

**A Guide to  
Business and Human Rights  
for Commonwealth Forum  
National Human Rights Institutions**

**April 2018**



Commonwealth Forum of  
**National Human Rights Institutions**

## **About the Report**

This Guide was commissioned by the Northern Ireland Human Rights Commission, and prepared by Lucy Amis, Research Fellow with the Institute for Human Rights and Business (IHRB).

The Guide is based on desk-based research and analysis of key developments, trends, initiatives and guidance materials in the field of Business and Human Rights. The Guide was informed by findings from a series of interviews with representatives from a number of National Human Rights Institutions, in particular from within the Commonwealth. The sample group included NHRIs with minimal experience on Business and Human Rights, through to others - from diverse geographic regions - with a long track record of activity in the Business and Human Rights field. The interviews were carried out to identify the principal needs of NHRIs getting started in this space, to pinpoint relevant tools, initiatives and potential partners that might be useful, and to capture emerging good practice from among the Commonwealth Forum NHRI community to share as a basis of learning for relative newcomers.

The authors would like to thank the following for their time and contributions to this Guide:

The Australian Human Rights Commission, Canadian Human Rights Commission, Danish Institute for Human Rights, Commissioner for Administration and Human Rights (Ombudsman) of Cyprus, Equality and Human Rights Commission, Kenya National Commission on Human Rights, Malaysian Human Right Commission (SUHAKAM), Northern Ireland Human Rights Commission, Scottish Human Rights Commission, and Zambian Human Rights Commission.

## **About the authors**

### **Northern Ireland Human Rights Commission**

The Northern Ireland Human Rights Commission (NIHRC) is a national human rights institution with A status accreditation from the United Nations (UN). NIHRC is funded by United Kingdom government, but is an independent public body that operates in full accordance with the UN Paris Principles. The NIHRC has held the Chair of the Commonwealth Forum of National Human Rights Institutions from November 2015 to April 2018. The Commission also provides the secretariat to the Northern Ireland Business and Human Rights Forum, a multi-stakeholder platform which allows Government, business, and civil society to engage on business and human rights.

### **Institute for Human Rights and Business**

The Institute for Human Rights and Business (IHRB) is a global centre of excellence and expertise – a think and do tank – on the relationship between business and internationally proclaimed human rights standards. IHRB has a proven track record of working directly with business leaders, government officials, civil society, trade unions and others, including NHRIs, to provide

guidance on implementing the UN Guiding Principles on Business and Human Rights (the UNGPs), and to evaluate the effectiveness of current policies, operational practices, and multi-stakeholder initiatives relevant to human rights (see <https://www.ihrb.org/about/about-home/> for more details).

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## **What is the purpose of this Guide?**

This Guide aims to provide an accessible introduction to the field of business and human rights for National Human Rights Institutions (NHRI) and Ombudsperson Offices within The Commonwealth, particularly those that are members of the Commonwealth Forum of NHRIs.

The Guide includes:

- An overview of the United Nations Guiding Principles on Business and Human Rights (UNGPs) - the widely accepted international framework for addressing the human rights impacts of private actors, and how this has become entrenched within the international system.
- Insights into the role NHRIs can play in promoting the UNGPs, and encouraging their implementation and use by government, business and other stakeholders.
- Emerging trends across the dynamic business and human rights landscape.
- Short case studies to illustrate approaches taken by leading NHRIs across The Commonwealth.

As a concise introduction to the topic, this Guide does not go into detail on every issue, or topic of relevance to NHRIs as they look to start or continue their journey on business and human rights. Instead, the Guide signposts readers to existing, well-respected materials on the topic, several of which are theme specific, such as on-line e-learning tools, modules, guides and resources. The Guide also identifies useful networks, initiatives, platforms and partner organisations that may support NHRIs in achieving their goals.

## 1. A brief overview of Business and Human Rights

Business activity brings prosperity and opportunity for many, but business can also impact negatively on people's rights.

Early efforts within the United Nations (UN) to clarify the human rights responsibilities of transnational corporations and other business enterprises proved unsuccessful. In 2011, however, the UN Human Rights Council (HRC) unanimously endorsed the UN Guiding Principles on Business and Human Rights. These have now become the internationally recognised touchstone for States and businesses on human rights in the context of private sector activity.

The human rights issues linked to business activity are complex, and often context and even sector specific. Information Technology service providers, for example, might be deemed complicit in right to privacy violations if they pass on information about customers that result in the detention of political dissidents. In other contexts, refusal to provide customer information to public authorities with proper legal justification for such requests could be judged as impeding efforts to combat terrorism and impact on public safety.

### Examples of positive human rights impacts by business

Business can support **the right to work** by providing jobs, the **right to just and favourable conditions at work** by introducing and adhering to occupational health and safety standards, the associated rights to **an adequate standard of living** and the **right to remuneration** through fair wages and paying **equal remuneration for work** of equal value whether that is performed for example by women or migrant workers. Business activity can support the **right to equality of opportunity** and the **rights to rest and leisure** through skills development for men and women and historically disadvantaged groups and the provision of overtime pay and holiday allowances. Business can innovate and deliver services, thus for example bolstering the **rights to information** through new information technology, or the **rights to water and health** through the provision of water and sanitation facilities and medicines.

### Examples of negative human rights impacts by business

Companies often **discriminate** on grounds of race, ethnicity, religion, gender and sexual identity or orientation. Businesses that exploit workers may violate freedoms from **forced labour, child labour** and in the worst cases the **right to life** if workplace accidents result in death. Businesses can violate the **right to security of person** if they subject staff to physical abuse or are complicit in harassment or killings at the hands of security guards or contracted security providers. **Forced evictions** and community displacement can arise from improper land acquisition and redevelopment and adversely impact the right to housing. Companies can also be complicit in human rights abuses by States and other third parties, for example if they collude in State repression of protestors that violate the **right to freedom of assembly** or union intimidation which impacts on the rights to **freedom of association**, to join trade unions and to bargain collectively.

Business activity can impact on virtually every internationally recognised human right. This includes all rights included within the Universal Declaration of Human Rights as well as the International Covenants on Civil and Political Rights, and on Economic, Social and Culture Rights jointly referred to as the International Bill of Rights; other UN human rights treaties; and the full range of labour rights codified in standards and conventions of the International Labour Organisation (ILO), in particular the ILO Declaration on Fundamental Principles and Rights at Work which addresses key labour standards contained in the ILO's eight core conventions. Many of these same rights are elaborated in regional human rights instruments applicable across the Commonwealth, like the African Charter on Human and People's Rights, the Organisation of American States' American Convention on Human Rights, the European Convention on Human Rights, the ASEAN Human Rights Convention, and they are also reflected in the Commonwealth Charter.

## 2. UN Guiding Principles on Business and Human Rights

In June 2011, UN Human Rights Council *Resolution 17/4: Human rights and transnational corporations and other business enterprises*<sup>1</sup>:

- Endorsed the [UN Guiding Principles on Business and Human Rights](#)<sup>2</sup>
- Established a **UN Human Rights Working Group on Business and Human Rights**
- Set up the annual **UN Forum on Business and Human Rights**

The **UN Guiding Principles on Business and Human Rights** were unanimously endorsed by the UN Human Rights Council, and provide clarity on the roles of States and companies with regard to impacts of business activity on international human rights.

The UNGPs were the result of the six-year mandate of Harvard University Professor John Ruggie, the UN Secretary General's Special Representative on Business and Human Rights (2005-2011). In 2008 the Human Rights Council welcomed a precursor to the UNGPs, the "Protect, Respect and Remedy: a Framework for Business and Human Rights". This Framework and the UNGPs were the product of extensive research and consultations globally across stakeholder groups including government, business, civil society and affected communities.

The UNGPs are the first universally agreed global framework for ensuring that business activity does not come at the expense of people's rights. The UNGPs provide a roadmap for all States and companies to act and be accountable for the human rights impacts of business activity. The UNGPs also provide a

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<sup>1</sup> [https://www.unglobalcompact.org/docs/issues\\_doc/human\\_rights/A.HRC.17.RES.17.4.pdf](https://www.unglobalcompact.org/docs/issues_doc/human_rights/A.HRC.17.RES.17.4.pdf)

<sup>2</sup> [http://www.ohchr.org/Documents/Publications/GuidingPrinciplesBusinessHR\\_EN.pdf](http://www.ohchr.org/Documents/Publications/GuidingPrinciplesBusinessHR_EN.pdf)

cornerstone for framing NHRI activity on business and human rights. The UNGPs comprise 3 Pillars:

- i) **States have a duty to protect** people within their jurisdiction from human rights abuses caused by or involving businesses.
- ii) **Companies have a responsibility to respect** human rights, which means to avoid infringing on the rights of others and seek to prevent or mitigate adverse impacts with which they are involved.
- iii) **Access to effective remedy** must be available to victims of business-related human rights abuses, through judicial and non-judicial, State and non-State based grievance mechanisms.

The UNGPs create no new legal obligations on States, but reference the existing obligations that States have as a result of ratifying human rights treaties (noting that 80% of States have ratified at least four of the nine core human rights treaties).

Importantly, the UNGPs assert that the corporate responsibility to respect exists independently of whether a State is willing or able to meet its duty to protect. States and companies thus have differentiated but complementary roles and responsibilities. **States must put in place appropriate policies, regulations and adjudication** to encourage companies to respect human rights and hold them to account. **Companies must “know and show”** how they respect human rights.

### **Pillar 1: State Duty to Protect**

Each of the three Pillars of the UNGPs comprises one or more Foundational Principles and a set of Operational Principles, with a Commentary in each case.

Under the UNGPs **Foundational Principle** of the **State Duty to Protect**, States must protect against human rights abuse within their jurisdiction by third parties, including companies. This means **State should take “appropriate steps to prevent, investigate, punish and redress such abuse through effective policies, legislation, regulations and adjudication”**. States should set out clearly the expectation that **“all business enterprises domiciled in their territory and/or jurisdiction respect human rights throughout their operations”**. [GP 1 and 2]

The **Operational Principles of the UNGPs [GPs 3-10]** go into greater depth in four areas:

**General State regulatory and policy functions** – addressing issues relating to the passage and enforcement of laws, and putting in place guidance, incentive systems, and penalties to encourage the business responsibility to respect human rights.

**The State-business nexus** – addressing issues concerning the additional steps States are expected to take when they themselves have a controlling or close relationship with businesses, such as in the case of **State Owned Enterprises**, companies that receive **export credit** or loans, companies to which they **outsource public services**, and from whom they **procure goods and services**.



**Support for business to respect for human rights in conflict zones** – including those operating in foreign jurisdictions, through among other things assistance and additional guidance on how to conduct enhanced forms of due diligence.

**Ensuring policy coherence** – addressing issues such as **consistency across government** agencies with regard to encouraging, and not constraining, business respect for human rights, as well as the role that States play in this regard when acting as members of multilateral institutions.

The Commentary to Guiding Principle 3 stresses that **National Human Rights Institutions (NHRIs)** that comply with the Paris Principles have: *“an important role to play in helping States identify whether laws are aligned with their human rights obligations, and are being effectively enforced, and in providing guidance on human rights to business enterprises and other non-State actors.”*

## **Pillar 2: Corporate Responsibility to Respect**

The **corporate responsibility to respect** human rights has been affirmed by the UN Human Rights Council. The Commentary to GP 11 states that the corporate responsibility to respect human rights is *“a global standard of expected conduct for all business enterprises wherever they operate.”* This responsibility does not impose international human rights law obligations directly on companies. That duty rests with States, and where legal duties are required of companies it is typically through domestic laws. However, the corporate responsibility to respect exists even when States fall short of their duty to protect, for example where domestic human rights-related regulation and adjudication is incomplete, weak, absent or poorly enforced. The responsibility also exists over and above compliance with national laws and regulations protecting human rights.

The **Foundational Principles** of the **corporate responsibility to respect** require companies to:

- **Avoid infringing on the human rights of others** and to **address adverse human rights impacts** with which they are involved
- Respect internationally recognised human rights, at a minimum **the International Bill of Rights** and **ILO Declaration on Fundamental Principles and Rights at Work**
- “Avoid **causing or contributing to adverse human rights impacts** through their own activities, and address such impacts when they occur; and seek to **prevent or mitigate adverse human rights impacts** that are **directly linked** to their operations, products or services” through their business relationships, even if they have not contributed to the impacts
- Respect human rights **regardless of their size, sector, operational context, ownership and structure**, and
- Develop a **policy** commitment, processes for **human rights due diligence**, and to enable **remediation** of any adverse impacts they cause or to which they contribute.

The responsibility to respect is a **baseline expectation**, in other words, it **applies to all companies, large and small**, regardless of sector or geography. Smaller companies can still cause or contribute to severe human

rights abuses, but the approach they take to respect human rights will necessarily be different to that employed by larger companies.

**All human rights apply.** In addition to the minimum standards highlighted in the Foundational Principles, companies are expected to take account of their operating contexts and the human rights impacts common in their industry, and refer to additional international human rights standards as needed. For example, in countries where the land rights of indigenous people are regularly violated, companies are likely to need to refer to the UN Declaration on the Rights of Indigenous Peoples and the ILO's Indigenous and Tribal Peoples Convention (C169).

The **responsibility to respect** human rights **requires companies to do no harm**, it does not urge them to fulfil or promote human rights. The UNGPs do not discourage philanthropic or community development programmes which promote human rights, or dismiss support for human rights (this is expected of companies that sign up to the UN Global Compact), but are clear that such action cannot offset or compensate for a failure to respect human rights in a company's core business. The UNGPs **focus on a company's responsibilities** for actual or potential **human rights impacts**.

The **Operational Principles** of the UNGPs [GP16-24] spell out the policies and processes expected of companies to show they respect human rights. These include:

- A **policy commitment** which is communicated publicly, approved at the most senior level of organisation, sets out the business' expectations of its employees, business partners and others directly linked to its operations, and is embedded within management systems.
- An ongoing process of **human rights due diligence** to "**identify, prevent, mitigate and account for how they address their adverse human rights impacts**". This includes **assessing risks** of adverse impacts on people; **integrating and acting upon the findings** across its systems and prioritising those risks that are most severe; **tracking** responses (e.g. audits) and **communicating** regularly and publicly on how their impacts are addressed.
- **Remediation** – "*where the company identifies it has caused or contributed to adverse impacts, they should provide for or cooperate in their remediation through legitimate processes*"

A central feature of human rights due diligence is the stress placed on drawing on internal or external human rights expertise, and on **meaningful consultation with potentially affected groups**. Also significant is the fact that appropriate responses to potential or actual human rights impacts depend on whether the company: **causes** or **contributes to** an adverse human rights impact, or if the human rights impact is **directly linked** to its operations, products or services by a business relationship. The UNGPs also highlight the issue of **leverage**, understood as the ability to affect change over a third party that is causing or contributing to adverse human rights impacts.

**Examples of actual or potential adverse human rights impacts - a company may:**

**Cause** a human rights impact if it discriminates against a worker during recruitment, intimidates union representatives, or mines at a sacred indigenous site without obtaining consent.

**Contribute** to a human rights impact if it raises production targets without warning, leading suppliers to drop safe working practices.

**Direct linkage** – contracts suppliers that unknowingly use child labour, finances projects that breach agreed environmental standards and result in polluting community water supplies.

### **Pillar 3: Access to Remedy**

The **Foundational Principle** of Pillar 3 asserts that as part of the duty to protect against business-related abuses that: “*States must take appropriate steps to ensure, through judicial, administrative, legislative or other appropriate means, that when such abuses occur within their territory and/or jurisdiction those affected have access to effective remedy*” [GP 25]. Pillar 3 stresses both the procedural aspects of remedy, as well as the substantive need to achieve the outcome of making good a human rights harm.

Elaborated in the **Operational Principles** [GP26-31], the UNGPs assert that **State-based judicial grievance mechanisms** are the cornerstone of ensuring access to remedy, but highlight the supplementary and often complementary role of **State-based non-judicial mechanisms** and **non-State based mechanisms** including company **operational-level grievance mechanisms**, and outline a set of **effectiveness criteria** for all non-judicial mechanisms.

States are expected to ensure that **judicial mechanisms**, including courts and tribunals, are able to handle business-related human rights cases effectively; **reduce any legal, practical and other barriers** that could result in a denial of remedy; and to raise awareness about all remedy channels.

**State-based non-judicial mechanisms** are expected to form part of a comprehensive system for remedy. Judicial remedy is not always necessary, or favoured by claimants. The UNGPs in particular highlight the role played by **NHRIs**, ombudsperson offices, and **National Contact Points** under the OECD Guidelines on Multinational Enterprises.

**Non-State based grievance mechanisms** include those administered by a business enterprise on its own or with stakeholders, an industry association, a multi-stakeholder group, and those sitting within regional or international human rights bodies. Where companies cause or contribute to human rights harm, they are expected to provide for or cooperate in their remediation through legitimate processes, such as through such **operational-level grievance mechanisms**. The remedy on offer may vary, but these mechanisms should never undermine the role of trade unions in addressing labour disputes, or preclude access to judicial or other non-judicial grievance mechanism.

**Operational-level grievance mechanisms** are not appropriate in all cases, but can among other things prevent small concerns from escalating, and are sometimes preferred by claimants, for example if they offer affected people an

opportunity for direct dialogue with the company, deliver speedy outcomes, and come at lower costs than legal proceedings. Such mechanisms can support a company's due diligence by offering stakeholders a direct means of raising concerns, and may facilitate companies in identifying and addressing patterns of complaints.

**Effectiveness Criteria** – These are spelled out by the UNGPs for all non-judicial grievance mechanisms. Grievance mechanisms are expected to be: **legitimate, accessible, predictable, equitable, transparent, rights-compatible, and source of continuous learning**; and additionally in the case of operational level mechanisms **based on engagement and dialogue with affected stakeholders**. The criteria are interdependent and mutually reinforcing and are designed to inspire the confidence of all stakeholders. Any mechanism that meets only some of the criteria may not be trusted or able to provide effective outcomes in line with international human rights standards.

### **Convergence with the UNGPs by Regional Bodies and International/Regional processes**

Since 2011, the UNGPs have grown in legitimacy and resonance due to a convergence that has taken place with other international standards, declarations, and global and regional initiatives. These include the G7 and G20 Leader's Declarations (2015 and 2017 respectively), the International Finance Corporations Performance Standards (2012), ILO Tripartite Declaration of Principles concerning MNEs & Social Policy (2017), ISO 26000 Social Responsibility Guidance, OECD Common Approaches (2016), OECD Guidelines for Multinational Enterprises (2011), Sustainable Development Goals - The 2030 Agenda for Sustainable Development (2015), and the UN Global Compact.

Among these In October 2012 the International Coordinating Committee of National Human Rights Institutions (precursor to GANHRI) and the OECD concluded a [Memorandum of Understanding](#) to promote respect by multinational enterprises of the new human rights chapter of the OECD Guidelines on Multinational Enterprises and the UNGPs, and to a programme of mutual assistance, information sharing and capacity-building.

**Regional bodies** have also given their support to the implementation of the UNGPs, including the African Union, Association of Southeast Asian States, European Union and Council of Europe, and the Organisation of American States.

See **Annex 1 and 2** for details of how these regional bodies and international standards, declarations and initiatives have aligned with the UNGPs.

**Further reading on the UN Guiding Principles on Business and Human Rights**

Many guidelines and learning tools exist on the UNGPs. Among those recommended as a starting point are the Business and Human Rights Resource Centre's [Getting Started](#) page, and the video: [The UN Guiding Principles on Business and Human Rights: An Introduction](#).

**Suggested general guidance materials and e-learning tools:**

[Frequently asked questions on the UN Guiding Principles on Business and Human Rights](#), © OHCHR 2014.

[The corporate responsibility to respect: An interpretive guide](#), © OHCHR 2012.

This guide was developed in full collaboration with the former UN Special Representative, John Ruggie.

[Human Rights and Business Learning Tool](#), An e-learning tool developed by OHCHR and UN Global Compact.

### 3. The UN Working Group, and UN Forum, on Business and Human Rights

As noted, UN Human Rights Council Resolution 17/4 (2011), which endorsed the UNGPs, also established the:

- **UN Working Group on Business and Human Rights** (UN Working Group)<sup>3</sup>, and the annual
- **UN Forum on Business and Human Rights** (UN Forum)

#### UN Working Group on Business and Human Rights

For some **NHRIs**, interaction with the **UN Working Group**, including through country visits and consultations, is their most direct engagement in the area of business and human rights. The UN Working Group comprises five independent experts, balanced across geographic regions, with an initial three-year mandate that was renewed in 2014 and again in 2017.

#### Mandate of the UN Working Group on Business and Human Rights

- Promote and disseminate the UNGPs;
- Identify and share good practice and lessons learned from the implementation of the UNGPs;
- Support capacity-building efforts on the use of the UNGPs, including by offering advice regarding the development of domestic legislation and policies on business and human rights;
- Conduct country visits;
- Explore options at the national, regional and international levels for enhancing access to effective remedies;

<sup>3</sup> Resolution A/HRC/Res/17/4 – Human rights and transnational corporations and other business enterprises. See <https://documents-dds-ny.un.org/doc/RESOLUTION/GEN/G11/144/71/PDF/G1114471.pdf?OpenElement>.

- Integrate a gender perspective and give special attention to vulnerable persons (in particular children) in the implementation of the UNGPs, and;
- Consider the implementation of the UNGPs in the context of the 2030 Agenda for Sustainable Development (the Sustainable Development Goals) in line with Resolution 35/7 of June 2017.

A key role for the UN Working Group, elaborated in its extended mandate of 2017, is to guide and chair the annual UN Forum, and prepare a report on the proceedings and the thematic recommendations of the Forum to be shared with UN Human Rights Council and General Assembly.

The UN Working Group is expected to engage with governments and all relevant actors, including UN bodies and international agencies, businesses, **NHRIs**, representatives of indigenous peoples, civil society organisations and other regional and sub-regional international organisations.

The Working Group has thus far conducted nine **country missions** (2012-2017) to Mongolia, the USA, Ghana, Azerbaijan, Brazil, South Korea, Mexico, Canada and Peru and issued a report on each visit, though so far not to any countries in the Commonwealth. The UN Working Group, however, is also active at the regional and national level and several Commonwealth NHRIs, including Malaysia, have engaged with it in this way.

Achievements of the UN Working Group include the development of guidance materials, some of which are helpful to NHRIs. They include Guidance on: [Small and medium-sized enterprises on scaling up implementation of the UNGPs](#), for the [Development of National Action Plans on Business and Human Rights](#), and on [Cross-border co-operation in law enforcement](#).

Looking ahead, the UN Working Group is developing a thematic project to unpack the gender dimension of the UNGPs, with the first of several planned regional consultations convened in Sonipat, India in February 2018. These and other convenings are often open to interested NHRIs, and the Malaysian Human Rights Commission (SUHAKAM), for example, is engaged in this process. Other NHRIs with an interest should approach the Working Group.

### **Further reading on the UN Working Group on Business and Human Rights**

<http://www.ohchr.org/EN/Issues/Business/Pages/WGHRandtransnationalcorporationsandotherbusiness.aspx>

<https://business-humanrights.org/working-group/about-the-working-group>

### **UN Forum on Business and Human Rights**

The annual **UN Forum** on Business and Human Rights (UN Forum) is a global platform intended to “*discuss trends and challenges in the implementation of the Guiding Principles [on Business and Human Rights] and promote dialogue and cooperation on issues linked to business and human rights, including*

*challenges faced in particular sectors, operational environments or in relation to specific rights or groups, as well as identifying good practices."*

The UN Forum meets annually for three days in Geneva in late November. It is the principal global gathering on business and human rights, and is open to States, business enterprises and associations, law firms, investor organisations, civil society organisations, trade unions, community groups, academics, students, the media and any other interested stakeholder. National Human Rights Institutions (NHRI) are able to participate and many do so where travel is feasible.

The Forum among other things profiles new initiatives and commitments to advance business respect for human rights, and provides an opportunity to share learning and network with business and human rights practitioners. The Government of Malaysia, for example, took advantage of the platform provided by the Sixth UN Forum in 2017 to announce its decision to develop a National Action Plan on Business and Human Rights for Malaysia (NAPBHR); reflecting the work of the Malaysian Human Rights Commission in advocating for this commitment. The UN Forum is now attended by over 2000 participants from all parts of the world, including from government, more and more from the private sector, and from, NGOs.

The Sixth Annual UN Forum on Business and Human Rights in November 2017 focussed specifically on Pillar III of the UNGPs and the question of realising access to effective remedy for victims of business-related human rights abuse.

#### **Further reading on the UN Forum on Business and Human Rights**

UN Forum homepage:

<http://www.ohchr.org/EN/Issues/Business/Forum/Pages/ForumonBusinessandHumanRights.aspx>

## **4. Business and Human Rights – The Role of NHRIs**

The UNGPs delineate a role for **National Human Rights Institutions (NHRIs)** in advancing the business and human rights agenda across all three Pillars. UN HRC Resolution 17/4 (June 2011) further welcomed:

*"[T]he important role of national human rights institutions established in accordance with the Paris Principles in relation to business and human rights, and encourage[d] national human rights institutions to develop further their capacity to fulfil that role effectively, including with the support of the Office of the High Commissioner and in addressing all relevant actors."*

In 2012, the United Nations Secretary-General identified the lack of capacity among all relevant actors as one of the key obstacles to advancing the business and human rights agenda and the implementation of the UNGPs. NHRIs have a pivotal part to play in redressing this situation, including by

raising awareness among Governments and business enterprises on the human rights impacts of private actors and on the UNGPs, and in the provision of State-based non-judicial grievance mechanisms through their investigation and complaints handling functions.

#### **a. GANHRI Working Group on Business and Human Rights (GANHRI)**

The Global Alliance of National Human Rights Institutions (GANHRI) (formerly the International Coordinating Committee and the body responsible for coordinating relations between NHRIs and UN human rights system) and in particular the **GANHRI Working Group on Business and Human Rights** have played a significant role in driving NHRIs efforts on business and human rights. Set up in 2009, the GANHRI Working Group on Business and Human Rights (GANHRI BHR Working Group) promotes capacity-building, strategic collaboration, advocacy and outreach by NHRIs in the human rights and business arena. The GANHRI BHR Working Group importantly instigated the 2010 Edinburgh Declaration, which outlined ways for NHRIs to protect and promote human rights in relation to business activities, and which instigated NHRIs action on business and human rights in many countries.

The GANHRI BHR Working Group advocates for the inclusion of business and human rights within international frameworks, including through submissions such as on the revisions to the OECD MNE Guidelines in 2011, as well as in the context of the Universal Periodic Review Process. The GANHRI BHR Working Group, with ongoing support notably from the UN Office of the High Commissioner (OHCHR) and Danish Institute for Human Rights (DIHR), has produced a range of guidance tools and fact-sheets for NHRIs, delivered capacity-building training, and is proactive in driving efforts on business and human rights by GANHRI's regional networks.

<https://nhri.ohchr.org/en/themes/businesshr/Pages/Home.aspx>

#### **The Edinburgh Declaration (2010)**

The Edinburgh Declaration considers the ways in which NHRIs can engage with business and human rights issues, including by promoting greater protection against business-related human rights abuses, greater business accountability and respect for human rights, access to justice, and the establishment of multi-stakeholder approaches.

The Edinburgh Declaration highlights activities that can be taken by NHRIs on business and human rights within their core mandate areas under the Paris Principles, including:

- Monitoring the compliance of State and non-State actors with human rights;
- Advising all relevant actors on how to prevent and remedy human rights abuses;
- Providing and/or facilitating access to judicial and/or non-judicial remedies, for example, by supporting victims, handling complaints and/or undertaking mediation and conciliation;
- Conducting research and undertaking education, promotion and awareness-raising activities; and



- Integrating business and human rights issues when interacting with international human rights bodies, including UN treaty bodies, UN special procedures, the Human Rights Council and the Universal Periodic Review, as well as regional human rights mechanisms.

Further activities identified for NHRIs' consideration include: the establishment of partnerships with a range of organisations (including the UN Global Compact, media and business organisations), the review in each ICC regional network of national action plans on business and human rights, the creation of business and human rights focal points within NHRIs, and reporting to the annual meeting of the ICC on any progress towards the development of national action plans.

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## **b. Regional NHRI Networks and Business and Human Rights**

GANRI's four regional networks have each convened regional workshops on business and human rights and drafted action plans outlining regional priorities, and pursue a wider range of activities with respect to the business and human rights agenda.

### **How NHRIs can engage:**

- For NHRIs new to business and human rights, interaction with regional networks can offer a means of familiarising themselves with the topic, building capacity and developing new networks to help facilitate activities on business and human rights. Many regional networks in fact partner with the DIHR and GANHRI on the NHRI.EU Project which supports NHRI capacity-building (see below).

**Network of African National Human Rights Institutions (NANHRI)** – convened a Regional Workshop on Business and Human Rights in Yaoundé, Cameroon in October 2011, which led to the Yaoundé Declaration and Plan of Action on Business and Human Rights. The Action Plan prioritised efforts around business and human rights capacity building, education and awareness-raising, and integrating business and human rights into the strategic plan and programmes of NHRIs. Reflecting regional priorities it also established three priority thematic areas: labour rights and working conditions, land rights, and environment-related rights.

Key achievements of NANHRI include a [Mapping Survey of African NHRIs in Business and Human Rights](#) completed as part of three-year collaboration (2012-2015) between NANHRI and the Raoul Wallenberg Institute, with support from the DIHR. The Mapping Survey offers action plans on business and human rights for NANHRI NHRIs, explores factors affecting the effectiveness of NANHRI members in mainstreaming the UNGPs and Yaoundé Plan of Action, and features case studies on the business and human rights work of NHRIs from Cameroon, Kenya, Morocco, Sierra Leone, South Africa

and Zambia. By focusing on regionally relevant activity of this kind, NANHRI has the scope to offer insights to African NHRIs that global platforms may be less well-placed to provide.

NANRI also collaborated with the ICC (precursor to GANHRI) and DIHR to develop *Business and Human Rights: A Guidebook for NHRIs – Regional Supplement 1: African Regional Networks and Standards on Business and Human Rights*, November 2013. This offers Africa-specific examples and approaches to advance business and human rights.

<http://www.nanhri.org/our-work/thematic-areas/business-human-rights/>

**Network of National Human Rights Institutions of the Americas** / Red de Instituciones Nacionales para la Promoción y Protección de los Derechos Humanos del Continente Americano - held its Regional Seminar on Business and Human Rights in Antigua, Guatemala, in November 2011, during which it issued a Declaration and Action Plan. Among other things, NHRIs agreed to permanently incorporate the issue of business and human rights into the agenda of the Network of National Human Rights Institutions of the Americas, develop education and training programmes on the topic, and advocate for strengthening the performance frameworks for NHRIs to address the issue of business and human rights.

<https://nhri.ohchr.org/EN/Contact/RegionalNet/Pages/Global.aspx>

**Asia Pacific Forum of National Human Rights Institutions** - convened its [Regional Conference on Business and Human Rights](#) in Seoul, South Korea in October 2011, to share experiences and emerging good practice. Among other things, members agreed to integrate business and human rights into their strategic plans, set up a business and human rights focal point, and advocate for State leadership on business and human rights.

<http://www.asiapacificforum.net/resources/ahrc-act-1986/>

### **Sub-regional NHRI Outreach on Business and Human Rights**

The **Malaysian Human Right Commission (SUHAKAM)** began to prioritise the area of business and human rights in 2010, and has since carried out a number of activities focussed specifically in this area, including a series of forum and roundtable discussions with stakeholders on business and human rights; research; the National Inquiry on the Land Rights of Indigenous People in Malaysia and investigating allegations of infringements of rights impacted by business activities. Today almost every member of SUHAKAM's team is active on business and human rights in some way, in particular the Promotion and Outreach Department, the Law Reform and Treaties Division, and Complaints and Monitoring Division. SUHAKAM has been highly active in the process for developing a National Action Plan on Business and Human Rights (see below). SUHAKAM also actively participates in **GANHRI's** work and activities at the national, regional and international levels. At the regional level, there are similar mechanisms to the **Asia-Pacific Forum**, including the Southeast Asia

National Human Rights Institutions Forum (SEANF), a sub-regional network of six NHRIs. SEANF includes the Indonesian National Human Rights Commission (Komnas HAM), the Human Rights Commission of Malaysia (SUHAKAM), the Commission on Human Rights of the Philippines (CHRP), the National Human Rights Commission of Thailand (NHRCT), Provedor de Direitos Humanos e Justica (PDHJ) of Timor Leste, and the Myanmar National Human Rights Commission (MNHRC).

As a sub-regional network, SEANF seeks to promote and protect human rights in South East Asia through collaborative framework – undertake joint projects or activities to address issues of common concern. The issues covered include: human trafficking, migrant workers, statelessness, business and human rights, as well as the rights of Indigenous Peoples. SUHAKAM actively shares learning on these topics.

### **Commonwealth Forum of National Human Rights Institutions**

**(CFNHRI)** - is an informal and inclusive body of Commonwealth National Institutions for the Promotion and Protection of Human Rights and other national accountability mechanisms with a human rights mandate.

The Northern Ireland Human Rights Commission (NIHRC) is the incumbent Chair of the CFNHRI (it will be succeeded by the EHRC in 2018), and includes business and human rights as one its priority areas.

<http://cfnhri.org>

### **European Network of National Human Rights Institutions (ENNHRI)** –

ENNHRI held its first regional workshop on business and human rights in 2012 and released its [Berlin Action Plan on Business and Human Rights](#). This among other things set priorities around the development of national baseline studies and NAPs for implementing the UNGPs; regional regulation relating to Export Credit Agencies, financial disclosure and other reporting; and public procurement and commissioning of public services; as well as to help GANHRI with capacity-building of individual NHRIs, inside and outside Europe.

Among other achievements, ENNHRI has lobbied for inclusion of the role of NHRIs in the Council of Europe's 2016 *Recommendation on Human Rights and Business* (see above), in particular in relation to offering States expert support in the development of National Action Plans; in convening training and dialogues for business enterprises on the corporate responsibility to respect; and in supporting States through the provision of non-judicial grievance channels.

ENNHRI's [Statement](#) to the Council of Europe High-level Business and Human Rights seminar in June 2017, among other things urged the EU to strengthen human rights safeguards in privatisation and public procurement processes. The Equality and Human Rights Commission (Great Britain) and the Northern Ireland Human Rights Commission were among the NHRIs cited as having identified adverse human rights impacts linked to the outsourcing of services by public bodies. The Statement also stressed the need to involve NHRIs in the development of NAPs to implement the UNGPs.

<http://ennhri.org/Business-and-Human-Rights>

### **c. Danish Institute for Human Rights and NHRI Capacity Building**

The Danish Institute for Human Rights (DIHR), which uniquely has an international mandate, has taken a leadership position on business and human rights and works directly with GANHRI to support capacity-building of NHRIs in this arena. Together with the ICC for NHRIs (the precursor to GANHRI), the DIHR published a Business and Human Rights Guidebook, and an [E-learning](#) companion tool for NHRIs to provide guidance and resources on business and human rights. Both tools include case studies of NHRI activity in this field.

#### **Useful Tool for NHRIs:**

The E-Learning, which is updated periodically, forms part of the [blended learning NHRI.EU Project](#) which is a collaboration between the DIHR, GANHRI and its regional networks. This EU funded project aims to strengthen NHRIs to improve their impact when protecting and promoting human rights. The Project combines interactive e-courses with face-to-face workshops. Human Rights and Business are one of four thematic areas covered. A number of Commonwealth NHRIs have strengthened existing business and human rights efforts through participation in the Project.

Separately, the DIHR has facilitated institutional capacity-building and peer-learning activities for a number of individual NHRIs on business and human rights, including among others the Human Rights Commission of Sierra Leone, and the Zambia Human Rights Commission.

#### **Further Reading on Business and Rights and the work of NHRIs**

[Business and Human Rights: A Guidebook for NHRIs](#) © International Coordinating Committee of National Human Rights Institutions (ICC) and Danish Institute for Human Rights (November 2013).

#### **Capacity Building for NHRIs in the Pacific Region on Human Rights Issues in Seasonal Worker Programmes**

In April 2018, **the Australian Human Rights Commission** will lead dialogue and capacity building for National Human Rights Institutions and multi-stakeholder representatives from the Pacific region. The purpose of the dialogue is to build the capacity of NHRIs and their equivalent bodies in the Pacific to address human rights challenges faced by migrant workers. In Australia, participants of Seasonal Worker Programmes<sup>4</sup> are vulnerable to human rights abuses, for example in the form of underpayment of wages, non-payment of annual leave entitlements, excessive working hours, unsafe working conditions and sexual exploitation.

This **peer-to-peer learning** will bring together NHRIs and equivalent bodies from Australia, Fiji, New Zealand, Samoa, Vanuatu, Tonga, Tuvalu, Papua New

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<sup>4</sup> The Seasonal Worker Programme is open to individuals from Pacific island countries and Timor-Leste. It provides access to work opportunities in the Australian agriculture sector, accommodation sector in selected locations and tourism sector through the Northern Australia Tourism Pilot. At: <https://www.jobs.gov.au/seasonal-worker-programme> (viewed at 20 March 2018).

Guinea, and Timor-leste, as well as regional peak body training and NGO associations which include representational interests from a broader intersect of Pacific States.

This process forms part of the Business and human rights blended learning in collaboration with Asia Pacific Forum of National Human Rights Institutions, which is supported by the DIHR as part of the [NIHR-EU Capacity Project](#).

## 5. In Action: NHRIs and the State Duty

There are multiple ways in which NHRIs can support implementation of the State Duty to Protect.

### How NHRIs can engage:

- As part of their mandates, by **analysing domestic policy and regulatory frameworks** and advise States on ways to bring these **in line with the UNGPs**.
- NHRIs that comply with the Paris Principles can contribute to the **Universal Periodic Review (UPR)** process and recommend ways in which States can better protect citizens from adverse business-related human rights impacts.
- NHRIs can advise on effective **regulation of State-Owned Enterprises**.
- NHRIs can **review corporate, securities or other laws**, and the basis upon which **Export Credit Agencies and similar agencies** grant credit, loans and guarantees, and work with relevant government departments or agencies on how to strengthen these from a human rights angle.
- NHRIs may choose to take collaborative approaches, for example, by working through GANHRI and its regional networks to **make submissions to global bodies**, such as was the case during the 2011 review of the OECD Common Approaches.
- In Malaysia, SUHAKAM has been addressing the UNGPs requirement that States – while providing investor protection – **retain adequate policy and regulatory ability to safeguard human rights when negotiating investment treaties**, free trade agreements or contracts for investment. To help achieve this, SUHAKAM has been monitoring the negotiations on the Trans-Pacific Partnership Agreement (TPPA) to ensure that the Government of Malaysia puts in place safeguards as envisaged under the UNGPs to safeguard human rights.

Additional approaches are outlined in greater detail below.

### a) National Action Plans on Business and Human Rights

One of the principal means by which NHRIs can encourage States to implement the UNGPs and address business and human rights in general is through the development of National Action Plans on Business Human Rights

(henceforth NAP). These can be stand alone NAPs or integrated within, or linked to, other National Action Plans, such as on human rights, responsible business conduct, or the implementation of the Sustainable Development Goals. Whatever approach taken is likely to be most effective if it is tailored to the domestic context and local priorities.

There is growing international consensus on the importance of NAPs to advance the business and human rights agenda. In 2014, UN Human Rights Council in Resolution 26/22 urged: "[A]ll States to take steps to implement the Guiding Principles, including to develop a national action plan or other such framework." This call has been echoed by other mechanisms, including by the G7 and G20, EU, Council of Europe and OAS (see Annexes 1 and 2). As of March 2018<sup>5</sup>, 19 countries mostly from Europe and Latin America had adopted NAPs, including the UK, but a further 22 have been committed to and are in various stages of development, including in Kenya, Malaysia, Mauritius, Mozambique, and Scotland.

NAPs serve to bring coordination and coherence to national policies, laws and judicial and non-judicial remedy channels around business and human rights, and aid with priority setting. They can provide a means of promoting awareness and dialogue across stakeholder groups on business and human rights, and help identify, and fill policy and legal gaps and evaluate progress in UNGPs implementation.

#### **How NHRIs can engage:**

- NHRIs may give expert input into Government-led NAP processes, or collaborate directly with Government departments in the development of a NAP.
- In countries where the Government has yet to commit to developing a NAP, is not well-informed on the UNGPs, or is even perhaps reluctant, NHRIs can instigate a National Baseline Assessment (NBA) of national and local policies, laws and practices (including those of business) and their alignment with the three Pillars of the UNGPs. An NBA lays the groundwork for a future NAP, and can build the case for a NAP with Government.

There is no definitive approach for developing a NAP. The models outlined in two tools, however, are increasingly being taken up, including by NHRIs. These tools complement and reference each other.

- The UN Working Group on Business and Human Rights, [Guidance on National Action Plans on Business and Human Rights](#) (Updated, November 2016).
- Danish Institute for Human Rights and International Corporate Accountability Roundtable (ICAR), [National Action Plan on Business and Human Rights Toolkit](#) (Updated, November 2017).

#### **Malaysian Human Rights Commission Laying the Groundwork for a NAP**

<sup>5</sup> This site tracks the development and status of NAPs  
<http://www.ohchr.org/EN/Issues/Business/Pages/NationalActionPlans.aspx>

In 2014, the **Malaysian Human Right Commission (SUHAKAM)** began to develop a [Strategic Framework on a National Action Plan on Business and Human Rights for Malaysia](#) to implement the UNGPs, with support from the UN Country Team (UNCT) in Kuala Lumpur, the UK Foreign and Commonwealth Office (FCO) and British High Commission in Malaysia. The Strategic Framework contextualised the UNGPs in the Malaysia corporate context and articulated a set of policy objectives and related recommendations based on the UNGPs for the Government's consideration in pursuit of the NAP.

In developing the Framework, SUHAKAM involved relevant Malaysian Government Ministries, including the Prime Minister's Department and Minister of Governance, Integrity and Human Rights. This engagement helped secure Government buy-in. In 2015 the Malaysian Government welcomed the Strategic Framework, and pledged to develop a NAP during the 6<sup>th</sup> UN Forum on Business and Human Rights in 2017. The proposed NAP timeline is 2 years including the consultation process and baseline studies.

A Cabinet paper has been approved and mapping has begun on the structure of the proposed NAP, benchmarking it against international standards, making use of tools such as **DIHR and ICAR NAP Toolkit**, and the **UN Working Group Guidance**. Input from the UNDP office, Bangkok and UNCT, Kuala Lumpur has also been invaluable. SUHAKAM has engaged directly with the Malaysian private sector, several multinational companies operating in the country, government agencies, regulatory authorities and civil society organisations, to obtain their views and feedback on the NAP process, with expert input also from the DIHR. The UN Global Compact Network of Malaysia is a key domestic partner. They are part of a formal working group feeding into the NAP process.

### **Useful Tool for NHRIs:**

The **UN Working Group's Guidance** was developed after a year-long, multi-stakeholder consultation process. Among other things the Guidance highlights several criteria for an effective NAP. In particular it notes that these should be:

- a) **Founded on the UNGPs**. NAPs should reflect the State duty to protect and provide access to remedy; promote the responsibility to respect human rights by businesses through due diligence and effective remediation, and be underpinned by non-discrimination and equality.
- b) **Country-specific** and address the country's actual and potential business-related human rights abuses, both within the territory and/or jurisdiction, as well as adverse impacts extra-territorially.
- c) **Developed in an inclusive and transparent process** giving relevant stakeholders an opportunity to participate.
- d) **Regularly reviewed and updated**.

The UN Working Group Guidance advocates a **5-Phase Process** composed of 15 steps.

1. **Initiate**: Government makes a commitment; collaboration across governmental departments; establish a format for engagement with non-governmental stakeholders; and a work plan that is adequately resourced.

2. **Assess and Consult:** Understand adverse business-related human rights impacts; identify gaps in State and business UNGPs implementation; consult stakeholders and identify priorities.
3. **Draft an Initial NAP:** Draft and consult on initial NAP with stakeholders; finalise and launch it.
4. **Implement** – Implement the actions and continue cross-departmental efforts; ensure multi-stakeholder monitoring.  
**Update:** Evaluate the impact of the first NAP and identify gaps; consult with stakeholders and set priority actions; draft, consult on, finalise and launch a revised NAP.

The Kenyan National Commission on Human Rights is one NHRI that has adopted this approach as it has been working with Government to develop the National Action Plan in Kenya (see below). The KNCHR's has identified a number key strategic lessons derived from its experience from using both UN Working Group Guidance and DIHR/ICAR Toolkit to inform its efforts. Among other things the KNCHR places a premium on securing Government buy-in from the outside, and building the trust and confidence of all key stakeholders in the process to strengthen its credibility and legitimacy; reinforced through the Setting up of a multi-stakeholder Steering Committee. See the case study below for fuller details of the lessons learnt and challenges it has encountered.

### **Development of the Kenya NAP on Business and Human Rights**

The Office of the Attorney General (OAG) and Department of Justice (DOJ) are the key government agencies spearheading the [NAP development in Kenya](#), working in collaboration with the **Kenya National Commission on Human rights** (KNCHR). The work is coordinated through a National Steering Committee comprised of 13 members from diverse sectors, whose mandate is to provide overall strategic guidance and direction.

The KNCHR's journey to develop a NAP was precipitated by the UPR process in January 2015 when a number of States, notably Norway, called on Kenya and other countries to develop a NAP in order to promote local implementation of the UNGPs. Kenya agreed and entered into a partnership with the Norwegian government to initiate its NAP development process. The Norwegian Embassy in Kenya continues to facilitate the process through financial support and technical expertise.

Internal drivers for the NAP stemmed from an awakening in the mining, energy and petroleum sectors and an influx of investment that saw many firms set up operations in remote areas of Kenya with large indigenous and marginalised populations. Companies began seeking human rights advice as result of community demands for inclusion, participation and consultation on matters concerning the development of their local areas. The businesses realised they needed to maintain goodwill and avoid community hostility.

### **The NAP Development Process**

Kenya follows the five Phases for developing a NAP advocated in the **UN Working Group's Guidance on NAPs**.



1. **Initiation:** During a preparatory phase, the KNCHR developed a concept paper to inform relevant Government Authorities about the UNGPs, and to help win the approval and authorisation to develop a NAP. In February 2016 the Kenyan Government committed to engaging in an open-ended NAP process. The initial phase saw the KNCHR convene stakeholder consultations in order to select National Steering Committee members, map regional stakeholders and identify policy gaps.
2. **Assessment and Consultation:** Kenya undertook a [National Baseline Assessment](#) to identify all the agencies, laws and initiatives that aim to protect individuals from business-related human rights abuses. The Steering Committee mapped 8 regions of Kenya and conducted consultations in each, drawing on target groups from private and state run businesses, government agencies, civil society and members of the public. The published preliminary findings of the NBA, coupled with the regional consultation reports, led to five thematic areas being identified for the NAP: *Land, Labour, Environment, Revenue and Transparency and Access to Remedy*, and the establishment of five corresponding Thematic Working Groups.
3. **Drafting:** NAP drafting is underway (March 2018). The first step saw a consultant identified to develop the first draft. Efforts are being made to align the NAP with the Sustainable Development Goals (SDGs), to enhance coordination between the NAP process and the SDG localisation and mainstreaming process. Once the NAP Draft is available, the Steering Committee will conduct a second phase of regional consultations to review and update the first Draft. The NAP will then be validated, launched and published.
4. **Implementation:** The final NAP is expected to include an implementation matrix identifying actors that will be involved in its implementation.
5. **Update:** The NAP will also include a timeline for regular reviews and updates.

### Key Lessons

- The KNCHR has identified two keys to success in the NAP process: (i) State leadership from the outset is crucial. It serves to inform other actors on what is expected of them, with businesses accepting that Government is driving the process. (ii) The confidence of all stakeholders is a prerequisite to the NAP's legitimacy and credibility. Business buy-in has to be secured via a well-planned engagement strategy.
- The NAP process Steering Committee is drawn from diverse sectors, with members selected through a consultative process. This diversity helps achieve policy coherence, and encourages strong relationships among the agencies and entities involved. Building strong relationships and cohesiveness from the start is essential, as these same actors will later be responsible for the NAP's implementation.
- The KNCHR business advocacy strategy has benefited from stressing that the UNGPs do not create new laws, but are essentially a consolidation of existing obligations and standards to which States have already committed. The KNCHR makes the business case for human rights; attempting to show how advancing human rights can lead to business gains. Several multinational corporations operating in Kenya are from countries where the

UNGPs are already widely implemented. These corporations have proven to be important partners, and can help model best practice.

### **Challenges**

- Informal businesses and SMEs make up around 98% of companies in Kenya. Engagement of SME's can be challenging as they find it difficult to define their role or place in human rights compliance.
- The UNGPs allow States to take steps - where there is a recognised jurisdictional basis for doing so - to prevent abuses abroad by companies based in their jurisdiction. When it comes to implementing NAPs, but this can present practical challenges for NHRIs whose mandates are typically domestic.
- NAPs can be expensive. Partnership with governments already implementing the UNGPs is invaluable. For Kenya, support from the Norwegian government has helped fund the process, provide important technical support and give access to key networks.

### **Key resources:**

1. The African Coalition for Corporate accountability [ACCA](#)
2. NBA assessment Toolkit, DIHR and ICAR
3. Guidance on NAP on Business and Human Rights, UN Working Group

### **Useful Tool for NHRIs:**

The **DIHR and ICAR NAP Toolkit** advocates a similar approach across the NAP lifecycle (see below). This Toolkit was also developed after extensive consultation and road-testing in a number of contexts. The Toolkit places particular emphasis on the development of National Baseline Assessments as a way of laying an evidence base for, and means of, evaluating progress on the NAP itself. The steps are to:

- 1. Establish a Governance Framework for the NAP**
- 2. Conduct a National Baseline Assessment**
- 3. Elaborate the NAP, including its scope, content and priorities**
- 4. Implement, monitor and review the NAP, and**
- 5. Update the NAP**

The Toolkit emphasises the importance of a Government commitment to the NAP, the assigning of responsibility, and ensuring there is co-ordination and coherence across Government departments. The Toolkit places emphasis on ensuring transparency throughout the process, e.g. by agreeing terms of reference, objectives, work plans, and publishing consultation drafts, and allocating necessary resources, which is a challenge in a number of contexts. The Tool among other things also suggests conducting a Stakeholder mapping; giving consideration to setting up multi-stakeholder advisory body, working group or steering committee to help legitimise the process; and facilitating ways of involving marginalised or at risk groups.

The Toolkit emphasises that NBAs help give an accurate assessment of current levels of implementation of the UNGPs, and provide a means of gauging the

most salient business-related human rights impacts in the country. A NBA provides a robust evidence base to underpin the NAP and for setting priorities. The process can also support stakeholder capacity-building.

The DIHR/ICAR Toolkit features an **NBA Template**, updated in 2017, to address all 3 Pillars in the UNGPs. The NBA Template consists of a set of tables listing all of the principles in the UNGPs, and guiding questions to assess steps currently being taken against each of them. All human rights are covered. The Toolkit advised that NBA's should take account of levels of business implementation of human rights due diligence and access to remedy, be transparent, and just as with the full NAP development involve stakeholder groups.

Notably, the Toolkit also includes chapters on how to engage specific rights-holders in the NAP development process, as some at risks group benefit from tailored engagement processes. Those covered in the Toolkit include children, indigenous peoples, human rights defenders and women.

The Scottish Human Rights Commission is one Commonwealth NHRI to have used the DIHR/ICAR Toolkit to inform the development of its NBA, as part of its commitment to develop a specific NAP on Business and Human Rights for Scotland. The Scottish Commission has found particular value in the process of establishing a robust evidence base for its future NAP.

### **National Baseline Assessment to inform a National Action Plan on Business and Human Rights**

The **Scottish Human Rights Commission** (SHRC) as an accredited 'A Status' NHRI has powers to recommend changes to law, policy and practice; to promote human rights through education, training and publishing research; and to conduct inquiries into the policies and practices of Scottish public authorities.

The SHRC has developed an overarching NAP on Human Rights, within which it has committed to developing a specific National Action Plan to implement the UNGPs within Scotland. This will complement the UK-wide National Action Plan on Business and Human Rights (which was not built on a NBA).

In order to establish a robust evidence base to underpin an NAP on Business and Human Rights for Scotland, the [SNAP Better World Action Group](#) commissioned a National Baseline Assessment on Business and Human Rights. This was carried out using the tool designed by the DIHR and ICAR. The National Baseline Assessment comprised desk-based research, consultation with businesses and civil society organisations, and engagement with experts in business and human rights field.

The next phase of development will consist of extensive stakeholder consultations on the National Baseline Assessment. This will involve four separate events, each targeted at a different audience, including Civil Society/Third Sector, Trade Unions, Business Sector and Public Officials.

Following these events, a Drafting Group will draft the National Action Plan on Business and Human Rights. The draft will be made available for public

consultation, before being launched and adopted in Autumn 2018. The NAP is expected to include both monitoring and reporting mechanisms.

### **NHRIs around the UK National Action Plan and devolved Government NAPs**

The **Equality and Human Rights Commission (EHRC)** took an active role in supporting the development of the UK's National Action Plan (first published in 2013, and updated in 2016). The Northern Ireland Human Rights Commission (NIHRC) has also been active in this area, and made submissions.

UK Government Departments' involvement in the EHRC's Business and Human Rights Working Group allowed the EHRC to have an ongoing dialogue on the development of the original NAP published in 2013. Members of the EHRC also contributed to the Government's consultations on plans for the updated NAP published in April 2016.

The EHRC, NIHRC and Scottish Human Rights Commission all contributed to a UK Parliamentary Joint Committee on Human Rights Inquiry into the UK NAP in 2016, providing written and oral evidence.

The Scottish and Northern Ireland Human Rights Commissions are separately pursuing the development of a NAP on Business and Human Rights in their devolved jurisdictions, doing National Baseline Assessments. Through the Northern Ireland Human Rights Business and Human Rights Forum (see below) the NIHRC continues to play a key role in working towards the development of a NAP for Northern Ireland.

### **Developing a National Baseline Assessment and facilitating Government ownership in the NAP process**

The **Zambia Human Rights Commission (ZHRC)** is the A-status, Paris-Principles compliant, NHRI for Zambia. The ZHRC intensified its work on business and human rights in 2014 following training received through a blended-learning programme delivered by the DIHR, as part of a MOU between the two organisations. In 2015 the ZHRC embarked on a National Baseline Assessment with a view to the future development of a NAP on Business and Human Rights. The NBA used the first edition of the **DIHR/ICAR Toolkit** (which focussed on UNGPs Pillars 1 and 3), which was adapted slightly for the Zambian context, for example to reflect that fact that few Zambian companies operate in foreign jurisdictions.

The NBA took approximately six months and comprised both desk-based analysis and consultations with government, business and civil society stakeholders. The ZHRC developed a matrix of its stakeholders (comprising representatives from government and quasi-governmental bodies, business and business associations, the judiciary, civil society, trade unions and academia), and its team used this to conduct a series of interviews to verify the accuracy of preliminary desk-based research regarding the extent to which current laws, policy and practice gave effect to the UNGPs. The work among other things addressed several thematic areas, e.g. land rights. Throughout

the ZHRC received technical assistance from the DIHR, and the NBA underwent several phases to validate findings, and to identify and fill gaps. The [National Baseline Assessment on Business and Human Rights](#) was published in 2016, and the ZHRC undertook outreach consultations with key stakeholders, including Government ministries, to discuss the NBA's findings.

The ZHRC embarked on the NBA in part due to doubts that the Government would instigate a NAP process without external impetus. By involving various government ministries in the NBA process itself, and the outreach after its release, the ZHRC hoped to generate ownership among Government stakeholders in the process, in particular from the Ministry of Commerce, Trade and Industry (CTI), and to encourage them to take the reins. The NBA was referenced within the most recent UPR submission on Zambia, and in 2017 the Zambia 7th National Development Plan included a commitment to develop a NAP on Business and Human Rights.

Among the ZHRC's priorities for 2018 is to work to develop the NAP based on the NBA findings. The ZHRC is also now starting to use latest version of the Toolkit to carry out a Pillar Two NBA to assess business practice in line with the UNGPs, which was absent previously. The ZHRC expects to involve the CTI Ministry, business associations and business community in this phase, to give them a sense of ownership in the outcomes.

**Key resources:** In addition to the DIHR/ICAR Toolkit and direct technical DIHR support, the ZHRC highlights the African Commission's [Working Group on Extractive Industries, Environment and Human Rights Violations](#).

### **Further reading on National Action Plans**

The DIHR/ICAR Toolkit includes a series of supplements for NAPs and specific groups.

[Children's Rights in Natl. Action Plans on Business and Human Rights](#) © UNICEF, DIHR and ICAR (2015).

[Guidance on how to include human rights defenders in National Action Plans on business & human rights](#) © International Service on Human Rights (ISHR) and ICAR (2016).

### **b. Public Procurement**

The State-Business Nexus is another area of the UNGPs where NHRIs can drive domestic implementation of the UNGPs. When government departments and public authorities purchase goods and services, or outsource public functions to private bodies, they must be mindful of the actual or potential human rights impacts and take steps to protect citizen's rights.

Several NHRIs have carried out investigations into privatised public service and public procurement and issued guidance to government arising from these investigations on how to operationalise respect for human rights. This includes through Governments requiring impact assessments as part of its contracts when outsourcing public functions, and, for example, setting human rights due diligence criteria in the tendering, bidding and evaluation processes for public procurement. The Northern Ireland Human Rights Commission's work in public procurement has not only extended its reach with the devolved Government,

but also served as an impetus for its wider engagement on business and human rights, including in particular the setting up of the Northern Ireland Forum on Business and Human Rights.

### **Aligning Public Procurement Processes with the UNGPs**

The **Northern Ireland Human Rights Commission's (NIHRC)** work on business and human rights stems from a report it published in March 2012: [In Defence of Dignity: The Human Rights of Older People in Nursing Homes](#). Findings from this report highlighted the need for greater clarity on human rights issues in service procurement in Northern Ireland, and for human rights guidance among private sector actors taking on public functions. This led the NIHRC to take a strategic decision to develop a work stream on procurement in Northern Ireland, and led to the publication: [Public Procurement and Human Rights in Northern Ireland](#) in November 2013, which was prepared with the assistance of the DIHR. Among other things this report identified third-party contractors as public authorities for the purposes of the UK Human Rights Act (1998).

The Public Procurement report was the impetus for setting up the Northern Ireland Business and Human Rights Forum (see below). The initial aim was to bring government stakeholders together with business providers of goods and services to public authorities, and engage in dialogue on the potential human rights impacts involved, and explore responsibilities in the protection, respect and remedy of human rights.

As part of the NIHRC's ongoing work on promoting good human rights practice in public procurement, in 2017, the NIHRC delivered training seminars on Procurement and Human Rights to staff at the Northern Ireland Department of Finance's Central Procurement Directorate, and continues to provide support to the Directive on Procurement Policy and Human Rights for contracts within Northern Ireland.

### **Further resources on Public Procurement and Human Rights**

The [International Learning Lab on Public Procurement and Human Rights](#), was set up by ICAR, the Harrison Institute for Public Law at Georgetown University, and the DIHR. The Lab is a global network that aims to generate knowledge, tools and guidance, and build capacity of local and national procurement agencies to integrate human rights into purchasing. The Lab's work is split into four thematic Hubs: Electronics, Apparel, International Financial Institutions, and Private Security, and offers E-Learning resources. The Lab brings together central and local government procurement agencies and purchasing officers; representatives of other relevant government bodies; procurement professional associations; regional and international organisations; non-governmental organisations; NHRIs; and relevant academics.

[Public procurement and Human Rights in Northern Ireland](#) © N. Ireland Human Rights Commission (2013)

Sancroft-Tussell Report: Eliminating Modern Slavery in Public Procurement (March 2018)

## 6. In Action: NHRI and the Corporate Responsibility to Respect

There is a range of options open to NHRIs on how to encourage companies to implement the UNGPs and deliver on their corporate responsibility to respect, including through due diligence and enabling remediation for human rights impacts they cause or to which they contribute.

### How NHRIs can engage:

- NHRIs can both **provide technical expertise** into company stakeholder consultations processes, and advise on which human rights experts and grassroots groups to involve within company human rights due diligence and remedy processes.
- NHRIs can **facilitate dialogues or forums** with companies, industry bodies or business associations, to **raise awareness** on the UNGPs;
- NHRIs can **develop and disseminate guidance** materials and deliver **capacity-building** trainings.
- NHRIs can carry out **investigations and mapping** of business activities to **identify prevalent impacts** of business activity in the country.
- NHRIs often find it useful to **engage with partner organisations** that specialise in business and human rights to guide them in their outreach to the private sector, including those referenced in this report such as the Business and Human Rights Resource Centre, DIHR, ICAR, IHRB, and Shift, with other NHRIs in the region, or to participate in UN Global Compact Local Networks.

To deliver on their mandate, particularly in relation to education and the promotion of the rights-based agenda among business stakeholders, NHRIs may themselves benefit from developing their own capacity on the UNGPs, for example by keeping abreast of initiatives that specifically advance the corporate responsibility to respect, such as the Corporate Human Rights Benchmark and UN Guiding Principle Reporting Framework.

NHRIs sometimes come to the field of business and human rights less familiar with the priorities and common ways of working in business circles, or specific industries, than they are with those of other stakeholders. The Kenya National Commission on Human Rights, for example, has found it helpful when promoting the UNGPs with the private sector, to stress that the UNGPs do not create new legal burdens for companies, and to emphasise those areas where businesses already advance human rights, such as through health and safety practices. The KNCHR has also found it useful to emphasise commercial reasons why human rights due diligence can make sense, such as in attracting new customers and investors, or building community goodwill.

Some NHRIs link their approaches to businesses on the corporate responsibility to respect with issues they know to be priorities for individual companies or groups of businesses, such as around their implementation of the Sustainable Development Goals, their desire to win public procurement contracts, or need to meet domestic reporting requirements on Modern Slavery.

Other NHRIs find that setting up dialogues or forums with business, on specific thematic areas or nationally specific issues, or partnering with others that do so - such as UN Global Compact Local Networks, can increase their effectiveness in encouraging private actors to respect human rights.

### **Northern Ireland Business and Human Rights Forum**

In 2015 the **Northern Ireland Human Rights Commission (NIHRC)** established the Northern Ireland Business and Human Rights Forum (The Forum) with a view to engaging government, business and civil society on the topic of Business and Human rights. The Forum has produced a [Human Rights Policy Statement](#) to which members are encouraged to sign up. The statement recognises the UNGPs and includes a commitment to respecting international human rights instruments, including the International Bill of Rights, the European Convention on Human Rights; European Social Charter; and the ILO's Declaration on Fundamental Principles and Rights at Work.

In 2017 the NIHRC transferred the roles of Forum Chair and Vice-Chair to representatives from the business community, in order to give businesses ownership in the process and have an opportunity to lead. The NIHRC continues to serve as Secretariat to the Forum.

The [Forum](#) meets quarterly to facilitate dialogue, learning and share good practice. The Forum invites expert guest speakers and Forum members to talk on thematic issues, with the aim of ensuring members are both equipped and empowered to respect and promote business and human rights. Thematic areas covered since the Forum's inception include: Transparency in Supply Chains; the UNGPs; Modern Slavery and the Modern Slavery Registry; Sport and Human Rights; the Right to Work and Persons with Disabilities; and Responsible Procurement. Forum members are updated on key business and human rights developments, including on the UK National Action Plan on Business and Human Rights, annual UN Forum on Business and Human Rights which, and upcoming events and training opportunities.

In 2016, the Forum submitted evidence to the UK Parliamentary Joint Committee on Human Rights' Human Rights and Business Inquiry. After engaging with Anti-Slavery International and the Gangmasters and Labour Abuse Authority, the Forum produced [resources on Modern Slavery](#) for its members, reflecting high levels of interest in the UK Modern Slavery Act's reporting requirements, and a [Guide for Businesses in Northern Ireland on Business and Human Rights](#). The Forum is currently seeking to develop a Northern Ireland Action Plan on Business and Human Rights, and has engaged with the Scottish Human Rights Commission on the approach it took to develop the Scottish National Action Plan on Human Rights. The Forum looks to develop this throughout 2018, and plans to conduct a National Baseline Assessment.



## **Promoting Business and Human Rights in the Private Sector**

The **Equality and Human Rights Commission (EHRC)** is Great Britain's national equality body and has 'A' status as an NHRI, and is one of the three NHRIs in the UK.

The EHRC's focus on Business and Human Rights grew out of an inquiry into recruitment and employment practices in meat and poultry processing sector in England and Wales. Findings from this inquiry (2008-2010) highlighted the need for systemic change in the sector. The EHRC convened an industry-wide taskforce, including major UK supermarkets and regulators, to improve policy and practice. Working collaboratively across the supply chain and alongside regulators enabled the EHRC to have far reaching impact leading to improved employment practices.

EHRC's efforts on business and human rights benefitted from setting up an external advisory body, the Business and Human Rights Working Group in 2011. This Working Group helped the EHRC think more strategically on business and human rights and gave it greater influence. The Working Group comprised representatives from several UK Government departments, the private sector, law firms, civil society organisations - including the UNGC UK Network, business and human rights specialists - such as IHRB, academic partners, and the Northern Ireland and Scottish Human Rights Commissions.

Support from the Business and Human Rights Working Group helped EHRC shape and inform several workstreams on business and human rights, including an examination of employment practices in the cleaning sector. EHRC has also published a series of [guidance materials](#) for businesses, including a Business and Human Rights Guide for Board Directors, a guide on handling human rights complaints, as well as an accessible video on the implications of the UNGPs for UK companies. EHRC has collaborated with business and human rights experts, including Shift, IHRB and Ergon, to develop these tools. Support from the Working Group has also enabled EHRC to disseminate its guidance tools both nationally and internationally, so that they have become embedded in businesses' own guidance and taken up by other NHRIs. The EHRC's contribution to the UK National Action Plan was also bolstered through relationships established on the Working Group, with UK Government departments having been on the Group since its inception.

The EHRC has recently moved away from developing discrete business and human rights projects and instead mainstreamed business and human rights across the organisation. This has allowed the EHRC to better integrate its expertise on business and human rights across all its activities, which is evidenced in recent programmes on the gender pay gap, sexual harassment in the workplace, pregnancy and maternity in the workplace, disabled access at Premier League football clubs and contribution to the Taylor Review on modern employment practices.

## **National Annual Dialogue on Business and Human Rights with Global Compact Network Australia**

The **Australian Human Rights Commission (AHRC)** works closely with the Global Compact Network Australia (the UNGC Local Network in Australian) to develop the agenda and participation for the National Annual Dialogue on Business & Human Rights, the most recent of which occurred on 28 October 2016. The focus of the 2016 Dialogue was to promote a broader understanding of supply chain transparency across global markets and facilitate stakeholder engagement on implementation of the UNGPs in Australia.<sup>6</sup>

In 2018, the Commission will play host to the 5th Annual National Dialogue on Business and Human Rights with Global Compact Network Australia and continue the development of resources to assist business to implement the UNGPs.

### **Developing Guidance and Outreach to Employers on Business and Human Rights**

The **Commissioner for Administration and Human Rights (Ombudsman)** of Cyprus, in her capacity not only as a National Human Rights Institution (NHRI) but also as an Equality Body, has dealt with the issue of respect for human rights in the private sector, including through conducting investigations, handling complaints, submitting reports, and issuing [guidance materials](#).

In 2016, the Cyprus Commissioner (acting as Equality Body) launched a campaign regarding the rights of pregnant women and new mothers. This campaign was triggered as a result of the submission to the Commissioner of a large number of complaints around discrimination due to pregnancy, motherhood, family and work-life balance. The campaign included the dissemination of a publication with relevant information to: public hospitals, health centres, labour unions, employers' organisations and the social media. The Commissioner also convened a round table discussion with NGOs, trade unions and employer's organisations on the subject. The main goal of the campaign was to inform pregnant women, new mothers and women in general, about their rights under national legislation.

The Commissioner has also issued several Codes of Practice for employers including on Combatting Harassment and Sexual Harassment (2007) and Combating Discrimination against people with Disabilities (2010). As well as a booklet that set of Guiding Principles on how the Media can contribute and assist in combating racism, xenophobia and discrimination. The booklet also contained information on the relevant legal and institutional framework. See the following link for an overview (in English):

### **Membership of UN Global Compact and Local Network**

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<sup>6</sup> Global Compact Network Australia, 'n Dialogue on Business and Human Rights' (Summary and Outcomes, 28 October 2016). At <http://www.unglobalcompact.org.au/2016/12/20/2016-australian-dialogue-on-business-and-human-rights-summary-and-outcomes-document-published> (viewed at 23 January 2018).

In 2013 the **Equality and Human Rights Commission** (EHRC) was invited to speak at a UN Global Compact UK Network event about its business and human rights work. This led to a further opportunity for the EHRC to present specifically on its work relating to the cleaning sector work and living wage issues with the the Network's members. These speaking opportunities gave EHRC a chance to interact with several businesses with whom the EHRC had not previously managed to engage with on the subject of human rights, and demonstrated the potential benefits that membership of the UK Network could offer the EHRC in terms of extending its reach with UK businesses that might be looking for support and guidance. EHRC regards membership as an opportunity to strengthen its engagement on important issues such as supply chain management and transparency.

The UN Global Compact is a platform for business and non-businesses to network and engage in areas of human rights, labour, environment, anti-corruption and contribute to UN goals. Local Networks were launched to help make the Global Compact relevant in different economic, political and cultural landscapes and to support meaningful engagement with signatories (see Chapter 9 for more detail).

The EHRC's membership of the UN Global Compact has opened other doors, for example it paved the way for the Commission to be invited to speak at the UN Commission on the Status of Women in March 2017.

## 7. In Action: NHRI and Access to Remedy

NHRIs have a pivotal role to play in providing Access to Remedy, are explicitly recognised within the UNGPs as a key State-based non-judicial grievance mechanism. NHRIs that comply with the Paris Principles have the mandate to promote effective and rights-based judicial and non-judicial channels for remedy for business-related human rights impacts.

### How NHRIs can engage:

- NHRIs directly offer access to remedy through existing **investigative, complaint handling, mediation and/or alternative dispute resolution functions** for victims of business-related human rights impacts.
- NHRIs can **advise, signpost or refer victims** of business-related human rights abuses to appropriate courts, tribunals and other judicial and non-judicial grievance mechanism.
- NHRIs can **share good practice** with, or **build the capacity** of other complaint and dispute resolution professionals / bodies in handling

business-related human rights cases, e.g. lawyers, legal profession associations and OECD National Contact Points. NHRIs may also learn and share-knowledge with these groups, including in particular OECD National Contact Points, who are also tasked with delivering State-based non-judicial remedy in the area of responsible business conduct, and which often employ mediation or other alternative dispute resolution techniques.

- NHRIs can **advise States** on ways to strengthen judicial and non-judicial mechanisms in the orbit of business and human rights, and educate relevant authorities on technical matters e.g. the extra-territorial application of laws. NHRIs should, for example, **encourage States to follow** the OHCHR's **Accountability and Remedy Project guidance** (see below).
- NHRIs can provide **technical assistance to businesses**, industry bodies and/or multi-stakeholder initiatives **on setting up** and running **operational-level grievance mechanism**. In providing such advice or assistance, NHRIs need to be sure to stress the importance of meeting the full menu of **effectiveness criteria** elaborated in Pillar Three of the UNGPs.

### **OHCHR Accountability and Remedy Project**

The right to a remedy is a central plank of the international human rights system and the UNGPs. Concerns over the legal and practical barriers to remedy for business-related human rights abuses, which often leave victims without access to justice, however, prompted the Human Rights Council, through Resolutions 26/22 (July 2014) and 32/10 (June 2017), to request that the OHCHR facilitate greater research and knowledge exchange on the subject.

Launched in 2014, the OHCHR Accountability and Remedy Project (ARP) has comprised two phases, with the aim of delivering “credible, workable guidance to States to enable more consistent implementation of the UNGPs in the area of access to remedy”. Both phases have involved extensive research and consultation, including with NHRIs.

[ARP I: Enhancing effectiveness of judicial mechanisms in cases of business-related human rights abuse](#). This concentrated on six topics: domestic law tests for corporate accountability, the roles and responsibilities of interested States, overcoming financial obstacles to legal claims, criminal sanctions, civil law remedies, and practices and policies of domestic prosecution bodies. The OHCHR submitted its [Report](#) in 2016, and recommended that States:

- Review the coverage and effectiveness of domestic law regimes regulating the respect by business enterprises of human rights, based on the specific guidance within the report.
- Develop a comprehensive strategy to implement the guidance, including within NAPs, and
- Improve the effectiveness of cross- border law enforcement

[ARP II: Enhancing effectiveness of State-based non-judicial mechanisms in cases of business-related human rights abuse](#). This phase has examined lessons learned, best practices, challenges and possibilities to improve the effectiveness of State-based non-judicial mechanisms in relation to respect by business enterprises for human rights (including in a cross-border context). As part of ARP II, OHCHR instigated a [Sector Study](#) to better understand

responses by State-based non-judicial grievance mechanisms in remedying business related human rights abuses, focusing on: extractives, mining and natural resources; agri-business and food production; infrastructure and construction; and textiles and manufacture of clothing; and concluded that “domestic systems for responding to adverse business-related human rights impacts through State-based non-judicial mechanisms are presently haphazard”. ARP II has also comprised an [Open Process Questionnaire](#), a [Discussion paper](#) and [Consultation Draft](#), ahead of its final submission to the HRC in June 2018. The work has included research into the complaints handling and remediation offered by NHRIs.

### **Further reading on Access to Remedy**

[Corporate Legal Accountability](#) platform, Business and Human Rights Resource Centre

[Top 10 Business and Human Rights Issues 2018](#), IHRB UN Working Group Reflections on the Theme of ‘Realizing Access to Effective Remedy’ at UN Forum 2017.

### **Investigations of Business and Human Rights-Related Complaints**

The **Cameroon National Commission on Human Rights and Freedoms** applies its complaint handling and investigatory mandate functions to business and human rights related issues in several different ways. For example, a significant number of the complaints received by the Commission relate to labour rights abuses resulting from the activities of corporations, including issues such as: workplace health and safety, non-payment of wages, excessive working hours and overtime without compensation, and unlawful curtailment of the right to freedom of association. In investigating and addressing such complaints, the Commission undertakes field verification, in some cases in conjunction with CSO representatives or members of the judiciary, and may summon parties for mediation or conciliation, provide oral advice to complainants or encourage remediation by writing directly to the corporation concerned or the relevant regulatory body. The Commission also has legal power to conduct investigations on its own motion, which it has used with regard to business and human rights issues, such as environmental pollution, in a number of instances.

*This text appears courtesy of the DIHR and is taken from Business and Human Rights: A Guidebook for NHRIs: Regional Supplement 1: African Regional Frameworks and Standards on Business and Human Rights, © International Coordinating Committee of National Human Rights Institutions (ICC) and Danish Institute for Human Rights (DIHR), (November 2013) and is published here with the permission of the DIHR.*

### **Complaint Handling that led to a Public Inquiry**

The **Kenya National Commission on Human rights (KNCHR)** is the Kenyan NHRIs with a mandate to promote a human rights culture in the Republic of Kenya. As part of its mandate it has the responsibility to monitor, investigate and report on the observance of human rights within the country. KNCHR’s Complaints and Investigations department acts as a non-judicial grievance mechanism, and offers a range of interventions including Alternative Dispute

Resolution, public inquiries, and issuing recommendations to various agencies and non-state actors.

In 2016 the KNCHR received and documented complaints from individuals and groups in relation to mining activities and alleged violation of human rights. To respond to the complaints, the Commission deployed several investigative missions to ascertain their veracity. The preliminary findings from the missions highlighted systemic human rights impacts, including land issues, environmental degradation, poor working conditions for mine workers, allegations of police harassment and brutality, poor market access - especially for small-scale artisanal miners, sexual and gender based violence, deteriorating education standards - largely due to instances of child labour, and lack of community participation in decision-making with regard to access to land and how the revenues generated from the mines could benefit the community. This prompted a [Public Inquiry into the Mining Sector](#), the findings of which were published and shared with key players in both public and private institutions for remedial action.

### **Inquiry into the Human Rights Impacts of Mining Operations**

The **South African Human Rights Commission** has undertaken a number of investigations and inquiries into complaints regarding mining operations. One of these has been the inquiry into the impacts on local communities caused by the Potgietersrus platinum mine in Limpopo, Mokopane. Prompted by a report by the NGO Action Aid, in 2008 the Commission decided to conduct its own full investigation into the matters concerned. The investigation focused on both specific human rights abuses alleged, as well as systemic underlying issues.

The Report of the SAHRC on the Potgietersrus platinum mine in Mokopane (2009) found that relocation was adversely affecting the concerned communities. The Report was intended to be proactive and constructive, raising awareness of international best practice and avoiding exacerbating existing vulnerability. It made a number of recommendations, including to the Government and the company, on how to assist rights-holders in building their capacity to claim their rights, and improve company approaches to resettlement and due diligence. The results of the investigation were communicated to affected communities, public authorities and the company. The Commission continued to monitor the implementation of its recommendations for two years, which revealed that some of the recommendations that had been made to the Government and company were implemented.

*This text appears courtesy of the DIHR and is taken from Business and Human Rights: A Guidebook for NHRIs: Regional Supplement 1: African Regional Frameworks and Standards on Business and Human Rights, © International Coordinating Committee of National Human Rights Institutions (ICC) and Danish Institute for Human Rights (DIHR), (November 2013) and is published here with the permission of the DIHR.*

## 8. Business and Human Rights Emerging Trends

Business and human rights is a dynamic field. What follows is a selection of emerging trends within this space. NHRIs may find it useful to follow these and other developments when delivering their mandate in relation to business and human rights. There are many other thematic areas that could be of particular interest to NHRIs in light of their domestic context. See the suggested further reading (below) for a number of useful overarching resources on thematic areas.

### Further reading

[\*Business and Human Rights: A Guidebook for NHRIs\*](#) © International Coordinating Committee of National Human Rights Institutions (ICC) and Danish Institute for Human Rights (November 2013)

[\*Human Rights Translated 2.0: A Business Reference Guide\*](#) © Monash University Castan Centre for Human Rights Law, with OHCHR and UN Global Compact (2016)

[Business and Human Rights Resource Centre](#) Discover Big Issues platform.

### a) Disclosure and due diligence laws

A number of countries and jurisdictions have begun to introduce domestic laws that require companies to either carry out human rights due diligence or to report on their efforts to address human rights-related risks.

These laws have global implications, both for large foreign companies that do business within these jurisdictions and for the global suppliers that service them, and thus may be relevant across the Commonwealth.

### How NHRIs can engage:

- Several NHRIs find that these requirements are driving local initiatives on business and human rights, and catalysing implementation of the UNGPs. NHRIs can consider recommending that Governments adopt similar legislation, either as part of a NAP or separately.

### Modern Slavery reporting requirements

Reporting requirements are increasingly being trialled to combat modern slavery. The term 'modern slavery' is contentious in some parts of the world, but nonetheless legislation in several countries is aiming to fight a significant human rights issue in the world today. According to the ILO some 21 million people worldwide are trapped in some form of forced labour, one quarter of whom are children. By requiring companies to disclose steps being taken across their supply chains, governments are attempting to stamp out modern slavery in all its forms including servitude, forced and compulsory labour or human trafficking of any kind, including debt bondage, child labour, forced criminality, domestic servitude and forms of sexual exploitation.<sup>7</sup>

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<sup>7</sup> The UK's new slavery laws explained: what do they mean for business?

## **The California Transparency in Supply Chains Act (2010)**

The California Act came into force in 2012. It requires retail and manufacturing firms that do business in California and have gross receipts in excess of US\$100 million to: i) disclose the steps they have taken, if any, to eradicate slavery and human trafficking from their supply chain, ii) disclose the steps taken to verify these efforts, audit, demand certification or otherwise hold to account their suppliers, and to provide management training on how to mitigate risks of slavery or human trafficking, and iii) publish their disclosure on their website and upon request to consumers.

The Act did not mandate due diligence *per se* but was intended to prompt companies to 'show' what they 'know', and to leave it to the market and consumers to hold companies to account for inadequate disclosure. Although the actual benefit of the law for victims of forced labour or trafficking remains unclear, it has triggered similar legislation in other countries, and there is indeed some evidence that the law has led to increased pressure on companies to take meaningful action to identify, prevent and mitigate slavery and trafficking related risks in their supply chains, for fear of attracting lawsuits by Californian residents on grounds of deceiving consumers through "inadequate" public disclosure.

## **UK Modern Slavery Act (2015)**

Under the *UK Modern Slavery Act 2015 (Transparency in Supply Chains) Regulations 2015* commercial organisations which supply goods or services, carry on a business or part of a business in the UK, and whose annual turnover is £36 million or more, must publish an annual statement outlining what they have done to ensure there is no slavery or human trafficking in their supply chains and operations. An Independent Anti-Slavery Commissioner, whose job is to encourage good practice on the prevention of modern slavery and to identify victims, is also in place. The UK Act has global implications because the reporting requirements apply not only to UK registered companies, but also to any firm incorporated or formed outside of the UK that meets the criteria.

There is no prescribed format for the legally required Modern Slavery statements in the UK, but – in keeping with the UNGPs – firms are encouraged to make a policy commitment on tackling modern slavery; outline their due diligence process; document their risk-mapping process and the steps taken to assess and manage risks of slavery and human trafficking, as well as any training procedures; and to indicate the effectiveness of these efforts by using performance indicators. Companies must publish the statements prominently on their UK website, have them approved by the Board of directors and signed by a director to ensure senior level management buy-in.

Companies are urged to be transparent and admit where they face challenges or may need to carry out further investigations. The Business and Human Rights Resource Centre hosts an independent, free to use [registry](#) of Modern Slavery Act Statements (as well as guidance and [resources](#)), and consultations

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<https://www.theguardian.com/sustainable-business/2015/dec/14/modern-slavery-act-explained-business-responsibility-supply-chain>



are ongoing with regard to setting up a single central repository. A UK [Private Members Bill](#) is looking to strengthen the Act by introducing mandatory due diligence for public procurement contracts.

### **Strategic policy and practical support to address modern slavery in Australia**

Human trafficking and modern slavery are key focus areas for the **Australian Human Rights Commission**, and the Commission remains committed to delivering strategic policy and project outcomes to address these issues across a broad range of sectors.

In August 2016, the Commission published a joint civil society statement on establishing a **National Action Plan for Business & Human Rights** to strengthen the implementation of the UNGPs in Australia. The Commission led the facilitation of a civil society roundtable on modern slavery and supply chain transparency that gave rise to and developed this joint statement.<sup>8</sup>

In October 2017, the Australian Human Rights Commissioner brought together a diverse group of community leaders – spanning the business sector, academia, sector-specific bodies, civil society and faith-based organisations – to contribute constructively to the reform process underway in Australia on the issue of modern slavery. The outcome was a joint statement, which expressed support for the development of an **Australian Modern Slavery Act**, and articulated a number of key principles that should guide this reform.<sup>9</sup> The Commission facilitated a dialogue process that was vital in developing the joint statement. This joint statement was also provided to the Australian Parliamentary Committee Inquiry on establishing a Modern Slavery Act.<sup>10</sup>

Also in October 2017, the Commission welcomed the opportunity to make a submission to the Attorney- General's Department in response to its **Modern Slavery in Supply Chains** – Report Requirement: Public Consultation Paper<sup>11</sup>.

The Commission will continue maintaining a watching brief on national developments in establishing a Modern Slavery Act in Australia.

### **The French Duty of Vigilance Law - Human Rights and Environmental Impacts**

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<sup>8</sup> Australian Human Rights Commission, *Implementing the UN Guiding Principles on Business and Human Rights in Australia, Joint Civil Society Statement*, August 2016.

<sup>9</sup> Australian Human Rights Commission, 'Statement of Support for an Australian Modern Slavery Act' (Leadership statement, November 2017). At <https://www.humanrights.gov.au/our-work/rights-and-freedoms/publications/statement-support-australian-modern-slavery-act-2017> (viewed at 23 January 2018).

<sup>10</sup> Australian Human Rights Commission, 'Statement of Support for an Australian Modern Slavery Act' (Leadership statement, November 2017). At <https://www.humanrights.gov.au/our-work/rights-and-freedoms/publications/statement-support-australian-modern-slavery-act-2017> (viewed at 23 January 2018).

<sup>11</sup> Australian Human Rights Commission, *Submission to the Attorney-General's Department, Modern Slavery in Supply Chains Reporting Requirement Consultation*, 20 October 2017.

The French Duty of Vigilance Law<sup>12</sup> came into force in March 2017. It goes further than the reporting requirements of either the California or UK Acts as it extends beyond modern slavery issues. Under the law parent companies must identify and prevent adverse human rights and environmental impacts resulting from their own activities, the activities of companies they control, and those of subcontractors and suppliers with whom they have established commercial relations.

The law applies both to French companies headquartered in France that employ at least 5,000 employees worldwide (including through subsidiaries), and to foreign companies headquartered outside France, with French subsidiaries, if they employ at least 10,000 employees worldwide (including through direct and indirect subsidiaries).

The French model is aligned with the UNGPs human rights due diligence model. Companies subject to the law are expected to develop a vigilance plan (in consultation with relevant stakeholders), and to report regularly on its implementation in their public annual reports.

Companies must disclose their processes to identify and analyse the human rights and environmental risks of their operations and through their commercial relationships; and actions to mitigate and/or address identified risks to prevent serious violations; and mechanism to assess the effectiveness of these mitigations. Courts may compel companies to establish, implement or publish vigilance plans if they fail to do so, and under certain circumstances may require them to compensate victims who suffer as a result of non-compliance with the law.

<http://www.assemblee-nationale.fr/14/pdf/ta/ta0924.pdf>

### **The EU Directive on Reporting of Non-Financial and Diversity Information (2014)**

EU [Directive 2013/34/EU](#) requires companies to report in their annual reports on the impact of their business activities on non-financial and diversity matters, including at least environmental matters, social and employee-related matters, respect for human rights, anti-corruption and bribery matters. The Directive does not require companies to pursue additional measures to address reported impacts, but does explicitly highlight a number of frameworks for reference including the UNGPs, and OECD Guidelines on MNEs, ILO Tripartite Declaration, ISO 26,000 and Global Reporting Initiative. Failure to report can result in sanctions, specific to individual EU states.

### **b. Human Rights Defenders**

The space for civil society is felt to be shrinking globally, including in otherwise functioning democracies, and human rights defenders (HRDs) such as those working on business-related human rights impacts are especially vulnerable. The UN Declaration on Human Rights Defenders (1998) recognises the right to

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<sup>12</sup> See [Introduction: French Law on the Corporate Duty of Vigilance: A Practical and Multidimensional Perspective](#).

engage in human rights discourse and work towards defending people's rights. Yet globally cases of HRDs being subject to intimidation, restrictions, surveillance, arrest, abductions, torture and even killings, are on the rise. The Business and Human Rights Resource Centre calculates that 950 cases of attacks against defenders working on corporate accountability have taken place since 2015, with killings and lawsuits on the increase in 2017.

Human rights defenders play a fundamental role in identifying and investigating business-related human rights abuses, but also in enabling companies to understand the concerns of affected rights-holders. Some HRDs are themselves members of affected groups, others represent or support those affected or potentially adversely impacted by business activities. The UNGPs specifically call on companies to consult with HRDs as part of their human rights due diligence. This is because HRDs can often provide access to and invaluable insights into the experience of marginalised and at risk groups, and are often familiar with legal, political, economic and social context. Moreover, in the best cases both HRDs and businesses typically support and benefit from the rule of law, the elimination of corruption, accountability, and stability. HRDs also have a critical role to play in helping to secure remedy, by providing evidence of business-related human rights abuses and can often support the efforts of NHRIs. Yet in many cases, because it is the role of HRDs to unearth cases human rights abuse and corruption, States and business with a vested interest in the truth remaining hidden have often been implicated or complicit in threats and attacks against them.

The UN Working Group<sup>13</sup> and others in the business and human rights field are increasingly calling for safeguards to protect HRDs. States for example are encouraged to consult with HRDs in the development of NAPs, and ensuring that the NAP itself includes measures to protect HRDs and enable them to carry out their work free from harassment or interference.

### **How NHRIs can engage:**

- NHRIs can play an educational role to ensure that business and Government stakeholders properly understand the positive role HRDs can play in support of company human rights due diligence and remedy.
- NHRIs can also advocate for HRDs to be consulted in the development of any NBAs and NAPs, and fully protected within the terms of the final NAP. NHRIs may also investigate, and potentially intervene on behalf of HRDs that are themselves victimised.

### **Further reading on Human Rights Defenders and Business and Human Rights**

[Human Rights Defenders & Corporate Accountability Human Rights Monitor](#), Special Edition produced for the UN Forum on Business and Human Rights, © International Service for Human Rights, November 2015. [Background Note: Human Rights Defenders and Civic Space – The Business and Human Rights Dimension](#), © UN Working Group on Business and Human Rights, 2017.

<sup>13</sup> The UN Working Group is working on a project with the UN Special Rapporteur on Human Rights Defenders, and has issued a discussion paper on around guidance on HRDs and the role of business. <http://www.ohchr.org/EN/Issues/Business/Pages/HRDefendersCivicSpace.aspx>

[Business & Human Rights Defenders Portal](#), Business and Human Rights Resource Centre.  
[Human Rights Defenders and Business - Searching for Common Ground](#), © IHRB and Front Line Defenders and Civil Rights Defenders, December 2015.

### **c. Intergovernmental Working Group on a UN Treaty on Business and Human Rights**

In June 2014, the Human Rights Council adopted Resolution 26/9 in which it agreed:

*"to establish an open-ended intergovernmental working group on transnational corporations and other business enterprises with respect to human rights, whose mandate shall be to elaborate an international legally binding instrument to regulate, in international human rights law, the activities of transnational corporations and other business enterprises."*

The Resolution was adopted by a plurality vote of 20 states in favour, with 14 opposed and 13 abstentions. The Human Rights Council specified that the first two sessions of the open-ended intergovernmental working group (IGWG) should explore the *"content, scope, nature and form"* of the potential future instrument, and the Chairperson-Rapporteur the IGWG *"should prepare elements for the draft legally binding instrument for substantive negotiations at the commencement of the third session of the working group"* based on the discussions at the first two sessions, which took place in July 2015, and October 2016 respectively.

The IGWG's third session was held in October 2017. Discussions focussed on an "Elements" document for the draft Treaty, which highlighted questions around the protection of victims of business-related human rights abuse, the elimination of impunity, and access to justice. In remarks offered by video, the United Nations High Commissioner for Human Rights noted the UNGPs as *"an important step towards extending the human rights framework to corporate actors"*; stated the *"there was no inherent dichotomy between promoting the Guiding Principles and drafting new standards at the national, regional or international level aimed at protecting rights and enhancing accountability and remedy for victims of corporate-related human rights abuses"*; and in reiterating his support to IGWG, drew attention to the recommendations of the OHCHR's accountability and remedy project which he hoped could contribute to the IGWG's deliberations.

States and other stakeholders were invited to submit comment and proposals on the draft elements document by February 2018, and the Chair-Rapporteur has been entrusted with finalising and submitting a draft report on its third session for consideration by the Human Rights Council at its thirty-seventh session. A variety of views have so far been submitted. NHRIs should keep abreast of the IGWG's progress and be alert to opportunities to engage.

#### **Further reading on the IGWG and proposed Treaty**

[Report on the third session of the open-ended intergovernmental working group on transnational corporations and other business enterprises with respect to human rights](#), UN HRC A/HRC/37/67, Jan 2018.

Intergovernmental Working Group on a Human Rights and Business Treaty website:

<http://www.ohchr.org/EN/HRBodies/HRC/WGTransCorp/Pages/IGWGOntnc.aspx>

[White Paper: Options for a Treaty on Business and Human Rights](#), Douglas Cassel and Anita Ramasastry, Notre Dame Law School (2016)

#### **d. Sport and Human Rights**

The nexus between Sport and Human Rights is a growing area within the business and human rights field, especially in relation to Mega-Sporting Events (MSEs) such as the Olympic and Commonwealth Games, and FIFA World Cups. Sport has power to build bridges across communities, and hosting a major or even medium-sized sporting events (e.g. the Commonwealth Youth Games and regional championships) can have lasting positive human rights benefits, including in employment and skills opportunities, housing and infrastructure development, urban and leisure space regeneration and improved sports facilities and participation. MSEs, however, often leave negative human rights footprints - including forced evictions, forced labour and human trafficking, worker exploitation and construction deaths during the land development and stadium construction phases; sweatshop labour in merchandise supply chains; racist and homophobic hate-speech against athletes and fans; and bullying and sexual harassment of young athletes; as well as security clampdowns, and constraints on protests and the work of human rights defenders and journalists.

Global sport is a major industry, and sports events are run as commercial ventures with far-reaching business relationships. Sports governing bodies like the Commonwealth Games Federation, FIFA, UEFA, and International Olympic Committee are starting to implement UNGPs, conduct human rights due diligence and facilitate access to remedy. In the Commonwealth context, the Commonwealth Games Federation and several Commonwealth NHRIs are leaders in this space. They and other sports bodies are founding members in a multi-stakeholder initiative, the [MSE Platform on Human Rights](#), chaired by Mary Robinson and facilitated by IHRB that in 2018 is due to launch a global Centre for Sport and Human Rights to promote learning and accountability.

#### **How NHRIs can engage:**

- Some NHRIs are using sport and the hosting of sport events to promote human rights, and as an entry point with governments and companies on business and human rights. Those NHRIs based in countries scheduled to be hosting large sporting events should consider reaching out to the MSE Platform on ways to engage with the initiative.

#### **Sport and Human Rights - Leadership within the Commonwealth**

##### **Forum of NHRIs**

In 2015 the **Northern Ireland Human Rights Commission** took on the role of Chair of the Commonwealth Forum of National Human Rights Institutions (CFNHRI). It has used this role to develop work in the areas of sport and human rights. Sport is a driver for social cohesion but, as a global industry, it

has human rights risks. Mega-Sporting Events in particular are often linked to adverse business-related human rights impacts.

In 2016, the NIHRC established a relationship with the Northern Ireland Commonwealth Games Council (NICGC) and the Commonwealth Games Federation (CGF), and has since forged a formal partnership with the NICGC to promote sport and human rights in the run-up to, and during, the 2021 Commonwealth Youth Games due to be held in Belfast. The NICGC is keen to ensure that the 2021 Games leaves a strong human rights legacy in Northern Ireland.

The NIHRC is working to position itself as a key player in the sport and human rights field, as this becomes a major new area of work on the global human rights landscape. The NIHRC is collaborating with the New Zealand Human Rights Commission (NZHRC) and Australian Human Rights Commission (AHRC), as all three NHRIs share an active interest in the area of sport and human rights. They are exploring how to integrate human rights into sport - with a particular focus on MSEs, and engage regularly with the MSE Platform on Human Rights. The NIHRC presented its work with the NICGC to conference participants at the second annual [Sporting Chance Forum](#) in December 2017, the annual convening of the MSE Platform. At the instigation of the NIHRC, these three NHRIs have been working with the Commonwealth Secretariat and the CGF to develop a Declaration on Sport and Human Rights, which was approved at the CFNHRI Biennial in April 2018.

The NIHRC handed over the role of Chair of the CFNHRI to the Equality and Human Rights Commission in April 2018, but plans to remain a focal point on sport and human rights in order to continue this work.

### **Supporting the Glasgow Commonwealth Games to Respect and Promote Human Rights**

The **Scottish Human Rights Commission** (SHRC) saw the Glasgow Commonwealth Games in 2014 as an important opportunity to embed the values of respect, diversity, tolerance and fairness within Scotland, and to highlight the role that business can play in respecting human rights and to benefit society. To this end the SHRC collaborated with the Glasgow 2014 Commonwealth Games Organising Committee, and other partners, to address important human rights concerns and to help make the Glasgow Games an example for others to follow.

In early 2013, the Glasgow 2014 Organising Committee had approached the SHRC asking for advice on human rights issues concerning the Glasgow Games. The SHRC responded by setting out what it considered were the important potential human rights impacts of the Games. These included: forced evictions to make way for venues and athletes' accommodation; forced labour and trafficking; issues in the procurement of goods and services; policing and security, and the Games' legacy - in particular how Scotland could be a beacon to future Games around human rights protection.

The SHRC encouraged the Organising Committee to adopt a comprehensive human rights policy for the Games, and to discuss openly the potential for the Games to affect people's rights. In October 2013 (at a conference co-hosted by

the SHRC, IHRB and Anti-Slavery International) David Grevemberg, the Chief Executive of Glasgow 2014, committed to publicly developing a human rights policy for the Games.

Published on Human Rights Day, December 10<sup>th</sup> 2013, the *Glasgow 2014 – Approach to Human Rights* was the first ever human rights policy in over 80 years of Commonwealth Games history, as well as a first for any major sports event. The policy set out how human rights were protected and promoted in the preparation and delivery of the Glasgow Games, including respecting freedoms, promoting participation and adopting a sustainable procurement policy. After the Games the Organising Committee also published a post Games Human Rights Report. The policy was aligned with the UNGPs. This work served as a springboard for human rights leadership by the Commonwealth Games Federation.

<http://www.scottishhumanrights.com/news/scotland-leads-commonwealth-in-developing-human-rights-policy-for-games/>

### **Further reading on Sport and Human Rights**

[Mega-Sporting Events Platform for Human Rights](#) website Resources section. This includes a series of eleven White-Papers.

[Striving for Excellence – Mega-Sporting Events and Human Rights](#), ©IHRB, (November 2013 - first edition).

### **e. Business and Human Rights and Sustainable Development Goals**

The Sustainable Development Goals (SDGs) of the 2030 Agenda for Sustainable Development were adopted by world leaders in September 2015 and came into force in 2016. The seventeen SDGs build on the Millennium Development Goals, and apply to all countries and stakeholders with a view to mobilising efforts to end all forms of poverty, fight inequalities and tackle climate change. The SDGs 'seek to realize the human rights of all' and the 2030 Agenda for Sustainable Development is grounded in international human rights instruments, with explicit reference made to the UNGPs. The synergies between Business and Human Rights and the SDGs are well-articulated in a [open letter](#) by leading Business and Human Rights organisations to the UN Secretary General and UN Private Sector Forum in 2017. The letter stresses that for governments and businesses to make their greatest possible contribution to sustainable development requires that they implement the UNGPs. [Research](#) led by among others the DIHR has been identified that 90% of the SDGs are linked to internationally proclaimed human rights and labour standards.

#### **How NHRIs can engage:**

- Some NHRIs find that making the link between business and human rights and the SDGs can facilitate and give added traction to their discussions with Governments and businesses on business and human rights. In some contexts, NAPs on Business and Human Rights are integrated within existing national SDG implementation strategies.

## **Aligning a National Action Plan on Business and Human Rights with the SDGs**

The **Kenya National Commission on Human rights** (KNCHR) identified that linking the Kenya NAP on Business and Human Rights to the Sustainable Development Goals as a key learning from the NAP development process. This enabled the KNCHR to link the NAP process with other national strategic priorities. The KNCHR has emphasised the fact that the SDGs reference international human rights instruments, including the UNGPs, and aligns with the enlarged mandate of the UN Working Group on Business and Human rights “to give consideration to the 2030 Agenda”. The KNCHR has also entered into an MOU with the Kenya Bureau of Statistics to assist in disaggregation of data that adopts new approaches in human rights monitoring, to achieve alignment with the SDGs.

## **9. Potential NHRI Partners and Resource Providers on Business and Human Rights**

To develop business and human rights programmes, NHRIs may find it useful to partner with and get technical assistance from a variety of bodies. The more obvious examples include engaging with other NHRIs, GANHRI or its regional networks, or with regional and international mechanisms, including but not limited to the UN Working Group, ILO, OHCHR and UNDP, or OECD Responsible Business Conduct units.

Several organisations, however, specialise in business and human rights, and many of them already work with NHRIs, specifically on on capacity building or in co-convening engagement with States and the private sector, including around NAPs. These include:

**Business and Human Rights Resource Centre** - is an independent, global web-based knowledge hub of resources and guidance and is the principal global repository of information on business and human rights. The Resource Centre works to advance human rights in business, and is registered in the UK as a charity and US as a non-profit organisation. The Resource Centre tracks the human rights impacts (positive and negative) of companies, and seeks responses from companies when civil society raises concerns.

The Resource Centre releases briefings and analysis, synthesising the work of hundreds of advocates across the world, and makes recommendations for governments, companies, regions and sectors, whilst helping to protect vulnerable people and communities against abuses. The Resource Centre offers guidance materials and examples of good practice, to help companies understand their human rights responsibilities. The website is updated hourly with news and reports about companies human rights impacts worldwide,



published in eight languages, based on a body of regional researchers including in Australia, India, Kenya, Japan, South Africa, and the UK.

The Resource Centre's [Big Issues](#) include portals on a diverse range of **topical business and human rights issues**, including: Climate Justice, the UN Guiding Principles, Human Rights Defenders, Major Sporting Events, Technology and Human Rights, and hosts the UK Modern Slavery Register. <http://business-humanrights.org>

**Danish Institute for Human Rights (DIHR)** – is a State institution, independent of government with a national and international mandate by law that operates in the nexus between governments, NGOs and businesses. The DIHR is the only NHRI that in addition to its national mandate has substantial international capacity. The DIHR works in partnership with state institutions, international and regional organisations, national human rights institutions, business and civil society organisation.

[Business and Human Rights](#) is one the DIHR's key thematic areas and it is dedicated to addressing these impacts. Through research, tools and partnerships with key stakeholders, the DIHR aims to contribute to building a global environment in which adverse business impacts are minimised, and opportunities for business' potential for positive contribution to human rights are realised. The DIHR works on international standards, local implementation and directly with companies. It has produced a diverse range of business and human rights guidance materials, including the National Action Plans Toolkit with ICAR. DIHRs work with GANHRI and capacity building for NHRIs globally is outlined above.

<https://www.humanrights.dk>

**Institute for Human Rights and Business (IHRB)** - is an independent and impartial, global centre of excellence and expertise - a think and do tank - on the relationship between business and international human rights standards. Founded in 2009, IHRB works directly with governments, business, civil society, trade unions, international agencies, NHRIs, academia and others, to advance understanding and uptake of the UNGPs, evaluating the effectiveness of current policies, operational practices, and multi-stakeholder initiatives on human rights. IHRB highlights key thematic areas including Responsible Recruitment for Migrant Workers, Mega-Sporting Events and in the Commodities Sector; and publishes an annual [Top 10 list](#) of emerging issues.

IHRB works with governments across all continents to strengthen their efforts to meet the duty to protect human rights, including against abuse by business, and has contributed technical expertise on the development of NAPs, and in the production of guidance documents. IHRB has supported a diverse range of businesses and industry sectors from numerous geographies in delivering on the responsibility to respect human rights, and is a founding partner including with the Business and Human Rights Resource Centre of the [Corporate Human Rights Benchmark](#), which has created the first open and public benchmark of corporate human rights performance. IHRB also works internationally to bolster access to remedy for victims of business-related human rights impacts.

IHRB also [collaborates](#) with NHRIs, including the Australian, New Zealand, Northern Ireland and Scottish Human Rights Commissions in relation to Mega-Sporting Events; the EHRC; and has supported capacity building initiatives to enable NHRIs to engage more fully in business and human rights, including the Uganda Human Rights Commission (UHRC), through [Capacity Building for NHRIs from East Africa, Malawi and Ghana](#) in partnership with OHCHR and UHRC.

IHRB is a registered UK charity. IHRB undertakes advisory work with governments and inter-governmental bodies on a contractual basis. IHRB does not provide specific paid-for services or consulting to any business other than for human rights training, and donations are objectively procured to ensure IHRB's independence and impartiality.

<https://www.ihrb.org>

**Shift** - is non-profit organisation with a mission to put the UNGPs into practice. Primarily funded by Governments, Shift also derives revenue from its Business Learning Programme. Shift engages with governments, intergovernmental bodies, industry associations and multi-stakeholder initiatives to support the development policy and practice in line with the UNGPs, and also works through Government Engagement, International Partnerships, and Education and Training.

Shift initiated [The UNGP Reporting Framework](#) in a joint initiative with international accountancy firm Mazars. UNGP Reporting Framework is a tool for both performance and disclosure. Its 31 "smart" questions guide a company through the steps it should be taking to manage and report on its salient human rights risks. The Framework was developed over a nearly two-year period through an extensive multi-stakeholder consultation process.

Shift also works among other things to support financial institutions in implementing the UNGPs – Shift has worked with the Norwegian Export Credit Agency (GIEK) and the Dutch, German and UK Development Finance Institutions, it has also explored human rights issues with the International Finance Corporation (IFC) around the IFC's own Performance Standards.

Shift also works with NHRIs, notably in collaboration with the New Zealand Human Rights Commission and the New Zealand Superannuation Fund. In August 2016, Shift delivered an education and awareness series about the UNGPs across stakeholder groups including on the global uptake of the UNGPs, and government action on public procurement and disclosure, and New Zealand-specific business and human rights risks. The Australian Human Rights Commission also participated through its collaboration with the New Zealand Commission.

<https://www.shiftproject.org>

**UN Global Compact (UNGC)** - is voluntary corporate sustainability initiative of approximately 9,000 company participants (about half of whom are SMEs) and 3000 non-business members, across 160 countries, which is supported by over 70 local networks. Launched in 2000, the UNGC asks CEO's to commit to take steps to support UN goals (including the UN Sustainable Development Goals), and implement ten universal sustainability principles on: human rights,

labour, environment and anti-corruption, and to communicate annually on their progress. The UNGC aligns with the UNGPs.

UNGC **Local Networks** are independent, self-governed and locally-managed entities, but work closely with the UNGC in New York. Many collaborate with and/or support NHRIs on business and human rights issues and on implementation of the UNGPs. The UNGC, ICC (now GANHRI, with support from the DIHR) and OHCHR produced a factsheet: [\*Working Together: National Human Rights Institutions and Global Compact Local Networks\*](#).

#### **Local Networks in Commonwealth countries** (at March 2018)

Africa: Ghana, Kenya, Malawi, Nigeria, South Africa, Tanzania and Uganda

Americas: Canada (at present there are none in the Caribbean)

Asia: Bangladesh, India, Malaysia, Pakistan, Singapore and Sri Lanka.

Europe: U.K.

Oceania: Australia

<https://www.unglobalcompact.org/engage-locally/about-local-networks>

#### **Further reading developed by the UN Global Compact and partners**

Business and Human Rights Learning Tool (English) (UNGC and OHCHR):

<http://human-rights-and-business-learning-tool.unglobalcompact.org>

Webinar series on Implementation of the UNGPs

<https://www.unglobalcompact.org/library/641>

## **10. Conclusions and Recommendations**

### **Key findings of interviews conducted for this report**

- There is no fixed approach to advancing business and human rights among the NHRIs interviewed for this Guide. Several NHRIs take a pragmatic approach and tailor business and human rights-related efforts, including on the UNGPs, around existing domestic priorities, e.g. the 2030 Agenda on Sustainable Development, or Modern Slavery reporting. Others are pursuing National Action Plans or National Baseline Assessments. In some cases NHRIs have taken a strategic decision not to prioritise business and human rights as they judge that CSOs or others are addressing the domestic need.
- The amount of resource NHRIs can devote to business and human rights varies. Some have only one or two members of staff that work on business and human rights as part of their regular portfolio. Others, with more well-established business and human rights programmes, are mainstreaming business and human rights across some or all of their units or departments, with up to ten or more staff members for whom business and human rights is part of their regular duties.

- Many NHRIs feel isolated in their work on business and human rights. This is not just true of NHRIs in developing or emerging economies; it is equally true, for example, among European NHRIs where the opportunities for information sharing are generally higher. Despite access to GANHRI or its regional networks, many NHRIs are keen to know more about the approaches taken by their peers. Voluntary leadership in driving business and human rights work within regional and other networks sometimes means that the topic gets left behind other more long-standing priorities.
- There is a strong appetite for Peer-to-Peer learning, and for direct contact with other NHRIs on business and human rights matters. Some NHRIs are keen to understand, for example, how leading NHRIs implement or monitor their NAPs, meet the needs of the SME business community, or address questions around extra-territorial/transboundary jurisdiction and responsibility on human rights.

## **Recommendations**

### **NHRIs**

- NHRIs new to business and human rights should familiarise themselves with the topics and materials covered in this Guide, including the suggested further readings, and in particular the, case studies to get an understanding of regionally relevant approaches or tools. In addition they should consider participating in an e-learning or other training programmes such as those offered by the UN Global Compact, NHRI.EU Project.
- NHRIs new to business and human rights should consider carrying out an internal business and human rights assessment across all areas of their mandate, benchmarked against the pledges made in the Edinburgh Declaration, to identify areas where they are already active on business and human rights and where there are gaps. The NHRI should develop a strategy to start to fill any gaps identified in the assessment. NHRIs should also consider assessing or reassessing the extent to which CSO/other stakeholders in their country are active on business and human rights and could become partners.
- For NHRIs with established or evolving business and human rights programmes or work, should consider, as locally applicable, carrying out a National Baseline Assessment on Business and Human Rights if they have not already done so. They might also consider establishing national dialogues or forums on business and human rights, or conducting investigations into the human rights impacts of a particular industry sectors with greater risks of severe human rights impacts.
- Consider setting up an Advisory Group on business and human rights comprised of diverse stakeholder participants to support or give strategic direction to their business and human efforts.
- NHRIs should engage with other NHRIs in their region to share learning and develop capacity on business and human rights, including on issue specific topics. In addition NHRIs should consider approaching regional NHRI networks and/or GANHRI's Business and Human Rights Working Group, to familiarise themselves with any funding available to advance their business

and human rights efforts, and information on any business and human rights training / knowledge sharing opportunities.

- NHRIs should reach out to business and human rights specialist organisations (see Chapter 9), local or regional bodies or initiatives active in this area, Global Compact Local Networks, OECD National Contact Points, ILO and UN offices, CSO and multi-stakeholder business and human rights-related initiatives and others to strengthen their business and human rights networks.

### **Commonwealth Forum of NHRIs (CFNHRI)**

- The CFNHIs should consider unilaterally, or in collaboration with GANHRI, recommitting to the Edinburgh Declaration of 2010. The CFHRI should give consideration to inviting members to pledge to reporting annually on their progress on business and human rights, including, for example, against the principal pledges in the Edinburgh Declaration, or progress towards developing a NBA or NAP.
- The CFNHRI should explore ways to increase opportunities for peer-to-peer learning across and between NHRIs, including with GANHRI, the Danish Institute for Human Rights, the Commonwealth Secretariat, funders and other key stakeholder and business and human rights specialist organisations.
- CFNHRI should explore possibilities of convening regular webinars on a variety of business and human rights thematic issues relevant to NHRIs. This could follow the model used by the Northern Ireland Business and Human Rights Forum of inviting expert guest speakers and CFNHRI members to present, with a view to developing expertise and empowerment.

## **Annex 1: UN Guiding Principles and Convergence of International Standards**

### **a. G7/G20 Leaders' Declarations**

At the G20 Summit in Hamburg (July 2017), the *G20 Leaders' Declaration* included pledges to share the benefit of Globalisation, including through sustainable and inclusive supply chains. To achieve this the Leaders committed "to fostering the implementation of labour, social and environmental standards and human rights in line with internationally recognised frameworks, such as the UN Guiding Principles on Business and Human Rights," and "to work towards establishing adequate policy frameworks including national action plans on business and human rights". The Declaration calls out "the responsibility of businesses to exercise due diligence" and supports access to remedy, including non-judicial grievance mechanisms. The G20 Declaration highlights action on the elimination of child labour, forced labour, human trafficking, and all forms of modern slavery; to prevent work-place related deaths and injuries; to promote fair and decent wages and social dialogue; placing special emphasis on vulnerable groups, including women and children. <http://www.g20.utoronto.ca/2017/2017-G20-leaders-declaration.pdf>

The G20 Leaders' Declaration builds on an earlier *G7-Leaders' Declaration* (2015) whereby the G7 committed to "strongly support the UNGPs" and efforts to develop National Action Plans for their implementation. The Declaration urged the private sector to carry out human rights due diligence. The G7 Declaration further references the need to help SMEs develop a common understanding of due diligence, included a pledge to "strengthening mechanisms for providing access to remedy".

<https://obamawhitehouse.archives.gov/the-press-office/2015/06/08/g-7-leaders-declaration>

### **b. IFC Performance Standards (2012)**

The World Bank Group's International Finance Corporation periodically updates the IFC Performance Standards on Environmental and Social Sustainability. The IFC Performance Standards effective from January 2012 affirm the business responsibility to respect human rights as advocated in the UNGPs, and assert that "Due diligence against these Performance Standards will enable the client to address many relevant human rights issues in its project," and address the need for grievance mechanisms to deliver remediation for harms.

[https://www.ifc.org/wps/wcm/connect/c8f524004a73daeca09afdf998895a12/IFC\\_Performance\\_Standards.pdf?MOD=AJPERES](https://www.ifc.org/wps/wcm/connect/c8f524004a73daeca09afdf998895a12/IFC_Performance_Standards.pdf?MOD=AJPERES)

### **c. ILO Tripartite Declaration of Principles concerning MNEs & Social Policy (2017)**

In March 2017, the ILO Governing Body updated the ILO Tripartite Declaration of Principles concerning Multinational Enterprises and Social Policy, first published in 1977 and last revised in 2006. The 2017 Declaration's General Policies assert that the UNGPs "outline the respective duties and responsibilities of States and enterprises on human rights" – and reiterate the

principles of the State Duty to Protect, Corporate Responsibility to Respect, and Access to Remedy.

The Declaration commends that “Enterprises, including multinational enterprises, should carry out due diligence”, and in order to do so, should among other things, engage in “meaningful consultation with potentially affected groups and other relevant stakeholders including workers’ organisations” and spell out that “this process should take account of the central role of freedom of association and collective bargaining as well as industrial relations and social dialogue as an ongoing process.”

<http://www.ilo.org/empent/areas/mne-declaration/lang--en/index.htm>

#### **d. ISO 26000 Social Responsibility Guidance**

Published in 2010, ISO 26000 is a voluntary (not for certification) social responsibility standard for public and private sector bodies. It includes guidance on human rights, employs the concept of human rights due diligence, and aligns with the corporate responsibility to respect, and offers guidance on resolving grievances. ISO entered into agreements with the ILO, UN Global Compact and OECD prior to launching ISO 26000, and the human rights chapter builds on the UN 2008 "Protect, Respect, Remedy Framework", and cross-references to the OECD Guidelines and Global Reporting Initiative G4 Guidelines.

<https://www.iso.org/popular-standards.html>

#### **e. OECD Common Approaches (2016)**

The Common Approaches are a set of recommendations for official OECD-based Export Credit Agencies (ECAs) on the environmental and social risk assessments that applicants should be required to carry out to qualify for export credit support (e.g. direct loans, credit or insurance guarantees). In 2012, the Common Approaches first adopted in 2001, were revised to reference the UNGPs and for members to “encourage protection and respect for human rights” particularly where projects or existing operations posed a risk to people’s human rights. In 2016, the Common Approaches were amended further to urge screening and classification of applications based on “a high likelihood of severe project-related human rights impacts occurring”; and reflected emerging good practice among leading ECAs in requiring human rights due diligence in line with the UNGPs.

<http://www.oecd.org/tad/xcred/oecd-recommendations.htm>

#### **f. OECD Guidelines for Multinational Enterprises**

The OECD Guidelines are a set of non-binding, multilaterally agreed standards for responsible business conduct for companies operating in or from OECD countries. The Guidelines are consistent with recognised international standards and cover human rights, supply chain management, labour relations, environment, combating bribery, bribe solicitation and extortion, consumer interests, competition and taxation. In 2011 the OECD Guidelines were updated and revised to include a new chapter on human rights based on and aligned with the UNGPs, which resulted in 42 adherent countries (including

Australia, Canada, New Zealand and the UK) reaffirming their commitment to the new set of Guidelines. <http://mneguidelines.oecd.org/guidelines/>

The 2011 Guidelines apply the due diligence concept used in the UNGPs as a general principle across all areas of responsible business conduct, and reflect the UNGPs in calling on companies to: “identify, prevent, mitigate and account for how they address their actual and potential adverse impacts as an integral part of business decision-making and risk management systems”.

The OECD Guidelines have a built-in State-based non-judicial grievance mechanism for handling complaints referred to as “specific instances”. Adhering governments set up National Contact Points (NCPs) to a range of functions, including providing a platform to help stakeholders find a resolution for issues arising from the alleged non-observance of the Guidelines. Any party can bring a case to an NCP, but after an initial assessment cases only proceed with the agreement of the parties concerned. NCPs take a problem solving approach, employing conciliation and mediation. Since 2011, over 50% of specific instances have been on human rights, more than any other category.

In October 2012 the International Coordinating Committee of National Human Rights Institutions (precursor to GANHRI) and OECD concluded a [Memorandum of Understanding](#) to promote respect by multinational enterprises of the new human rights chapter of the OECD Guidelines and the UNGPs, and to a programme of mutual assistance, information sharing and capacity-building.

A 2015 update to the OECD Guidelines for the Governance of State-Owned Enterprises also references the UNGPs.

<http://www.oecd.org/daf/ca/guidelines-corporate-governance-soes.htm>

## **g. Sustainable Development Goals - The 2030 Agenda for Sustainable Development**

The UN Sustainable Development Goals (SDGs) highlight business activity and investment as major drivers of productivity, inclusive economic growth and job creation, and call on businesses to support global sustainable development challenges. The SDGs seek to “realise the human right of all”, and stress the need to protect labour rights and environmental and health standards in accordance with international standards, and explicitly highlight the UN Guiding Principles on Business and Human Rights. There is a strong crossover between the 17 SDGs and Business and Human Rights at large.

<http://www.un.org/sustainabledevelopment/development-agenda/>

## **h. UN Global Compact**

The UN Global Compact’s two human rights principles (Principles 1 and 2) call on companies:

- 1) To respect and support internationally-proclaimed human rights, and
- 2) To ensure they are not complicit in human rights abuses.



In 2011 the UN Global Compact affirmed its alignment with the UNGPs, and the role of the UNGPs in providing “further conceptual and operational clarity for the two human rights principles championed by the Global Compact”.  
[https://www.unglobalcompact.org/docs/issues\\_doc/human\\_rights/Resources/GPs\\_GC%20note.pdf](https://www.unglobalcompact.org/docs/issues_doc/human_rights/Resources/GPs_GC%20note.pdf)

## **Annex 2: Recognition of the UN Guiding Principles by Regional Bodies**

### **African Union**

In March 2017, a draft African Union Policy Framework on Business and Human Rights was deliberated at a meeting at AU Headquarters, in Addis Abbaba, Ethiopia for validation and presentation to the AU’s policy organs for consideration and adoption. The convening saw AU members States, Regional Economic Communities, NHRIs, business, civil society and others input and comment on the Draft Policy, and explore an Action Plan, the Policy’s dissemination and implementation. The EU Delegation to the AU, which helped facilitate the process, restated the EU’s willingness to support implementation of the UNGPs in Africa. In 2014, the AU and EU had issued a joint-commitment affirming their commitment to promote and implement the UNGPs.

<https://au.int/web/en/pressreleases/20170321/validation-workshop-african-union-policy-business-and-human-rights>

### **Association of Southeast Asian States**

The ASEAN Intergovernmental Commission on Human Rights (AICHR) has carried out a study into CSR and Human Rights, including a review of national steps to implement the UNGPs. In 2017 two ASEAN conferences were held in Singapore and Bangkok, Thailand, around efforts to implement the UNGPs. In November 2017, an AICHR Training Programme on Business and Human Rights was also held in Bangkok to explore UNGPs implementation in the ASEAN region. Participants from finance ministries and chambers of commerce from ASEAN Member States, UNDP, NHRIs, civil society, business, and academia, shared experiences including on the development of NAPs, and highlighted the need for an ASEAN regional framework on business and human rights.

<http://asean.org/asean-conducts-training-on-business-and-human-rights/>

### **Europe**

In 2011, the EU’s **European Commission** issued a *Communication on Corporate Social Responsibility* setting out steps to encourage UNGPs’ implementation within the EU including through national laws, and invited EU member States to develop National Action Plans to implement the UNGPs (initially giving a deadline of end 2012).

In 2012, the **European Council** called upon EU Member States to develop NAPs (extending the earlier deadline to end of 2013). In 2016 the Council of the EU also issued its [\*Conclusions on Business and Human Rights\*](#), in which among other things it:

- Reiterated the commitment to developing NAPs, and encouraged peer learning opportunities (Peer review meetings were held under Dutch EU Presidency in 2016, and in Belgium in 2017 and, as of March 2018, fourteen EU countries had published NAPs)
- Encouraged EU Institutions and Member States to address their responsibilities as commercial actors (e.g. through public procurement) and when supporting business (e.g. via export credit)
- Stressed the importance of access to remedy, the need to address Pillar Three within NAPs, and to see further progress and guidance in the area of remedy
- Underlined the importance of EU and Member States' capacity building in third countries and regions on the UNGPs and the development of NAPs, and need for tools and support to help EU Delegations to deliver in this regard, an
- Recognised the corporate responsibility to respect as being indispensable to sustainable development and to achieving the SDGs.

EU's 2015 *Action Plan on Human Rights and Democracy* commits to promoting NAPs by partner States.

On 16 April 2014, the **Council of Europe** (CoE) issued a Declaration on the UNGPs which stressed the importance of their implementation by States and businesses to ensuring respect for human rights in relation to business activities. In 2016, the CoE's Committee of Ministers adopted the [\*Recommendation on Human Rights and Business\*](#), which among other things called on member States to review their laws and practices to ensure compliance with the UNGPs, and to develop National Action Plans on business and human rights and to share information on the processes followed to stimulate learning. The Recommendation also provided for the sharing of good practice via a dedicated platform, expert elaboration on access to judicial remedy, a mid-term review of the Recommendation's implementation. The role of NHRIs is highlighted.

### **Organization of American States**

The OAS General Assembly has adopted two resolutions referencing the UNGPs. In June 2014, the OAS committed to promoting and implementing the UNGPs through information exchanges and the sharing of best practice.

In June 2016, OAS Resolution AG/RES. 2887 (XLVI-O/16) reiterated the need for continued domestic efforts to implement the UNGPs by member States and businesses, including through the development of NAPs; and encouraged regional financing and development mechanisms, especially the Inter-American Development Bank, to support implementation of the UNGPs, among other things through their possible inclusion within project funding mechanisms. The Resolution noted Human Rights Council Resolution 26/9 on the "Elaboration of an international legally binding instrument" on business and human rights, and called on member States "to strengthen mechanisms to

establish guarantees to ensure” business respect for human rights and the environment; and requested the Inter-American Juridical Committee to compile a report into good practices, initiatives, legislation, case-law, and challenges on business and human rights.

[http://www.oas.org/en/sla/dil/docs/AG-RES\\_2887\\_XLVI-O-16.pdf](http://www.oas.org/en/sla/dil/docs/AG-RES_2887_XLVI-O-16.pdf)

## **Annex 3: Business and Human Rights Principles for relating to Specific Groups**

### **Children’s Rights and Business Principles (CRBPs)**

Developed by UNICEF, the UN Global Compact and Save the Children, the 10 Principles offer a comprehensive set of principles to guide companies on the full range of actions they can take in the **workplace, marketplace** and **community** to respect and support children’s rights; children are an often overlooked stakeholder group. The Principles are built on existing standards, initiatives and good practices and Principle 1 directly aligns with the UNGPs, calling on businesses to adopt a **policy commitment**, conduct **human rights due diligence** and **enable remediation**.

- 1. Meet their responsibility to respect children’s rights and commit to supporting the human rights of children**
- 2. Contribute towards the elimination of child labour, including in all business activities and business relationships**
- 3. Provide decent work for young workers, parents and caregivers**
- 4. Ensure the protection and safety of children in all business activities and facilities**
- 5. Ensure that products and services are safe, and seek to support children’s rights through them**
- 6. Use marketing and advertising that respect and support children’s rights**
- 7. Respect and support children’s rights in relation to the environment and to land acquisition and use**
- 8. Respect and support children’s rights in security arrangements**
- 9. Help protect children affected by emergencies**
- 10. Reinforce community and government efforts to protect and fulfil children’s rights**

The Principles were the product of extensive consultation launched in 2011 with business, civil society, trade unions, governments, NHRIs, UN Global Compact Local Networks, academia, children, adolescents and other stakeholders, with face-to-face events held in 11 cities across all continents and submissions received on-line.

<https://www.unicef.org.uk/corporate-partners/child-rights-business-principles/>

### **Guide for Business on the Rights of Persons with Disabilities**

Developed by the International Labour Organisation and UN Global Compact, the Guide refers to international standards, notably: The UN Convention on the Rights of Persons with Disabilities, the UN Global Compact's Principles, the UNGPs and the ILO Declaration on Fundamental Principles and Rights at Work. [https://www.unglobalcompact.org/docs/publications/Accessible\\_Disabilities\\_Guide.pdf](https://www.unglobalcompact.org/docs/publications/Accessible_Disabilities_Guide.pdf)

### **Women's Empowerment Principles (WEPs)**

The Principles offer seven steps to guide business on how to empower women in the workplace, marketplace and community. Primarily developed for use by business, the Principles are used by governments, civil society and international organisations as a tool for engaging with the private sector, and a reference point for reviewing their own policies and practices.

- 1. Leadership Promotes Gender Equality**
- 2. Equal Opportunity, Inclusion and Non-discrimination**
- 3. Health, Safety and Freedom from Violence**
- 4. Education and Training**
- 5. Enterprise Development, Supply Chain and Marketing Practices**
- 6. Community Leadership and Engagement**
- 7. Transparency, Measuring and Reporting**

The WEPs are the result of collaboration between the United Nations Entity for Gender Equality and the Empowerment of Women (UN Women) and the United Nations Global Compact; adapted from the Calvert Women's Principles. The WEPs were developed through global multi-stakeholder consultation from March 2009 to their launch on International Women's Day, March 2010. [http://weprinciples.org/files/attachments/EN\\_WEPs\\_2.pdf](http://weprinciples.org/files/attachments/EN_WEPs_2.pdf)

### **Standards of Business Conduct: Tackling Discrimination against Lesbian, Gay, Bisexual, Transgender, & Intersex People**

The Standards build on the UNGPs and UN Global Compact, and offer companies practical guidance on how to meet their responsibility to respect human everyone's rights, including those of LGBTI people in the **workplace, marketplace** and **community**.

The Standards aim to support companies in reviewing existing policies and practices — and establishing new ones — to respect and promote the human rights of LGBTI people. The Standards point to the opportunities which exist for companies to contribute to positive social change in the communities where they do business. "They recognize the need for a nuanced and differentiated approach based on the diversity of contexts and of individuals making up the LGBTI spectrum".

Developed by the United Nations Human Rights Office in partnership with the IHRB, they are based on findings from regional consultations held between 2016-2017 in Mumbai, New York, Kampala and Brussels with several hundred stakeholders from business, civil society and academia, and online consultation.

The five Standards of Business Conduct apply:

**At All Times:**

1) Respect human rights

**In the Workplace:**

2) Eliminate discrimination

3) Provide Support to LGBTI Staff

**In the Marketplace:**

4) Prevent other human rights violations

**In the Community**

5) Act in the public sphere

<https://www.unfe.org/standards/>



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Commonwealth Forum of  
National Human Rights Institutions

[www.cfnhri.org](http://www.cfnhri.org)