

Conference Report

East Africa Business and Human Rights Conference 2023



Background

East Africa has been described as a regional leader when it comes to picking up the business and human rights agenda. Two countries in region (Kenya and Uganda) have already adopted a National Action Plan on Business and Human Rights (NAP), others are moving to follow the same track. To facilitate cross-country learning, DanChurchAid in partnership with a number of organisations, organized the first East Africa Business and Human Rights Conference in June in Kampala 2023. The conference hosted key stakeholders, incl. government, national human rights institutions, private sector, civil society, human rights defenders with the objective to progress on policy development and implementation in the region with particular attention to human rights risks linked to land-based investments.

The East African region is one of the world's richest natural resource regions and attracts significant attention in the extractive and energy sectors. Many countries in the region possess vast areas of fertile land, which are essential for sustenance of communities and agricultural industries. Land Based Investments (LBIs) are implemented to contribute to GDP growth and agri-food value chains, which are essential to tackle food security challenges persisting in the region. While LBIs contribute to economic development and provide for multiple employment opportunities and infrastructure development in the region, they have also been associated with risks to labour-, land-, and environmental rights. For example, LBIs have been linked to worker discrimination and lack of remuneration, child labour and eviction of communities from their land without proper compensation. At the same time, an increased number of private sector actors are determined to identify and mitigate environmental and human rights risks throughout their value chains. In this process, states play an essential role in offering proper guidelines to inform private sector operations and in ensuring accountability and remedy mechanisms in cases of negative impacts and rights abuses. The conference was conducted based on the need to address these immediate challenges and explore how public and private actors can act in partnership with related stakeholders.

The conference was organized by DanChurchAid, the Danish Institute for Human Rights, the Network of African National Human Rights Institutions, the Business and Human Rights Resource Centre, and the Ministry of Gender, Labour and Social Development in Uganda in partnership with Resource Rights Africa, Uganda Consortium on Corporate Accountability, Uganda Human Rights Commission, Witness Radio, Global Compact Uganda, Advocats Sans Frontières Uganda, FIDA Uganda, Seatini, and the Initiative for Social and Economic Rights. The main financial supporter to the Conference was the European Union. Additionally, the Conference was supported by the Danish Institute for Human Rights and DanChurchAid (via the Danish Ministry of Foreign Affairs).

Conference Objectives

- i. To discuss challenges and opportunities related to business and human rights frameworks and law including learnings from national policy development and implementation across the East African region focusing on national action plans on business and human rights (NAPs) and promote increase in binding national law.
- ii. To strengthen the multistakeholder dialogue and alliances in the East African region and promote the integration of business and human rights safeguards into East African Community (EAC) trade policy.

- iii. To assess the regional status of human and environmental rights risks linked to Land Based Investments by looking at sector-specific value chains and to explore tangible procedures to ensure respect for human rights.
- iv. To explore the impact of the EU Corporate Sustainability Due Diligence Directive on East African-based businesses and discuss how national initiatives can enhance compliance

Key outcomes

Roadmap to National Action Plan on Business and Human Rights

The below recommendations related directly to NAPs but can be applied to other cases of binding and non-binding BHR law.

- A NAP process can be kickstarted through **internal and external awareness raising, stakeholder mapping, national dialogues, regional events, and roadmaps**. Processes must be localized and multistakeholder-driven according to the unique mandates of national actors.
- An **inclusive approach across stakeholders** will create the strongest results. You cannot go far without ownership and inclusion of people-based organizations like civil society, private sector, national human rights institutions etc. Different stakeholders can bridge different actors together into the process (e.g., NHRIs and CSOs can often bridge government actors with local communities)
- **Meaningful consultations with rights-holders** are key to ensure relevant policy development (vulnerable groups most affected have to be part of the conversation on an ongoing basis).
- A **baseline study** can strengthen the relevance of policy development and capacity building across stakeholders can help kick-start the process.
- An **interministerial and/or coordination committee** will strengthen the horizontal cohesion of human rights policy development and implementation.
- **Resources must be mobilized** to ensure policy development and effective implementation. Attaching a budget to a NAP and building partnerships for implementation are recommended to ensure feasibility.

Advise for Effective Implementation (for policy makers)

- In Kenya, the Department of Justice have constituted a team to oversee the implementation of the NAP. **A policy matrix identifies concrete actions** for the policy, and sessions have been conducted with especially the private sector on their role in implementation.
- **Conversations on concrete tools in terms of operationalizing the NAP**, e.g., on due diligence, have also taken place in Kenya, as well as a NAP review process to strengthen implementation.
- In Uganda, it was suggested by the Ministry of Gender, Labour and Social Development to start publishing **factsheets on progress of implementation** and to increase the feedback to the NAP secretariat.
- **Annual business and Human Rights Symposiums** in Uganda enable a continued dialogue between stakeholders on the status of NAP implementation and related challenges.

- **Communities must be involved and empowered through capacity building and sharing to effectively advocate for implementation.** In Uganda, there has been conducted trainings of local government officials and establishment of desks for communities to better be able to demand their rights. Strengthening stakeholder engagement especially means having those primarily affected be part of the conversation.

Advise for Effective Implementation (for private sector)

- Private sector must set **sustainability and responsibility targets** guided by a clear human rights policy and have effective mechanisms in place to monitor and progress across operations (what doesn't get measured doesn't get done).
- **Human rights impact assessments** (HRIAs) should always be carried out for land-based investments. It is recommended to use the UNGPs and e.g., the Danish Institute for Human Rights guide potentially and have external experts or consultants guide the process.
- Risks mapping, for land-based investments in East Africa, should be particularly aware of **labor, land, and environmental rights**, but also looking at opportunities for where the company can do better and do good.
- Building on a HRIA **all levels of operations must be engaged and informed** (sourcing sites, factory sites, logistics, outlets, sales etc.) to make sure all are aware of commitments and responsibilities. This also goes for the up- and downstream part of the value chain.

Dialogue has catalyzed and supported developments of BHR policy development in East Africa

- The East Africa Business and Human Rights conference have enabled networking for actors across the region to share learnings across stakeholder groups and been a venue to initiate new partnerships on BHR.
- After the EA BHR conference, the **Burundi** delegation has initiated a BHR project with the aim of adopting a NAP (they are currently looking for funds for implementation and have requested for appointments with specialists to kickstart the process).
- For **Tanzania**, the Commission for Human Rights and Good Governance (CHRAGG) presented the policy status during the conference. CHRAGG have this year submitted a concept to the Ministry of Constitutional and Legal Affairs on NAP development, which was accepted. Now awaits the conduct of an updated baseline (conducted in 2017) and the kick-start of the drafting process.
- In **Ethiopia**, plans to develop a NAP were also committed from its National Human Rights Action Plan (2016-2020). In the beginning of 2023, a multistakeholder dialogue was facilitated to identify the next steps. These include consultations for NAP development and further awareness-raising to key government actors to insure realization of the action plan. The Ethiopian Human Rights Commission have planned to undertake a baseline study and continue to advocate for adoption.
- For **DRC**, there has been a government decision to adhere to the global initiative of the Voluntary Principles on Security and Human Rights, which paves the way for the adoption of a national action plan on business and human rights. 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.

Key challenges remaining to ensure BHR in the region

- **Human Rights Defenders** (including journalists) are in many contexts threatened and abused, especially in communities where land-based investments are taking place, in their struggle to protect peoples and environmental rights. A 'just transition' also means ensuring that HRDs and the environment is protected in all types of investments relating to the green transition.
- **Women and children and minority groups are particularly vulnerable towards human rights violations in land-based investments.** Cases were presented of children being forced to engage in hazardous work, using heavy machinery or dangerous chemicals, working long hours keeping them away from school. Furthermore, high levels of gender-based violence, issues of land inheritance were emphasized as gender-discriminatory issues related to agricultural production.
- **Evictions and abuse of land rights** are a key issue identified for land-based investments in the region.
- More vigilance is needed to ensure **effective and accessible remedy**, including for communities impacted by businesses based in other countries (currently a lot of extraterritorial litigation is being tracked).
- **Waste management** is key to ensure that extraction of minerals like rare earths does not cause harm to the environment and related food systems (case presented over concerns for Makutu Rare Earth Project in Eastern Uganda).

Progression across the region shall come from;

- **More uptake of NAPs**, which is an effective tool to address the human rights risks associated with foreign investments in East Africa.
- Investments in **social protection, better technology, strengthened law** and coordination across stakeholders to prevent violations of vulnerable groups.
- **Strengthen implementation and policy-making at East African Community level** to target BHR in line with [The Interagency Working Group on the EAC Child Policy](#)
- NAPs development happens nationally (Tanzania on track) but would be good to have **regional body to push and advocate for NAPs development** for other EAC members to move at same level. This could come from capacitating key institutions incl. EA court of justice and EA legislative assembly to develop laws and policies that put the rights of people first and enhance access to justice in cases of HR violations.
- **Implementation of the EU Corporate Sustainability Due Diligence Directive** (CS3D, likely adopted end of 2023) through a genuine multistakeholder approach as part of **gradualist development from non-binding to binding BHR regulation**. High-impact sectors identified in the law include minerals and agriculture and create incentives for companies invest more sustainably. CS3D can work as a tool of accountability for communities if assisted by CSOs to track progress along supply chains.
- **Human Rights Defenders** can in general function as key agents in tracking implementation of BHR policy. **Awareness raising in communities by CSOs** on judicial and non-judicial remedy mechanisms and legal clinics can enhance complaints process. CSOs can also enable alliance-building with other CSOs to increase weight in conversations with or towards multinationals.

- **Equipping business leaders, entrepreneurs and SMEs** to champion BHR implementation. Demand sustainability data from investors and make sure that law and practice is in place to continuously assess and de-risk investments.

Looking ahead:

- The **EU in Uganda will soon be starting a BHR project** implemented through Enabel partly to enable space for businesses to meet with CSOs and government to understand the implications of BHR policy (a regional one is coming as well).
- The AU “draft Africa BHR policy” Submitted to Africa Union Specialized Technical committee on Justice and Legal Affairs is expected to progress in November.
- The second [Business and Human Rights Forum for Africa](#) was successfully conducted in Addis Ababa (September 2023).
- The [12th UN Business and Human Rights Forum](#) will take place in Geneva 27-29 November.

Highlighted Messages

Chairperson of the UN Working Group on Business and Human Rights, and representant for Africa, Mr. Damilola Olawuyi, called on all the member states of East Africa to follow Uganda and Kenya’s lead on NAP adoption. He emphasized that investments would benefit from a timely uptake of business and human rights policy, which should include high due diligence standards, but that this cannot be achieved by any stakeholder alone.

John Ikubaje, Political Officer, the African Union Commission, underlined that the conference platform has motivated other dialogues (including the Africa Forum in Addis Ababa and UN Forum in Geneva) and promoted social networking that constructively influence businesses and other stakeholders. The conference has been a call to the EAC and other member states to progress on BHR policy.

Mercy Obonyo, Programme Officer at the Network of African National Human Rights Institutions; emphasized to ensure that conversations on regional levels trickles down to national levels. ACHPR adopted a resolution on business and human rights and on african continental free trade agreements incl. specific asks on progressions in BHR.

Honourable Nyirabashitsi Sarah Mateke, Minister of State for Youth and Children Affairs in the Ministry of Gender, Labour and Social Development confirmed that the Ugandan government is committed to implement the plan to strengthen the state’s duty to protect and the corporate responsibility to respect human rights, and that both actors ensure access to remedy for victims of non-compliance. The government is keen on enhancing dialogue with the private sector but will react in cases of non-compliance.

Business and Human Rights Specialist, Victoria de Mello from the United Nations Development Programme, underlines that there is, in addition to a fundamental responsibility, a business case for human rights. If human rights are violated in the supply chain, it creates operational, legal and reputational risks to the company. A NAP can be used as a policy instrument for states to show businesses and other stakeholders that they are committed to protect human rights.

Participants overview

115 people participated in the physical event, which was also livestreamed. The participants came primarily from EAC and Ethiopia, but a few other countries were represented as well. The multistakeholder approach to the dialogue encouraged participants from both civil society, government, private sector, national human rights institutions etc. The profile of participants is illustrated in the table below:

Category	# of people
Total participants in programme	115
Uganda	52
Ethiopia	8
Kenya	18
Burundi	7
Rwanda	3
Tanzania	10
DRC	4
South Sudan	3
Other	10
Civil Society Organisations (national)	33
INGOs	17
NHRIs	16
International Organisations (EU/UN)	8
Private Sector	20
Government	16
Other	6
Women	66
Men	59