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

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 East African Community (EAC). 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 \(CHRAGG\)](#) 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 East African Community (EAC)
- A list of selected EAC organs and institutions and possible opportunities whereby NHRIs can address human rights and business issues
- A selection of links to useful information on the EAC

ABOUT THE EAST AFRICAN COMMUNITY

Founded in 1967, the [EAC](#) was originally composed of Kenya, Uganda and Tanzania. However, it broke up in 1977 following disagreements among the three Member States. The EAC was officially re-established in 2000, again consisting of the three Member States. In 2007, Rwanda and Burundi acceded to the Treaty while South Sudan joined the regional body in 2016. Thus, the [EAC](#) is a regional intergovernmental organisation comprising six Partner States: Burundi, Kenya, Rwanda, South Sudan, Tanzania and Uganda.

Its mission is to widen and deepen economic, political, social and cultural integration, but also to enhance the quality of life of the people of East Africa, through boosting competitiveness, value added production, trade and investments. Among other prerogatives, the EAC provides frameworks and opportunities for the promotion of human rights by the Member States.

Given these interests of the EAC, there are key opportunities for NHRIs to engage this regional organisation when working to promote and protect human rights in the context of business activities.

Figure: Map of the East African Community (EAC) Countries



HUMAN RIGHTS IN THE EAST AFRICAN COMMUNITY LEGAL FRAMEWORK

While the EAC Treaty does not explicitly spell out human rights obligations, the operational principles of the EAC cite adherence to the principles of good governance, including universally accepted standards of human rights.

Broadly, there are two schools of thought on the human rights jurisdiction of the EAC:

- That because the six EAC Member States have ratified regional and international legal instruments on human rights, the EAC organs can rely on human rights obligations drawn from these legal

instruments. The legal instruments include: the [International Covenant on Civil and Political Rights \(ICCPR\)](#), the [International Covenant on Economic, Social and Cultural Rights \(ICESCR\)](#) and the [African Charter on Human and Peoples' Rights \(ACHPR\)](#).

- That because of the lack of specific provisions on human rights in the EAC legal instruments, the EAC organs have limited jurisdiction to determine human rights questions.

NHRIs have taken steps to contribute to strengthening the human rights dimensions of the EAC. For example, in collaboration with Kituo cha Katiba, a non-governmental organisation (NGO), the six NHRIs in East Africa developed a draft EAC Bill of Rights, proposed to establish a more explicit EAC law on human rights. However, [the Council of Ministers](#) did not approve the draft Bill of Rights. The East African Legislative Assembly passed the EAC Human Rights Bill in 2012, but it has not yet been operationalised.

The [East African Court of Justice \(EACJ\)](#) has [opined](#) that it has jurisdiction to interpret the ACHPR in the context of the EAC Treaty. The progressive jurisprudence on the EACJ's jurisdiction over human rights provides an entry point for NHRIs at the EAC.

STRUCTURE OF THE EAST AFRICAN COMMUNITY	
ORGAN	FUNCTION
Summit	Comprises the Heads of State and Government, the Summit gives general directions and impetus for development and achievement of EAC objectives. The office of Chairperson is held for one year in rotation among the Partner States.
Council of Ministers	The policy-making organ.
Coordination Committee	Comprises the permanent secretaries. Submits reports and recommendations to the Council either on its own initiative or on request from the Council and implements Council decisions.

Sectoral Committees	Monitors and reviews implementation of EAC programmes.
East African Court of Justice	Ensures adherence to interpretation, application and compliance with the Treaty establishing the EAC. The EACJ is the judicial organ of the EAC, ensuring adherence to the law in the interpretation and application of compliance with the EAC Treaty and resolving disputes involving the EAC and its Member States. the EACJ does not have an express human rights jurisdiction save for its interpretation of the Treaty.
East African Legislative Assembly	Acting as the legislative organ of the EAC, the assembly is responsible for discussing all legislative matters pertaining to the Community and making recommendations to the Council when necessary.
EAC Secretariat	<p>The executive organ. Facilitates the adoption and implementation of regulations and directives by the Council. The EAC Secretariat Convenes the Secretary General's Forum, under the Dialogue Framework. The EAC Secretary General's Forum is an initiative aimed at providing a platform for the private sector, civil society and other interest groups to participate in dialogue to advance the objectives of the EAC. It is an annual event, based on the Consultative Dialogue Framework. Previous Secretary General's forums have discussed:</p> <ul style="list-style-type: none"> • Free movement of labour and services between the six Partner States. • Sustainable development in relation to improving food security and agricultural value chains, localising the climate change agenda and increasing gender equality. • The impacts of ICT in enhancing the free movement of goods and services and impact of media as enablers of stronger citizen participation. • The impact of the Consultative Dialogue Framework projects and programmes. <p>The Consultative Dialogue Framework envisages a forum convened annually by the Secretary-General of the EAC. Organised collaboratively, the forum would be based on an agenda agreed upon between the private sector, civil society and the EAC Secretariat. This is an acknowledgement that the EAC governance framework has for a long time had only limited participation by non-state actors, thus, hampering oversight, responsive policy formulation and implementation, and proper attention to human rights.</p> <p>Among the objectives of the scheme are to:</p> <ul style="list-style-type: none"> • Allow non-state actors to consultatively work towards realising EAC objectives and promote a people-centred integration process. • Enhance and strengthen partnerships between non-state actors and the EAC. • Provide a structured framework for consultation between the EAC, Partner States and non-state actors on the East Africa integration process. • Strengthen the capacities of non-state actors to effectively and meaningfully engage in the EAC integration process.

OPPORTUNITIES FOR NHRIS TO ENGAGE ON BUSINESS AND HUMAN RIGHTS AT THE EAST AFRICAN COMMUNITY LEVEL

- NHRIs may make policy propositions to relevant ministries responsible for regional cooperation from Partner States on human rights issues. These propositions can be channelled by the said ministries through the Coordinating Committee, then to Sectoral Committees and onwards to the Council of Ministers for decision-making.
- NHRIs may originate cases or support other persons in lodging cases with the East African Court of Justice with the aim of interpreting provisions of the EAC Treaty.
- NHRIs may collaborate with the East African Legislative Assembly and other stakeholders to develop bills on human rights to be brought before the Assembly for enactment.
- Through the Annual Secretary General's Forum and under the Consultative Dialogue Framework, NHRIs may collaborate with other stakeholders by convening learning and dissemination meetings aimed at transferring BHR knowledge across the different countries.
- NHRIs may seek an invitation by the EAC to provide human rights expertise at meetings and conferences; co-organising activities with the EAC; or organising autonomous activities related to EAC issues and processes and use the findings to influence the EAC.
- NHRIs may apply for Observer Status with organs of the EAC, allowing NHRIs access to certain EAC forums and information and to address specific strategic forums.
- NHRIs may negotiate partnership with the EAC for the provision of technical

assistance to the EAC, through a Memorandum of Understanding.

- NHRIs may explore regional level partnerships for addressing business and human rights at the EAC level and consider collaborations with: East African Law Society (EALS); East African Business Council (EABC); East African Civil Society Organisations Forum (EACSO), the Network of African National Human Rights Institutions (NANHRI) and NHRIs from Kenya, Uganda, Tanzania, Burundi, Rwanda and South Sudan. These partnerships could relate to technical support for partners or organisations participating through viable EAC frameworks for advancing BHR.

FURTHER RESOURCES

- Overview of the EAC: <https://eac.int/overview-of-eac>
- Treaty for the Establishment of the East African Community (EAC): http://www.eala.org/uploads/The_Treaty_for_the_Establishment_of_the_East_African_Community_2006_1999.pdf
- East African Community, Organs of the East African Community: <https://www.eac.int/eac-organs>
- The Consultative Dialogue Framework: <https://www.eac.int/gender/civil-society/consultative-dialogue-framework>
- EAC organs: <https://www.eac.int/eac-organs>
- Elau, Emmanuel, Human Rights in the East African Community (July 24, 2019). Available at SSRN: <https://ssrn.com/abstract=3426050>