

15 September 2014

## **IOE-BUSINESSAFRICA INPUT PAPER TO THE REGIONAL FORUM ON BUSINESS AND HUMAN RIGHTS, 17-18 SEPTEMBER 2014, ADDIS ABABA (ETHIOPIA)**

---

The IOE and BUSINESSAFRICA regard the African Regional Business and Human Rights Forum as an important occasion to increase understanding of the key human rights challenges and opportunities in Africa, a continent which has been in the limelight with regard to the human rights situation in some of its countries, but which also attracts increasing interest and attention for the business opportunities it presents.

The aim of the forum must be to stimulate a commitment for action from all of its actors to improve the human rights situation on the ground. Business is highly committed to working with all the relevant stakeholders in this regard.

The UN Guiding Principles on Business and Human Rights (The UN Guiding Principles) clearly distinguishes between the responsibilities of the various players, and helps to clarify the complex interface between human rights and companies: it is the duty of the state to protect people against human rights infringements and it is the responsibility of enterprises to respect human rights by establishing the necessary operational practices. There must, moreover, be legislative and non-legislative complaint mechanisms in place in order to redress human rights infringements.

► The IOE and BUSINESSAFRICA call on all stakeholders to consider this forum as the starting point for much stronger engagement. Employers' Organisations are committed to undertaking strong efforts to raise awareness and to offering training on business and human rights, especially to small and medium enterprises.

Africa, the second largest and second most populous continent, is not a homogenous entity. Human rights challenges differ widely between and within countries. Moreover, the human rights challenges are not unique to the continent, but can be observed in various places around the world.

However, poverty and food insecurity, insufficient health services, rapid urbanisation, ethnic tensions, violent conflicts, weak governance and political instability influence to varying degrees the human rights situation on the ground in many African countries.

Furthermore, the continent has the youngest population of all the continents: 50% of Africans are 19 years old or younger, which brings additional challenges with regard to the provision of adequate education, training and jobs, a key ingredient in the creation of a society where human rights can become a reality for all.

At the same time, Africa is experiencing strong economic growth, increasing FDI and deeper global trade integration. An addition asset is its rapidly growing middle class. These developments open up opportunities for social and economic progress which will also affect the human rights situation.

In order to un-tap the full potential of these developments, to improve human rights situations on the ground and to foster environments which facilitate companies meeting their responsibility to respect human rights, governments **must** much more determinedly fulfil their obligation to protect the human rights of all, including companies, by:

- strengthening public governance systems,
- strengthening the rule of law and institutions
- improving the effectiveness of judicial systems to ensure that victims of human rights violations have access to remedies

According to the World Justice Project, not enough reforms were undertaken in the last year to address these weaknesses.

Stronger law enforcement and determined efforts to improve judicial systems are fundamental requirements to improve the human rights situation on the ground. No international treaty on business and human rights, or any other international initiative, can replace good governance and the rule of law.

Good governance and rule of law are also prerequisites for a level playing field for all companies. Business is concerned that corruption and weak governance structures on the continent not only weaken human rights, but also undermine conditions for fair competition and jeopardize clear-cut market practices. Countries will only attract more FDI and trigger the associated spill-over effects if they improve such framework conditions.

The issue of land ownership and the rights of informal settlers are key concerns in some African countries. According to the UN Guiding Principles, companies have the responsibility to respect human rights and to make sure, through due diligence, that they do not become involved or complicit in violations of human rights, such as those of informal settlers and indigenous people. Companies take their responsibility in this area very seriously and there are many initiatives. However, it is first and foremost the role of government to ensure consultation with informal settlers / indigenous people and to balance the rights of different groups and people in their territory. Companies have neither the societal and political mandate, nor the capability, to resolve conflicts between the competing rights of different groups and people.

Informality is widespread in Africa and it is especially in this sector that challenges to the protection of human rights are the greatest and most prevalent. Effective measures to facilitate transition to formality are key to ensuring the broad implementation of fundamental principles and rights at work, as well as human rights.

The UN Guiding Principles are the global authoritative reference on the issue of business and human rights. The IOE and BUSINESSAFRICA see a strong need for much more action-oriented follow-up of the UN Guiding Principles at national level. To date, no African country has launched a National Action Plan (NAP) for the implementation of the UN Guiding Principles. This is regrettable. A NAP is not only a powerful tool to ensure coherent follow-up, but also helps to integrate and engage national stakeholders. NAPs must be developed in close consultation with business as the main target group and while the feedback of individual companies in the development of a NAP is important to gain insight from practitioners, only representative business organisations have the mandate to speak for the business community as the whole, thus ensuring that SMEs also have a voice in the process.

► The IOE and BUSINESSAFRICA call on African governments to seriously consider the development of a National Action Plan – which have the additional benefit of sending a strong message that countries take their “duty to protect” seriously.

There are many initiatives from outside Africa that aim to support the human rights situation in the continent. Business very much appreciates these efforts. However, the engagement of African business, as well as civil society, in these initiatives must improve. The Dodd-Frank Act for instance, which requires companies to ensure that minerals in their supply chain do not benefit the conflict in the Congo, although well-intentioned, led to a quasi-boycott of the DRC and the destruction of jobs in the formal economy, without fulfilling its aim of lessening the conflict. Potential consequences of action therefore need careful consideration in shaping the appropriate response.

Similarly, linking access to markets to indicators, such as on child labour, would not improve the situation of the children concerned, but risks lessening their prospects of getting into education. It is therefore imperative that western governments and all other stakeholders directly consult with African business and African civil society to fully understand the context. All too often, western NGOs claiming to speak for African civil society do not legitimately represent the views of the societies concerned.

► The IOE and BUSINESSAFRICA call on governments, international organisations and initiatives to closely engage with African business and civil society when setting up projects and initiatives to promote human rights in Africa.