

BUSINESS AND HUMAN RIGHTS



Although Uganda did not receive a specific recommendation on business and human rights, it did accept a recommendation to develop a national action plan on human rights. With the private sector playing an increasingly prominent role in the country's development, it is crucial that Uganda adopt the laws, policies and action plans needed to effectively operationalize the Guiding Principles on Business and Human Rights.

THE PRIVATE SECTOR IS BEING ENCOURAGED TO PLAY A GROWING ROLE IN UGANDA'S DEVELOPMENT PLANS.

Since the late 1980s, Uganda has pursued a series of pro-market structural reforms and has boosted economic growth. In 2010, it set out an ambitious agenda to become an upper middle income country within 30 years (GoU, 2010). In line with this agenda, the country's second five-year National Development Plan (NDP II) prioritizes private sector-led growth—in particular in agriculture, tourism and, most notably, the extractive industry. The discovery of oil in western Uganda will have a huge impact on the economy; production is planned in 2017 or 2018. NDP II envisages a significant role for the private sector in financing the country's development. It strongly promotes public-private partnerships (PPP) and puts forward a series of strategies designed to create a more conducive environment for doing business. However, increasing private sector involvement in the country's development has not been accompanied by adequate efforts to protect, respect and remedy human rights in line with the Guiding Principles on Business and Human Rights.

THERE ARE GAPS IN UGANDA'S HUMAN RIGHTS PROTECTION FRAMEWORK AS IT RELATES TO BUSINESS. Article 20(2) of the Constitution explicitly recognizes that private actors have human rights responsibilities. Nevertheless, laws to regulate the human rights impact of corporate activities have weaknesses in their design, implementation and enforcement.

The **Employment Act** and the **Workers Compensation Act** offer remedies for abuses and injuries arising in the course of formal employment; the Acts do not cover those in the informal sector, who make up the vast majority of the labour force—81.5% in 2012/13 (GoU, 2015).

The **minimum wage** has not been adjusted since 1984 and stands at UGX 6,000 (USD 2) per month; by contrast, the national poverty line is equivalent to USD 30 per month (MFPED, 2014).

The **Mining Act** obliges a mining licensee to carry out an Environment Impact Assessment and to take all necessary steps to prevent and minimise environmental pollution. However, assessment reports are rarely shared with or explained to communities, leaving them without benchmarks to hold companies accountable. Critically, there is no requirement to assess human rights impacts.

The **Petroleum (Exploration and Production) Act** vests the minister with broad discretionary powers and leaves Parliament without a meaningful oversight role and thus fails to establish an open and transparent procedure for determining applications for licences (UCCA, 2016).

The **National Land Policy** recognizes the need for clear procedures for local consultation. However, indigenous groups

in Uganda are still not afforded legal recognition and there is no specific legislation enforcing the obligation to obtain their free, prior and informed consent on matters relating to the exploitation of their resources.

The **Investment Code** creates a dual, conflicting, role for the Investment Authority; promoting and facilitating business on the one hand and monitoring and enforcement on the other. In particular, the Authority does not have express powers to address complaints by citizens related to the environment, employment practices, and human rights.

BUSINESSES ARE FAILING TO RESPECT LABOUR RIGHTS.

Low Wages and Poor Working Conditions are Rife

2.3 million working poor

The incomes of nearly one fifth of the labour force fall below the poverty line (MGLSD, 2015)

4,200 major construction injuries

In 2011, Uganda had the highest rate of construction accidents in the world (DIHR, 2016).

2 million child labourers

According to the National Labour Force and Child Activities Survey 2011/12 – 93% of them worked in agriculture, forestry and fishing (DIHR, 2016).

Labour informality also increases women and girls' vulnerability to sexual exploitation—high levels of which are reported in horticulture, in particular (DIHR, 2016).

Case Study: Labour Exploitation in Karamoja

In 2016, the Uganda Consortium on Corporate Accountability interviewed communities in the mineral rich Karamoja area. Economic exploitation was arguably the community's most damning complaint against the companies involved. For example, limestone mining companies pay local communities to break up large blocks into transportable pieces. Workers range from children to the elderly; they work all day in the scorching sun, without any protective gear, using basic instruments. Local miners lamented that they are paid a pittance for the stones they break. For a truckload of 22–23 tonnes, they get UGX 150 000 (USD 45); for 28–29 tonnes UGX 170 000 (USD 52); and for 30–31 tonnes UGX 220 000 (USD 67). The way that companies collect the stones is also problematic, prompting disputes among community members about distributing payments.

Source: UCCA, 2016

The kinds of economic arrangement between companies and communities described above are negotiated when companies apply for mining licences. However, the timeframe for the



issuance of licences is much faster than any of the measures that might help protect communities from exploitation (HRW, 2014).

BUSINESSES ARE FAILING TO RESPECT THE PRINCIPLE OF FREE, PRIOR AND INFORMED CONSENT. In Karamoja, companies have consistently failed to secure indigenous communities’ free, prior, and informed consent before starting operations and the national and local governments have failed to insist on this established international standard (HRW, 2014). Even where there has been consent to a project, compensation and resettlement is neither adequate, fair, nor prompt, as required by the Constitution.

Indigenous communities in resource rich areas are being forcibly displaced from their land.

In 2001, the Ugandan military violently evicted a community in Mubende District, in order to clear the land to be leased to Kaweeru (owned by German coffee producer Neumann Gruppe) to establish a coffee plantation. The community went to court in 2003. Although there was a hearing in 2013, both parties cross appealed; the appeal is still pending.

In August 2014, more than 200 families were brutally evicted from their land in Rwamutonga, Hoima District, for the construction of a wastage management plant by the American company, McAlister. In October 2015, the High Court ruled the eviction was unlawful, but did not make an order for restoration (UCCA, 2016).

In December 2014, the government signed a deal with Guangzhou Dongsong Energy Group Ltd, a Chinese company, to develop phosphates in Sukulu, Tororo District. A total of 4,800 people are expected to be displaced by the project. Affected persons claim they did not understand the terms of the surface land rights lease agreements and were duped by ‘middlemen’ to sign them (CorpWatch, 2016).

ACCESS TO REMEDY IS IMPEDED. Victims of corporate abuse are entitled to constitutional and legislative remedies. However, there are enormous bottlenecks:

The **Industrial Court** is a court of referral, not first instance, and is grappling with a five-year backlog, inadequate structure, staff and funds (DIHR, 2016).

Non-labour disputes have to be filed in the High Court; access for many is impeded by poverty, lack of legal assistance and unfamiliarity with the litigation process.

The **Uganda Human Rights Commission** faces inadequate human and financial resources, affecting the timely resolution of complaints, while the absence of a witness protection law weakens its tribunal function (UHRC, 2014).

WIDESPREAD CORRUPTION UNDERMINES ACCOUNTABILITY FOR CORPORATE ABUSE. Uganda was ranked 139 out of 167 countries on the 2015 Corruption Perception Index (TI, 2015). According to the East African Bribery Index, 82% of respondents described levels of corruption as high in 2014 (TI-K, 2014). In another survey, 72% believed corruption amongst senior government officials had not decreased over the past three years

(DGF, 2013). The government, too, has recognized that significant shortcomings “in economic and corporate governance” have had negative influences on development (GoU, 2015). Corruption also fuels state complicity in corporate human rights abuses, especially where huge public investment is involved, such as in oil and gas.

RECOMMENDATIONS

In consultation with civil society, develop a national action plan to implement the United Nations Guiding Principles on Business and Human Rights, with special attention to labour rights, land rights and the rights of indigenous communities.

Enact and enforce a minimum wage that provides all workers and their families with an adequate standard of living.

Introduce stronger mechanisms to assess the human rights impact of extractive activities and ensure that licences and leases are only granted after indigenous communities have given their free, prior and informed consent and a fair revenue sharing mechanism has been agreed.

Strengthen oversight of extractive activities and cancel licenses, with punitive damages, in cases of rights abuses.

Ensure that victims of corporate abuses are able to access effective remedies, including by: enacting and enforcing witness protection laws and strengthening relevant institutions such as the Ombudsman, Uganda Human Rights Commission and Industrial Court.

ABOUT THIS FACTSHEET SERIES

This factsheet was prepared by the Initiative for Social and Economic Rights (ISER), the Uganda Consortium on Corporate Accountability (UCCA) and the Center for Economic and Social Rights (CESR) in light of Uganda’s appearance before the Human Rights Council’s Universal Periodic Review in 2016. The six factsheets in this series accompany the joint submission on economic, social and cultural rights endorsed by 41 non-governmental organizations.

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