



**ROUNDTABLE ON THE OCCASION OF THE 9<sup>TH</sup> UN FORUM ON BUSINESS AND  
HUMAN RIGHTS: MULTI-STAKEHOLDER STRATEGIES TO STRENGTHEN  
BUSINESS AND HUMAN RIGHTS EFFORTS IN EAST AFRICA  
SUMMARY REPORT**

On 25 November, the Ministry of Foreign Affairs of Denmark (MFA), DanChurchAid (DCA), and the Danish Institute for Human Rights (DIHR) held an engaging stakeholder debate on *Multi-stakeholder strategies to strengthen business and human rights efforts in East Africa* in conjunction with the 9th UN Forum on Business and Human Rights and in the context of two projects on the topic funded by the MFA (through the Permanent Mission of Denmark in Geneva) and implemented by DCA and the DIHR.

The session kicked off with Søren Høgsbro Larsen, Permanent Mission of Denmark in Geneva, welcoming participants. He then turned to Amb. Morten Jespersen, Permanent Mission of Denmark to Geneva, who provided welcoming and introductory remarks. In doing so, Amb. Jespersen noted that he was pleased about the diverse group of participants and stated that an important priority for Denmark as a member of the Human Rights Council was to strengthen business and human rights (BHR) and to work to bring Geneva closer to the field and bring the field closer to Geneva, with the aim of strengthening the links between the normative work in Geneva and the concrete work at national level.

Larsen then introduced Andrew Odete, Adviser, DIHR, Stella Wangechi, Senior Human Rights Officer, Kenya National Commission on Human Rights (KNCHR) and Andrew Byahuranga, Executive Director, Resource Rights Africa, Uganda, who were speaking on the subject of *“Status on the development of National Action Plans on business and human rights in East Africa.”* In starting the conversation, Odete noted that National Action Plans (NAPs) can make a critical contribution to holding states accountable for the protection of human rights in the context of business activities. He explained that states are encouraged to adopt NAPs, called upon to do so by the UN Working Group on BHR and through Universal Periodic Review (UPR) processes (as was the case with Kenya and Zambia), among others. Odete explained that state actors in four countries in Africa (Kenya, Uganda, Morocco and Liberia) have taken concrete steps towards NAP development, while six countries in Africa have developed an initiative towards a NAP with most having developed the process to conduct a National Baseline Assessment (NBA). Odete then asked Wangechi to speak to the status of the NAP development process in Kenya.

Wangechi emphasised that the Kenyan NAP is state led with the Department of Justice (DOJ) leading with support from the KNCHR and civil society actors. The DOJ has held consultations, policy dialogues and produced an NBA since 2018 and the NAP was submitted to parliament in June 2019 after which comments were received and responded to, and the NAP is currently at cabinet level. As a next step, the government will submit the NAP to parliament to be discussed on the floor and then adopted.

Wangechi explained that the role of the KNCHR is to coordinate development and that they have a mandate of offering access to remedy, conducting investigations and referring matters. She noted that a NAP is an “expensive affair” and that the KNCHR was tasked with planning and scheduling events to maximise efficiency of resources available. In addition, KNCHR has the role of promoting education on the United Nations Guiding Principles on BHR (UNGPs), as it is a new framework for most. There is no “one size fits all” NAP, rather Kenya’s NAP should be true to the spirit of UNGPs but guided by the “picture of Kenya”. In addition, the NAP should account for all marginalised groups and recognise indigenous peoples as central to BHR issues. In furtherance of this, the KNCHR contributed to NAP consultations with indigenous peoples and women, as the gender dimension was deliberately addressed by the group.

The group then turned to Andrew Byahuranga, Executive Director, Resource Rights Africa, Uganda to discuss the status of the Ugandan NAP. Byahuranga explained that the process began in 2016 when Uganda accepted recommendations pursuant to its UPR and stakeholders began lobbying for a NAP based on the recommendation. The NAP, which is built on the three pillars of the UNGPs, has been developed following extensive consultations at national level and through borrowing experiences from the region, for example, Kenya.

He noted that at present, a draft NAP has been presented within the Ministry of Gender which has made several inputs to ensure it follows national standards. Byahuranga stated that the priority is to ensure that Uganda is in line with other countries, and they worked with the Business and Human Rights Resource Centre (BHRRC) and other NHRIs to organise a national dialogue on BHR in 2018 and second symposium a few weeks ago. They are also working with OHCHR to ensure that they are on track to make sure the NAP is adopted and implemented. An inter-ministerial consultation on the draft will take place the following day (26 November) to make sure all human rights issues are embedded in the NAP and the Minister of Finance has submitted a letter to assess the issue of whether the NAP will impact the national budget.

Odete concluded the session by noting that the NAPs development processes in Kenya and Uganda are both state led and at cabinet level awaiting approval. Their status is dependent on the next stage which is the development of the implementation and monitoring plans. Larsen noted the synergies that had taken place between the various NAP processes and Denmark and OHCHR and turned to the next presentation on “*Covid-19 – Current challenges and collective opportunities*” which was led by Gladys Nairuba, Programme Officer, DCA.

Nairuba began by noting that Covid-19 presents challenges and opportunities in Sub-Saharan Africa and the Global South. Covid-19 has acted as magnifying glass for inequalities on populations most at risk to poverty, exploitation and abuse and has exposed existing inequalities around the world, especially pertaining to women and girls, children, frontline and migrant workers (e.g., African low skilled migrant workers in Middle Eastern and Gulf countries). She noted that it is mostly women and girls who are providing care work, so it is important to use a gender lens when viewing responsible business conduct during the Covid-19 pandemic, which she referred to as a social and economic pandemic. Nairuba stated that

the key issues include high numbers of unemployment, business closures, slowing of businesses and modern-day slavery. She noted that it does not seem like governments were taking action and that the labour issues that she raised present social protection issues.

Speaking on the subject of land rights issues, Nairuba presented evidence that Witness Radio documented 12,000 land eviction cases in Uganda, which happened during the lockdown period and in the middle of the night, when people are not able to seek refuge. She also noted that the Tilenga Project estimated to cause harm towards 100,000 people in Tanzania and Uganda and that while the underlying action did not occur during the pandemic, the cases and hearings are happening during lockdown and suits against landowners happened at the height of Covid-19, where there were transport and accommodation cost issues. She raised another issue of shared space under pressure in which the pandemic is exploited to keep human rights defenders quiet, and they are experiencing gaps in civil and political accountability and access to justice.

Nairuba concluded that the pandemic has also presented opportunities to engage in NAPs processes, multi-stakeholder approaches, promoting participation of grassroots communities, and promoting civil space and security for human rights defenders, and noted that the pandemic shows that interconnectedness and partnership comes out strongly in building multi-stakeholder approaches.

The next presentation, *“Sector specific challenges and opportunities for multi-sector collaboration”* was led by Nora Götzmann, Senior Adviser, DIHR and Joseph Kibugu, Regional Representative, BHRRC.

Götzmann introduced the work of the DIHR as part of the Responsible Business Conduct in Sub-Saharan Africa Project, noting that there are two components, the country level and thematic track. Her presentation focused on the thematic track, namely the energy and digital transition, wherein the aim is to understand more about human rights risks specific to the region associated with the two transitions and how can they be addressed through multi-stakeholder approaches. At this point, the DIHR has done preliminary background research and stakeholder mapping, and will next year engage with stakeholders on preliminary research to identify entry points and ways forward.

Götzmann proceeded to share preliminary observations from the two tracks. Regarding the digital transition, she noted that it appears as though Eastern Southern Africa is the “last digital frontier”, in which telecom and tech companies are seeking to increase market share, development actors are engaged and issues such as digitalisation of the economy and digital literacy are arising. At same time, there are weak human rights protections and safeguards. There also seems to be limited information on how human rights policies of Big tech companies are implemented in the African context and there is limited understanding of BHR in national companies, rather CSR is the dominant framework. However, Götzmann added several opportunities such as engaging with development finance actors to raise the bar on responsible business conduct; upscaling the role of NHRIs who are more active on BHR now, but could do more on the digital space; and studying the role that Big tech can play (e.g., social media in elections).

Regarding the energy transition, Götzmann shared four preliminary points. Firstly, there are ample opportunities for transitioning to renewables in the region, but the question is whether the right human rights due diligence (HRDD) frameworks are in place (at the state, planning and company level). Secondly, she noted that there is a question of whether sufficient engagement with stakeholders and rights-holders is taking place. Noting also the specific risks for women and girls and indigenous peoples. Access to remedy (judicial and non-judicial) also seems to be an area for attention. Thirdly, Götzmann spoke to the existing investment initiatives, which the DIHR observed contained less developed HRDD frameworks and practices than those for more traditional energy sectors. She noted that this presents an opportunity to engage with sector initiatives and at country level with investment centres. Finally, she raised the issue of land access and land rights, furthering that renewables projects pose many of the same impacts as traditional energy projects, and noted that there were clear links to protecting human rights defenders. Working to challenge the “inherently good fallacy” associated with the energy transition is therefore key.

Turning to the topic of agribusiness, Kibugu began his presentation by noting that the sector presents consistent challenges across East Africa. Specifically, Kibugu noted that large-scale land acquisitions ignore customary subsistence practices and predatory contract arrangements condemn small-scale holders to cyclic indebtedness, adding that the Special Rapporteur on the right to food has previously spoken on the latter. Kibugu furthered that failure to do HRDD exacerbates culturally entrenched gender discrimination by failing to conduct a gendered analysis prior to projects and warned of the increasing practice of ignoring customary food security models leading to severe human rights impacts.

The conversation then turned to “*Reflections and debate*” moderated by Götzmann and Roya Høvsgaard, Senior Advisor, Business and Human Rights, DCA. In kicking off, Høvsgaard selected a participant question on risks borne by women, issues seen during the pandemic and how to handle them. Nairuba responded to the question by stating that the government is required to fulfil the mandate to promote, respect and protect human rights. This is non-negotiable. The government can also take particular actions such as putting in place policy frameworks such as minimum wage rather than letting the market regulate wages. Nairuba noted that the UNGPs provide guidance on what companies can do for human rights impacts, such as having a gender policy and ensuring that the policy commitment includes gender and prevention of sexual exploitation. Companies should be able to let and facilitate staff to join trade unions. Götzmann then selected a question on barriers to implementing the NAP in Uganda. Byaruhanga responded that it was an issue of financial prospects, and funding from DCA and Resource Rights has helped, furthering that implementing a NAP is dependent on resources. Ruth Ssekindi from the Uganda Human Rights Commission submitted the interjection that before thinking about challenges to the Uganda NAP, it is critical to work towards having the document in place.

Larsen concluded the roundtable by thanking the participants and audience and summarising key lessons learned. Specifically, he noted that BHR should be a key area to focus on in the wake of Covid-19 and that it was his impression that efficient judicial and non-judicial mechanisms for accountability and access to remedy are lacking, and addressing this can make a difference on the ground. He stated that the organisers will consider how to follow up on this event, and that doing so could possibly entail a further event next year.