specific measures has your company implemented to ensure compliance with the UNGPs, particularly about the oil and gas sector?
- G. What measures does your company have in place to monitor and assess the human rights impacts of its operations on local communities?
- H. What efforts does your company make to ensure transparency and accountability in their reporting on human rights impacts?
- I. What strategies does your company employ to promote human rights awareness and capacity-building among its staff and contractors?

- J. What collaborative efforts and partnerships has your company undertaken with other stakeholders, such as human rights organisations and civil society organisations, to promote human rights and advance the implementation of the UNGPs in the oil and gas sector?

SECTION D: PERSPECTIVES

- K. How does your company ensure the protection of vulnerable groups, such as children, women, indigenous communities or workers' rights, in the context of its operations?
- L. How does your company engage with local communities and stakeholders affected by its activities to ensure respect for human rights?
- M. Has your company established a grievance mechanism to address complaints and concerns related to human rights issues? Can you describe how this mechanism works?
- N. Can you share any success stories or best practices in effectively addressing and remedying human rights abuses by your company?
- O. Can you state some legal instruments on BHR that regulate your operations in Ghana?

SECTION E: OPPORTUNITIES

- P. Has your company had any training opportunities with state and international organisations on the UNGPs?
- Q. What do you think are some of the opportunities for your company by implementing the UNGPs in its operations?
- R. What do you believe are the key benefits of implementing the UNGPs on BHR for the oil and gas industry in Ghana?

SECTION F: CHALLENGES AND BARRIERS

- S. Has your company encountered any challenges while implementing the UNGPs? If yes, what are those challenges and how have they been addressed?
- T. Can you provide examples of how your institution has worked to promote corporate respect for human rights within the oil and gas sector?

SECTION G: RECOMMENDATIONS

- U. What would you suggest to your company to support victims of human rights abuses and facilitate access to effective remedies?
- V. What steps would you recommend to your company to raise awareness about the UNGPs among public officials and the general public?
- W. What will be your recommendations for achieving compliance with the UNGPs within the oil and gas sector in Ghana?
- X. Would your recommendation in (C) include a national legislative instrument, and why?



Appendix C (3): Officials of Civil Society Organisations

SECTION A. BACKGROUND INFORMATION

Name (Optional):

Age:

Gender:

Education Level:

Name of Organisation:

Occupation:

Position:

SECTION B: RESEARCH TOPIC/AREA

- A. How familiar are you with the United Nations Guiding Principles (UNGPs) on Business and Human Rights (BHR)?
- B. How has your institution integrated the UNGPs into its policies and practices?
- C. How familiar are you with the oil and gas industry in Ghana?

SECTION C: EXPERIENCES

- D. How long have you worked with this organisation?
- E. Can you provide examples of how your organisation has worked to promote corporate respect for human rights within the oil and gas sector in Ghana?
- F. What impact have you seen from the implementation of the UNGPs on BHR in the corporate sector in the country?
- G. What is your knowledge about existing legal frameworks on BHR in Ghana? Can you point to any of them?

SECTION D: PERSPECTIVES

- H. In your opinion, what role do Civil Society Organisations (CSOs) play in promoting and implementing the UNGPs and human rights?
- I. How do you perceive the level of awareness and understanding of the UNGPs on BHR among oil and gas businesses in Ghana?

- J. Can you provide examples of successful collaborations between your organisation and the oil and gas businesses to promote the UNGPs on BHR in Ghana?
- K. How do you measure the effectiveness of your advocacy efforts in promoting the UNGPs on BHR?

SECTION E: OPPORTUNITIES

- L. Has your organisation had any training opportunities with state and international organisations on the UNGPs?
- M. What do you think are some of the opportunities for the oil and gas industry by implementing the UNGPs in their operations?
- N. What do you believe are the key benefits of implementing the UNGPs on BHR for citizens?

SECTION F: CHALLENGES AND BARRIERS

- O. In your experience, what are the main challenges faced by your organisation in ensuring the implementation of the UNGPs in the oil and gas sector?
- P. In your experience, what are some common challenges faced by businesses in implementing the UNGPs on BHR in Ghana?
- Q. Can you share any challenges or barriers you have encountered while working on projects related to the UNGPs on BHR?
- R. How does your organisation support victims of human rights abuses by oil and gas businesses and facilitate access to effective remedies?

SECTION G: RECOMMENDATIONS

- S. What strategies or approaches do you recommend to engage oil and gas businesses to encourage them to adhere to the UNGPs?
- T. What steps has your institution taken to raise awareness about the UNGPs among public officials, businesses, and the general public?
- U. What recommendations or suggestions do you have for policymakers or organisations to ensure the implementation of the UNGPs?

- V. What will be your recommendations for achieving compliance with the UNGPs within the oil and gas sector in Ghana?
- W. Would your recommendations in (D) include a national legislative instrument, and why?



Appendix C (4): Officials of State Institutions

SECTION A. BACKGROUND INFORMATION:

Name (Optional):

Age:

Gender:

Education Level:

Name of Institution:

Occupation:

Position:

SECTION B: RESEARCH TOPIC/AREA

- A. How familiar are you with the UN Guiding Principles on Business and Human Rights (UNGPs)?
- B. How has your institution integrated the UNGPs into its policies and practices?
- C. How familiar are you with the oil and gas industry in Ghana?

SECTION C: EXPERIENCES

- D. How long have you worked in this institution?
- E. Can you provide examples of how your institution has worked to promote corporate respect for human rights within the oil and gas sector in Ghana?
- F. What mechanisms or tools does your institution use to monitor and assess the impact of oil and gas businesses on human rights?
- G. What is your knowledge about existing legal frameworks on BHR in Ghana? Can you point to any of them?

SECTION D: PERSPECTIVES

- H. How does your institution engage with oil and gas businesses operating within the State to ensure compliance with human rights standards?
- I. Can you share any success stories or best practices in effectively addressing and remedying human rights abuses by oil and gas businesses?

- J. What collaborative efforts has your institution undertaken with other stakeholders, such as civil society organisations or the private sector, to advance the implementation of the UNGPs in the oil and gas sector?

SECTION E: OPPORTUNITIES

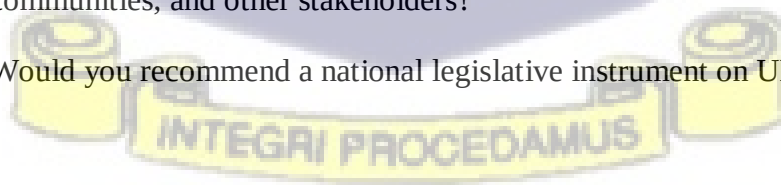
- K. What do you believe are the key benefits of implementing the UNGPs on BHR for the state?
- L. Has your organisation had any training opportunities with state and international organisations on the UNGPs?
- M. What do you think are some of the opportunities for the oil and gas industry by implementing the UNGPs in their operations?

SECTION F: CHALLENGES AND BARRIERS

- N. In your experience, what are the main challenges faced by your institution in implementing the UNGPs in the oil and gas sector?
- O. Can you provide examples of how your institution has worked to promote corporate respect for human rights within the oil and gas sector?

SECTION G: RECOMMENDATIONS

- P. What steps would you recommend to your organisation to raise awareness about the UNGPs among public officials and the general public?
- Q. What will be your recommendations for achieving compliance with the UNGPs within the oil and gas sector in Ghana?
- R. In your opinion, what coordination mechanisms should be established to enhance dialogue and collaboration between oil and gas companies, local communities, and other stakeholders?
- S. Would you recommend a national legislative instrument on UNGPs, and why?



Appendix D: Proposed Draft Bill

A Legal Instrument for Ensuring Compliance with the United Nations Guiding Principles on Business and Human Rights in Ghana's Oil and Gas Sector.

1. Nature of the Proposed Bill

This proposed instrument is to serve as a binding national Business and Human Rights statute specifically tailored to Ghana's oil and gas sector but capable of broader cross-sectoral application. Unlike existing voluntary standards, the instrument would impose clear, enforceable, and binding obligations on multinational and domestic companies operating within Ghana's oil and gas sector. The instrument would function as an overarching human rights compliance framework, strengthening coherence within Ghana's oil and gas regulatory regime while operationalising the United Nations Guiding Principles on Business and Human Rights domestically. The following would constitute the features of the Bill.

- i. **Rights-protective**, to prevent, mitigate, and remedy human rights violations arising from business activities.
- ii. **Regulatory and preventive**, rather than purely remedial.
- iii. **Hybrid in character**, to integrate elements of public regulation, corporate governance, and access to remedy.
- iv. **Implementational**, by serving as a domestic mechanism for giving legal effect to the UNGPs.

2. Scope of Application

(a) Institutional Scope: The instrument would apply to:

- i. Multinational corporations.
- ii. Joint venture partners.
- iii. Contractors, subcontractors, and supply-chain actors.
- iv. State-owned and private entities operating in Ghana's oil and gas sector.

(b) Subject-Matter Scope: The law would address:

- i. Civil, political, economic, social, and cultural rights.
- ii. Labour and occupational safety rights.
- iii. Environmental and community rights.
- iv. Indigenous and host-community rights.
- v. Gender and vulnerable-group protections.

(c) Territorial and Functional Scope: The law would apply to cover:

- i. Acts occurring within Ghana and, where appropriate, extraterritorial obligations for Ghana-based parent companies.
- ii. Upstream, midstream, and downstream oil and gas activities.

3. Contents of Law

Part I: Preliminary Provisions

- i. Objects and purpose of the Act.
- ii. Definitions (human rights, due diligence, supply chain, affected communities).
- iii. Guiding principles (UNGPs, prevention, proportionality, accountability).

Part II: State Obligations

- i. Duty of the State to protect against business-related human rights abuses.
- ii. Regulatory oversight and coordination among sector agencies.
- iii. Mandatory integration of human rights standards into licensing and concession agreements.

Part III: Corporate Human Rights Obligations

- i. Mandatory human rights due diligence.
- ii. Risk identification, prevention, mitigation, and impact tracking.
- iii. Disclosure and reporting obligations.
- iv. Supply-chain responsibility

Part IV: Community Engagement and Consent

- i. Free, Prior, and Informed Consent (FPIC) where applicable.
- ii. Stakeholder consultation requirements.
- iii. Protection of vulnerable and host communities.

Part V: Access to Remedy

- i. Judicial remedies (civil liability, injunctions, compensation).
- ii. Non-judicial grievance mechanisms.
- iii. Corporate obligation to establish internal grievance systems.
- iv. Whistleblower protections.

Part VI: Enforcement and Sanctions

- i. Administrative penalties and fines.
- ii. Suspension or revocation of licences.
- iii. Director and officer liability.
- iv. Civil and, where appropriate, criminal sanctions.

Part VII: Institutional Framework

- i. Designation or establishment of a Business and Human Rights Authority or focal unit within CHRAJ.
- ii. Investigative and compliance monitoring powers.
- iii. Inter-agency collaboration.

Part VIII: Miscellaneous Provisions

- i. Transitional arrangements.
- ii. Relationship with existing laws.
- iii. Regulations-making power.

4. Mode of Implementation

Implementation would follow a **phased and coordinated approach**:

- i. Integration of compliance with the Act as a condition precedent for licensing and permit renewal.
- ii. Issuance of sector-specific guidelines by the relevant regulator (e.g., Petroleum Commission).
- iii. Capacity-building for regulators, judiciary, and affected communities.
- iv. Periodic compliance audits and public reporting.
- v. Alignment with national development and sustainability objectives.

5. Interaction with Existing Industry Laws

The proposed instrument would complement, not displace, existing oil and gas legislation, such as:

- i. The Petroleum (Exploration and Production) Act, 2016 (Act 919).
- ii. Petroleum Commission Act, 2011 (Act 821).
- iii. Environmental Protection Authority Act, 2025 (Act 1125).
- iv. Labour and environmental laws.

Its interaction would be achieved through:

- i. A supremacy or harmonisation clause ensuring consistency with human rights standards.
- ii. Cross-referencing human rights obligations within licensing, environmental permits, and local content requirements.
- iii. Filling regulatory gaps where existing laws focus primarily on technical, economic, and environmental compliance rather than human rights protection.