

BUSINESS ROUNDTABLE

EAST AFRICAN ROUNDTABLE FOR BUSINESS LEADERS: *Implementing Corporate Respect for Human Rights*

8 November 2012, Nairobi, Kenya



Global Compact Network
Kenya



GLOBAL BUSINESS INITIATIVE
ON HUMAN RIGHTS



Vimal Shah, Vice-Chair, Kenya Private Sector Alliance, and CEO, Bidco

‘East African countries have had similar experiences and orientation, and thus there is a need to come together to forge a way forward. The agenda today shows that human rights are not negotiable: human rights are part of business. The question is: How do we do business responsibly in the context of our current society?’

Nzioka Waita, Corporate Affairs Director, Safaricom

‘It’s not your competitors you need to worry about: It’s your entire stakeholder ecosystem. No amount of R&D will get you out of the problem of how consumers view you. Customers stay with Safaricom because they see that this organization has a conscience beyond its profit line.’

Bert Fokkema, Sustainable Development Manager–Human Rights, Shell

‘The Guiding Principles clarify who does what between government and business. They allow us to bring the human rights discussion into the organization and move policy into practice. The Guiding Principles do not advocate a “one size fits all” approach but allow you to address the most important issues first based on where your risks are.’

Wambui Kimathi, Former Commissioner at the Kenya National Commission on Human Rights

‘Kenya’s value is in its people. It is the human resources available in Kenya that can make us leaders in the region. But we also have a governance deficit. Business must exercise caution if it is going to avoid becoming complicit.’

Rachel Cowburn-Walden, Global External Affairs Manager Corporate Responsibility, Unilever

‘Unilever has started human rights training for all our people, across the business and from our Board down. We know we still have a lot to do on this and a long way to go, but the more we talk about issues, the more we understand. And finally we will achieve better respect for human rights for all of us.’

Paul Kasimu, Group HR Director, East African Breweries

‘We take a holistic approach to how we deal with people, stakeholders and communities. We have looked at three elements of how we manage water in our operations: efficiency of water use, how we manage waste water and the impact of waste water. We are working to improve all of these.’

Betty Maina, CEO, Kenya Association of Manufacturers, and Representative, UN Global Compact Local Network

‘This is a good moment to bring this discussion to Kenya, as businesses here have been making many strides in the context of the 2010 Constitution. The Roundtable is an opportunity to engage in honest conversations on how businesses have implemented respect for human rights and to learn from those who have already started the journey.’

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INTRODUCTION

This report has been written to document key speeches, discussions, insights and outcomes from a one-day business-to-business Roundtable entitled 'Implementing Corporate Respect for Human Rights', held in Nairobi, Kenya, on 8th November 2012. The Roundtable was aimed at business leaders from East Africa as well as multinational corporations (MNCs) operating in the region. The event highlighted the experiences of Kenyan businesses and relevant experts, exploring the value of and challenges related to corporate respect for human rights in Kenya and East Africa more generally.

The objectives of the Roundtable included: demystifying the agenda by clarifying the link between human rights and business; building the business case for using human rights as a way to understand and implement corporate responsibilities; exchanging experiences on good practices, dilemmas and challenges for corporations in East Africa and around the world in respecting human rights in business operations; identifying the possible contribution of the business community to the human rights and business agenda, and vice-versa; and developing a road-map for exploring human rights and business in East Africa and globally.



The event was attended by over 130 participants, with more than three-quarters coming from business. This meeting was the first event of this size dedicated to business and human rights in East Africa.

Speakers at the event included representatives from leading Kenyan businesses such as Safaricom, Kenya Power, East African Breweries and Kapa Oil; from multinational corporations such as General Electric Company, Unilever and Unilever Tea Kenya, Shell and Novo Nordisk; and from international organizations including the International Labour Organisation and the Business and Human Rights Resource Centre.

REGIONAL POLICY AND PRACTICE CONTEXT

Companies are increasingly seeing the importance of understanding the impact of their business activities on the human rights of their employees, surrounding communities and other stakeholders. Kenya's progressive 2010 Constitution, which includes a requirement for businesses to respect basic rights, has the potential to make the country a leader in this area. However, Kenya and East Africa continue to face human rights challenges that businesses must be aware of and address.

In 2010 Kenya passed a new Constitution whose bill of rights explicitly applies to companies as well as individuals. The institutions, infrastructure and social provisions included in the Constitution have made it a game-changer, compelling companies to consider how they do business and how this impacts on human rights. Kenya also has a new code of ethics for business—developed by the UN Global Compact Network Kenya, the Kenya Association of Manufacturers and the Kenya Private Sector Alliance—which outlines the duties of companies to respect the human rights of their employees. As a result, there is great hope for improved human rights in the country and for its role as a leader in the East Africa region.

However, East Africa faces many human rights challenges as well. New discoveries of oil and other natural resources present opportunities but also potential difficulties, such as how to use land in a responsible manner, the impacts on local communities, and ensuring accountability in revenue streams. Moreover, foreign companies operating in the region may use different standards for their operations than those prescribed in local law. And many companies in all sectors see respect for human rights as outside their responsibility, or connected only to corporate philanthropy.

The Roundtable discussions highlighted key areas of high risk to human rights for companies operating in East Africa, as well as possible responses. Issues covered included equal treatment of the region's manifold ethnic groups, protection of the employees of suppliers and business partners, the use of land and the rights of the people who live and work there, and the misuse of a company's products such as technology. Speakers highlighted the need to examine company activities to be aware of all human rights risks, to prioritize those that are most significant, and to be transparent about responses and results. They reported that creative solutions and broad engagement with stakeholders produced some of the most beneficial outcomes for their businesses.

GLOBAL CONTEXT

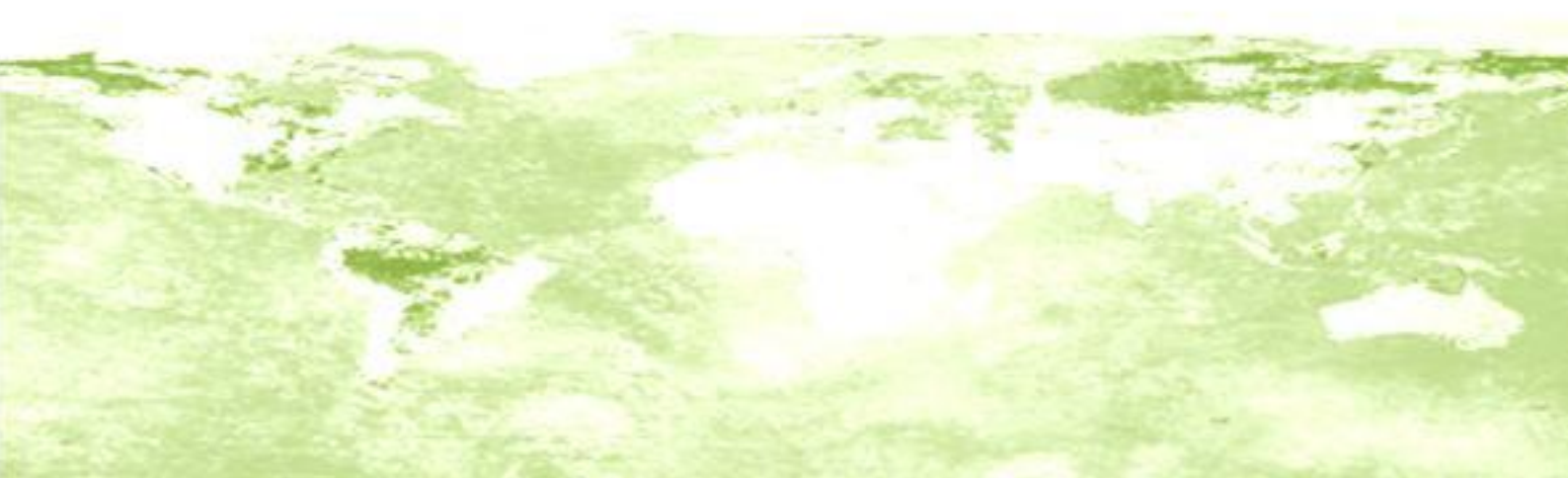
Today no region is isolated from the global context, and the Roundtable took place amidst a changing international environment for business and human rights. International standards and principles such as the Universal Declaration of Human Rights, the UN Global Compact principles and the UN Guiding Principles on Business and Human Rights provide a framework to guide the actions and decisions of companies and individuals in all country contexts. This framework forms the basis for responsible business action and fair and equitable globalization.

Since the unanimous endorsement of the UN Guiding Principles on Business and Human Rights for implementing the 'Protect, Respect and Remedy' framework¹ by the United Nations Human Rights Council in June 2011, understanding of the corporate responsibility to respect human rights and the respective roles of the State and business has increased dramatically. (A summary of the Guiding Principles is included in the appendix to this report.) Many of the ambiguities that businesses once faced when determining how to implement respect for human rights have been clarified, and companies find themselves operating in an environment that is more predictable. However, awareness of the Guiding Principles among the business community as a whole remains low, and even those companies that have relevant policies in place still face challenges in fully embedding good practice. Progress is encouraging but the effort to fully respect human rights among businesses is still in its early stages.

¹ Available at http://www.ohchr.org/Documents/Publications/GuidingPrinciplesBusinessHR_EN.pdf.

In June 2011 the UN Human Rights Council also established a Working Group on the issue of human rights and transnational corporations and other business enterprises, consisting of five independent experts, of balanced geographical representation, for a period of three years. In addition, the Council established a Forum on business and human rights under the guidance of the Working Group to discuss trends and challenges in the implementation of the Guiding Principles 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 first Forum took place in Geneva on 4 & 5 December 2012.

A survey of business representatives—created by the UN Working Group and carried out in late 2012 in cooperation with the Global Business Initiative on Human Rights, the International Chamber of Commerce, the International Organisation of Employers and the Corporations and Human Rights Project at the University of Denver²—found that the surveyed respondents (117 in total) are indeed addressing their human rights impacts and many already have a keen awareness of the Guiding Principles. Respondent companies are communicating the contents of their human rights policies both internally to employees and externally to business partners, engaging with external stakeholders, and providing for grievance mechanisms. However, the results indicate that such practices are not firmly embedded in those companies, suggesting that more needs to be done to operationalize these measures. Other challenges identified by business respondents to the survey were problems making grievance mechanisms effective, difficulties of operating in contexts without strong government institutions and a lack of sound information on what their human rights impacts are.



² The survey report is available at <http://www.global-business-initiative.org/home/report-of-business-survey-on-implementation-of-responsibility-to-respect-human-rights/>

THEMES FROM THE ROUNDTABLE

The following themes emerged from the presentations and discussions at the Roundtable.

THEME ONE – EAST AFRICAN ACTORS ARE ACTIVE IN THE BUSINESS AND HUMAN RIGHTS AGENDA

The 2010 Kenyan Constitution has been instrumental in clarifying the responsibilities of business with respect to human rights, raising awareness to a greater extent than in many other countries. The explicit application of the Constitution to companies and its progressive bill of rights have meant that there is awareness of the topic of business and human rights among both business leaders and civil society in Kenya. The large footprint of Kenyan business, which is very strong across East Africa as well, has propagated these ideas more widely. As a result, the business and human rights agenda is slowly gaining ground in Kenya and beyond. Across East Africa, there are 55 companies who are members of the UN Global Compact with 45 headquartered in Kenya, 1 in Tanzania and 9 in Uganda.

THEME TWO – BUSINESSES ARE TAKING STEPS TO RESPECT HUMAN RIGHTS, ALTHOUGH THEY MAY USE DIFFERENT TERMS

The standards of human rights relevant to the business context are contained in the International Bill of Rights and the principles concerning fundamental rights in the eight core International Labour Organization (ILO) conventions. A diverse range of businesses from East Africa have developed policies and procedures for respecting human rights in their operations, hailing from telecommunications to utilities to agriculture. Not only do companies have labour provisions for their employees, but some have considered broader impacts and taken steps to remedy problems. Company policies have been adapted to their specific sector, location and even the level of understanding of their employees in order to build processes that work for their given context, although they may not explicitly use the term *human rights*. Some have drawn together various policies from different parts of their business under a single human rights framework. Companies are also gradually building on links between human rights and policies for sustainable development. Overall, some Kenyan businesses are seeing the relevance of human rights to their operations as well as the need to develop processes independent from traditional philanthropic work. In this way they are building good practices that can be a model beyond their country.

THEME THREE – THERE IS A BUSINESS CASE FOR CORPORATE RESPECT FOR HUMAN RIGHTS

As they incorporate respect for human rights into their activities, companies in Kenya have found that there is a sound business case for doing so. Not only is it possible for businesses to maintain their bottom line while also respecting human rights, but some businesses have found genuine financial gain. For example, companies have been able to avoid adverse outcomes by consulting with affected communities before embarking on a new project, or increase productivity by addressing the concerns of employees.

THEME FOUR – BUSINESSES HAVE HUMAN RIGHTS RESPONSIBILITIES THAT ARE DISTINCT FROM THOSE OF THE STATE

The state holds primary responsibility for protecting the human rights of people on its territory and/or within its jurisdiction. However, as set out in the Guiding Principles, businesses have a responsibility to respect human rights as well, in that they should avoid infringing on the human rights of others and should address adverse human rights impacts with which they are involved. Contexts in which the state fails to meet its obligations—such as when governance is weak or violent conflict is taking place—may be more demanding for businesses working to meet their responsibilities, and companies may face their own internal pressures that challenge the implementation of respect for human rights. In such cases, companies should prioritize those adverse impacts that are most severe or urgent.

THEME FIVE – EAST AFRICA CONTINUES TO FACE KEY HUMAN RIGHTS CHALLENGES INVOLVING BUSINESS

East Africa faces a unique combination of human rights challenges for business. The violence that followed the 2007 elections in Kenya raised concerns about the relations between the country's many ethnic groups (there are 42 different ethnic groups in Kenya). Businesses continue to face difficulties in equal treatment of current and potential employees as well as responsible engagement with diverse local communities, and there is a potential for renewed conflict surrounding the 2013 elections that could affect businesses. Another challenge related to business and human rights is the large number of foreign companies that operate in the region, and the fact that they may not consistently abide by local human rights standards. Meanwhile, the discovery of oil reserves in Northern Kenya will be a test of the Kenyan government's ability to manage revenues in an accountable manner. Already, protests have taken place against the Lamu Port and South Sudan Ethiopia Transport (LAPSSET) corridor, a massive infrastructure project including an oil pipeline through Kenya. Farmers and fishermen in the affected region fear environmental and land use implications, but the Kenyan government has not effectively addressed the issues raised thus far.

ROUNDTABLE IN BRIEF

WELCOME PANEL

The Roundtable opened with a session to set the context and current state of play of the business and human rights agenda—globally, regionally and locally—and outlined the objectives of the Roundtable. Initial welcome and introductions were given by the conveners, represented by Betty Maina, CEO, Kenya Association of Manufacturers, and Representative, UN Global Compact Local Network; Vimal Shah, Vice-Chair, Kenya Private Sector Alliance, and CEO, Bidco; Lawrence Mute, Commissioner, Kenya National Commission on Human Rights; and Kathryn Dovey, Director, Global Business Initiative on Human Rights.



Vimal Shah, Vice-Chair, Kenya Private Sector Alliance, and CEO, Bidco

'This is a good moment to bring this discussion to Kenya, as businesses here have been making many strides in the context of the 2010 Constitution. The Roundtable is an opportunity to engage in honest conversations on how businesses have implemented respect for human rights and to learn from those who have already started the journey.'

Lawrence Mute, Commissioner, Kenya National Commission on Human Rights

'The 2010 Constitution has been a fundamental game-changer for human rights in Kenya. Even corporations are bound by the bill of rights. Business respect for human rights is about protecting lives, ensuring livelihoods and promoting sustainable development.'

Kathryn Dovey, Director, Global Business Initiative on Human Rights

'The link between human rights and business is not always immediately obvious, but business responsibilities were clarified in 2011 with the endorsement of the UN Guiding Principles on Business and Human Rights. Corporate respect for human rights is about knowing and showing that businesses respect the dignity and rights of the people they impact and interact with.'

The first panel provided direct reports from major businesses from diverse sectors on how recent developments in the area of human rights and business have changed their operations. Panellists provided specific examples of how they are changing minds internally and responding in practice. Panellists were Mark Nordstrom, Senior Labor and Employment Counsel, General Electric Company; Nzioka Waita, Corporate Affairs Director, Safaricom; Florence Obura, Corporate Communications Manager, Kenya Power; John Kabera, Human Resources Director, Tata Chemicals Magadi; Bert Fokkema, Sustainable Development Manager–Human Rights, Shell; and Paul Kasimu, Group HR Director, East African Breweries. The panel was moderated by Mark Hodge, Executive Director, Global Business Initiative on Human Rights.



Key discussion points

- The UN Guiding Principles on Business and Human Rights apply to all businesses regardless of size or location, while bringing important clarity that can make the journey easier for business. In particular, the Guiding Principles delineate the responsibilities of business versus the state, helping businesses evaluate their risks and determine when and how it is necessary to address them.
- Companies are often respecting and addressing many aspects of human rights, though they may not be referring to it in those terms.
- A business may provide a desired or even necessary service, such as access to water or electricity, while simultaneously negatively impacting human rights, posing complex challenges.
- It is important to work with employees at all levels and in all locations to help them understand what it means to respect human rights and what they need to do on a day-to-day basis.
- Some businesses have addressed human rights challenges effectively by consulting all stakeholders, from their employees to the communities where they operate, and incorporating their input into policies and practices.

Mark Nordstrom, Senior Labor and Employment Counsel, General Electric Company

'At GE we developed a human rights policy by bringing together standards we already had in place and putting them through a human rights lens. The UN Guiding Principles on Business and Human Rights have helped GE in four ways. First, they provide a clear paradigm for looking at businesses' role in human rights. Second, they provide a due diligence framework that asks companies to look at the opportunities for human rights abuses, to consider the likelihood of these abuses happening, and then to prioritize action. Third, the Guiding Principles recognize that all business entities have a shared responsibility to respect human rights. And fourth, they represent an incredible road map for organizing human rights policies.'

Nzioka Waita, Corporate Affairs Director, Safaricom

'Customers stay with Safaricom because they see that it has a conscience beyond its profit line. After the 2007 elections, there was a problem with fraudulent text messaging that helped fuel the violence. Safaricom developed guidelines on bulk SMS political messaging, which service providers were happy to support. As a result, we hope that the future will be much more predictable.'

Florence Obura, Corporate Communications Manager, Kenya Power

'Access to electricity is seen as a basic human right. However, electricity generation and distribution also impacts negatively on human rights. For example, building power distribution lines may require that people are moved from their land. Also, if you don't supply electricity to people, they will find another way to get it, often unsafely. So the issue of electricity and human rights is very complex.'

John Kabera, Human Resources Director, Tata Chemicals Magadi

'When our company needed to build another plant, an environmental impact assessment showed that the community had several issues that they were unhappy about. Therefore management sat with community leaders to identify the issues and prioritize them. A leaders and management forum was set up which meets once a month. Through this forum, the community have a voice in the affairs of the company and a system of conflict resolution was established. I can proudly say that relations are better now than ever.'

Bert Fokkema, Sustainable Development Manager–Human Rights, Shell

'The Guiding Principles clarify who does what between government and business. They allow us to bring the human rights discussion into the organization and move policy into practice. The Guiding Principles do not advocate a "one size fits all" approach but allow you to address the most important issues first based on where your risks are.'

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'We take a holistic approach to how we deal with people, stakeholders and communities. We have looked at three elements of how we manage water in our operations: efficiency of water use, how we manage waste water and the impact of waste water. We are working to improve all of these.'

HUMAN RIGHTS AND BUSINESS — EXPERIENCES FROM DIVERSE INDUSTRY SECTORS AND SITUATIONS

The second panel reviewed some of the specific practices and policies that businesses have put into place to respect human rights in East Africa and around the world. Panellists were Rachel Cowburn-Walden, Global External Affairs Manager Corporate Responsibility, Unilever; Kip-Utich Kaptich, Corporate Affairs Director, Unilever Tea Kenya; Malika Sood, Personnel Manager, Kapa Oil; Philip Jordan, Chairman of the Ethics Committee, Total; Christian Heller, Senior Manager Corporate Sustainability Relations, BASF; and Regina Mueni Kiluva, Regional Manager, East Africa, Novo Nordisk. The panel was moderated by Andrea Shemberg, GBI advisor, independent expert and former legal advisor to former UN SRSG on Business and Human Rights.



Key discussion points

- The process of ensuring corporate respect for human rights is long and on-going for all businesses, from local companies in Kenya to major multinational corporations. Companies continue to make progress, and learn from their experiences along the way.
- While companies likely already have policies in place to respect human rights, developing a stand-alone human rights policy can help employees, managers and others understand clearly what is intended and reinforce what is expected of them. Company policies will be specific to the sector and to the individual business.
- Respecting human rights means knowing what is happening throughout a company's value chain, even among partners and others over whom you have no direct control.
- Although implementing human rights policies can present new costs, these can be covered through appropriate prioritization and are often offset by the benefits to business. Not only is it possible to respect human rights while being mindful of the bottom line, but respect for human rights can in fact be good for business.

Rachel Cowburn-Walden, Global External Affairs Manager Corporate Responsibility, Unilever

'Unilever has started human rights training for all our people, across the business and from our Board down. We know we still have a lot to do on this and a long way to go, but the more we talk about issues, the more we understand. And finally we will achieve better respect for human rights for all of us.'

Kip-Utich Kaptich, Corporate Affairs Director, Unilever Tea Kenya

'At Unilever we have engaged with employees to determine how to move forward. We use an internet system to evaluate all aspects of our business, from how we treat customers to leadership. We get feedback from our employees on what they are doing, and also on the things we should do better.'

Malika Sood, Personnel Manager, Kapa Oil

'The Kapa board of directors has signed up to the code of ethics and joined the UN Global Compact. The company has committed financially to implement these principles. The management set up a team to address the company's implementation of the code of ethics and the Global Compact principles.'

Philip Jordan, Chairman of the Ethics Committee, Total

'We could be held accountable for what happens throughout our operations even though sometimes we don't have direct control. An example is the employees of our service stations in South Africa, who are not Total employees but operate under the Total brand. When an independent assessment flagged that some of these employees didn't have satisfactory conditions of employment, we worked with the Danish Institute for Human Rights and around 25 dealers to define what was required to align working conditions with ILO standards. The result has been well received by all dealers because having a workforce with proper working conditions enhances motivation and customer service and that is good for business.'

Christian Heller, Senior Manager Corporate Sustainability Relations, BASF

'Today, management and employees are not fully aware of the broad range of human rights as well as the responsibilities deriving from the Guiding Principles: namely respecting and ensuring human rights in daily business operations. Awareness-raising and training is one of the key challenges.'

Regina Mueni Kiluva, Regional Manager, East Africa, Novo Nordisk

'We make decisions that take the concerns and interests of our stakeholders into account. We have built an initiative to address access, affordability, availability and awareness of diabetes care. As a result, patients are more informed and empowered, health care skills have improved, and product sales have increased.'

COMMON THEMES IN EAST AFRICA

The third panel provided an overview of key business and human rights developments as well as challenges faced by East African businesses from the regional and local human rights perspective. Panellists were Anthony Rutabanzibwa, Senior Programme Officer, ILO East Africa; Wambui Kimathi, Former Commissioner at the Kenya National Commission on Human Rights; and Joseph Kibugu, Eastern Africa Representative and Researcher, Business and Human Rights Resource Centre. The panel was moderated by Rebecca Luswet, Communication and PR Manager, KEPSA.



Key discussion points

- Kenya presents a prime opportunity for businesses to respect human rights because of the resilience and capacities of the local people, who have the potential for major achievements and to serve as a positive example for other countries. The infrastructure for corporate respect for human rights has grown in Kenya, especially with the new Kenya Constitution, and there is a greater understanding of human rights among the population.
- One of the main challenges to businesses that strive to respect human rights in East Africa is the diversity of communities in the region and difficulties in ensuring that all have equal access to opportunities and that their diverse needs and priorities are given equal attention. Another challenge is weak governance, which means that the government may not be upholding its responsibility to protect, promote, respect and fulfill human rights as effectively as it should.
- As local understanding of human rights has increased, the power to challenge business has grown. An abuse that occurs in a local business can now be communicated to the international level, where its potential impact may be multiplied before returning to the local context and causing disruptions. Businesses must take account of the costs that the globalization of human rights may present.
- East Africa can learn from what has been done in other regions so as not to reinvent the wheel when it comes to how businesses should approach human rights.

Anthony Rutabanzibwa, Senior Programme Officer, ILO East Africa

'Enterprises must respect the rights and practices of their host countries. In East Africa, some multinational enterprises act as though local laws and practices don't apply to them. Businesses must be considerate of local practices, obey national law and respect international standards for human rights.'

Wambui Kimathi, Former Commissioner at the Kenya National Commission on Human Rights

'Kenya's value is in its people. It is the human resources available in Kenya that can make us leaders in the region. But we also have a governance deficit. Business must exercise caution if it is going to avoid becoming complicit.'

Joseph Kibugu, Eastern Africa Representative and Researcher, Business and Human Rights Resource Centre

'Kenyan businesses need to understand what is being done elsewhere and not reinvent the wheel. The discussion on business and human rights is already going on in other countries. In light of the new Kenyan Constitution, it is not a moral call, it is a legal imperative: Businesses have to respect human rights.'

ADDRESSING SPECIFIC HUMAN RIGHTS IMPACTS AND CHALLENGES

The next two sessions at the Roundtable were conducted in the form of breakout groups. The first set of breakout groups focused on specific examples of human rights impacts of businesses and the challenges they are facing in addressing them. The themes covered were workplace rights, community–company relations, security and conflict-sensitive areas, human rights and sustainable agriculture, and human rights and small- and medium-sized enterprises.

WORKPLACE RIGHTS

The breakout session on workplace rights included company presentations from Arnold Kanyangarara, Workplace Accountability Manager, The Coca-Cola Company; and Sylvia Mirenja, Human Resource Manager, English Press Ltd.; and was moderated by Anthony Rutabanzibwa, Senior Programme Officer, ILO East Africa. Discussion topics included:

- The state has a responsibility to pass fair labour laws, but companies have an obligation to respect the human rights of their employees regardless of the legal framework.
- Ending abuses in the workplace and treating employees with respect and dignity increases productivity and improves retention.
- Trade unions play a key role in enabling the rights of employees to be upheld.



COMMUNITY–COMPANY RELATIONS

The breakout session on community–company relations included company presentations from Bert Fokkema, Sustainable Development Manager – Human Rights, Shell; and John Kabera, Human Resources Director, Tata Chemicals Magadi; and was moderated by Wambui Kimathi, Former Commissioner at the Kenya National Commission on Human Rights. Discussion topics included:

- Business representatives need to treat the community where they are operating as they themselves would wish to be treated. Effective community–company relations require engagement, consultation and continuous learning and adjusting.
- Communities need accessible mechanisms through which they can lodge their grievances. An effective, functional system will elicit at least a small number of complaints.
- Government has a role to play in the protection of human rights, but when there are governance gaps, business must be more diligent about internal rules and checks.

SECURITY AND CONFLICT-SENSITIVE AREAS

The breakout session on security and conflict-sensitive areas included company presentations from Thomas Wise, Manager, Global Issues and Policy, Chevron Corporation; and Nzioka Waita, Director Corporate Affairs, Safaricom; and was moderated by Joseph Kibugu, Eastern Africa Representative and Researcher, Business and Human Rights Resource Centre. Discussion topics included:

- Businesses must put in place clear procedures to ensure respect for human rights in a high-risk security context.
- Engaging private security is integral to the success of most businesses and yet can present human rights challenges in terms of accountability of these individuals.
- Technologies such as text messaging and social media can be used to incite violence outside of the control of a company, even while the latter is facilitating their use. This poses human rights dilemmas that require creative strategies.

HUMAN RIGHTS AND SUSTAINABLE AGRICULTURE

The breakout session on human rights and sustainable agriculture included company presentations from Ylva Stiller, Head Social Policy and Performance, Syngenta; and Khairudin Hashim, Group Head, Group Sustainability and Quality Management, Sime Darby; and was moderated by Geoffrey Korir, Administrator, Global Compact Network Kenya. Discussion topics included:

- Sustainable agriculture touches on many basic human rights such as access to food, land, employment and health and safety. Agriculture is also closely tied to environmental sustainability, and a healthy environment is crucial to the enjoyment of human rights.

- Because agriculture is so connected to the local community, businesses must work with these communities collaboratively. A key challenge can be when land ownership is not clear and a business comes in from outside the country to use the land.
- Human rights standards in a given industry may not be met by all agriculture companies, which can affect perceptions of the entire industry.



HUMAN RIGHTS AND SMALL- AND MEDIUM-SIZED ENTERPRISES

The breakout session on human rights and small- and medium-sized enterprises (SMEs) included presentations from Sune Skadegaard Thorsen, Founder, Global CSR; and a response from Rajeet Shah, Senior Finance and HR Manager, Kenya Sweets; and was moderated by Kathryn Dovey, Director, Global Business Initiative on Human Rights. Discussion topics included:

- Human rights processes of companies should be relative to their size; SMEs are not expected to put as complex or extensive mechanisms in place as multinational corporations.
- Because of their size, SMEs often have an easier time implementing human rights policies than multinational corporations because the administration is closer to the employees.
- A focus on human rights has been shown to further organizational goals, productivity and thus profitability in SMEs.

INTEGRATING HUMAN RIGHTS INTO BUSINESS PRACTICE POLICY COMMITMENT, DUE DILIGENCE AND GRIEVANCE MECHANISMS

The second set of breakout sessions at the Roundtable covered the different ways in which businesses are integrating human rights into their corporate policies, processes and practices. Each group covered various policies across a range of industries.

Themes covered included:

- Human rights policies must be reviewed regularly to identify potential loopholes and make necessary updates.
- Implementing the UN Guiding Principles requires internal management systems that are tailored to the needs of each company.
- Many employees do not see the importance of human rights training and do not take it seriously. Therefore a challenge of implementing human rights policies is holding the attention of employees. Trainers must communicate the significance of human rights to employees using language and examples they can relate to.
- Respecting human rights in practice requires strategic planning and cooperation between different departments of the company in order to bring everyone together with the same purpose.
- Maintaining high standards in the supply chain is a big challenge for many companies, which can be addressed through audits, training, codes of conduct, capacity-building, databases for information sharing, among other things.
- A gap analysis of a company's policies related to human rights can provide useful background before developing a dedicated human rights policy.



- In order to prioritize the highest risk areas, impact assessments can help identify the most vulnerable areas based on social and economic considerations. Companies may wish to engage with consulting firms who have greater expertise in such assessments.

- Businesses can benefit from a community of other businesses that are embarking on a similar journey to respect human rights. They should come together to share experiences, challenges and support. This can also help reduce negative competition that can drive human rights practice down to a lowest common denominator.
- Corruption impinges on human rights, including employee fraud that impacts on the rights of others within a company.

PARTNER REFLECTIONS

The final plenary session comprised a summary of the day's events and thoughts for going forward by the Roundtable conveners. Closing words were given by Rose Kimotho, Senior Human Rights Officer, Kenya National Commission on Human Rights; Rebecca Lusweti, Communication and PR Manager, Kenya Private Sector Alliance; and Geoffrey Korir, Administrator, Global Compact Network Kenya and Kenya Association of Manufacturers.

Rose Kimotho, Senior Human Rights Officer, KNHCR

'Bringing human rights into the business context is a way to bring together government, companies and civil society with a common purpose. Each of these actors has a role in this debate and needs to share responsibility. We need to take the principles and standards of the UN Guiding Principles and weave them into our everyday work.'

Rebecca Lusweti, Communication and PR Manager, Kenya Private Sector Alliance

'Businesses in Kenya view CSR as part of their human rights responsibility. Here, CSR is often understood as being about corporate philanthropy. Businesses should embrace responsibility for human rights by being socially responsible corporates.'

Geoffrey Korir, Administrator, Global Compact Network Kenya

'Where do we go from here? The frameworks to enforce human rights exist, but we do not use them. We need to use the platforms we already have in place, like the UN Global Compact principles and the UN Guiding Principles. I see an appetite in the audience for more knowledge. We should keep the discussion going in Kenya, in the East Africa region and even more widely.'



CONVENERS



KEPSA (Kenya Private Sector Alliance) is the national apex body of the private sector in Kenya, whose mandate is private sector development. This is by providing a unified voice for the private sector through advocacy for an enabling business environment, capacity building of its members and building strategic partnerships. KEPSA was founded in 2003 after the NARC (National Rainbow Coalition) Government was formed. The new Government saw the need to spur economic growth and formulated an “Economic Recovery Strategy”. Through this strategy, the private sector was directly involved in enhancing economic growth; this is when the private sector saw the need to forge an alliance. This alliance partners with the Government and other stakeholders in promoting Kenya’s economic growth in the interest of the business community.

KEPSA comprises of more than 80 organized Sector Business Associations popularly known as BMOs (Business Membership Organizations) and approximately 190 corporate organizations, together having a reach of more than 80, 000 corporate. KEPSA is not aligned, non-political and all-inclusive. Its membership is diverse with large and small investors alike.

For more information please visit: www.kepsa.or.ke



The Global Compact Network in Kenya (GCNK)’s objective is to promote good business practices by building capacity and awareness of ethics, integrity and corporate social responsibility in furtherance of the UN-Global Compact’s 10 principles that cover Human Rights, Labour, Environment and Anti-corruption. Functioning within a globally recognized and well established initiative (<http://www.unglobalcompact.org>) the GCNK provides an extremely relevant vehicle for Kenyan businesses, academic institutions and civil society organizations to join hands towards strengthening responsible business practices towards the attainment of Millennium Development Goals.

For more information please visit: www.globalcompact.or.ke



The Kenya Association of Manufacturers (KAM) is the representative organization for manufacturing value-add industries in Kenya. Established in 1959 as a private sector body, KAM has evolved into a dynamic, vibrant, credible and respected business association that unites industrialists and offers a common voice for businesses. KAM provides an essential link for co-operation, dialogue and understanding with the Government by representing the views and concerns of its members to the relevant authorities.

In pursuit of its core mandate of policy advocacy, KAM promotes trade and investment, upholds standards, encourages the formulation, enactment and administration of sound policies that facilitate a competitive business environment and reduce the cost of doing business.

For more information please visit: www.kam.co.ke



The Kenya National Commission on Human Rights (KNCHR) welcomes members of the public to be partakers of the journey of promoting and protecting human rights for all. A public institution, KNCHR operates on an open door and non-discrimination policy that allows Kenyans to freely report any cases of rights violations as well as celebrate gains in the human rights sector. KNCHR is a non-partisan institution that ensures transparency in the work they do. KNCHR continuously educates members of the public, state officers and other non-state actors on their rights and how these should be respected and also to respect the rights of others.

For more information please visit: www.knchr.org



GLOBAL BUSINESS INITIATIVE ON HUMAN RIGHTS

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THE GLOBAL BUSINESS INITIATIVE ON HUMAN RIGHTS (GBI) is a unique business-led initiative focused on advancing human rights in a business context around the world. GBI currently has 18 corporate members from 11 industry sectors with representation from Latin America, Asia, Europe, North America, and the Middle East. Through core group work streams and business outreach activities GBI seeks to build a global community of business leaders sharing good practices, identifying barriers to corporate respect for human rights in diverse contexts and inputting into international policy developments. Our work plan is divided into two parallel tracks. First, Action-Learning around the UN Guiding Principles on Business and Human Rights; and second, Business Awareness and Capacity Building through events and workshops in emerging and developing markets. GBI works in collaboration with the UN Global Compact Office and is supported by the Swiss Government.

For more information visit: www.global-business-initiative.org



Special thanks goes to Wambui Kimathi for her invaluable input and support.

SUMMARY DOCUMENT OF THE GUIDING PRINCIPLES ON BUSINESS AND HUMAN RIGHTS
PREPARED BY THE GLOBAL BUSINESS INITIATIVE ON HUMAN RIGHTS FOR THE BUSINESS ROUNDTABLES

The Guiding Principles on Business and Human Rights were endorsed by the UN Human Rights Council in June 2011. They seek to provide for the first time an authoritative global standard for preventing and addressing the risk of adverse human rights impacts linked to business activity. The Guiding Principles are the product of six years of research and extensive consultations, led by the Secretary-General's Special Representative for Business and Human Rights, Professor John Ruggie, involving governments, companies, business associations, civil society, affected individuals and groups, investors and others around the world.

The principles are organized under the UN Framework's three pillars:

- The **State Duty to Protect** Human Rights
- The **Corporate Responsibility to Respect** Human Rights
- The need for greater **Access to Remedy** for victims of business-related abuse.

What follows is a listing of the Guiding Principles relating to the Corporate Responsibility to Respect and relevant sections of Access to Remedy.

This summary document has been prepared for the purposes of the GBI Business Roundtables only.

CORPORATE RESPONSIBILITY TO RESPECT HUMAN RIGHTS		
Number	Summary title	Text of the principle
11	Definition of the corporate responsibility to respect human rights	Business enterprises should respect human rights. This means that they should avoid infringing on the human rights of others and should address adverse human rights impacts with which they are involved.
12	What is meant by human rights in this context	The responsibility of business enterprises to respect human rights refers to internationally recognized human rights – understood, at a minimum, as those expressed in the International Bill of Human Rights and the principles concerning fundamental rights set out in the International Labour Organization’s Declaration on Fundamental Principles and Rights at Work.
13	Distinction between causing or contributing to human rights impacts and those impacts linked to operations, products or services	The responsibility to respect human rights requires that business enterprises: Avoid causing or contributing to adverse human rights impacts through their own activities, and address such impacts when they occur; Seek to prevent or mitigate adverse human rights impacts that are directly linked to their operations, products or services by their business relationships, even if they have not contributed to those impacts.
14	Scope of the responsibility to respect – applies to all businesses	The responsibility of business enterprises to respect human rights applies to all enterprises regardless of their size, sector, operational context, ownership and structure. Nevertheless, the scale and complexity of the means through which enterprises meet that responsibility may vary according to these factors and with the severity of the enterprise’s adverse human rights impacts.

15	The policy commitment and processes businesses should have in place	<p>In order to meet their responsibility to respect human rights, business enterprises should have in place policies and processes appropriate to their size and circumstances, including:</p> <ul style="list-style-type: none"> (a) A policy commitment to meet their responsibility to respect human rights; (b) A human rights due-diligence process to identify, prevent, mitigate and account for how they address their impacts on human rights; (c) Processes to enable the remediation of any adverse human rights impacts they cause or to which they contribute.
16	Policy commitment to respect human rights	<p>As the basis for embedding their responsibility to respect human rights, business enterprises should express their commitment to meet this responsibility through a statement of policy that:</p> <ul style="list-style-type: none"> (a) Is approved at the most senior level of the business enterprise; (b) Is informed by relevant internal and/or external expertise; (c) Stipulates the enterprise's human rights expectations of personnel, business partners and other parties directly linked to its operations, products or services; (a) Is publicly available and communicated internally and externally to all personnel, business partners and other relevant parties; (e) Is reflected in operational policies and procedures necessary to embed it throughout the business enterprise.

17	Definition of human rights due diligence	<p>In order to identify, prevent, mitigate and account for how they address their adverse human rights impacts, business enterprises should carry out human rights due diligence. The process should include assessing actual and potential human rights impacts, integrating and acting upon the findings, tracking responses, and communicating how impacts are addressed. Human rights due diligence:</p> <ul style="list-style-type: none"> (a) Should cover adverse human rights impacts that the business enterprise may cause or contribute to through its own activities, or which may be directly linked to its operations, products or services by its business relationships; (b) Will vary in complexity with the size of the business enterprise, the risk of severe human rights impacts, and the nature and context of its operations; (c) Should be ongoing, recognizing that the human rights risks may change over time as the business enterprise's operations and operating context evolve.
18	Identifying and assessing actual or potential human rights impacts	<p>In order to gauge human rights risks, business enterprises should identify and assess any actual or potential adverse human rights impacts with which they may be involved either through their own activities or as a result of their business relationships. This process should:</p> <ul style="list-style-type: none"> (a) Draw on internal and/or independent external human rights expertise; (b) Involve meaningful consultation with potentially affected groups and other relevant stakeholders, as appropriate to the size of the business enterprise and the nature and context of the operation.

19	Integrating findings and taking appropriate action	<p>In order to prevent and mitigate adverse human rights impacts, business enterprises should integrate the findings from their impact assessments across relevant internal functions and processes, and take appropriate action.</p> <p>(a) Effective integration requires that:</p> <ul style="list-style-type: none"> (i) Responsibility for addressing such impacts is assigned to the appropriate level and function within the business enterprise; (ii) Internal decision-making, budget allocations and oversight processes enable effective responses to such impacts. <p>(b) Appropriate action will vary according to:</p> <ul style="list-style-type: none"> (i) Whether the business enterprise causes or contributes to an adverse impact, or whether it is involved solely because the impact is directly linked to its operations, products or services by a business relationship; (ii) The extent of its leverage in addressing the adverse impact.
20	Tracking the effectiveness of the response towards adverse human rights impacts	<p>In order to verify whether adverse human rights impacts are being addressed, business enterprises should track the effectiveness of their response. Tracking should:</p> <ul style="list-style-type: none"> (a) Be based on appropriate qualitative and quantitative indicators; (b) Draw on feedback from both internal and external sources, including affected stakeholders.

21	Accounting for how human rights impacts are being addressed (communication)	<p>In order to account for how they address their human rights impacts, business enterprises should be prepared to communicate this externally, particularly when concerns are raised by or on behalf of affected stakeholders. Business enterprises whose operations or operating contexts pose risks of severe human rights impacts should report formally on how they address them. In all instances, communications should:</p> <ul style="list-style-type: none"> (a) Be of a form and frequency that reflect an enterprise's human rights impacts and that are accessible to its intended audiences; (b) Provide information that is sufficient to evaluate the adequacy of an enterprise's response to the particular human rights impact involved; (c) In turn not pose risks to affected stakeholders, personnel or to legitimate requirements of commercial confidentiality.
22	Remediation	Where business enterprises identify that they have caused or contributed to adverse impacts, they should provide for or cooperate in their remediation through legitimate processes.
23	Issues of context	<p>In all contexts, business enterprises should:</p> <ul style="list-style-type: none"> (a) Comply with all applicable laws and respect internationally recognized human rights, wherever they operate; (b) Seek ways to honour the principles of internationally recognized human rights when faced with conflicting requirements; (c) Treat the risk of causing or contributing to gross human rights abuses as a legal compliance issue wherever they operate.
24	Prioritising actions	Where it is necessary to prioritize actions to address actual and potential adverse human rights impacts, business enterprises should first seek to prevent and mitigate those that are most severe or where delayed response would make them irremediable.

ACCESS TO REMEDY		
Number	Summary title	Text of the principle
29	Creating or participating in operational-level grievance mechanisms	To make it possible for grievances to be addressed early and remediated directly, business enterprises should establish or participate in effective operational-level grievance mechanisms for individuals and communities who may be adversely impacted.
30	Role of industry initiatives in creating grievance mechanisms	Industry, multi-stakeholder and other collaborative initiatives that are based on respect for human rights-related standards should ensure that effective grievance mechanisms are available.
31	<p>Effectiveness criteria for non-judicial grievance mechanisms:</p> <ul style="list-style-type: none"> • Legitimate • Accessible • Predictable • Equitable • Transparent • Rights-compatible • A source of continuous learning <p>Operational-level mechanisms should also be:</p> <ul style="list-style-type: none"> • Based on engagement and dialogue 	<p>In order to ensure their effectiveness, non-judicial grievance mechanisms, both State-based and non-State-based, should be:</p> <ul style="list-style-type: none"> (a) Legitimate: enabling trust from the stakeholder groups for whose use they are intended, and being accountable for the fair conduct of grievance processes; (b) Accessible: being known to all stakeholder groups for whose use they are intended, and providing adequate assistance for those who may face particular barriers to access; (c) Predictable: providing a clear and known procedure with an indicative timeframe for each stage, and clarity on the types of process and outcome available and means of monitoring implementation; (d) Equitable: seeking to ensure that aggrieved parties have reasonable access to sources of information, advice and expertise necessary to engage in a grievance process on fair, informed and respectful terms; (e) Transparent: keeping parties to a grievance informed about its progress, and providing sufficient information about the mechanism's performance to build confidence in its effectiveness and meet any public interest at stake; (f) Rights-compatible: ensuring that outcomes and remedies accord with internationally recognized human rights; (g) A source of continuous learning: drawing on relevant measures to identify lessons for improving the mechanism and preventing future grievances and harms; <p>Operational-level mechanisms should also be:</p> <ul style="list-style-type: none"> (h) Based on engagement and dialogue: consulting the stakeholder groups for whose use they are intended on their design and performance, and focusing on dialogue as the means to address and resolve grievances.

