

CASE COMPILATION

Bringing Principles into Practice

Promoting Responsible Business
Conduct through Business and
Human Rights Principles and
Multistakeholder Engagement in
East Africa



November 2023

Disclaimer: each case and related statements solely represent the views of the author and authoring organisation

CONTENTS

Acknowledgements	3
Introduction	6
Key Recommendations	11
Case Presentations	14
Multistakeholder Engagement Strengthens Business and Human Rights Policy Across East Africa	15
Human Rights Violations in South Sudan's Extractive Industries: A Case of Corporate Responsibility and Government Accountability	23
Advancing Business and Human Rights in Tanzania : Multistakeholder Approach Adopted in Advancing the Country's Human Rights Agenda	27
Amplifying Responsible Business Conduct through the Annual Symposium on Business and Human Rights in Uganda	31
Strengthening Policy Framework on Business and Human Rights in Uganda through the National Action Plan	36
Shaping Trade and Investment Policies for the Promotion of Labour Rights in Uganda and the EAC	40
Issues of Communities' Rights and the Mining Industry's Contribution to Local Development: the Case of the Copper-Cobalt Sector in the DRC	44
Sustainability and Responsible Business: The Multistakeholder Imperative (Ethiopia and Tanzania)	50
Strengthening Corporate Human Rights Due Diligence: Moving Companies from Commitment to Action (Kenya)	56
Integrating a Human Rights Approach into the Cleaning and Maintenance Services in Kenya	60

ACKNOWLEDGEMENTS

This publication has been possible due to the unique contributions of the case authors and authoring organisations. These include Andrew Byaruhanga from Resource Rights Africa, Joseph Byomuhangi from Uganda Consortium on Corporate Accountability, James Bidal from South Sudan Human Rights Defenders Network, Peninnah Mbabazi and Herbert Kafeero from SEATINI Uganda, Esther Yongo and Judy Njino from Global Compact Network Kenya, Ruth A. Shah-Wigley from ARS IURA Consultancy Services Limited, Mary W. Thuo and M. Christopher Karitu from Cityscape Trends Services Limited, Céline Tshizena Tshinate Pegasus from AFREWATCH, the GAIN Nordic Partnership Consortium, and DanChurchAid.

From DCA, who has authored the introductory sections, Gladys Nairuba, Joanne Kirimi, Cathrine Barklin and Roya Høvsgaard have led the work of framing the case compilation and extracting key recommendations.

Beyond the authors of the publication, DCA would like to acknowledge the contributions of all the partners of the East Africa Business and Human Rights Conference 2023, who co-facilitated a multistakeholder dialogue across the region. The Conference was organized by DCA, the Danish Institute for Human Rights (DIHR), the Network of African National Human Rights Institutions (NANHRI), Business and Human Rights Resource Centre (BHRRC) and the Ministry of Gender, Labour and Social Development (MoGLSD) in Uganda in partnership with Resource Rights Africa (RRA), Uganda Consortium on Corporate Accountability (UCCA), Uganda Human Rights Commission (UHRC), Witness Radio, Global Compact Uganda, Advocats Sans Frontières Uganda, The Uganda Association of Women Lawyers (FIDA Uganda), the Africa Coalition for Corporate Accountability (ACCA), Southern and Eastern Africa Trade Information and Negotiations Institute (SEATINI), and the Initiative for Social and Economic Rights (ISER). The main financial supporter to the Conference was the European Union. Additionally, the Conference was supported by the Danish Institute for Human Rights and the United Nations Development Programmes regional office. A special thanks to these actors for also providing valuable technical support throughout the dialogue.

ABBREVIATIONS

BHR	Business and Human Rights
CS3D	Corporate Sustainability Due Diligence Directive
DCA	DanChurchAid
DRC	Democratic Republic of the Congo
EAC	East African Community
FDI	Foreign Direct Investment
HRD	Human Rights Defender
HRIA	Human Rights Impact Assessment
INGO	International Non-governmental Organisation
NAP	National Action Plan on Business and Human Rights
NHRI	National Human Rights Institution
RBC	Responsible Business Conduct
UNGPs	United Nations Guiding Principles on Business and Human Rights
hHRDD	heightened Human Rights Due Diligence



Photo: Rasmus Emil Gravesen

INTRODUCTION

East Africa has been attracting a considerable number of investments over the past decades, particularly in land-based projects such as agriculture and extractives, and mostly from foreign actors. According to the World Investment Report, foreign direct investment (FDI) flows increased by 35% in the region in 2021. The private sector is a key partner in enabling job creation and economic growth, but natural resources needed for the green transition and other large-scale investments should not jeopardise peoples or environmental rights. Though the business and human rights (BHR) agenda have gained considerable traction in the East African region on policy level, and private sector actors are increasingly looking to advance their responsible business conduct (RBC), records of displacement, forced evictions, low wages and other rights abuses associated with business activity are continuously concerning national and international organisations.

On an international level, the BHR agenda gained global recognition in 2011 with the endorsement of the United Nations Guiding Principles on Business and Human Rights (UNGPs). One of the principal recommendations within the UNGPs is to guarantee substantial consultations with all pertinent stakeholders throughout policy development, thus underlining the specific necessity for the inclusion of rights-holders. The principles also highlight the advantages related to multistakeholder initiatives, especially for private sector to ensure effective grievance mechanisms. In the baseline assessment on the state of business and human rights in Africa, conducted by the United Nations Development Programme in 2022, the limited adoption of National Action Plans (NAPs) across the African continent was noted as a concern. However, the BHR agenda has gained traction in the East African region, where Kenya and Uganda in 2019 and 2021 became the first countries on the continent to domesticate the UNGPs, followed by Nigeria in 2023.

While BHR policy expectations are currently directed primarily by soft law expectations such as the UNGPs and OECD Guidelines for Multinational Enterprises, the forthcoming implementation of the European Union's Corporate Sustainability Due Diligence Directive (CS3D) signals a promising shift towards increasing mandatory legislation in this field. This directive will necessitate that larger companies provide comprehensive reports on human rights risks, their management, and mitigation efforts throughout their supply chains. Consequently, examining selected success stories from the region, along with an exploration of the obstacles hindering the progress of this agenda, becomes not only pertinent for stakeholders in East Africa but also valuable for other countries striving to enhance their business and human rights policies and regulations.

This report presents cases from the Democratic Republic of Congo, Ethiopia, Kenya, South Sudan, Tanzania, Uganda and from a regional perspective to highlight how multistakeholder engagements can help strengthen the foundation for business and human rights policy and how it can translate into RBC practices. The report compiles cases from civil society, human rights defenders, private sector, legal advisors, and international non-governmental organisations (INGO). The authors of the cases each present their learnings from assessing, advocating for, and enhancing accountability on RBC through business and human rights principles within East Africa. The report is published just before the 12th UN Business and Human Rights Forum in Geneva 2023. Thus, it is the hope that the compilation will inspire actors across the board to progress BHR policy and RBC practice through an embedded multistakeholder approach, and at the same time highlight the challenges lying ahead of policy adoption and implementation.

Disclaimer

This report draws on experiences and research conducted by the authoring organisations presented as cases in brief chapters. Each case and related statements solely represent the views of the author and authoring organisation, and each author is responsible for the data and references presented. Thus, the statements do not reflect the view of DCA nor other organisations contributing to the compilation if these are not listed as author of the specific case. The purpose of this publication is to illustrate some of the central BHR developments and key dilemmas persisting within the East African region via ten cases presented by practitioners within the field. Through these, it is the hope to further enhance multistakeholder dialogue and to invite other practitioners to learn from the opportunities presented.

References

<https://unctad.org/publication/world-investment-report-2022>

<https://www.a4id.org/wp-content/uploads/2020/04/Improving-Business-and-Human-Rights-Mapping-the-East-African-BHR-Sector.pdf>

<https://www.undp.org/africa/publications/baseline-assessment-business-and-human-rights-africa-first-decade-next>

https://commission.europa.eu/business-economy-euro/doing-business-eu/corporate-sustainability-due-diligence_en

Responsible Business Conduct

The OECD Guidelines for Multinational Enterprises were first launched in 1976 to improve private sector contributions to sustainable development and address negative impacts on both people and the planet related to business activities. The guidelines are supported by National Contact Points for Responsible Business Conduct (NCPs) in the member countries. The guidelines were most recently updated in 2023 to, inter alia, align with the latest international climate and biodiversity goals, to better protect people at risk, and to expand on due diligence recommendations. The guidelines identify six concrete steps for multinational enterprises to take order to conduct meaningful human rights due diligence. The steps are actively used by multistakeholder forums, e.g., the Ethical Trade Denmark network, who has developed an online toolbox for small and medium enterprises to apply the framework called the 6 Step Guide to Due Diligence.

The OECD Guidelines are alongside the Ten Principles of the UN Global Compact commonly referred to as the international frameworks defining Responsible Business Conduct (RBC). The Global Compact Principles are development for companies to integrate into their operations to make sure they adhere to fundamental responsibilities from international declarations related to human rights, labour rights, the environment and anti-corruption.

Business and Human Rights

The United Nations Guiding Principles on Business and Human Rights (UNGPs) are based on the Respect, Protect, Remedy Framework, initially defined by the UN Special Representative of the General Secretary on Human Rights, Professor John Ruggie. The principles were unanimously endorsed by UN member states in 2011 and underlines all states' responsibility to protect the rights of its citizens, businesses' responsibility to respect human rights in their operations and the need to ensure effective remedy mechanisms in cases of breaches.

The Human Rights Council has not yet been able to adopt a binding treaty on BHR and the UNGPs thus remain the only international framework to describe the responsibilities of the private sector towards human rights. The UNGPs refer to international declarations including the International Bill of Human Rights and the International Labour Organization's Declaration on Fundamental Principles and Rights at Work.

Mandatory Human Rights Due Diligence

Only a few countries have adopted national acts to regulate transnational corporations through mandatory supply chain due diligence. These include the United Kingdom's Modern Slavery Act of 2015, the 2015 California Transparency in Supply Chains Act Disclosure and Australia's Modern Slavery Act in 2018. The EU Corporate Sustainability Due Diligence Directive (CS3D) proposal was adopted in the beginning of 2022 and is expected to be adopted in its final version during 2024. Once transferred into domestic law, this will be the most advanced legally binding instrument to regulate businesses' human rights impact throughout their value chains. The directive will thus affect both EU-based companies operating abroad as well as their subcontractors and non-EU companies operating within the EU.

Sector Specific Guidelines

In addition to the broad BHR and RBC frameworks, a number of sector specific guidelines have also been developed for value chains notoriously accused of human rights violations. These include the OECD Due Diligence Guidance for Responsible Supply Chains of Minerals from Conflict-Affected and High-Risk Areas, the OECD Due Diligence Guidance for Responsible Supply Chains in the Garment and Footwear Industry, and the ILO Policy guidelines for the promotion of decent work in the agri-food sector, to name a few. Numerous standards and certifications, like Fairtrade, GOTS, Rainforest Alliance have been developed to set criteria for environmental and human rights impact related to specific products.



Photo: Mikkel Østergaard

RECOMMENDATIONS FOR POLICY MAKERS



Adopt a NAP using a Multistakeholder Engagement Approach

All relevant stakeholders must be included in the policy development to ensure a successful implementation of a NAP. In addition to government and national human rights institutions these include civil society (faith actors, youth groups, women's organisations etc.), human rights defenders, community representatives and grassroots organisations, trade unions, private sector, and the judiciary. This is key because NAPs should be based on all three pillars of the United Nations Guiding Principles on Business and Human Rights; states' responsibility to protect, businesses' responsibility to respect human rights and the need for effective remedy mechanisms.



Bridge the Implementation Gap

Adopting a NAP and other business and human rights policies must be followed by concrete commitments of implementation. This could mean attaching a budget to a policy, defining action matrixes, and conducting regular monitoring of actions. Policy makers outside Europe will most likely benefit from adapting national policies to meet the requirements of the EU Corporate Sustainability Due Diligence Directive (CS3D) in advance.



Protect and Include Human Rights Defenders

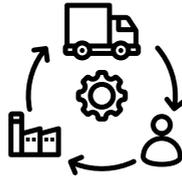
Human rights defenders (HRDs) are at particular risk in cases of land-based investments, if they voice cases of business activity violating land or environmental rights or other human rights. This means that state actors are responsible for always ensuring their safety and establish safeguards to prevent instances of threats. At the same time, HRDs can be a key partner in processes of human rights due diligence, as they in many cases will be close to investments' operational sites and able to report on whether rights are respected or violated.

RECOMMENDATIONS FOR PRIVATE SECTOR ACTORS



Adopt a Human Rights Policy and Strategy

Companies should adopt a human rights policy to guide their work to have positive influences in their areas of operations and prevent rights abuses. Such frameworks should be based on, or refer to, international guidelines such as the OECD Guidelines and the UNGPs. A policy must be followed by a clear strategy of implementation. To ensure a 'social license to operate' and understand the contexts in which operations take place, companies should engage actively with communities and other relevant parties using a multistakeholder approach and risk assessment tools. In cases of land-based investments it is recommended to establish social safeguards for vulnerable groups, such as women and children.



Conduct Human Rights Due Diligence

A comprehensive human rights strategy must include processes of due diligence, which is also defined in the UNGPs guidelines for businesses. This is increasingly demanded by regulatory frameworks, including the EU CS3D, that will require assessments throughout value chains. The Danish Institute for Human Rights have launched an online tool for Human Rights Impact Assessments (HRIA) and Ethical Trade Denmark have published a guide for SMEs to follow the six steps of due diligence defined in the OECD Guidelines. Learnings on how to progress are increasingly being facilitated by networks like Global Compact and strengthened by including external experts or partners into the process. For operations in conflict affected contexts, it is recommended apply a heightened human rights due diligence (hHRDD) to avoid escalation of conflict and harm to communities.



Ensure Effective Grievance Mechanisms

While it is the duty of states to ensure state-based access to remedy in cases of human rights violations by businesses, businesses themselves should also establish grievance mechanisms accessible for communities at operational level. As defined in the UNGPs this could enable earlier remediation as cases are made directly to companies or the administering entity. When it comes to transnational corporations, it is key, for states as well as corporations, to ensure that violations tracked beyond the border of the country and jurisdiction, in which a company is based, are subject to complaint and remediation.

RECOMMENDATIONS FOR CIVIL SOCIETY ACTORS



Invest in Research and Documentation

Civil Society Organisations has an important role to play in conducting research and documentation of rights violations and developing evidence-based recommendations and toolkits for stakeholders to apply. This is useful for private sector to advance their approaches to ensuring human rights or remedying cases of violations, as well as for advocacy purposes to influence policy making nationally and internationally. In this regard, civil society actors also have a role to play in documenting progress or implementation gaps of NAPs.



Facilitate Inclusion of Communities into Multistakeholder Dialogue

National Civil Society Organisations are often well fit to include or represent local communities in dialogues with state or private sector actors in cases of concerns or instances of human rights violations related to business activities. This is key to ensure that the lived experiences and challenges are transformed into contextualised actions on government level and to hold corporations accountable if remedy mechanisms are not functioning.



Walk the Talk through Partnerships

As advocate for rights-based approaches to doing business, civil society organisations should 'walk the talk' on ensuring that their own activities are operating in accordance with a human rights-based approach through clear policies and commitments. Through partnerships with private sector actors and other stakeholders, civil society can furthermore invest in 'best practice' cases of responsible value chains, human rights due diligence, befitting societies, the climate, and environment.

CASE PRESENTATIONS



Multistakeholder Engagement Strengthens Business and Human Rights Policy Across East Africa

By DanChurchAid

Though it has been argued that UNGP domestication is lagging behind in Africa, momentum has been manifested over the past couple of years in the East African region. Kenya and Uganda were the first countries on the African continent to publish a NAP in 2019 and 2021 respectively (with Nigeria following suit in 2023), and others are moving to follow the same track. To leverage on the positive regional trend, DanChurchAid (DCA) co-hosted the first ever East Africa Business and Human Rights Conference in June 2023 in Kampala alongside partners from the region. The event was conducted to progress the implementation and strengthen the uptake of relevant business and human rights policy frameworks in the region to enhance responsible business conduct. This case explores some of the key developments within the region presented during the conference and the related challenges and opportunities to move forward with particular attention towards the multistakeholder approach.

Business and Human Rights Policy Winning Ground in East Africa

Most of the countries represented at the East Africa Business and Human Rights Conference have taken tangible steps to advance BHR policy development. In Tanzania, the Commission for Human Rights and Good Governance (CHRAGG) has been at the forefront of engaging multistakeholder alliances to enhance awareness on the UNGPs and define critical business and human rights priorities for the country. In their National Action Plan on Human Rights, it has been recommended to make an action plan exclusively related to business and human rights. To support this process, a national baseline study was carried out in 2017, but to progress on the policy development this shall be updated. In 2023, CHRAGG submitted a concept to the Ministry of Constitutional and Legal Affairs, on adopting a NAP, which was accepted. Ahead awaits the coordination of an inter-ministerial meeting to accelerate the process and ensure governmental ownership. The representative from CHRAGG present at the conference underlined that to realise these steps, it is key to further stimulate dialogue on UNGPs, and not least to mobilise resources for all actions.

In Ethiopia, plans to develop a NAP were also committed from its National Human Rights Action Plan (2016-2020), however the task is yet to be completed. In the beginning of 2023, a multistakeholder dialogue was facilitated by the Ethiopian Human Rights Commission (EHRC), the Danish Institute for Human Rights (DIHR), supported by OHCHR and UNDP, and the Commission is currently working to develop a baseline study and continuously advocating for NAP adoption. Some of the next steps identified was to organize multistakeholder workshops and consultations for NAP development and further raise awareness to key government actors to insure realization of the action plan. In DRC, several workshops have been organized under the auspices of the United Nations Joint Human Rights Office to initiate the process of developing the NAP, and the NHRI continue to advocate for the realization of this commitment. During the conference, the Burundi delegation initiated a sit-down with technical advisors, and have subsequently initiated a BHR project with the aim of adopting a NAP. The conference also facilitated a conversation between policy makers from the region to share learnings across.

To many at the conference, Uganda and Kenya have been setting good examples on NAP policy development by different means of awareness raising, stakeholder mapping and facilitation of national dialogues, and will hopefully continue to present good examples in the region, throughout implementation and adoption of other BHR policy and law. Some of the key learnings presented from Ugandan actors were the recommendation to include CSOs, private sector and project affected persons to ensure a broad ownership, raise awareness on potential litigation for non-compliance and understand the issues experienced e.g., in relation to the development of the oil and gas sector in the country. An example of an activity conducted under the framework, presented by the Minister for Youth and Development, is the training of local governments in the Albertine region to monitor human rights violations in the oil and gas sector.

Uganda has furthermore committed to conduct trainings for the private sector to enhance corporate human rights commitments. A representative from the Ministry of Gender, Labour and Social Development (MoGLSD), which is the lead agency of the NAP, further stressed that there is need for the ministry to give concrete feedback to the NAP secretariat on the progress of implementation and potentially invite the public to evaluate on the activities. From the Kenyan perspective, it was emphasised that moving from policy to commitments can be a key challenge.

To implement their NAP, a representative from the Kenyan National Human Rights Commission explained that a policy matrix was used to identify concrete policy actions. For instance, the chamber of commerce in Kenya was strategically engaged to enhance implementation. Furthermore, key ministries, CSOs, including human rights defenders (HRDs) who will be monitoring the status of implementation, and judicial and non-judicial actors have been targeted in the process to enhance awareness, and several staff have received training. A summarised version of the NAP has been translated into Swahili, and discussions on concrete model guidelines have been developed on, inter alia, due diligence. The general advice from the commission representative was to ensure meaningful stakeholder participation and to critically review the NAP over time.

Cross-border Business and Human Rights Issues and Opportunities

The dialogue in Kampala revolved around national developments and explored some of the cross-cutting and cross-border barriers to ensure accountability for corporate human rights violations in the East African region. A representative from the Democratic Republic of Congo's national commission on human rights, emphasised the difficulties in achieving remedy for victims of human rights violations caused by corporations that operate across borders and underlined the need for regional cooperation in the exchange and sharing of information to better promote and protect human rights.

To leverage on the regional momentum and ensure cross-coordination, it was suggested to, within the East African Community (EAC), establish a body to promote and oversee BHR policy progress regionally. E.g., the East Africa Court of Justice and the East Africa Legislative Assembly was suggested as institutions that could enhance access to justice on a regional level. On a continental level, in 2023, the African Commission on Human and Peoples Rights (ACHPR) adopted a resolution on business and human rights that included considering the UNGPs, and a "Resolution on a Human Rights-Based Approach to the Implementation and Monitoring of the African Continental Free Trade Area Agreement". The Commission is furthermore drafting an African Union (AU) BHR policy based on the three pillars of the UNGPs, which has been submitted to the Africa Union Specialised Technical Committee on Justice and Legal Affairs. Such frameworks could help set a common continental standard, which would likely progress national accountability instruments.

While looking inwards on the regional, sub-regional and national developments, the discussions at also revolved around the preparations necessary for the implementation of the EU Corporate Sustainability Due Diligence Directive (CS3D), which reflected the call for binding regulation emphasised by several of the conference speakers.

The EU ambassador for Uganda, highlighted that in order for the directive to succeed, a genuine multistakeholder approach is needed. The directive is expected to be adopted in 2024 and to be implemented through the member states over a two-year period. The directive will apply directly to limited liability EU companies, the biggest companies and smaller companies operating in high-risk sectors including agriculture and minerals, and non-EU companies active within EU over a certain size. Indirectly, it will also affect smaller companies and SMEs as it is required for the aforementioned corporations to conduct human rights due diligence throughout their supply chains. It is the hope that EU companies, who are key actors in mitigating the climate crisis will make more sustainable investments as a result, and that the law will act as a harmonised legal framework to prevent human rights abuses. A representative from a Ugandan CSO, who has participated in the directive consultations in Brussels, underlined that the CS3D can be utilised as a concrete tool of accountability to protect project affected persons in the supply chains, especially for land-based investments. The key recommendation they gave to the law development process was to ensure meaning participation of all stakeholders.

Challenges on Ensuring Human Rights in Land Based Investments and the Just Transition

The objective of the East Africa Business and Human Rights Conference was to not only look at policy development but pay particular attention towards human rights risks related to land-based investments across the region. A representative from another Ugandan CSO, for instance raised concern over the new rare earth mineral extraction projects, made to supply e.g., battery production, which, based on community consultations conducted by the organisation, is feared to affect the surrounding environment negatively if not monitored extensively. The issues are not unique to the Ugandan context but documented across operations the region. A trained lawyer and HRD from DRC, who are among the countries in the world with biggest mining activities on minerals needed for the renewable energy sector, stressed that many of the multinational companies in the country do not respect human rights.

Pollution of air, water and soil from extraction of e.g., cobalt and lithium, activities are expected to be enormous and there has been recorded cases of killings of journalists documenting the violations. A representative from a non-governmental organisation in South Sudan stressed that the dependency on oil for the national economy has negative effects on environmental and human rights including pollution, arbitrary arrests, and land-grabbing with little cases of compensation.

An issue explored cross-country during the workshop sessions of the conference were the effects from land-based investments onto vulnerable groups. For instance, within agricultural production it was underlined that children are too often forced to engage in hazardous work using heavy machinery or dangerous chemicals and high levels of gender-based violence and issues of inheritance of land for women have been recorded. It was stressed that there is a need intensify awareness, collaboration between stakeholders, and ensure investments in social safeguards to combat these risks. A representative from transnational company explained how their human rights supply chain management have benefitted from policy engagement and integration across the business as well as a strict monitoring of their sustainability strategy through the understanding that 'what doesn't get measured doesn't get done'. A government representative from Uganda stressed that human rights violations are also caused by the effects of climate change including floods, extended dry spells, reduction in vegetation and tree cover etc. In the worst cases, this results in famine and malnutrition and the economy is to a great extent dependent on a rainfed agricultural production. The statement underlines the fact that 'just transition' refers not only to ensuring that minerals needed for e.g., batteries are responsibly sourced, but also that countries in which food systems are heavily affected by the adverse effects of climate change, are supported in adaptation.

The Benefits of Multistakeholder Engagement and Collaboration

A key reoccurring theme highlighted during the conference, and part of the overall objectives, was the many ways in which stakeholders working in the BHR space can meaningfully collaborate. This include exploring how international organisations, national human rights institutions (NHRIs), government, private sector, the judiciary, civil society, trade unions and human rights defenders, can work together to progress on national BHR policy development and implementation but also in processes of private sector due diligence and access to remedy.

The conference first and foremost demonstrated that private sector participation is possible, which has over time, globally, been deemed an issue for the advancement of the BHR agenda.



Especially access to remedy was highlighted as a key issue in the region, and a closer and conducive stakeholder engagement was presented as one of the solutions to ensure justice for project affected persons and communities. A representative from the African Union underlined that the spectrum of participants at the conference first and foremost demonstrated that private sector participation is possible, which has over time, globally, been deemed an issue for the advancement of the BHR agenda.

A representative from the Business and Human Rights Resource Centre, stressed that the successful implementation of the CS3D can be facilitated through collaboration with CSO actors from the member state countries, who should be able to interpret and disseminate the national versions of the directive. During some of the workshop sessions it was also highlighted that NRHIs and CSOs typically act as an important bridge between governments and local communities, and that 'shadow' due diligence activities by HRDs could happen parallel with companies' human rights impact assessments (HRIA). A representative from a multinational company in the oil and gas sector mentioned that though they have experienced human rights related challenges in the process of land acquisition, their HRIA process benefitted from the Ugandan NAP framework as well as collaboration with national and international experts and the national human rights commission. Furthermore, it was stressed that CSOs active in the area have been strengthening accountability of the company's operations and e.g., heightened their focus on gender equality. The 'social license to operate' was emphasised by the representative from a transnational corporation doing agricultural sourcing, who has embraced the UNGPs and worked closely with Global Compact, which is enhanced through community engagement. For this company, prevention of child labour happens through regular farm visits and sensitisation meetings, and their 'do no harm' principles e.g., entails researchers testing grains not to affect food security.



A representative from a bio-solutions company, inter alia, explained how the company uses food waste from urban areas and transforms them into agricultural inputs through collaboration with different institutions and donors.

Bringing the East African Experience to Continental Dialogues

DCA was invited to be a collaborating partner to the 2023 Africa Business and Human Rights Forum hosted by AU and UN agencies in Addis Ababa and hosted the session “Embedding the Multistakeholder Approach in Policy and Practice to Strengthen Business and Human Rights in East Africa”. For this discussion, DCA was joined by Resource Rights Africa (Uganda), Managing Partner of Fekadu Petros & Partners (Ethiopia) and Managing Director of ARS IURA Consultancy Services Limited, a firm based in Tanzania, that has developed a niche in the field of business and human rights with a focus on implementing human rights due diligence. The conversation drew from the learnings made during the conference in Kampala, with special attention to importance of the multistakeholder approach in advancing corporate accountability and ensuring that the understanding of localisation is widened to include locally grown BHR solutions. Throughout the forum, it was furthermore clear that the multistakeholder approach was clearly adopted into the plans of progressing NAPs across the region, and the platform continue to facilitate meaningful cross-country dialogue and learning.

About the Conference

The East Africa Business and Human Rights conference hosted more than 100 people at the physical event, which was also livestreamed. Participants came from more than 10 countries including the EAC member states (Burundi, DRC, Kenya, Rwanda, South Sudan, Tanzania, Uganda) and Ethiopia, and furthermore representatives joined from Zambia, South Africa and Denmark. The event hosted participants from international organisations, international CSOs (including faith actors, youth groups and women’s organisations), NHRIs, government agencies, private sector, civil society and human rights defender networks and organisations. Beyond these groups the conference was also attended by regional bodies including the East Africa Civil Society Organizations Forum, the East African Employers Organisation, the East African Law Society and the East Africa Business Council.



About DanChurchAid and the Approach to Strengthen Responsible Business Conduct

DCA is an international humanitarian and development organisation established in 1922. DCA works to promote a human rights-based approach to development in line with DCA's Human Rights Policy. DCA is committed to apply the highest international standards on RBC aligned with the expectations of the UNGPs and the ten UN Global Compact principles. DCA holds long-standing experience in facilitating community engagement, awareness raising and dialogue on human rights-based programming in partnership with local CSOs. DCA also holds evolved experience and expertise within application of multi-stakeholder approaches to enable sustainable social and economic growth through market-based interventions and active involvement of private sector actors. At country level, DCA's country programmes and theory of change pathways demonstrate business and human rights links in relation to e.g., economic empowerment, food security, land-rights issues, gender equality, climate change and efforts to address the continuously shrinking space for civic engagement and participation of local CSOs. DCA works in partnerships with private sector (Danish and local) to promote resilient livelihoods and decent job creation. RBC is incorporated as an integrated approach in these partnerships, most specifically through Danida Market Development Partnership / Danida Green Business Partnership projects and earlier the Partnering for Green Growth and Global Goals facility (P4G), with a focus on urging development of sustainable value chains and livelihood opportunities for smallholders in the agricultural sector, based on RBC principles and practices.

References

https://ehrc.org/wp-content/uploads/2023/03/Multi-stakeholder-Dialogue-on-Business-and-Human-Rights-in-Ethiopia_March-2023.pdf

Resolution on a Human Rights-Based approach to the Implementation and Monitoring of the African Continental Free Trade Area Agreement - ACHPR/Res.551 (LXXIV) 2023 | African Commission on Human and Peoples' Rights (au.int)

Human Rights Violations in South Sudan's Extractive Industries: A Case of Corporate Responsibility and Government Accountability

By James Bidal, South Sudan Human Rights Defenders Network

The Republic of South Sudan, a nation rich in natural resources, including oil, minerals, and arable land, has faced significant challenges in balancing economic development through extractive industries with respect for human rights. This case study examines the complex dynamics surrounding human rights violations within South Sudan's extractive industries, shedding light on the roles played by multinational corporations, and the South Sudanese government.

Key Human Rights Issues Relating to the Extractive Sector in South Sudan

South Sudan, a country flawed by decades of conflict and civil war has contracted companies to exploit its the country's oil reserves, primarily located in the Greater Upper Nile region, which ideally was meant to hold immense potential for economic growth and development. However, the exploitation of these resources has been accompanied by numerous human rights abuses, including forced labour, displacement, environmental degradation, and violence against local communities. Various multinational corporations, predominantly from the energy and mining sectors, have entered into contracts with the South Sudanese government to explore and exploit natural resources. These corporations are motivated by profit and are often accused of turning a blind eye to human rights abuses in pursuit of their interests.

The government of South Sudan, responsible for regulating and overseeing extractive industries, has been criticized for its lack of transparency, weak regulatory frameworks, and alleged complicity in human rights violations. As experienced by other countries in the region, while the role of private sector is fast progressing, the policy frameworks are doing catch up which explains the gaps between policy and practice around corporate accountability.

Additionally, there are consistent questions concerning citizens' benefit from the revenue generated from these industries. Local communities living in proximity to oil fields sites are directly impacted by the operations of Multi-National Corporations (MNCs). These communities often face forced displacement from their ancestral lands to make way for extractive projects, leading to loss of land, shelter, and access to natural resources which sustain most of their livelihoods, and exposure to environmental hazards. Environment sustainability and governance (ESG) aspects are increasingly important in the oil and gas sector, aware that extractive industries have the potential to cause significant environmental damage, impacting water sources, wildlife, and local ecosystems, further affecting communities' well-being. The presence of extractive industries in South Sudan has exacerbated existing conflicts and insecurity in South Sudan, leading to violence against local populations.

This study highlights the pressing need for improved governance, increased corporate responsibility, and enhanced transparency within South Sudan's extractive industries. Addressing human rights violations in this context requires collaboration among MNCs, government, civil society organizations, and the international community which is in recognition of the role of the different stakeholders. It also underscores the importance of adopting a human rights-based approach to resource extraction that prioritizes the well-being and dignity of affected communities while fostering sustainable economic development.

A Case of Oil Exploration Dating back to the 1990s

In South Sudan, oil exploration in the Upper Nile started in 1978, however with some of the current consortia beginning operations in the region in 1997, concerns around their commitment towards community engagement and establishing development projects in the region continue to arise as well as constant allegations of human rights abuses.

As with all land-based investments (LBIs), indigenous community rights to land are the first rights violations which are evident in such undertakings. As Oil companies establish operations, they often encroach upon ancestral lands, displacing communities without proper consultation, free prior and informed consent or fair compensation.

These actions have led to loss of livelihoods, food insecurity, and heightened conflict in affected areas. Several oil spills occurred, impacting local water sources and ecosystems.

The National Minister of Environment attested during the National Economic Conference held in September 2023 that there is no law that protects the environment and advised that the Ministry of Justice and Constitutional Affairs take steps towards enactment of the relevant laws and policies.

Similarly, those working within the Oil Companies attest unsafe working conditions, low wages, and inadequate benefits. Some of the companies have been accused of labour exploitation, employing workers in hazardous conditions, and failing to provide proper benefits and protection. There has also been evidence of reprisals for those who speak out and try to demand for corporate accountability.

Recommendations to the Private Sector on Multistakeholder Engagement to Ensure Human Rights

To address the concerns around corporate accountability, businesses operating in South Sudan's extractive industries should consider the following recommendations to avoid and mitigate negative human rights impacts across their operations.

- 1. Prioritize community engagement and consent through meaningful consultation and utilisation of the free prior and informed consent with affected communities and respect their land rights.*
- 2. Invest in responsible environmental practices, including proper waste disposal and pollution prevention measures.*
- 3. Ensure fair labour practices, including safe working conditions, fair wages, and benefits for employees.*
- 4. Adopt the heightened human rights due diligence (hHRDD) which guides corporations working in conflict affected contexts and support efforts to mitigate conflict risks.*
- 5. Adopt the multistakeholder approach which provides opportunity for collaboration with local and international stakeholders, including governments, NGOs, civil society and communities, to promote transparency and accountability.*

The case of South Sudan's extractive industries while not unique to South Sudan is a lived experience in many conflict-affected resource rich countries, illustrates the complex challenges businesses face in balancing profit with respect for human rights. Companies operating in conflict-affected contexts must do more to navigate a delicate landscape, uphold ethical standards, and work toward sustainable development that benefits both the local communities and the nation as a whole. Effective collaboration between businesses, governments, and civil society is essential to address these human rights concerns and promote responsible business practices in South Sudan's extractive industries.

About South Sudan Human Rights Defenders Network

South Sudan Human Rights Defenders Network (SSHRDN) is a non-profit, non-political civil society network that is identified by the Relief and Rehabilitation Commission (RRC). It is a coalition of civil society organizations and individuals working to protect promotion of human rights in South Sudan. In 2012, the Network was established, and in 2019 registered as an NGO. The network is based in Juba and liaises with regional actors to promote the rights of human rights defenders. The network aims at providing protection and building capacity and operational space for HRDs in South Sudan as a means of safeguarding freedom and democratic principles.

References

https://www.voaafrica.com/a/africa_south-sudan-focus_south-sudan-oil-spill-causes-environmental-damage-health-problems/6181718.html

<https://sudantribune.com/article66937/>

<https://www.radiotamazuj.org/en/news/article/oil-is-killing-our-people-because-of-money-environment-minister>

https://www.voaafrica.com/a/africa_south-sudan-focus_south-sudans-ruweng-community-demands-compensation-oil-spills/6184930.html

<https://cityreviewss.com/napwon-demands-law-to-protect-environment/>



Advancing Business and Human Rights in Tanzania: Multistakeholder Approach Adopted in Advancing the Country's Human Rights Agenda

By Ruth A. Shah-Wigley, Founder and Managing Director of ARS IURA Consultancy Services Limited

In Tanzania there is still limited awareness of business and human rights and more specifically the UN Guiding Principles on Business and Human Rights (UNGPs) amongst the public, media, business community stakeholders, and state entities. Nevertheless, groundwork that can underpin the institutional framework for regulatory policy is being laid through multistakeholder initiatives that include Tanzania Commission for Human Rights and Good Governance (CHRAGG – the national human rights institution), national and international research institutions, international organisations, community-based organisations (CBOs) and civil society organisations (CSOs).

The Tanzania Government itself began its journey to advancing business and human rights in Tanzania in 2013 when it introduced the country's National Human Rights Action Plan (2013-2017). The Government not only acknowledged the likelihood of the UNGPs influencing national law and policy globally, but it also recognised the adverse human right impacts to communities stemming from the country's development of its national resources and articulated its goal to operationalise the UNGPs. To that end, the Government of Tanzania charged CHRAGG with advancing business and human rights in the country through the development of a National Baseline Assessment (NBA) and subsequent National Action Plan (NAP) which the former would inform. In fulfilling this responsibility CHRAGG has since carried out substantial work, adopting a consultative and multistakeholder approach to primarily understand the state of business and human rights in Tanzania. The first momentous step was the production and publication of the NBA in November 2017. With technical support from the Danish Institute for Human Rights (DIHR) (further to a Memorandum of Understanding guiding collaboration on Business and Human Right between the two institutions), CHRAGG conducted a gap analysis consulting with and engaging various stakeholders including government, CSOs and businesses.



The NBA, amongst other things, identified:

1. A lack of systematic policy and institutional framework that would allow the implementation of the UNGPs;
2. A lack of encouragement from Government for investors to comply with international good practice standards including standards by the International Council on Mining and Metals or the International Finance Corporation Performance Standards; and
3. That the Constitution does not provide explicit coverage for economic, social and cultural rights and thus these rights are not enforceable or justiciable as constitutional rights.

As well as producing the NBA report, CHRAGG entered partnership with International Peace Information Service (IPIS), an independent research institute, and Business and Human Rights Tanzania (BHRT) to deliver the project: Improving Monitoring, Research and Dialogue on Business and Human rights which ran between 2017 and 2020 (the “Project”). The Project was aimed at enhancing both national and local capacities for the protection of vulnerable groups, which included building capacity in the monitoring of, reporting on, prevention of and ensuring accountability for adverse human right impacts caused by or connected to business operations in Tanzania. During the period of implementation three annual multistakeholder conferences were held. The purpose of these dialogues was, amongst other things, to build a cross-sectoral and multidisciplinary network of human rights advocates in Tanzania. The project also saw an update of the human rights complaint’s mechanism (through CHRAGG) and production of a three-volume publication entitled “Voices of Tanzania”, which documented various business and human rights case studies in the country.

The annual multistakeholder conferences not only allowed for awareness raising but also identified priority areas for focus. In the first annual report land rights and environment emerged as a topic for primacy focus and called for more business and human rights engagement amongst small-scale investors and stakeholders in the fishing, mining, farming as well as local communities and vulnerable groups. Equally, important to the broader business and human rights agenda was the recommendation coming out of the conference for CHRAGG to update its list of stakeholders.



Case studies presented in the Volume 1, Voices of Tanzania Publication provided much insight into the impacts of business operations on the human rights of local communities, including right to health, personal security, social security, free speech, employment, property and adequate living conditions. The studies went further analysing the current structures in place and how they may support a business and human rights framework. Noteworthy, compliance with current regulatory frameworks were identified as a major challenge that could negatively impact the promotion of human rights.

The second and third annual multistakeholder conferences held in March 2020 and February 2021 respectively saw relatively increased participation despite the COVID-19 pandemic. The second annual conference saw more in-depth study on the priority topic of land rights and environment identified in the first conference, whilst the third conference looked at human rights in large scale infrastructure. The report recorded many examples meaningful exchanges and underlined the need for dialogue with everyone in the room. However, these conferences laid bare the urgent need for alignment with the UNGPs particularly with the increase of infrastructure projects and the gaps in the implementation of human rights due diligence to eliminate or minimise adverse risks. Even more, the discussions could and perhaps would inform a NAP that embeds international standards but remains a Tanzanian solution.

Though it has been ten years since Tanzania set its goal to develop a NAP, and the process stagnated due to resource constraints, CHRAGG has continued to engage stakeholders and lead the charge to a National Action Plan. The baseline assessment, dialogue and engagement and the Project has promise to ensure a well-informed, fit for purpose NAP with measurable and key actions to implement the UNGPs and promote responsible business practices and rights protection within communities. Moreover, in April 2022, the Ministry of Constitutional and Legal Affairs (MOCLA) announced its commitment to develop and implement a NAP and assigned CHRAGG, with support from the DIHR, to lead its realisation and once again the country is on the road to adopting a NAP.

It could not come at a more opportune time when as gaps remain in ensuring effective protection and promotion of responsible business conduct in the country. The approach adopted to foster respect for human rights in business activities remains critically important and the CHRAGG's inclusive approach to bring this about has in the first instance led to a comprehensive NBA which offers up an understanding of the state of business and human rights in the country.



A similar approach in formulating and finalising the developing the NAP is equally crucial and can assist in allowing for tangible and concretise actions to not only building policy and institutional framework for the UNGPs but it can prompt collective action and increase respect for human rights in business overall.

About ARS IURA Consultancy Services Limited

ARS IURA Consultancy Services Limited (ARS IURA) is a consultancy firm based in Tanzania that has developed a niche in business and human rights. The firm provides ongoing support to businesses and organisations seeking to implement national and international human rights standards and to understand and address any adverse impacts their business activities have on as ARS IURA's work includes implementing human rights due diligence on behalf of business entities; developing human rights policies; designing, establishing and providing professional support to non-judicious non-State based grievance mechanisms; facilitating and designing business and human right training and provision of general human rights advisory services.

References

See CHRAGG, DIHR and SOMO (2017), National Baseline Assessment (NBA) of Current Business and Human Rights Framework In the United Republic of Tanzania

See https://globalnaps.org/wp-content/uploads/2017/11/tanzania-bhr-nba_final_nov2017.pdf

Ministry of Constitutional and Legal Affairs, (2013) National Human Rights Action Plan (2013-2017), Dar es Salaam

See CHRAGG and DIHR, Advancing Business and Human Rights in Tanzania: CHRAGG Strategic Workshop on Business and Human Rights, Workshop Report, 31 August – 2 September 2021, Singida, Tanzania.

See IPIS website:

https://ipisresearch.be/project/project_business_and_humanrights_tanzania/ accessed at 15 October 2023 at 17:07

Scott Martin and Joseph Kibugu (2022) A Baseline Assessment of Business and Human Rights in Africa: From the First Decade to the Next, UNDP

CHRAGG (2023) Road Map Concept Note on the Development to the Tanzania National Action Plan on Business and Human Rights, Dodoma, Tanzania

Amplifying Responsible Business Conduct through the Annual Symposium on Business and Human Rights in Uganda

By Andrew Byaruhanga, Executive Director, Resource Rights Africa

Since 2018, Resource Rights Africa (RRA) has alongside a broad range of actors been convening the Annual Symposium on Business and Human Rights in Uganda, which has been credited for inspiring the East Africa Business and Human Rights Conference and set the tone for conversations at the African Business and Human Rights Forum. This case highlights the importance of multistakeholder engagements for corporate accountability and takes stock of the key achievements arising from the Annual Symposia in Uganda, including the role of Business and Human Rights (BHR) forums as advocacy and accountability platforms, while indicating what needs to be done to move from forum and conference rhetoric to action and implementation of key policies for the advancement of Responsible Business Conduct in the East African region.

Bringing the UNGPs to the Centre of the Discussion

The Annual Symposia on Business and Human Rights for Uganda brings together multiple stakeholders from the country and beyond, to take stock of the opportunities and challenges in advancing respect for human rights related to businesses activity in Uganda. Over the years, the Symposia has particularly focused on the implementation of the United Nations Guiding Principles on Business and Human Rights (UNGPs) via the development of the National Action Plan on Business and Human Rights (NAPBHR) for Uganda. This has been done by identifying existing opportunities in promoting BHR through a regulated business environment and identifying challenges associated with the process in Uganda. Furthermore, the Symposia have enabled a broad exploration of how accountability and remedy mechanisms for business-related human rights issues in Uganda can be enhanced and broadly, how responsible business conduct can be strengthened to advance respect for people and planet.

Key achievements gained from the Symposia and similar advocacy events have been the development of the NAPBHR, especially with the active participation of civil society organisations and a few private sector actors in the country, and the continued advocacy to ensure implementation of the policy by tracking the progress on a national level and providing space for joint stock taking using the multistakeholder approach in the engagements. The increasing participation in such spaces by the private sector in Uganda is testament to the importance of multistakeholder approaches in promoting corporate accountability and adopting the smart mix to BHR.

Convenors made the engagements with private sector inclusive by highlighting the challenges within companies to adhere to human rights standards and presenting experiences from companies



The Symposia typically utilises the thematic lens from the UN Forum on Business and Human Rights and contextualises it to fit current BHR issues and opportunities for the Ugandan context. For example, this years' symposium special attention is paid to the challenges relating to the third UNGP pillar – access to remedy – focusing on the role of each stakeholder in ensuring effective remedy mechanisms in Uganda and across borders. While the first Symposia hosted smaller groups of people with most of the participants coming from civil society, the most recent event of 2022 hosted more than 150 people from civil society organisations, community, land and environment human rights defenders' representatives, international NGOs, UN agencies, the European Union Delegation in Uganda, private sector organisations, companies, and government officials. While it was a challenge to bring on board the private sector during the first symposia, a key achievement has been the gradual inclusion of that group. In 2022, co-convenors arranged for a private sector specific network arrangement as part of the Symposium to shed light on climate friendly value chains and the role of companies in implementing the UNGPs, which attracted a substantial number of private sector actors. To achieve this, convenors made the engagements with private sector inclusive by highlighting the challenges within companies to adhere to human rights standards and presenting experiences from companies on how they address human rights risks and violations within their value chains.

The focus on respecting human rights not just because it is good business but also because it is the right thing to do filtered through the discussions with the private sector and inspired many companies to learn more and do better.

A Partnership and Multistakeholder Approach to Enhance BHR Dialogue

The lead taken by Uganda to organize the Annual Symposia on BHR inspired the East African Conference on BHR held in Uganda in 2023 with support from the European Union. Undoubtedly, Uganda has contributed knowledge and expertise that has shaped the design and outlook of the regional and sub-regional discussions on BHR with great success.

The Symposia have made Uganda a leader in BHR work in the EAC region and beyond. The 2022 Annual Symposium theme focused on the development of the NAPBHR process in Uganda while identifying lessons learnt from countries like Kenya, highlighting the existing opportunities in promoting Business and Human Rights through a regulated business environment and identifying challenges associated with the process in Uganda. From the concerted advocacy and multistakeholder engagements including the Annual Symposium, the Government of Uganda, through the Ministry of Gender Labour and Social Development (MoGLSD) adopted the NAPHR in August 2021, becoming the second African Country to do so after Kenya. The NAPBHR provides a set of aspirations that have been agreed upon through an annual consultative process aimed at guiding both state and non-state actors and reminding them of their roles in advancing respect for human rights by businesses. The goal of the NAPBHR is to work towards the elimination of human rights violations and abuses while undertaking business activities by any person or entity.

The events have been realised in partnership with the MoGLSD, European Union, the Embassy of Denmark in Uganda, Uganda Human Rights Commission, UN Office of the High Commissioner for Human Rights, HORIZONT3000, Southern and Eastern Africa Trade Information and Negotiations Institute (SEATINI-UGANDA), Witness Radio, Uganda Women Lawyers' Association (FIDA-U), Twerwaneho Listeners' Club, Avocats Sans Frontiers, and DanChurchAid (DCA).

Meaningful Inclusion of Project Affected Persons to Strengthen BHR for the Extractive Industries

RRA's advocacy efforts are first and foremost built on close engagements with grassroots communities with whom the organisation engages on research, legal and policy processes to facilitate voice and accountability by highlighting issues related to energy transition and critical minerals as well as indigenous rights and land-based investments (LBIs). RRA prioritises to include and engage project affected persons and community representatives, especially women, in the Symposia to strengthen the downward accountability as well as ensuring that lived experiences with private sector operations are central to BHR discussions and are presented to the highest levels of government and private sector, who are responsible for ensuring human and environmental rights. Since inception, the agenda of the BHR Symposia has focused on issues arising from the land-based investments especially large-scale agriculture and the extractives industries through research, presentations of analyses on the legal and policy frameworks underpinning the sectors and photo exhibition(s) which provide a glimpse in the experiences of the project affected communities.

Undoubtedly, the conversations with government officials during the event contributed to the amendment of the mining law in 2022 with a major inclusion of Community Development Agreements (CDAs) as well as revision of the mineral royalties for the benefit of local governments and landowners in the mineral rich areas. Relatedly, RRA has engaged with community groups to understand the concerns related to a new rare earth elements extraction project in Central Uganda, which relates to waste management and environmental impact on land and lake areas. As the world races to transition from fossil fuels to green energy, one key learning is that stakeholder consultations during operations like these needs to be advanced further to understand the concrete challenges and concerns experienced by the local communities, which could be enhanced for instance by translating key communication into local languages. To bring these concerns to the attention of corporate duty bearers, RRA also supports dialogue between project affected persons and mining companies e.g., for the Limestone project in northeastern Uganda and the Tilenga oil extraction project in the Western part of Uganda.

About Resource Rights Africa

RRA is a research and development organization formed in 2016 to advocate for the promotion and protection of people's rights in Uganda. RRA advocates against discrimination, inequality, abuse of power and the unsustainable use of natural resources including oil and gas, minerals, land, forests, water bodies as well as flora and fauna. RRA's main focus is on business and human rights with a strong research strand in its interventions. In the past, it has conducted and published research on the use of mercury in the artisanal goldmining in Karamoja sub-region (2022), and a Legal Analysis of the Uganda Mining and Mineral Bill, 2009 (2019). Going forward, RRA will continue to coordinate the Cluster on Business and Human Rights under the Universal Periodic Review Stakeholders Forum in Uganda as well as coordinate the annual symposium on business and human rights in Uganda and the production of the state of business and human rights report annually.

References

<https://resourcerightsafrica.org/download/use-of-mercury-in-the-artisanal-gold-mining-in-karamoja-sub-region-2/>

<https://resourcerightsafrica.org/download/a-legal-analysis-of-the-uganda-mining-bill-2009-by-resource-rights-africa-rra/>

Strengthening Policy Framework on Business and Human Rights in Uganda through the National Action Plan

By Joseph Byomuhangyi, Project Coordinator, Uganda Consortium on Corporate Accountability

The recognition and protection of human rights in the context of business activities have become increasingly important globally. This is because businesses have a significant impact on society and their operations can either contribute to or undermine human rights. The development of the National Action Plan on Business and Human Rights (NAP) marked the first concrete effort to domesticate the obligations under the United Nations Guiding Principles on Business and Human Rights (UNGPs) in Uganda. This case presents the perspective of the Uganda Consortium on Corporate Accountability (UCCA) on their role in developing the action plan. This is to inspire other countries to embark on a similar journey and for policy practitioners to learn from the Ugandan experiences.

Development Journey of the NAP

In 2016, during the Universal Periodic Review (UPR), the Initiative for Social and Economic Rights (ISER) a member of UCCA and the Civil Society in the Economic Social and Cultural Rights working group included the development of a NAP exclusively focused on business and human rights in the submissions that were made to the Human Rights Council. Member states that engaged during the UPR, including Norway and Kenya, who were part of the review gave this specific recommendation to Uganda. As such, Uganda accepted and kickstarted the process of developing the NAP, which was championed by civil society working with the government. The need for Uganda to develop a NAP was further informed by Uganda being a private sector-led economy. While these (private sector) developments present numerous opportunities, research by UCCA has shown that there is a need for effective regulation and policies to prevent potential human rights abuses that result from business activities. In the “Resource Handbook on the Policy and Legal Framework on Business and Human Rights in Uganda”, UCCA has identified the policies relating to corporate accountability for Uganda. The 1995 constitution has for example been utilized by civil society groups to frame the economic, social, and cultural rights as legal obligations for companies operating in the country.

Article 20 underlines that all actors, including the private sector, have a responsibility to respect human rights. The handbook also highlights other relevant laws including the Employment Act and other labour rights laws as crucial instruments to counter different forms of discrimination and ensure health and safety measures at workplaces.

the NAP was deemed a necessary tool to strengthen, coordinate, and streamline policy for Uganda and thereby close these gaps that posed a significant threat to adherence to human rights in the conduct of business activities



Though existing Ugandan laws address some business and human rights issues, aspects like free, prior, and informed consent were not comprehensively reflected in the existing laws at the time alongside a general absence of frameworks that integrate human rights considerations and guide both public and private actors in the conduct of business. Therefore, the NAP was deemed a necessary tool to strengthen, coordinate, and streamline policy for Uganda and thereby close these gaps that posed a significant threat to adherence to human rights in the conduct of business activities. This was officially determined through a regulatory impact assessment conducted by the Ministry of Gender, Labour, and Social Development and Cabinet Secretariat. In August 2021, all these concerted efforts came to fruition when Uganda's National Action Plan on Business and Human Rights was launched, marking a new dawn in the implementation of human rights principles in the conduct of business activities.

Today, the NAP defines Uganda's strategic direction in terms of dealing with the negative impacts on human rights caused by business activities. It domesticated the UNGPs on business and human rights and aligned the country's framework on business and human rights with international human rights law standards. It became the first comprehensive document that guides the country in terms of policy or legislation on business and human rights and provided a profound opportunity to harness economic growth while ensuring respect for human rights in the conduct of business activities.



Inclusive Approach to Ensure Effective Implementation

The development of the NAP involved a collaborative effort between various stakeholders including the Ministry of Gender, Labour and Social Development (MGLSD), the Ministry of Foreign Affairs (MoFA), the Ministry of Justice and Constitutional Affairs (MoJCA), the Office of the President, Ministry of Finance, Planning and Economic Development (MFPED), Ministry of Trade, Industries and Cooperatives, Uganda Human Rights Commission (UHRC), Equal Opportunities Commission (EOC), Initiative for Social and Economic Rights (ISER), Uganda Consortium on Corporate Accountability (UCCA), the Uganda Association of Women Lawyers (FIDA – U), Resource Rights Africa (RRA), UN Global Compact national chapter for Uganda and the Office of the United Nations High Commissioner for Human Rights.

This ensured that all relevant perspectives and voices were considered in an inclusive manner. Furthermore, the inclusive approach is key to ensuring effective implementation at the stages after adoption. Uganda has been complimented specifically for its wide stakeholder engagement during the NAP development process, which has also been a key recommendation to other countries that want to embark on a similar process. This is because business and human rights concerns are related to a wide range of duty bearers and rights holders and because implementation will only work if awareness is enhanced at all levels. This inclusive approach, or rather partnership model amongst stakeholders including government, civil society organisations, and the private sector is one other countries ought to learn from Uganda as they embark on the development journeys of their own National Action Plans on Business and Human Rights. For Uganda, the partnership among stakeholders is also ongoing as we implement Uganda's National Action Plan on Business and Human Rights. This ought to be a best practice adopted by other countries that are taking a similar path of developing and implementing National Action Plans on Business and Human Rights.

The Role of UCCA in the Development Journey of NAP

UCCA has been recognised as one of the key civil society representatives participating in the NAP resource team, who took part in developing and editing of the action plan. Furthermore, UCCA worked through its membership across the country to contribute to the stakeholder consultations that to a great extent informed the NAP. These include regional consultations, consultations with vulnerable groups, the private sector, women entrepreneurship associations, amongst others.



UCCA, alongside other stakeholders, also made a financial contribution to the development process of the NAP. The participation of UCCA in the development journey of Uganda's National Action Plan on Business and Human Rights gave our membership the ownership of this policy document. Indeed, this inclusion in the process resulted into civil society getting committed to the implementation of Uganda's National Action Plan on Business and Human Rights.

About UCCA

Uganda Consortium on Corporate Accountability (UCCA) was established in 2015 as a civil society platform aimed at enhancing accountability by corporations, states, international financial institutions, and development partners for violations or abuses of Economic, Social, and Cultural Rights (ESCRs). UCCA has a current membership of 24 organizations based in Uganda specializing in different areas of Economic, Social, and Cultural rights protection. These include the four founding members including the Initiative for Social and Economic Rights (ISER), the Public Interest Law Clinic at Makerere University Law School (PILAC), Legal Brains Trust (LBT), and the Center for Health Human Rights and Development (CEHURD). Other UCCA members are Twerwanaho Listeners Club (TLC), Karamoja Development Forum (KDF), the Southern and Eastern Africa Trade Information and Negotiation Institute (SEATINI), the Centre for Economic Social and Cultural Rights in Africa (CESCRA), Buliisa Initiative for Rural Development Organisation (BIRUDO), Navigators for Development Association (NAVODA), Ecological Christian Organisation (ECO), World Voices Uganda (WVU), Rural Initiative for Community Empowerment West Nile (RICE WN), Teso Karamoja Women Initiative for Peace (TEKWIP), Action Aid International Uganda and International Accountability Project (IAP), Uganda Association for Women Lawyers (FIDA-Uganda), Akina Mama wa Afrika (AMWA), Food Rights Alliance (FRA), Centre for Food and Adequate Living Rights (CEFROHT), LandNet, Resource Rights Africa (RRA), Bank Information Centre (BIC) and Lake Albert Children and Women Advocacy and Development Organisation (LACWADO).

Shaping Trade and Investment Policies for the Promotion of Labour Rights in Uganda and the EAC

By Peninnah Mbabazi, Program Coordinator, Trade, Investment and Development and Herbert Kafeero, Programs and Communications Manager (SEATINI Uganda)

Over the years, SEATINI has been advancing the primacy of Economic, Social, Cultural and Environmental Rights especially in trade and investment related policies and agreements. This is because trade and investment agreements and policies are major sources of Economic, Social, Cultural and Environmental Rights violations as trade and investment policies are most skewed towards the protection of rights of investors (Transnational/Multinational Corporations) as opposed to rights of the host communities, the local people and the environment.

Increasingly, Foreign Direct Investments have become synonymous with human rights violations including the violation of workers' rights especially for vulnerable categories of people such as casual labourers, women, youth and Persons with Disabilities. This is partly because there are glaring gaps in labour/employment related policies coupled with poor administration of the existing laws, policy frameworks which has contributed to the rampant casualization of labour especially in commercial and land based investments and schemes such as factories, plantations where workers are experience fissured employment relationships, poor and precarious working terms and conditions, lack of adequate maternity protection, unfair dismissals, low wages, inadequate occupational safety and health and insufficient social protection among others. As a result, the limited access to remedy for human rights abuses by business operations has been on the rise in Uganda.

Case Description

In light of the above, SEATINI Uganda is undertaking a campaign dubbed; "LIFE BEFORE PROFIT" which aims to advance the need for specific efforts towards ensuring Economic, Social and Cultural Rights through influencing, strengthening investment-related policy frameworks, legislations, processes and policies in place at the national, regional and global level.

These include the Investment Code Act 2019, National Action Plan on Business and Human Rights, and the Regulations to the Investment Code Act, the African Continental Free Trade Agreement (AfCFTA) Investment Protocol, enforcing of African Union Guidelines for Largescale Land Based Investments and the UN Guiding Principles on Business and Human Rights etc.

SEATINI has been keen on creating awareness and building capacity of key stakeholders and actors including Trade Unions and Civil Society Organisations (Voices for labour, Platform for Labour Action, Uganda Consortium on Corporate Accountability (UCCA), FIDA Uganda, Human Rights Defenders etc) as it has observed that existing trade and investment policies have labour rights, human rights and environment related gaps which have not only had far-reaching implications on the country's realization of its development objectives, but have also negatively affected the capacity of the government to regulate business operations in the public's interest. At the regional level, SEATINI Uganda has continued to build capacity of East African Trade Unions Confederation (EATUC) to advocate for trade related policies that deliver decent work and support the realisation of Sustainable Development Goals (SDGs). Over the years, SEATINI been working closely with Trade Unions specifically in Burundi, Kenya, Rwanda, Tanzania, and Uganda towards enhancing their capacity to actively engage on and influence negotiations on trade related policies and agreements involving the United Kingdom, European Union and United States so that they promote decent work, gender equality, access to social protection, and support meeting SDGs.

Trade policies and agreements including Free Trade Agreements facilitate dumping of UK and EU goods on the markets which would put jobs at risk and mean that female workers particularly face the threat of losing decent employment in the formal sector and are forced to work in the informal sector where exploitative conditions are common. In order to address Trade Union concerns about the far-reaching implications of Free Trade Agreements such as Economic Partnership Agreements and the AfCFTA, SEATINI continues to advocate for the active participation and involvement of trade unions in negotiations and related processes. To date, there has been very limited engagement between the Governments in East African Community countries and trade unions on trade negotiations.



At the national level, SEATINI has worked closely with National Organisation of Trade Unions (NOTU) towards promoting the rights to livelihood and dignity for all workers. As part of our efforts, we continue to undertake research and advocacy and also strengthen the capacity of policy makers (Members of Parliament) and technocrats in relevant Government Ministries, Departments and Agencies such as Ministry of Gender, Labour and Social Development in Uganda, Trade Unions, Human Rights Defenders, private sectors, media, farmer groups, Women Groups, Youth, and Civil Society Organisations on trade and investment policies and agreements and their implications on economic, social, cultural and environmental rights.

SEATINI held a press conference in commemoration of Labour Day 2023 on the 'State of Labour rights in Uganda: pursuing the right to livelihood and dignity for all', where representatives from Chairperson from National Organisation on Trade Union, Civil Society Organisation dealing labour rights related issues; Uganda Association of Women Lawyers (FIDA Uganda), Voices of Labour, Uganda Consortium on Corporate Accountability (UCCA), Human Rights Defenders presented on the state of labour rights in Uganda. As a result of SEATINI's continuous efforts in supporting Trade Unions, CSOs and labour rights movements to effectively influence trade and investment related policies, there is recognition and appreciation of labour rights, and the Government of Uganda has undertaken various mechanisms towards enforcing and strengthening legislations that promote labour rights and administration in Uganda. Such efforts include the ongoing labour law reforms (Employment Amendment Bill, 2022), Employment (Sexual Harassment Regulations, 2012), National Action Plan on Business and Human Rights, among others.

Conclusion

SEATINI is committed towards influencing trade and investment related policies towards recognizing and promoting economic, social, cultural, and environmental rights including the right to decent work for all. Now more than ever, the role of workers' unions in shaping policy processes is vital towards ensuring workers' rights to livelihood and dignity. The need to strengthen the pathways to access to remedy in Uganda and to promote inclusive approaches in dealing with and regulating private investments cannot be overemphasized as it ensures a win-win situation for the investors, government, the people and the communities.

About SEATINI Uganda

SEATINI Uganda is a Pan-African Non-Governmental Organization that works to promote pro-development trade, fiscal and investment related policies and processes for sustained equitable development and improved livelihoods in Uganda and the East African Community. The organization focuses on strengthening the capacity of stakeholders to influence trade, fiscal and investment related policies and processes through research and advocacy, information generation and dissemination, capacity building, public interest litigation, alliance building and networking.

References

<https://www.tuc.org.uk/research-analysis/reports/capacity-building-east-african-trade-unions>

<https://seatiniuganda.org/download/a-joint-press-statement-state-of-labour-rights-in-uganda-pursuing-the-right-to-livelihood-and-dignity-for-all-workers/>

<https://ugandaradionetwork.net/story/labour-rights-groups-ask-govt-to-implement-minimum-wage-recommendations?districtId=0>



Issues of Communities' Rights and the Mining Industry's Contribution to Local Development: The Case of the Copper-Cobalt Sector in the DRC

By Céline Tshizena Tshinate Pegasus, Lawyer at the Bar of Haut Katanga, Lecturer at the Faculty of Law, University of Lubumbashi, Advocacy Director at African Resources Watch (AFREWATCH), DRC

Respect for the rights of local communities and the contribution to local development during the development process of extractive sector projects is a general challenge in the African region. This is mainly due to weak governance of the sector and the lack of proactive social responsibility policies for many extractive companies. The Democratic Republic of the Congo (DRC) is a key focus country when it comes to strategic mining of cobalt, copper, lithium, and other minerals needed for the energy transition mainly taking place in the Global North. However, the African continent is the least responsible for global emissions, and yet, too many communities suffer from human rights violations related to the extraction of these minerals.

In the context of the DRC, following the liberalization of the mining sector through the adoption of the Mining Code in 2002 and its implementing measures in 2003, a number of multinational companies have flocked to the country's main mining regions, particularly the Katanga region (Haut-Katanga and Lualaba), which is rich in copper and cobalt ores. The rush to Katanga's mines has also been fuelled by strong global demand for cobalt to make the batteries and electric cars needed for the energy transition part of the fight against global warming and climate change. According to data from the DRC's Ministry of Mines for 2021, 1,264 mining companies have been identified, including 342 with mining titles in due and proper form, 161 with quarrying titles, 81 with mineral processing and treatment capacity, 609 mining cooperatives and 428 other unclassified operators. The influx of companies has certainly helped to revive mining activity following the collapse of GCM, but it has also led to an exponential increase in the country's mining production, which according to data from the Extractive Industries Transparency Initiative (EITI 2009) has risen from 300,000 tons of copper to 1,600,000 tons of copper in 2020. However, it remains to be clarified whether the expectations of local communities affected directly have been met.

The majority of mining projects in the Katanga region are being developed in areas inhabited by vulnerable communities to whom the above national mining regulations gave few guarantees of protection of their rights and opportunities for local development. The revised mining code of March 2018 and its implementing measures now guarantee communities a number of specific rights, in addition to their fundamental human rights. The revised law clearly establishes operating standards that protect human rights and the environment to ensure socially responsible mining. These rights must be respected by mining operators in the development of mining projects.

Human Rights Guaranteed to Local Communities by National and International Legal Instruments

Communities affected by mining activities are those determined in particular by means of the following criteria; the location of a community on or near the mining site; the location of a community on or near the road network used or built for the needs of the mining project; the location of a community on or near a major infrastructure of the mining project; power station, water treatment plant, airport or port to be built for the project; the existence of a community subsistence activity on the development site, such as fishing, hunting, gathering, livestock rearing or cultivation; the presence of a watercourse on or near the development site used as a source of drinking water or a source of subsistence by a community.

The local communities affected by extractive activities enjoy all the human rights recognized and guaranteed by both national and international legal instruments. These include the Universal Declaration of Human Rights, International Covenant on Economic, Social and Cultural Rights, African Charter on Human and Peoples' Rights, the Constitution of the Democratic Republic of Congo, and the Mining Code and Mining Regulations of the Democratic Republic of Congo. It is also true that the management and operations of an industrial mining project have effects on all human rights because of their universality, indivisibility and interdependence. Furthermore, it is stated by the UN Guiding Principles on Business and Human Rights that companies ought to respect human rights, which implies (1) avoiding any negative impact on human rights or contributing to it through their own activities and remedying it when it occurs; and (2) preventing or mitigating negative impacts on human rights that are directly linked to their activities.

Companies in DRC also have an obligation to contribute to the development of local communities directly affected by their activities. This, because the Congolese mining legal framework, revised in 2018, reinforces this obligation by requiring mining operators to make a mandatory contribution to community development through the payment to ETDs of 15% of the mining royalty, the financing of projects in the specifications, and setting aside of a minimum of 0.3% of sales to finance community development projects.

When natural resources are exploited, it is often the overall livelihoods that are potentially affected by expropriation, eviction, relocation, and pollution.



In this analysis, there is a particular emphasis on economic, social and cultural rights, such as the right to adequate food, the right to water, the right to health, the right to a healthy environment, the right to adequate housing, the right to development and the right to information. This, because when natural resources are exploited, it is often the overall livelihoods that are potentially affected by expropriation, eviction, relocation, and pollution.

Main HR Issues and Impacts of the Mining Industry on Local Communities in the DRC's Copper-Cobalt Sector

Despite the DRC's ratification of the main regional and international human rights protection instruments and the strengthening of the national legal and regulatory framework in 2018, there is unfortunately a glaring gap between the requirements of the law and the practices of mining companies. Of all the human rights violations reported in various NGO study reports, three main problems stand out as indicative of the bad practices used by the majority of mining companies. These include expropriation of local communities' land; eviction of local communities' homes; and environmental pollution (air, water and soil) with serious impacts on health. A number of studies carried out specifically on mining companies in the copper-cobalt sector concordantly point to poor operating conditions that respect neither environmental standards nor the human rights guaranteed by international treaties, the national Constitution and the DRC Mining Code.



In addition to not having access to basic social services, local communities are often the victims of serious harm, including the destruction of their living environment, health and the environment, as a result of the bad practices of mining companies. This is e.g., the case of the report entitled "Mining companies in Katanga" published in 2009 by Rights and Accountability in Development (RAID), which denounced labour rights abuses of Chinese companies based in the DRC. Another report published in 2012 by the Carter Center, entitled "Rapport d'impact des investissements miniers étrangers sur les droits humains. Case of investments Chemical of Africa (Chemaf) et Ruashi Mining au Katanga", which, in addition to highlighting certain weaknesses in the Congolese mining legislation of 2002, also warns of cases of human rights violations committed by mining companies, including water and air pollution, and violations of the right to housing and to adequate food. Additionally, the report published in January 2016 by Amnesty International and AFREWATCH entitled "This is why we die: human rights abuses in the Democratic Republic of Congo fuel the global cobalt trade", condemns the failure to respect human rights in the exploitation of cobalt, denouncing child labour in the mines, the non-payment of workers, poor working conditions, long working hours and so on.

More recently, a series of four reports published by AFREWATCH (three) and IBGDH (one) in 2022 on the impact of mining on human rights, the environment and the health of local communities, confirm the serious human rights violations in mining operations in the provinces of Haut-Katanga and Lualaba. These reports alert the public authorities and general public to the practice of forced displacement without payment of adequate compensation or resettlement, and to the serious attacks on the health, environment and lives of local communities by mining operations.

Contribution to Development of Communities in Mining Areas

Responsible mining means that mining companies should also make it a priority to improve the living environment of local communities by contributing to community development, as guided by 2018 Congolese mining legal framework. Between 2002 and 2017, before the revision of the Congolese Mining Code, mining companies contributed to community development on a voluntary, non-binding basis. This often took the form of social initiatives carried out by mining companies for the benefit of local communities. However, these voluntary social achievements were often symbolic and insignificant, and failed to address the most basic needs of local communities, such as access to water, quality healthcare and education.

In relation to mining royalties, reports from Congolese NGOs condemn the non-transparent management of funds paid by mining companies. Some projects financed with mining royalty funds have been reported to the EITI by ETD managers, but the NGOs note that they are not commensurate with the amounts received. In its report published in 2020, Cordaid stated that local communities had not yet reaped the benefits of the revised mining code and that they were still awaiting the societal impact of the revised code. The report noted that most of the mining royalty funds paid to ETDs had been allocated to the running and operating costs of local entities, instead of being used to fund infrastructure and projects of community interest as a matter of priority. Furthermore, the report published by the Carter Center in 2018 shows that the limitations and ambiguities of Congolese mining legislation in terms of community development, as well as the poor implementation of mining companies' social commitments, remain the main causes of the mining industry's limited contribution to the development of local communities.

Conclusion

It follows from the above that more than two decades after the expansion of mining projects in the Democratic Republic of Congo, the human rights situation of local communities is very critical, while community development is simply hypothetical. Indeed, in the light of study reports published by national and international human rights NGOs, the impacts of mining projects on the rights of local communities are increasingly negative, driving them deeper into poverty. As a result of the mining companies' practices, thousands of local communities are victims of expropriation of their land, eviction from their homes and environmental pollution (air, water and soil) with serious impacts on their health, all without fair compensation or equitable redress. In order to address these violations, one must address the issues of impunity, corruption, weakness of governments which exists despite the existence of national and international legal and institutional mechanisms for the protection of human rights.

References

Decree No. 038/2003 on mining regulations in the DRC.

<http://e-mines.ctcpm.cd/dashboard>

EITI-DRC Report 2009, page 20, <https://eiti.org/files/documents/itie-rapport-rdc-mines-2008-2009.pdf>

EITI-DRC Report Assoupli 2018, 2019 and first quarter 2020, page 153, http://congomines.org/system/attachments/assets/000/002/036/original/RAPPORT_AS_SOUPLI_ITIE_RDC_2018_2019_1er_Semestre_2020_Adopte%CC%81.pdf?1617268018

Article 480 of Decree No. 038/2003 of 26 March 2003 on mining regulations, as amended and supplemented by Decree No. 18/024 of 08 June 2018.

International Covenant on Economic, Social and Cultural Rights (ICESCR) <https://www.refworld.org/cgi-bin/txis/vtx/rwmain/opendocpdf.pdf?reldoc=y&docid=4c0f50a22>

African Charter on Human and Peoples' Rights <http://www.droit-afrique.com/upload/doc/autres-organisations-africaines/Afrique-Charte-des-droits-de-l-Homme.pdf>

Constitution of the Democratic Republic of Congo <https://www.leganet.cd/Legislation/JO/2011/JOS.05.02.2011.pdf>

DRC Mining Code revised in 2018 <https://www.leganet.cd/Legislation/JO/2018/JOS.28.03.2018.pdf>

Revised mining regulations in 2018 https://congomines.org/system/attachments/assets/000/001/550/original/J.O._n%C2%B0_sp%C3%A9cial_du_12_juin_2018_REGLEMENT_MINIER_Textes_coordonn%C3%A9s.pdf?1553851275

Carter Center, Human Rights Impact Assessment of Foreign Mining Investments. Cas des investissements Chemical of Africa (Chemaf) et Ruashi Mining au Katanga, 2012

CASMIA, Collection et gestion de la redevance minière par les Entités Territoriales Décentralisées : l'arbre qui cache la forêt : enquête menée dans quelques Entités Territoriales Décentralisées des provinces du haut-Katanga et du Lualaba, February 2021

Cordaid, Deux ans après la révision du code minier en RDC : Les communautés en attente des retombées sociétales, Kinshasa, June 2020. Available on: https://congomines.org/system/attachments/assets/000/001/903/original/Cordaid_Communique%3A9_de_presse_Rapport_Code_Minier_R%C3%A9vis%C3%A9_RDC_Juin_2020_Final_OK.pdf?1591855029

The Carter Center, Les laissés-pour-compte de l'exploitation minière industrielle, rapport-synthèse des études d'impacts des activités minières sur les droits des communautés locales, April 2018, P. 22



Sustainability and Responsible Business: The Multistakeholder Imperative

The GAIN Nordic Partnership Case, on behalf of the Global Alliance for Improved Nutrition, Arla Foods Ingredients, DanChurchAid and Danish Industries

The GAIN Nordic partnership, which include: the Global Alliance for Improved Nutrition (GAIN); Arla Foods Ingredients (AFI); DanChurchAid (DCA); Danish Industries (DI), has since 2014 been collaborating on various project ideas related to affordable and nutritious food for the bottom-of-the-pyramid segment. The present case presents key reflections, experiences, and recommendations from the “Access to Better Dairy” project, developed under the Danida Market Development Programme (DMDP) initiated in 2016. The project holds the overall objective of creating a market-based response to malnutrition whilst supporting the development of scalable and inclusive business models in the dairy sector of Ethiopia.

The project partners have since the commencement of the project, been committed to integrate Responsible Business Conduct (RBC) principles and practices as a key driver for sustainable development, and as a pathway to explore benefits of multistakeholder collaboration and promotion of more rights-based business models. The multistakeholder partnership model has provided the foundation of the RBC approach, where individual project partners have contributed with expertise and insights to ensure capacity and resources needed to amplify understanding of the contextual needs and challenges, and how prevention and mitigation of risks towards human rights and the environment has been integrated in project design and activities through ongoing due diligence activities.

Bridging Human Rights Impact Assessment with Sustainable Development Goals

The DMDP facility marks a significant milestone as the first Danish business development programme to recognize the importance of integrating project-level due diligence on human rights and environmental factors into project design and outcomes.



In 2016, limited resources and methodologies were available in this domain, with existing guidance and tools primarily tailored for more traditional business operations characterized by structured governance systems and established operational presence. Consequently, these tools were somewhat constrained for a development project consortium aiming to align with the then objective of a 5-year project cycle.

The primary challenge at hand was not just the "how to" of conducting an impact assessment but, more importantly, how to conduct an impact assessment that aligns with the ambitious goals of delivering on SDGs 2, 8, and 12. This had to be achieved while simultaneously addressing and mitigating potential negative impacts that might be associated with achieving these objectives. The impact assessment was conducted as a collaborative, multistakeholder exercise by the partnership. All partners played active roles, with AFI leading as the business partner, DCA serving as the project manager, and GAIN and DI participating as project partners. In this process, the partners did not aim to establish a new assessment methodology. Instead, they sought to reflect on opportunities to align HRIA with the SDGs through concrete examples and guiding questions drawn from the inherent findings of the case. This approach aimed to enhance the understanding of how to assess both potential negative and positive impacts in a complementary manner, bridging the commitment to RBC with the potential to advance progress toward the SDGs.

The methodology applied built upon the Human Rights Impact Assessment (HRIA) Guidance and Toolbox developed by the Danish Institute for Human Rights, following their five-phase HRIA model, systematically incorporating and analysing objectives, challenges and risks. While RBC standards do not explicitly mandate companies to conduct impact assessments, the commitment to RBC underscores businesses' responsibility to identify, assess, and address adverse human rights impacts stemming from their activities and supply chains. The impact assessment was developed with the intention of preventing adverse impacts on vulnerable individuals and groups, such as farmers, workers, and low-income consumers. The HRIA methodology served as the primary source of guidance to ensure full compliance with the project's ethical standards by integrating human rights risk management and due diligence procedures early on and applying them throughout the continuous phases of project development. This approach emphasized the fundamental principle of "doing no harm," a prerequisite for responsible business conduct in accordance with the UN Guiding Principles on business and human rights, and a recognized precondition for achieving the SDGs.

Stakeholder engagements were essential not only for identifying potential negative impacts on local communities but also for realizing and understanding how to deliver positive impacts. Stakeholders were identified throughout the value chain, including farmers, processors, and cooperatives, based on insights and input from local partners within the GAIN Nordic Partnership. Additionally, representatives from research institutions, local businesses and business associations, government entities, embassies, and development organizations were identified to ensure comprehensive consultation and collaboration.

When you conduct an impact assessment, you identify where in the supply chain you make an impact – both positive and negative. As a result of this process, we have increased our awareness about our responsibility as a company. We have learned that we are more than a supplier; we are also an influencer.



As a result of this approach, partners gained a clearer understanding of their roles and responsibilities and succeeded in integrating the key findings into a due diligence system applicable for a multistakeholder development project collaboration. For AFI, this newfound clarity, also led to a deeper awareness of their responsibilities as a B2B company and the potential to exert a positive influence. As Charlotte Sørensen from Arla Foods Ingredients Group P/S noted: "When you conduct an impact assessment, you identify where in the supply chain you make an impact – both positive and negative. As a result of this process, we have increased our awareness about our responsibility as a company. We have learned that we are more than a supplier; we are also an influencer."

Raising the Bar for Multistakeholder Collaboration and Dialogue

In 2020, the partnership was awarded a so-called "Greening top of funding" by DMDP, and thereby received the opportunity to further develop approaches to direct concrete activities towards more green and sustainable intervention strategies.



In addition to the funding, the partnership also received an extension of the project period until end 2023, which opened opportunities to scale on the intervention strategy within the dairy sectors in Tanzania and Pakistan. Building on the learnings from the impact assessment and the due diligence practices enabled through the initial project, the partners agreed to continuously work to amplify impacts on RBC by adding a distinct emphasis to the need for more spaces and platforms to support local business, particularly within the small- and medium size enterprise segment, in becoming more sensitised on expectations and building capacity to actively work with and integrate RBC principles in their distinct operational spheres. This collaborative effort reinforces the partnerships commitment to RBC and serves as an extension of the project's values and objectives, ensuring that the principles of RBC are not limited to specific initiatives but are ingrained in the broader business landscape to create an enabling environment for peer-to-peer learning, multistakeholder knowledge exchange and collective impacts toward structural barriers for business to succeed in implementation.

With the recent adoption of the Corporate Sustainability Due Diligence Directive (CS3D), the EU Commission has outlined the standards and expectations EU businesses are legally bound to meet not only within their own operational space, but also within their supply chains. This is seen as a gamechanger in terms of securing more structured and adequate due diligence to be performed, but simultaneously also prompts several concerns for businesses in non-EU countries with limited access to capacity support and information on how to translate EU expectations into corporate practices and regulatory frameworks. The CS3D has thereby also amplified the need for more contextual and localized approaches to be identified and taken to scale at national level for non-EU businesses to sustain and continuously engage in the international market.

In order to comply, not only with DMDP expectations, but also to contribute towards more sustainable global trade, the partnership has taken a number of steps to enhance opportunities for the partners and key stakeholders within the dairy- and agricultural value chains in the three focal countries. DI has been lead in hosting a number of awareness raising meetings and workshops with local businesses to better understand the needs and challenges. Based on the key take aways as well as noting new guidance tools for SMEs on RBC, for example Ethical Trade Denmark's Six Step Guide to Due Diligence and the OECD Due Diligence Guidance on RBC.



DI has developed a guidance document on how to get started specifically targeting SMEs, and the tool has been a strong entry point to open conversations and enable dialogue and collaboration within specific sectors on how to move forward on the agenda, whilst securing more information and knowledge exchange to a broader number of relevant stakeholders. During a joint partner workshop with the members of the Addis Ababa Chamber of Commerce in May 2023, the Secretary General Shibeshi Bettemariam, emphasized the “RBC not only attracts quality investments but also aligns business activities with sustainable development goals” and that the multistakeholder platform's capacity-building efforts, provide a forum for companies to share their experiences and challenges in implementing RBC, as well as offers a collaborative dialogue to inform the businesses decision making processes and strengthens the collective resolve to navigate uncertainties associated with business endeavours.

Conclusion

The active integration and continuous awareness of RBC principles and practices within the consortium partnership have significantly advanced the project partners learning and intervention strategies. This proactive approach ensures the partnership's compliance with international standards and expectations, while also creating opportunities to engage a wider range of stakeholders in ongoing dialogues aimed at implementing stronger due diligence approaches. These efforts extend beyond Ethiopia to include Tanzania and Pakistan, where the partnership is actively working to enhance dairy and agricultural value chains.

Despite facing resource constraints of local SMEs, the partnership has successfully introduced and encouraged SMEs in these focal countries to adopt RBC practices. A particular emphasis has been placed on the role of business associations, such as national chambers of commerce, which serve as key conveners of vital multistakeholder dialogues. These dialogues help identify contextual and localized needs, inform businesses, and enable the development of joint plans to address structural issues within each sector or country. This commitment to multistakeholder dialogue reflects a global trend, with RBC becoming a central focus of the economic agenda and contributing to a more conducive investment environment and outlook to more just transitions. The project, through its partnership and collaboration with local businesses, serves as a practical model for implementing RBC in challenging environments.



It demonstrates that responsible business practices are not limited to large corporations but are accessible and beneficial to SMEs as well. Importantly, the partnership's efforts to promote RBC extend into global supply chains, particularly within the agricultural sector, which is recognized as one of the most challenging sectors to ensure due diligence standards are upheld at every stage of the value chain.

The partnership's approach to due diligence is considered a good practice example on several fronts. It makes a compelling case for more multistakeholder partnerships and consortia to follow suit by integrating key considerations of RBC. This integration goes beyond mere risk management and compliance; it serves as a valuable driver for sustainable development and local economic growth. The collaboration among policymakers, private enterprises, and civil society organizations is deemed essential in shaping a business landscape that not only meets societal needs but also promotes sustainable practices. This collaborative approach plays a pivotal role in shaping the future of global value chains, and ensuring they operate in alignment with the highest ethical and environmental standards.

In conclusion, this case underscores the enduring significance of RBC as a guiding principle for businesses and other stakeholders involved in development projects which encourage local economic growth. It serves as a testament to the partnership's unwavering commitment to responsible business conduct, aligning economic growth, environmental preservation, and societal well-being in the pursuit of progress and sustainability.

Notes

Responsible business conduct (RBC) is a term developed by the OECD in its Guidelines for Multinational Enterprises. It refers to a business (a) making a positive contribution to economic, environmental and social progress with a view to achieve sustainable development, and (b) avoiding and addressing adverse impacts related to an enterprise's direct and indirect operations, products or services. It covers human rights (including labour rights), environment and anti-corruption.

In 2018 OECD published Guidelines on RBC Due Diligence, sentiments very much aligned with the HRIA approach [OECD Due Diligence Guidance for Responsible Business Conduct - OECD](#)



Strengthening Corporate Human Rights Due Diligence: Moving Companies from Commitment to Action

By Esther Yongo, Network Program Manager & Judy Njino, Network Executive Director, Global Compact Network Kenya

The business sector needs to begin leading, not simply pledging to follow. Businesses in every sector today are confronted with a variety of human rights issues that are intertwined with their core business objectives. These challenges can be pressing and complex for firms operating in a global economy where the cost of unmanaged human rights risks is high. The UN Global Compact Annual Survey of 2020 showed that more than 90% of the UN Global Compact business participants reported having human rights policies yet only 18% reported conducting human rights due diligence. The gap was even wider for companies that are not committed to the UN Global Compact with the 2020 Corporate Human Rights Benchmark showing that 46% of all companies assessed failed to indicate any actions under the due diligence indicators. These, among many other reports, highlight the gaps that exist between business aspiration and business action on human rights which must be addressed if we are to achieve the Sustainable Development Goals (SDGs) since more than 90% of the 169 SDG targets are related to human rights and labour standards.

From these surveys, the businesses highlighted a lack of knowledge and understanding of the human rights responsibilities, standards, and the due diligence process as the major contributor to the wide gap between commitment and action on human rights. This is why Global Compact Network Kenya is mobilizing Kenyan companies, providing them with guidance to move from commitment to risk management processes, driving multi-stakeholder engagement opportunities to strengthen respect and support for human rights, and helping them prepare and adapt as legislations emerge on mandatory human rights due diligence.

The Human Rights Principles of the UN Global Compact are derived from the Universal Declaration of Human Rights. The first principle calls on Businesses to support and respect the protection of internationally proclaimed human rights. The second principle calls on businesses to make sure that they are not complicit in human rights abuses by conducting human rights due diligence in their business relationships and associations.



The UN Guiding Principles on Business and Human Rights, therefore, provide further conceptual and operational clarity for UN Global Compact and a central reference point for efforts toward bridging commitment and action on human rights.

In the wake of heightened legislation around mandatory business and human rights due diligence, the identified gaps between aspiration and action as well as the inadequacy of local laws, Global Compact Network Kenya provides best-in-class tools, resources, and learning platforms to companies to acquire knowledge, skills and tools to enable them to operationalise the principles and address the gaps in business and human rights.

With the increasing public interest in human rights due diligence, attention is shifting from just the larger, globally active companies to include the small and medium-sized enterprises (SMEs) which are part of these supply chains.



With the increasing public interest in human rights due diligence, attention is shifting from just the larger, globally active companies to include the small and medium-sized enterprises (SMEs) which are part of these supply chains. Global Compact Network Kenya therefore mobilizes and supports large companies and SMEs alike to be a force for good in promoting and respecting human rights.

Global Compact Network Kenya runs a six-month deep-dive Accelerator programme activating companies participating in the UN Global Compact to get hands-on support in establishing an ongoing human rights due diligence process. Through the programme, businesses get to identify their responsibilities in respecting human rights and labour rights, assess their actual and potential adverse human rights impacts and prioritize them for action, develop grievance and remedy mechanisms as well as identify ways to engage stakeholders and communicate on business impacts. In an ever-changing sustainability landscape, sustainability professionals are constantly looking for opportunities to connect with their peers for insights and knowledge sharing.



Global Compact Network Kenya is providing a safe space for Kenyan businesses to share their best practices and challenges on labour and human rights with like-minded professionals while gaining access to industry experts and unique networking opportunities through Peer Learning Groups. Some of the interesting topics they get to discuss include occupational safety and health, discrimination, sexual harassment, child and forced labour, freedom of association, a living wage, working time, gender equality and indigenous people.

The UN Global Compact Business & Human Rights Navigator also guides companies to better understand and address human rights impacts in their operations and supply chains. Companies using the tool can assess their key human rights issues, access due diligence recommendations, as well as case studies illustrating how other businesses have responsibly addressed human rights impacts.

To encourage the integration of human rights principles in business strategies and operations, Global Compact Network Kenya further encourages and inspires organization-wide learning among Kenyan Businesses through its online learning UN Global Compact Academy platform that can reach employees at scale. This promotes awareness creation and builds the organizations' knowledge to support the development implementation and management of practices in line with the UN Global Compact Ten Principles.

Global Compact Network Kenya continues to play a key role in bringing together businesses and other human rights actors including the Government, civil society, rights holders and human rights defenders to identify new and emerging issues; promote multi-stakeholder trust and interaction; identify, develop and implement innovative solutions to systemic challenges; and support advocacy for policy reforms. Through these partnerships and collaborations, private and public actors get to combine their resources, skills and expertise to enhance results and impact. Through these interventions, the participating companies are awakened to their responsibilities and can carry out their mandate to respect and promote human rights thus creating a cleaner and sensitive business environment where businesses are not complicit in human rights abuses.



About Global Compact Network Kenya

The United Nations Global Compact is a call to companies everywhere to align their operations and strategies with Ten universally accepted Principles in the areas of human rights, labour, environment and anti-corruption, and to take action in support of UN goals and issues embodied in the Sustainable Development Goals (SDGs). At the local level, Global Compact Network Kenya is working to accelerate and scale the collective impact of businesses in Kenya by upholding the Ten Principles on Human Rights, Labour, Environment and Anti-corruption and delivering Sustainable Development Goals (SDGs) through accountable companies and ecosystems that enable change.

The Kenya Network is an independent and self-governed entity that was launched in 2005 and is currently the largest of the UN Global Compact Networks in Sub-Saharan Africa (SSA), Middle East and North Africa (MENA) regions. It brings together close to 800 signatories of the Code of Ethics for Business in Kenya and over 292 signatories to the UN Global Compact which comprises of multi-national corporations, large home-grown companies, and small and medium-sized enterprises from diverse sectors to drive inclusive and sustainable economic growth.

References

<https://unglobalcompact.org/what-is-gc>

<https://unglobalcompact.org/engage-locally/africa/kenya>



Integrating a Human Rights Approach into the Cleaning and Maintenance Services in Kenya

By Mary W. Thuo and M. Christopher Karitu, CITYSCAPE TRENDS SERVICES LIMITED

The Covid-19 crisis had a massive negative impact on businesses and society and became the starting point for Cityscape Trends Services Limited to innovate its business model. In this article we present a number of programmes in which we have leveraged our core business of cleaning, sanitation and maintenance services into positive social and environmental impacts, and how we have used our corporate experience to advocate on key social, economic and environmental issues to a national level. We also explain the added value of membership in multistakeholder initiatives championed by cross-sector and cultural institutions such as the UN Global Compact Network Kenya and how we have used our experiences to promote concrete steps for SMEs to strengthen their integrated business and human rights.

Enhancing Wellbeing and the Environment through Impact Programmes

In Kenya, during the Covid-19 pandemic, there was a vast rise in cases of mental health issues, due to the enormous social and economic impacts to society. The pandemic initiated an extreme drift in business operations that not many were used neither were adjusting to as stringent control measures were implemented in quick haste brought about a sense of alienation. At Cityscape Trends Services Limited, we felt and experienced a substantial decrease in incomes as impromptu drawbacks and recalls by international clients, besides local consumers, caused a struggle in maintaining our business. However, the event became the onset for the company to start developing new approaches to strengthen the wellbeing of staff, who were risked to infection, besides, incorporating new business strategies for enterprise continuity and at the same time planning interventions to benefit the environment.

By this prioritization, our first initiative was 'Cycling2Work' which was realized in partnership with Buffalo Bicycles, a strategic partner who provided bicycle maintenance and road safety trainings that were beneficial to our pilots' navigation in city/ residential traffic.



We purchased the Buffalo bicycles with a five-year guarantee and safety equipment for our employees, which enabled them to have a more sustainable way of transporting themselves to work. Furthermore, it increased exercising and saving money on other means of transportation and directed these summed proceeds to their other household needs. Within our purchase, some of the bicycles handed to staff found their way to the employees' children, granted to them by their parents, for them to also suit the school travel needs of the children, altogether. Through a merchandise purchase with Giant Bicycles all employees have received water bottles of which the excesses were incorporated into our business service as reusable soap and detergent containers. Furthermore, through Giant Bicycles, we acquired helmets for our pilot teams, ensuring and guaranteeing their cycling security.

The Cycling2Work programme has positively influenced the health and wellbeing of staff and thus the business itself. While the programme has contributed to lowering emissions, the company has taken a step further to ensure that all the sanitary products used in services are organic and environmentally friendly, a key input championed by the Mazingira Bora Program. A key result of this transition has been better and less use of water. Going a step further, Cityscape Trends Services Limited also engages actively with manufacturers both on social and environmental risks, to make sure the products used do not have any negative social, economic and environmental impact. The Cycling2Work programme was the first, out of five impact programmes that Cityscape Trends Services Limited have initiated since 2020. The others, using the UN Global Compact Principles as a marker for Cityscape Trends Services Limited, are:

1. The Salama Salamin Program; a Swahili translated policy initiative that decodes Safe and Sound, in the context of work and gender; developed and emphasized by the Sustainable Development Goal number 8 that champions for Decent Work, Decent Pay.
2. The Jiweze Program: an ingenuity born to alleviate economic margins for staff of Cityscape Trends Services through alternate, subject oriented, income streams. In translation, this too, from Swahili, means 'Uplift Yourself'.



3. The Mazingira Bora Program, an economic and pro-environmental grounded initiative that advocates and influences organic culture for the promotion and protection of natural resources and assets that are capital within our, Cityscape Trends Services' operational grounds and work environments. This too, from a Swahili translation, means 'Better Environment'.

4. The Angaza Pamoja mentorship forum: a mentorship scoped initiative that works to highlight and shed light on contextual issues that challenge persons, businesses and institutions, to promote resilience, adaptability and continuity of lives and livelihoods of the delegate subjects. Through Angaza, we magnify these issues, through a Pamoja, integrated approach, thus the brand, Integrated Magnification, coded in Swahili too.

Turning Challenges into National Level Advocacy

In the pilot phase of the Cycling2Work Initiative, we did experience a number of challenges. We noted that some female employees would hand the bicycles to their spouses and children, and despite undergoing safety and protocol training, that safety on the public roads of Nairobi and its environs was an issue. Our pilot pioneers were made insecure from the harsh road treatment other motorists subjected to them when riding on the road, intrusion that pedestrians accorded to them in designated cycling walkways and insecurities that mugs shrivelled in them after parking their bicycles.

To this regard, we engaged in conversations with not only our colleagues to ensure that the bicycles were used for the intended purposes, but also, took up a proactive step to engage developers and stakeholders of city development to curb, mitigate and minimize transport and security risks. Our impact programmes are all designed to undergo different phases, one being evaluation from feedback, to ensure human rights are promoted through our enacted, due diligence process. By the report accorded from our pilot employees delegated in the 'Cycling2Work' Program, we are currently advocating to have cycling lanes, and additionally, lanes for pedestrians and accessibility points for people living with disabilities. The local Global Compact Network office has in this case been a great platform to initiate collaborations on advocacy across not only businesses but also social development stakeholders, and we look into engaging communities and churches to also push for government action on the matter.



Using Global Compact Principles to Strengthen Business Model

Cityscape Trends Services Limited is a signatory to the UN Global Compact principles and an active member of the network in Kenya. It was the principles of Global Compact that initially inspired the company to develop their impact programmes by understanding then integrating a human rights-based approach into the company's core business model. The CEO of the company, Mary Thuo, was in 2022 appointed as the SDG pioneer for championing socio-economic wellbeing, and the network has also been a great forum to share learnings on strengthening human rights approaches for small and medium-sized companies. The company has also been recognized by UN Women for championing on SDG 3 (Ensuring healthy lives and promotion of wellbeing for all of gender) to work equitably devoid harassment, promoting safe, flexible, and equitable working conditions.

While the impact programmes have contributed positively to the wellbeing of employees and other companies in the supply chain, they have also contributed to a better business. Implementing human and environmental rights principles have strengthened the reputation of Cityscape Trends Services Limited and enabled the company to showcase their business in international fora like the UN Business and Human Rights Forum in Geneva, and ILO and IOE roundtables in Madrid. The hope is that the impact programmes will inspire other businesses to take on similar steps and be the proof that human rights are good for business.

About Cityscape Trends Services Limited

Cityscape Trends Services Limited is a social enterprise for profit providing commercial cleaning and maintenance services for offices and buildings. We are a team of skilled professionals dedicated to creating and managing indoor and outdoor spaces for our clients. We identify ways to leverage on our business to address social and environmental issues. All our business operations, cleaning services in Kenya, are inspired by UN Global Compact principles including human rights, labour rights, anti-corruption and environment and the sustainable development goals. Learn more through our website: <https://cityscapetrends.co.ke/about-2/>.



November 2023