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BRIEFING: OPPORTUNITIES FOR NHRI ENGAGEMENT ON BUSINESS AND HUMAN RIGHTS AT THE AFRICAN UNION

This briefing seeks to provide an overview of opportunities available to national human rights institutions (NHRIs) to engage on business and human rights (BHR) at the African Union (AU). The overview is intended as a conversation starter, rather than a prescriptive guidance.

ABOUT THIS BRIEFING

This briefing has been produced as part of the [Eastern-Southern Africa National Human Rights Institutions Business and Human Rights Peer Learning Initiative](#). The initiative aims to foster peer learning, generate collective knowledge and increase engagement BHR among NHRIs in the region. Current participants include: [Kenya National Commission on Human Rights \(KNCHR\)](#); [Uganda Human Rights Commission \(UHRC\)](#); [Commission for Human Rights and Good Governance \(CHRAAGG\)](#) of Tanzania; [Human Rights Commission \(HRC\)](#) of Zambia; and, [South African Human Rights Commission \(SAHRC\)](#). It is convened by the [Danish Institute for Human Rights \(DIHR\)](#).

This briefing provides:

- A description of the main organs and institutions of the AU
- A list of selected AU organs, institutions and platforms whereby NHRIs can address BHR issues
- A selection of links to useful information on the AU

INTRODUCTION TO THE AFRICAN UNION

The AU was established under the [Constitutive Act of the African Union in 2000](#) and officially launched in July 2002. The [African Union \(AU\)](#) is a continental body consisting of the 55 Member States making up all the countries of the African Continent. The AU's [vision](#) is, "An Integrated, Prosperous and Peaceful Africa, driven by its own citizens and representing a dynamic force in the global arena."

The frameworks of the AU provide an opportunity for not only enhancing economic integration and development, but also driving social cohesion and development, including the promotion of human rights by the Member States. NHRIs have a key role in identifying, monitoring and addressing human rights, including in the context of business activities. The [UN Guiding Principles on Business and Human Rights](#) provide a valuable framework to underpin this work and identify the roles and responsibilities for states, business and civil society, meanwhile the [African Charter on Human and Peoples' Rights](#) provides the framework for NHRI participation at the AU.

AFRICAN UNION ORGANS AND FUNCTIONS	
ORGAN	FUNCTION
AU Assembly	<ul style="list-style-type: none"> • Supreme policy and decision-making organ • Composed of all Heads of State and Government
Executive Council	<ul style="list-style-type: none"> • Coordinates and takes decisions on policies • Responsible to the AU Assembly • Composed of foreign ministers or such other authorities designated by Member States
Special Technical Committees (STCs)	<ul style="list-style-type: none"> • STCs are thematic committees on key AU projects and programmes • Responsible to the Executive Council • Composed of Member State ministers or senior officials
Permanent Representative Committees (PRCs)	<ul style="list-style-type: none"> • PRCs prepare the work of the Executive Council • Composed of Permanent Representatives and other plenipotentiaries of Member States
Peace and Security Council	<ul style="list-style-type: none"> • The AU's organ for the prevention, management and resolution of conflicts • Composed of 15 elected Member States
African Union Commission (AUC)	<ul style="list-style-type: none"> • The AU's secretariat • Composed of a Chairperson, Deputy Chairperson and eight commissioners as well as staff
Pan-African Parliament (PAP)	<ul style="list-style-type: none"> • Platform for people from all African States to participate in discussions and decision-making on issues facing the continent • Members are designated by the legislatures of their Member States
Economic, Social, and Cultural Council (ECOSOCC)	<ul style="list-style-type: none"> • Advisory organ that provides opportunity for African civil society organisations to contribute to the AU's principles, policies and programmes • Composed of social and professional groups from AU Member States
Judicial, Human Rights, and Legal Organs	<ul style="list-style-type: none"> • African Commission on Human and Peoples' Rights (ACHPR) • African Court on Human and Peoples' Rights (AfCHPR) • AU Commission on International Law (AUCIL) • AU Advisory Board on Corruption (AUABC) • African Committee of Experts on the Rights and Welfare of the Child (ACERWC)
Financial Institutions	Proposed institutions include the African Central Bank, African Investment Bank and the African Monetary Fund.
African Peer Review Mechanism (APRM)	The APRM aims to foster the adoption of policies, values, standards and practices of political and economic governance that lead to political stability, accelerated economic integration, economic growth and sustainable development.

Regional Economic Communities (RECS)	<p>Regional groupings of African States that facilitate regional economic integration between members and through the wider African Economic Community (AEC). They include:</p> <ul style="list-style-type: none"> • Arab Maghreb Union (AMU) • Community of Sahel Saharan States (CEN-SAD) • Common Market for Eastern and Southern Africa (COMESA) • East African Community (EAC) • Economic Community of Central African States (ECCAS) • Economic Community of West African States (ECOWAS) • Inter-Governmental Authority on Development (IGAD) • Southern African Development Community (SADC)
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THE AFRICAN GOVERNANCE ARCHITECTURE (AGA)

The [African Governance Architecture \(AGA\)](#) is a platform for dialogue between the different organs and institutions of the AU with external stakeholders, including expert groups and institutions. It operates through joint consultative meetings on specific subjects, convened at the AU level by the [African Union Commission \(AUC\)](#). Its mandate is to promote and protect good governance, democracy, human and people’s rights and the rule of law in Africa.

Through the African Governance Architecture (AGA) NHRIs can:

- Enhance popular participation by representing citizens’ views and facilitating information sharing for inclusive policy development and decision-making on human rights. NHRIs may disseminate information about ongoing discussions, processes and opportunities on human rights protection at the AU as well as collect and present or facilitate presentation of citizens’ positions on BHR at the AU.
- Facilitate learning by sharing comparable national experiences, lessons on trends, challenges, opportunities and prospects for improving human rights among Member States e.g. on [National Action Plans \(NAPs\) on Business and Human Rights](#).

THE EXECUTIVE COUNCIL

The [Executive Council](#) coordinates and takes decisions on policies in areas of common interest to Member States. It is supported by [Special Technical Committees \(STCs\)](#) and [Permanent Representative Committees \(PRCs\)](#) as well as ministerial sub-committees. Its core functions include:

- Preparing the Assembly session agendas and drafting decisions for its consideration.
- Determining policies for cooperation between the AU and Africa’s partners.
- Considering and making recommendations to the Assembly on the Commission’s structure, functions and statutes
- Ensuring the promotion of gender equality in all AU programmes

NHRIs may contribute to conversations with the Executive Council by:

- Utilising their observer status to access and collaborate with the [Executive Council](#) through STCs or Ministerial Sub-Committees in developing policy and learning that has a BHR dimension. Among the relevant STCs are: [STC on Social Development, Labour and Employment](#); [STC on Justice and Legal Affairs](#) and, [STC on Gender Equality and Women's Empowerment](#). Through these platforms, NHRIs may advocate for the adoption of a comprehensive AU business and human rights action plan aimed at promoting the domestication of the UN Guiding Principles on Business and Human Rights by Member States, through the promulgation of NAPs on BHR.
- Facilitating citizen participation in policy and decision making at the AU and monitoring implementation of Member States' obligations by disseminating relevant information to civil society to sensitise citizens and facilitate their participation in AU processes.

THE AFRICAN UNION COMMISSION (AUC)

The main office holders are the Chair, Secretary General and eight Commissioners. NHRIs may enter informal or formal technical support as well as project-to-project collaborations with the relevant directorates and departments under the AUC including with the:

- [Directorate of Women, Gender and Development \(WGDD\)](#)
- [Department of Political Affairs \(DPA\)](#)
- [Department of Social Affairs](#)

NHRIs can use their mandates vis-à-vis the AU Commission through:

- Facilitating citizen participation in policy and decision making at the AU and monitoring implementation of Member States' obligations by disseminating relevant information about the operations of the AU to civil society to sensitise citizens and facilitate their participation in AU processes.
- Monitoring the process of policy and decision making through interactions with the AU Commission and the implementation of these decisions by States parties.

THE PAN AFRICAN PARLIAMENT

Presently, the [Pan-African Parliament \(PAP\)](#) has consultative, advisory and budgetary oversight powers within the AU. NHRIs can address questions and propositions on human rights to members of the PAP; create awareness among citizens of their respective countries on PAP's agenda and work; and developments and contribute to development of legislation which advance human rights in the context of business activities. Relevant [Committees of the PAP](#) include:

- Committee on Health, Labour and Social Affairs

- Committee on Transport, Industry, Communications, Energy, Science and Technology
- Committee on Gender, Family, Youth and People with Disabilities
- Committee on Justice and Human Rights
- Committee on Rural Economy, Agriculture, Natural Resources and Environment

NHRIS can use their mandates vis-à-vis the PAP through:

- Facilitating citizen participation in policy and decision making at the AU and monitoring implementation of Member States' obligations by disseminating relevant information on the PAP to civil society in order to sensitize citizens and enhance their participation in AU processes.
- Providing support to Members of the PAP through research and information sharing on BHR, to inform the decisions and advisory efforts of the PAP.

THE ECONOMIC SOCIAL AND CULTURAL COUNCIL (ECOSOCC)

The [Economic Social and Cultural Council \(ECOSOCC\)](#) provides a mechanism for African civil society organisations (CSOs) to actively contribute to the policies and programmes of the AU.

NHRIs can leverage their observer status to contribute to the work of the ECOSOCC to:

- Strengthen the evidence base on human rights issues to support the ECOSOCC's processes and decision making on BHR cases.
- Advocate for the adoption of a comprehensive AU business and human rights action plan aimed at promoting the domestication of the UN Guiding Principles on Business and Human Rights by Member States, through the promulgation of [NAPs on BHR](#).
- Facilitate citizen participation in policy and decision making at the ECOSOCC and monitoring implementation of Member States' obligations by disseminating relevant information to civil society to sensitise citizens and facilitate their participation in AU processes.
- Support Committee and Sub-Committee Chairs, rapporteurs and mandate holders to investigate and report on human rights complaints by generating relevant evidence and information and by facilitating linkages with aggrieved persons.

THE AFRICAN COMMISSION ON HUMAN AND PEOPLES' RIGHTS (ACHPR)

The mandate of the [African Commission on Human and Peoples' Rights \(ACHPR\)](#) is threefold: to promote human and peoples' rights; to protect human and peoples' rights; and to interpret the Charter. NHRIs may contribute to the ACHPR process through:

- The Communications Procedure – by lodging or facilitating a complaint under articles [48–49](#) or article [55](#).

- State Reporting – by rendering independent reports to the ACHPR during the state reporting process.
- Meetings of the ACHPR – by participating in the two ordinary and some extra-ordinary meetings of the ACHPR, courtesy of their affiliate status.
- Working Groups: NHRIs may contribute to specific policy conversations including through: the [Working Group on Extractive Industries, Environment and Human Rights Violations](#) and the [Working Group on Economic, Social and Cultural Rights](#).

NHRIs can use their mandate to:

- Lodge or facilitate the institution of cases and complaints with the ACHPR, where strategic, to achieve redress for violations of human rights in the context of business activities.
- Support Committee Chairs, rapporteurs and mandate holders to investigate and report on human rights complaints by generating relevant evidence and information and by facilitating linkages with aggrieved persons.
- Contribute to the development of shadow reports during the State Reporting process on aspects of BHR.
- Provide capacity building support to Commissioners and staff of the ACHPR, on BHR issues and on opportunities for addressing these issues.
- Facilitate citizen participation in processes and decision-making of the ACHPR and monitoring the implementation of Member States’ obligations by disseminating relevant information to civil society to sensitize citizens and facilitate their participation in AU processes.

NHRIs may apply for Observer Status with the ACHPR. Observer Status allows NHRIs [certain privileges](#) at the AU, including:

- NHRIs may prepare shadow reports on the BHR situation pertaining to the periodic reporting by their respective states.
- NHRIs may access documents of the Commission, where relevant to the objectives of the NHRI, and subject to maintaining confidentiality.
- NHRIs may be invited specially to attend closed sessions addressing issues which are relevant to the NHRI.
- NHRIs may be authorised by the Chair to make a presentation or a statement on issues relating to their expertise or interest.
- NHRIs may be accorded the opportunity by the Chair to respond to questions directed to them by participants, during the Commission’s meetings.
- NHRIs may request to have specific issues relating to their areas of interest included in the Commission’s agenda.

AFRICAN COURT ON HUMAN AND PEOPLES’ RIGHTS (AFCHPR)

The [African Court on Human and Peoples’ Rights \(AfCHPR\)](#) makes decisions which are binding upon States Parties.

NHRIs may undertake the following BHR related tasks in regard to the AfCHPR:

- Lodge or facilitate the institution of cases and complaints with the ACHPR or the AfCHPR where strategic, to achieve redress for violations of human rights in the context of business activities.
- Facilitate citizen participation in the processes of the Court by disseminating relevant information to civil society to sensitize citizens and by supporting the appearance of stakeholder groups before the AfCHPR.

FURTHER RESOURCES

- African Union website: <https://au.int/>
- African Charter on Human and Peoples' Rights, African Commission on Human and Peoples' Rights: <https://www.achpr.org/legalinstruments/detail?id=49>
- African Union Agenda 2063, officially adopted by the AU Assembly in 2015, provides a collective vision and roadmap to build a prosperous and united Africa based on shared values and a common destiny: <https://au.int/en/agenda2063>
- African Union Handbook, 2020: https://au.int/sites/default/files/documents/31829-doc-au_handbook_2020_english_web.pdf
- African Union, African Governance Architecture (AGA) Platform: <http://aga-platform.org/about>