Business & human rights in Africa: Time for a responsibility revolution
A regional overview – September 2014

Executive summary

Investment in Africa is booming, with many countries in Africa celebrating among the highest GDP growth in the world. New finds of oil, gas and minerals, prospects for agricultural expansion, combined with higher commodity prices, suggest that Africa is likely to enjoy a sustained period of economic growth. Equally, democracy has rooted itself in many countries. Citizens are increasingly confident to demand accountability from their leaders, and from companies that they work for, buy from, supply, and live near, in their communities. Growth and democratic reform are already leading to real progress in human rights in many countries: for the first time in over 20 years the number of people in poverty is declining; more children are in school and fewer children are dying before the age of five. These are real grounds for celebration.

But the huge potential for advances in human rights will not be realised with business as usual. Governments and business will have to decisively change how they operate to deliver shared prosperity, growth with equity, and protection and fulfilment of human rights in Africa. Currently, the human development indices of many African countries are well below what should be expected from their GDP. Hunger and illness; exclusion of certain ethnic groups, women and LGBT people; lack of transparency and accountability; insecurity and violent conflict continue to plague many African countries – including some that are most successful at attracting investment. Transforming the business model to integrate respect for basic rights throughout companies' practices will drive more inclusive growth so business will contribute decisively to improving people's lives and avoid involvement in abuses.

The time therefore could not be riper for the United Nations' first-ever Africa Regional Forum on Business and Human Rights, being held 16-18 September in Addis Ababa.

At Business & Human Rights Resource Centre, we invite companies to respond to allegations of human rights abuse raised by civil society. A company's response to human rights concerns may or may not reflect its actual conduct and its full impacts. Nonetheless, a company's responsiveness is an important indicator of its openness to engaging with human rights concerns. In this briefing, we analyse 429 approaches to companies, made by the Resource Centre since 2005, regarding their human rights impacts in Africa. Overall, companies have responded to concerns regarding their operations in Africa 85% of the time that we have invited them. Most of the concerns to which we have sought responses concern companies in the mining & metals; technology, telecom & electronics; oil, gas & coal, and food; and beverage, agriculture & biofuels sectors.

The quality of these responses varies widely. In over 50% of the responses, companies offered only general responses rather than specifically addressing the concerns. Of those that directly addressed allegations, 66% denied the claims, rather than acknowledging them in whole or in part, or committing to investigate them. A company's admission or denial does not reflect whether the alleged abuse actually occurred, but an acknowledgment of some validity of concerns raised is typically a better basis for dialogue than a flat denial. That dialogue is essential to change the dynamic of companies with local communities and workers from an adversarial one, to one where companies partner with stakeholders to create better lives and respect the rights of all. Overall, very few companies committed to changing their conduct, only doing so in 9% of the responses that we obtained. One exception: Unilever committed to improving its policies and practices three out of four times that we invited it to respond. It is then essential, of course, for these publicly-declared actions to then be taken. Finally, companies can assure stakeholders of their respect for human rights by committing to international standards and referring to them in addressing complaints. Too few do. Of hundreds of responses that we have received, 27% refer to some international standards, or multi-stakeholder or industry initiatives. Since the United Nations Human Rights Council endorsed the UN Guiding Principles on Business and Human Rights in 2011, only 4% of responses we have received referred to the Guiding Principles.

Key issues

New investments in oil & gas and agriculture: Opportunities and risks: Africa has recently seen unprecedented investment in oil and natural gas, with major discoveries across eastern Africa, and along much of Africa's western coast. Companies, foreign governments and multilateral bodies are pushing African countries to make land accessible to foreign investors. The G7-supported New Alliance for Food Security and Nutrition's goal is to end food insecurity in Africa by advancing large-scale private investment

in agriculture. But some new oil finds have already fuelled conflicts between communities, and have led to disputes between states that could erupt into wars with massive civilian casualties. Some villagers in countries like Ethiopia and Tanzania have opposed new agricultural and oil & gas projects, understandably fearful that they will be left landless and destitute – and some have died for their opposition at the hands of government forces and others. Other projects have caused thousands to lose access to essential land and water resources, from Guinea to Madagascar and Mozambique. Some companies – but too few – have provided for some local ownership of projects, consulted with or, better, sought free, prior and informed consent of communities, and created systems for people with grievances to be heard before they grow into open strife. And in some new investments, companies hire few local people, give preferential treatment to foreign workers, and undermine already-weak labour protections. Better respect for the rights of affected local people and workers is essential for this new-found wealth to result in real benefits rather than contributing to abuses.

Digital revolution in Africa: Freedom of information or tool of oppression? Technology can accelerate the enjoyment of human rights by enabling access to information and empowering civil society to organise. But if abused, it can compromise rights to privacy and freedom of expression and be used as a tool of repression. Some countries in Africa, such as Eritrea, have been flagged by the NGOs like the Committee to Protect Journalists as among the world's worst on censorship and freedom of expression. Human rights NGOs have likewise criticised the Egyptian Government for arbitrary measures to restrict journalists, trade unionists, rights advocates and others. Yet many information & communications technology (ICT) companies operating in countries with repressive governments in Africa fail to respond to human rights concerns about how their technology is used. Too few have subscribed to human rights principles, including those in the multi-stakeholder Global Network Initiative. Technology firms need to do more than just show up in order to contribute to knowledge and communications in Africa in a way that advances freedom; they must commit to protecting human rights.

Mining, oil & gas: The troubling history of the "resource curse", unresolved: New investments garner much of the press, but they come against a backdrop of projects that, for decades, have often been accompanied by allegations of abuse. Since we began inviting companies to respond to human rights concerns in 2005, we have sought responses to hundreds of allegations of extractive companies' involvement in abuses in Africa. These include reported pollution affecting human health, and complicity in killings, rape, and other abuses in conflict zones, in countries such as DRC and Nigeria where firms know they will not be held accountable for negative impacts – and where regulation has often failed to protect local people. As vital as new investments are, the legacy of harm from a range of past projects must also be addressed, if business is to gain trust as a vector of inclusive development.

Promising initiatives & the need for action

Last year the Africa Progress Panel, led by Kofi Annan, highlighted how "tax evasion, illicit transfers of wealth and unfair pricing practices" deprive Africa of funds needed for development, and urged investors to "carefully assess…[their] social and environmental impacts". The AU's Africa Mining Vision framework includes steps to eliminate human rights abuses in mining, halt mining's role in fuelling conflict, improve its contribution to community development and women's empowerment, increase participatory decision-making, strengthen protections for the environment and workers, and prioritise poverty reduction in natural resource management. The African Commission on Human and Peoples' Rights has a Working Group on Extractive Industries, and the Network of African National Human Rights Institutions has made business & human rights a priority area. The Kenya National Commission on Human Rights and the Institute for Human Rights and Business have engaged with companies and government on the Nairobi Process, a pact that aims to embed human rights in Kenya's emerging oil and gas sector. And NGOs across Africa are organising around this issue, with the recent launch of the African Coalition for Corporate Accountability.

More resources are needed for all these efforts, and the Africa Mining Vision needs to be translated into concrete action by AU member states. Governments also must adopt and implement National Action Plans on business and human rights, as recommended by the UN Human Rights Council.

Companies operating in Africa will gain in reputation and stability by integrating human rights throughout their business model. They should adopt and implement a human rights policy, and commit to relevant human rights and transparency initiatives and standards, such as the Voluntary Principles on Security & Human Rights, Global Network Initiative, Extractive Industries Transparency Initiative and ILO standards. They should deliver and report on their human rights due diligence, including human rights impact assessments, and seek free, prior and informed consent of affected communities. With workers, local communities and civil society, they should develop grievance systems that are accessible to workers and residents, comply with international human rights, and provide for independent adjudication and effective remedies.