



Promoting business responsibility for human rights

What is the Kenya National Commission on Human Rights?

The Kenya National Commission on Human Rights (KNCHR) is an Independent National Human Rights institution (NHRI) established by an Act of Parliament, the Kenya National Commission on Human Rights Act 2002 and has been in operation since July 2003

Currently in transition following the promulgation of a new constitution for Kenya in August 2010, the KNCHR is set to become an independent constitutional body, the Kenya National Human Rights and Equality Commission (KNHREC) in accordance with Article 59 of the Constitution.

Why focus on human rights and business?

We recognize that Business, both big and small, play a crucial role in employment creation, technological and skills transfer, supply of goods and services, and contribute significantly to public revenue through tax payments. This is a crucial role for the development of any country and even more important for a developing country preoccupied with poverty reduction.

This role of business has also been recognized by the Government through Kenya Vision 2030 which commits to ensuring that a conducive environment for business is created, maintained and continuously improved; further, the Vision has committed to support the growth of infrastructure for Small-Medium Enterprises given that they are Kenya's main employment creation sector.

While this role of business is and should be appreciated, it is also recognized that business enterprises whether transnational or not, have immense power to influence policies which may have adverse impact on the human rights of others as can their conduct and operations.

It is for these reasons that KNCHR has found it imperative to engage business.

What Policy and Legal Frameworks exist for this work?

Human rights implementation relies on standards and principles whether derived from international law, regional or national frameworks. Our main frames of reference for human rights and business are among others, the Constitution of Kenya, 2010, various national laws including labour and environment laws and the UN Protect, Respect, Remedy Framework.

Article 59 (2) (c) of the Constitution, requires the Commission to promote the protection and observance of human rights in public and private institutions. Elsewhere, the Bill of Rights in Article 20 (1) states that 'the Bill of Rights applies to all and binds all State organs and persons; further it defines 'person' as including 'a company, association or other body of persons whether incorporated or unincorporated'. There is therefore a strong constitutional backdrop that underpins the call to business to think and act in ways that pay attention to their responsibility to respect human rights.

At the international level, the debate on business and human rights has seen the development of various standards but none has received as wide an endorsement as those that have come out of, the initiative of the Special Representative of the Secretary General (SRSG) for Business and Human Rights appointed in 2005 and who has since finalized what has been called the UN '**Protect, Respect, Remedy**' Framework. The Framework clarifies the roles and responsibilities of governments and business in relation to human rights underpinned in three pillars: **the state duty to protect; the corporate responsibility to respect; and access to remedial mechanisms for victims of corporate related human rights violations.**

To support the implementation of this framework, the SRSG through multi-stakeholder consultative forums developed the Guiding Principles which provide governments and business concrete and practical recommendations for the operationalization of the UN Framework.

The Human Rights and Business Program

Currently, the Commission's work is organized in five main Departments one of them being the Economic, Social, and Cultural Rights (ECOSOC). Within this Department is the Human Rights and Business Program. At the national level, through this Department, the Commission has been engaged in a number of projects. Noteworthy are the development of partnerships with State organs, business and civil society, participation in the National Mirror Committee which contributed to the development of the ISO SR 26000 on Social Responsibility, a process that was led by the Kenya Bureau of Standards and a Public Inquiry into allegations of human rights violations in Malindi which exposed the social and environmental impacts of salt manufacturing companies' operations on the communities living along the salt harvesting belt.

More recently, the Commission has hosted convenings through which civil society organizations, business, public officers and professional associations have come together examine the roles they can play in enhancing the business and human rights agenda in Kenya. The Commission has also undertaken training for Unilever Tea and expects to do so for other companies.

However, as a country, these efforts are still at very nascent stages given that business enterprises in Kenya have been cautious and slow on the uptake of matters related to their responsibility to respect human rights. Commendably though, the bigger, often national and transnational corporations have, through their corporate social responsibility (CSR) programs been making some, albeit slow, progress towards taking responsibility for their impact on society.

The Commission sees its role as supporting both government and business to quicken this uptake of roles as a way of enhancing realization of human rights. Kenya's Constitution, the UN Protect, Respect Remedy Framework and its accompanying Guiding Principles just recently unanimously endorsed by States at the UN Human Rights Council level, provide an opportunity to nudge local business enterprises towards more rights aware approaches in their operations both at national and regional levels.

What strategies does the Commission use in undertaking its human rights and business work?

- (1) Monitoring corporate conduct and providing feedback and advise to business and government
- (2) Undertaking initiatives to help clarify and support business in taking up their human right responsibilities
- (3) Compliance assessments in order to make relevant interventions and provide strategic advice to government and specific business sectors
- (4) Reviewing of corporate laws, regulations and policies with a view to enhancing their human rights responsiveness
- (5) Developing Information, Education and Communication (IEC) materials to support various issues of human rights and business
- (6) Training on human rights and business
- (7) Developing and sharing relevant tools and approaches to assist Government, business and CSOs to cooperatively strengthen the realization of human rights for and in Kenya.
- (8) Awarding business that employ practices and undertake activities that complement realization of human rights.
- (9) Receiving and processing petitions relating to allegations of human rights violations by corporate bodies.

To contact us, call, write or visit us:

Kenya National Commission on Human Rights

1st Floor, CVS Plaza, Lenana Road,

P.O. Box 74359-00200 Nairobi

Kenya

Telephone: +254-020-2717900/8

Fax: +254-020-2716160

Email: hrbusiness@knchr.org

/haki@knchr.org

