

DIALOGUE ON NATIONAL ACTION PLANS ON BUSINESS AND HUMAN RIGHTS IN EAST & HORN OF AFRICA REGION

TANZANIA NATIONAL DIALOGUE REPORT 8 DECEMBER 2021



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Layout: Hedda Bank

1.

INTRODUCTION

This report summarises highlights from the Tanzania National Dialogue on National Action Plans on Business and Human Rights (NAPs), which took place in Dar es Salaam, Tanzania, on 8 December 2021, as part of the Regional Dialogue on National Action Plans on Business and Human Rights in East and Horn of Africa Region.

The Tanzania National NAP Dialogue was convened by the Commission for Human Rights and Good Governance (CHRAGG), the Danish Institute for Human Rights (DIHR) and the United Nations Development Programme (UNDP) Tanzania. The one-day dialogue gathered 25 participants, including representatives from government, CHRAGG, business associations, civil society and key experts, to refine and concretise plans and actions towards the development and implementation of a NAP in Tanzania.

The dialogue provided space to discuss challenges, opportunities and momentum for the adoption of a NAP in Tanzania as well as an opportunity to consider possible strategies towards the development of such an instrument. It further aimed at enhancing the capacity on business and human rights (BHR) of all relevant national stakeholders in Tanzania necessary for the adoption and implementation of the NAP. Finally, the meeting shared tools, including other neighbouring countries' experiences on the promotion of responsible business conduct and NAPs in the context of East Africa.

The purpose of sharing the highlights in this summary report is to contribute to widening the dialogue on the prospects of a NAP in Tanzania and fostering the establishment of national networks of stakeholders on BHR to advance the development and adoption of a NAP, with the support of all relevant national and international partners.

2.

BACKGROUND

The United Nations Guiding Principles on Business and Human Rights (UNGPs), endorsed by the United Nations Human Rights Council (UNHRC) in June 2011, are a significant milestone in the evolution of normative standards on the responsibility and accountability of business actors in relation to human rights. Three years after the adoption of the UNGPs, the UNHRC called on all Member States to develop NAPs to support the implementation of the UNGPs. This call came in the wake of similar developments at the European level. To reinforce this call at the African level, the African Union (AU) is in the process of adopting an AU Policy on Business and Human Rights (AU BHR Policy). Specifically, the AU BHR Policy is aimed at providing a framework for the protection and respect of human rights as well as remedy for abuses in the context of business activities, as inspired by the UNGPs, towards the promotion of sustainable development in Africa.

Since the adoption of the UNGPs in 2011, only ten African Countries out of 55 have taken steps towards NAP development, either through a Government-led process, or initiatives towards NAP development led by civil society, the national human rights institution and/or academia. Africa has lagged behind other regions in progress, yet, over the past two decades and with the recent launch of the African Continental Free Trade Area (AfCFTA), the continent has and continues to attract heightened economic activity, including investment in diverse business sectors.

In the East and Horn of Africa, Kenya and Uganda have concluded and published a NAP, while the Tanzanian government has committed to the development of a NAP. Kenya was the first African country to develop a NAP and Kenya's process has given a good case study that other countries in Africa could learn from. Recognising this state of play, it was timely to learn from the experience of ongoing NAP processes in the sub-region and strategise on ways to boost next steps towards a NAP.

It is against this backdrop that the African Union, the African Commission on Human and People's Rights, the Office of the UN High Commissioner for Human Rights (OHCHR), the United Nations Development Programme (UNDP), the Deutsche Gesellschaft für Internationale Zusammenarbeit (GIZ) GmbH, the Network of African National Human Rights Institutions (NANHRI), the Danish Institute for Human Rights (DIHR) and the Africa Trade Policy Centre organised a two-day regional dialogue held on 7 and 8 December 2021, to discuss strategies for the adoption and implementation of NAPs in the region. The 8 December national dialogues in Kenya, Uganda and Tanzania were convened in collaboration with the Department of Justice, Kenya (DoJ), the Kenya National Commission on Human Rights (KNCHR), the Uganda Human Rights Commission (UHRC) and the Commission for Human Rights and Good Governance (CHRAGG) Tanzania.

3.

AIMS AND OBJECTIVES

Taking place on 8 December 2021, in Dar es Salaam, the Tanzania NAP Dialogue gathered 25 participants from Tanzania mainland and Zanzibar, including representatives from the Government of Tanzania, CHRAGG, select business associations, civil society and key experts, with the aim of building strategic alliances for NAP development and implementation. The dialogue alternated between learning sessions and discussions among the various stakeholders and was a first opportunity to reflect on Tanzania's plans and strategies for NAP development and to articulate strategic ways forward for the development of a NAP. The dialogue concluded with sharing insights with other neighbouring countries undertaking similar NAP dialogues on the same day, namely Kenya and Uganda.

4.

PROGRAMME

Time	Agenda item
8.30- 9.00	Participants arrival
9.00- 09.15	Welcome remarks
09.15-9.35	Understanding BHR policy and normative frameworks
9.35-10.00	Rationale for a NAP in Tanzania
10.00-10.30	Q&A Plenary
10.30- 11.00	Morning tea break
11.00-12.30	Sketching a NAP process
12.30-13.30	Lunch
13.30-15.30	Deep dive: governance, stakeholder engagement and thematic priorities
15.30-16.00	Regional exchange and close of day
16.00-17.00	Afternoon tea and departure

5.

OPENING REMARKS

Opening remarks were addressed, respectively by Augustine Bahemuka, Technical Advisor on Access to Justice & Human Rights at UNDP Tanzania; Maymushka Lauriston, East Africa Regional Deputy Representative at the United Nations Office of the High Commissioner for Human Rights within East Africa; Nora Götzmann, Chief Adviser at the DIHR; and CHRAGG's Vice Chairman, Hon. Mohamed Khamis.

While speakers emphasised the importance of the UNGPs as a significant milestone in the evolution of normative standards on the responsibility and accountability of business actors in relation to human rights, it was noted that the operationalisation of the UNGPs remains shy on the Africa continent.

As such, all speakers emphasised that the rising investments in Africa constitute a suitable timing to promote responsible business conduct in Africa and accelerate the development and implementation of NAPs.

6.

LEARNING SESSIONS

SESSION 1: UNDERSTANDING BHR POLICY AND NORMATIVE FRAMEWORKS

This session was facilitated by the DIHR. After briefly introducing the key existing international and regional BHR frameworks, the session further highlighted the relevance as well as benefits of NAPs as key instruments to operationalise the UNGPs. Additionally, the session captured the status and challenges relating to NAP development in the African region. Considerations and good practices regarding the development of a NAP were also shared, on the basis of recent research.

It was also noted that the finalisation of the AU BHR Policy could provide a concrete opportunity to enhance the development of NAPs in the region and increase attention to the BHR agenda more broadly.

SESSION 2: RATIONALE FOR A NAP IN TANZANIA

This session, led by CHRAGG BHR focal points, highlighted the relevance of a NAP in the context of Tanzania. As such, CHRAGG enumerated the general benefits of engaging in a NAP process within Tanzania. While NAPs can spell out the government commitment to BHR through laudable actions, such policy documents may also allow to support coordinating the existing initiatives by various stakeholders in the promotion of BHR in the country. It was further noted that in the context of Tanzania, a NAP can also be an opportunity to enhance transparency and dialogue among various stakeholders during the development process itself.

Reflecting on the adoption of policies aiming at promoting and protecting human rights in Tanzania, an update of the current status of the second National Human Rights Action Plan (2018-2022) (NHRAP) was provided by Mr. John Richard Kalangi, Ministry of Constitution and Legal Affairs (MoCLA). Responding to expressed concerns by CHRAGG and other participants concerning the delays in the publication of the NHRAP, Mr. Kalangi provided an update on the current status of the NHRAP and informed that the final version is currently in late stage of review by an inter-ministerial steering committee.

While the depth and breadth of BHR issues covered under the anticipated NHRAP are yet to be known, CHRAGG encouraged to speed up the process of adopting the NHRAP, while underscoring the relevance of adopting a homogenous standalone plan that will prioritise all BHR issues and address all governance gaps identified by CHRAGG.

7.

DISCUSSION SESSIONS

DISCUSSION SESSION 1: RATIONALE, GOVERNANCE AND PROCESS FOR DEVELOPING A NAP

In facilitated small group discussions, participants reflected on the governance and processes needed to develop a NAP. Reflecting on the most likely obstacles to implement a NAP in Tanzania, participants explored ways of circumventing these. Two considerations at stake were made by participants. The first one mirrored the importance of balancing issues of all the republic of Tanzania – including rural areas in Mainland, Zanzibar and other metropolitan areas – in a potential NAP. The second pointed to the importance of ensuring attention to gender and the effective participation of vulnerable and marginalised populations. A summary of key discussion points is highlighted in the table below.

Pros for establishing a NAP on BHR	Obstacles and challenges to establishing a NAP on BHR
<ul style="list-style-type: none">• Creating a conducive environment for business and citizens• Addressing human rights at their roots• Aligning and harmonising legislation• Improving business governance• If implemented effectively and in a consultative process, the NAP could support decentralisation efforts of the government, and promote bottom-up governance• Defining responsibilities and enabling specific actions for specific threats• Establishing accountability mechanisms on human rights	<ul style="list-style-type: none">• Funding and lack of resources to implement the NAP• Political will and buy-in• Limited capacity of all stakeholders in business and human rights• Lack of funding or oversight of dissemination• Inclusion of vulnerable groups

Participants discussed how such challenges may be addressed and further aligned on:

- The need for more fundraising and scoping of available donors;
- Strengthening engagement with the government (all stakeholders and particularly CHRAGG could take lead in this matter);
- Conducting more awareness and advocacy on business and human rights;
- Identifying champions and allies in the government;
- Including human rights and business education in school curriculum;
- Involving local leaders when drafting NAP processes; and
- CHRAGG may consider increasing reporting on business and human rights issues in their annual report.

Reflecting on lessons from the Kenya process, participants agreed on the importance of ensuring government ownership as well as mobilising the driving forces behind the development of a NAP.

DISCUSSION SESSION 2: STAKEHOLDER ENGAGEMENT AND NEXT STEPS FOR A NAP

The second discussion focussed on strategising on ways to engage stakeholders in the process of a NAP in Tanzania. Participants started by mapping all the relevant stakeholders from community-based organisations, faith-based organisations, traditional leaders, members of parliaments, businesses, etc. It was further noted that there is a risk that rural communities, women and other marginalised groups may be excluded from the process of a NAP. To that end, participants recommended that the inclusion of community-based organisations, religious leaders and other authorities could help in bridging this gap and ensure wide and meaningful participation of diverse stakeholders in the NAP process.

Participants further acknowledged the importance of tapping into regional actors for support in driving the process of a NAP in Tanzania. These could be of help in identifying funding opportunities for the NAP process. One participant suggested interacting with existing UN mechanisms. Visits by UN rapporteurs was mentioned as a way forward which may boost the process of a NAP in Tanzania.

Finally, it was noted that continued conversations, study tours and engagement with regional actors who have successfully driven NAP processes is a useful way to learn and benefit from the experience of countries in similar contexts.

8.

SHARING KEY POINTS AND NEXT STEPS

During the dialogue, participants had the opportunity to reflect on the tangible actions to move forward the process of NAP development in Tanzania. As such, it was acknowledged that different stakeholders could play complementary roles in advancing the development of a NAP in Tanzania. It was also agreed that CHRAGG, as a National Human Rights Institution, is well suited to continue influencing the process of NAP development in Tanzania, owing to their official mandate as both an advisory institution and as a watchdog on human rights.

These conversations helped to identify emerging priorities for different stakeholders going forward:

PRIORITY 1: UPSCALING EFFORTS TOWARDS INFLUENCING THE PROCESS OF A NATIONAL ACTION PLAN ON BUSINESS AND HUMAN RIGHTS

Key actions towards that priority include but are not limited to:

- With the input from civil society actors, business representatives and all participants from the workshop, CHRAGG may consider drafting a policy brief arguing for the relevance of a NAP in Tanzania;
- CHRAGG may consider reaching out to high-level government stakeholders in key positions to drive a process for the development of a NAP;
- Continuing existing efforts to convene all stakeholders around BHR (forums, conferences, learning exchanges, etc.); and
- Identifying and scoping potential donors for NAP development.

PRIORITY 2: MULTIPLYING RIGHTS-HOLDER AWARENESS ON BUSINESS AND HUMAN RIGHTS

Key actions towards that priority include but are not limited to:

- Sharing business and human rights knowledge to workers, labour unions and other representatives; the priority can be led by civil society organisations and CHRAGG and leverage on the existing MOUs between some select civil society organisations and CHRAGG;
- Continuing dialogues with communities and engaging in partnerships with grassroots organisations and community organisations;
- Ensuring that the voices of communities, indigenous peoples, women and vulnerable stakeholders are effectively accounted for in NAP formulation and implementation; and
- Boosting communication efforts to promote the UNGPs among local stakeholders.