



### 3<sup>RD</sup> ANNUAL NATIONAL CONFERENCE ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS

September 2016

#### CONCEPT NOTE

**Topic: BUSINESS AND HUMAN RIGHTS**

**Theme:** *Business and Human Rights in Uganda: Accountability V. Social Responsibility for corporate abuses*

#### **1. Introduction**

Traditionally, human rights standards have largely been conceptualized to apply only to state actors and not private persons, including natural and artificial entities. Among others, this could be traced to the historical perception of human rights as engendering negative obligations that shield the individual against state assaults. In addition, the state has traditionally been a powerful entity, endowed with the power to perpetrate but also to stop human rights abuses. However, in recent times, the state dominance is increasingly retreating in the face of technologically advanced and well-resourced individuals and other non-state entities. More functions traditionally discharged by the state and the power wielded by the latter are being exercised by non-state actors.

This has among others been epitomized by the emergence of large Transnational Corporations (TNCs) and large business entities, some larger than some states in terms of power, resources and influence. At the heart of these entities is business and profits, which have in some cases been pursued at the cost of humanity. The activities of businesses have in some cases occasioned a wide range of human rights abuses. Sadly, in some cases besides acting like business entities, some states have been involved in these abuses and have perpetrated violations in the name of protecting what has been described in some countries as “the much needed investment.” In some cases, complicity is either replaced or competes with the lack of either capacity or willingness to regulate the activities of businesses for greater protection of human rights. Examples of abuses include extractive and manufacturing companies abusing individual and community rights through pollution, forced displacement, or environmental degradation; drug companies using claims on intellectual property rights, especially under trade agreements, to deny access to life-saving generic medicines; cigarette companies supplying products they know cause disease and pre-mature death; banks involved in predatory and discriminatory lending practices and abusive credit card practices;

mining companies denying employees protective gear; and other businesses perpetrating unfair wage practices in some cases amounting to slavery.

The Universal Declaration on Human Rights [UDHR], 1948 calls upon “*every individual and every organ of society to promote and respect human rights.*” Business has direct implications on its workers, the community in which it operates, and, in one way or another, society more broadly. The discovery of oil and gas in Uganda, as well as large scale investment in the energy sector, have placed Uganda on the radar on business and human rights in the face of weak regulatory frameworks and mechanisms.

The above notwithstanding, the Constitution of the Republic of Uganda not only creates obligations for the state but also creates obligations for all persons including corporations in Uganda to respect, promote and uphold human rights. In addition, Uganda has legal standards on the environment, health and labour, among others, with serious human rights implications. Uganda has ratified almost all the international and regional human rights treaties as well as submitted itself to such international and regional mechanisms as the African Peer Review Mechanisms (APRM) and the Human Rights Council Universal Periodic Mechanism (UPR). In spite of this, there are signs of serious human rights abuses connected either directly or indirectly to business activities. Notably, the state has either been unresponsive or in some cases complicit—as exposed by cases of land grabbing in such places as the Albertine Region and Karamoja.

It is on the basis of the above, that Uganda’s human rights obligations and those of business ought to be interrogated on a scale that reviews business and human rights. In addition, the human rights obligations of other states, especially those based in the North and that are home to some of the businesses ought to be understood, particularly in the context of the notion of extra-territorial obligations and human rights beyond borders. As Uganda braces itself to set up accountability and reporting mechanisms for achievement of the Sustainable Development Goals (SDGs), it is important to ensure that business obligations and contributions are harnessed while the risks and potential negative business impacts are mitigated. To this extent, the 3<sup>rd</sup> Annual National Conference on ESCRs is organized under the theme: *Business and Human Rights in Uganda: Accountability V. Social Responsibility for corporate abuses.*

### **The 3<sup>rd</sup> National Conference on Economic, Social and Cultural Rights**

The idea of an Annual Conference on Economic, Social and Cultural Rights was born in 2014, at the behest of Government processes that flagged the need for constitutional reforms. The Conference was at the time conceived as a forum to advocate for the inclusion of economic, social and cultural rights in the Constitution. At the 1<sup>st</sup> Conference in September 2014, the question of the justiciability of ESCRs took centre stage. The 2<sup>nd</sup> Conference in September 2015 confronted the subject of the state of socio-economic services, focusing particularly on the issue of exclusion and vulnerability. The subject of development planning and use of the Human Rights Based Approach featured prominently at the 2<sup>nd</sup> Conference. The subject of business and human rights was flagged as a serious issue. One of the outcomes of the 2<sup>nd</sup> Conference was the birth of the Uganda Consortium on Corporate Accountability (UCCA) including a decision that the 3<sup>rd</sup> Conference should address the subject of business and human rights, thus the theme of the Conference.

It is against this background that the theme of the Conference should be understood. The Theme is informed by the fact that some businesses have responded to human rights challenges by engaging in corporate social accountability. As much as this is laudable it still does not solve some of the human rights abuses businesses engage in. Corporate social responsibility is in the first place not obligatory and activities related to it are sometimes used mainly for publicity purposes. The motive of painting a zebra crossing with a few tins of paint in the full glare of the media may be questionable. This is not to say that there are no CSR activities that have resulted into huge benefits for the community. What is important though is the promotion of accountability, by having laws and remedy mechanisms in place that compel businesses to account and take responsibilities for abuses that may result from their activities. It is on this basis that the Conference will examine the different ways that this could be achieved, having also audited the performance of different businesses as well the state regulatory institutions.

**a. Objectives of the Conference**

The aim of the 3<sup>rd</sup> Conference is to initiate and contribute to public dialogue about business and human rights and enhance the need to build structures and frameworks that enhance respect and protection of human rights by businesses, as well as ensuring access to remedies in cases of abuses. The Conference will be used as a forum for disseminating a baseline study on the state of corporate accountability in Uganda. It will also explore the international and regional responses in this field, and how these can be affected in Uganda. Comparative approaches, particularly focusing on National Action Plans on Business and Human Rights will be discussed and best practices underlined. The specific objectives are:

- a) To disseminate to all stakeholders the baseline study on corporate accountability in Uganda, focusing particularly on case-studies of abuse, laws, policies, regulations and practices relevant to Uganda and how these feed into the international legal and policy framework and responses;
- b) To explore the international comparative approaches in the area of business and human rights, focusing particularly on the subject of National Action Plans on Business and Human Rights with a view of underlining best practices and lessons;
- c) To support consideration by stakeholders of the merits of pursuing development of a NAP in Uganda;
- d) To review, develop and adopt strategies relevant to promoting greater accountability for human rights in the context of business by both state and non-state actors;
- e) To strengthen and expand the Uganda Consortium on Corporate Accountability (UCCA), as well as network and build synergies amongst relevant stakeholders in the area of business and human rights.

**3. Participants and structure for the conference:**

The Conference is targeting up to 600 participants including policy makers, corporate actors, private sector, officers from independent statutory bodies, practitioners and activists, academics, researchers, development partners, community groups and members of the general public who will be directly involved in the conference. The wider population in Uganda will benefit indirectly from the outcomes of the conference.

Participation in the conference is open to all members of the public, but key stakeholders and special interest groups will be targeted for specific invitations to provide particular input.

The conference will comprise of Keynote speeches by eminent persons, panel discussions and plenaries. There will also be exhibitions by organizations working on ESCRs and documentary screenings.

#### **4. Venue and Time**

The Conference is scheduled to take place on 14<sup>th</sup> and 15<sup>th</sup> September 2016 at the Makerere University Main Hall. The venue for the Conference was carefully selected to enable open access by the public and target university students who constitute a big percentage of the youth population and the future leaders of the country.

#### **5. Expected outcomes:**

The conference is expected to be agenda-setting, and to produce tangible outcomes, including but not limited to raising awareness about the relationship between business and human rights. The conference will also be used to disseminate the study on corporate accountability in Uganda. The Conference will generate a report summarising key debates and discussion, and a Resolution detailing key messages to policy makers resulting from the discussions at the Conference. Most importantly, however, the Conference intends to bring ESCRs into the larger national policy debates and increase knowledge and understanding about ESCRs in Uganda.

#### **6. About the Organizers:**

##### **Initiative for Social & Economic Rights (ISER)**

ISER is an independent, not-for-profit human rights organization responsible for promoting the effective understanding, monitoring, implementation and realization of Economic and Social Rights in Uganda. This they do by promoting a Human Rights Based approach to the design and implementation of legal and policy frameworks relating to Economic and Social Rights; building awareness about Economic and Social Rights and exploring strategies for securing their realization; broadening individuals' and communities' access to Economic and Social Rights in Uganda; strengthening community participation in the design and implementation of social and economic policies and programs that affect them; ensuring government accountability for Economic and Social Rights through community empowerment; and mobilizing and building capacity of Non Governmental organizations and the media to advocate more effectively for Economic and Social Rights including using Regional and International mechanisms. ISER also hosts the Uganda Consortium on Corporate Accountability (UCCA).

##### **Human Rights Network – Uganda (HURINET)**

Human Rights Network–Uganda (HURINET–U) was established in 1993 by a group of eight human rights organizations and was formally registered as an independent, non–partisan and not for profit organization in 1994. The identity of HURINET–U lies with its diverse membership of over 50 members across the country. Membership is drawn from national and international organizations that are committed to a wide range of human rights issues which are complementary in terms of areas of focus including Child Rights, Women's Rights, Peace and Conflict Resolution, Economic, Social and

Cultural Rights and Civil and Political Rights. HURINET-U is currently a hub to 8 national coalitions that include; The National Coalition on Human Rights Defenders, The National Coalition for Police Accountability and Security Sector Reform, The National Coalition on Economic, Social and Cultural Rights, The National Coalition on Access to Information, The Uganda Coalition on the International Criminal Court, The National Coalition for Transitional Justice in Uganda, The National Coalition on Human Rights Education, The National CSO Stakeholders' Forum on the Universal Periodic Review Mechanism. The mission of HURINET-U is; to foster the promotion, protection and respect of human rights in Uganda through lining and strengthening the capacities of member organizations. The vision of HURINET-U is to work towards; a society free of human rights abuse.

### **Centre for Health, Human Rights and Development (CEHURD)**

CEHURD is an indigenous, non-profit, research and advocacy organization which is pioneering the enforcement of human rights and the justiciability of the right to health in Eastern Africa. CEHURD was founded in 2007 and was registered under the laws of Uganda as a company limited by guarantee. It was formed to contribute towards ensuring that laws and policies are used as principal tools for the promotion and protection of health and human rights of populations in Uganda and in the East African region. CEHURD realizes this through a set of programs: (1) Research, Documentation and Advocacy; (2) Community Empowerment; and (3) Strategic Litigation. CEHURD focuses its efforts on critical issues of human rights and health systems in East Africa such as sexual and reproductive health rights, trade and health, and medical ethics which affect the vulnerable and less-advantaged populations such as women, children, orphans, sexual minorities, people living with HIV/AIDS, persons with disabilities, internally-displaced persons, refugee populations and victims of violence, torture, disasters and conflict.

### **The Public Interest Law Clinic (PILAC)**

The Public Interest Law Clinic (PILAC) is the premier University Based Law Clinic in Uganda. Established in 2012, PILAC seeks to promote Social Justice through hands-on experiential learning as well as exposing students to 'live' cases of individuals who have been confronted by the law in its varied manifestations. The Clinic has a Clinical Legal Education (CLE) programme, which is intended to equip law students with public lawyering skills. PILAC has also extended the benefits of hands-on practical learning through the establishment of a Community Law Programme and mobile clinic (CLAPMOC), which is used to extend legal literacy sessions and other legal services to the communities around the university. PILAC also hosts the Network of Public Interest Lawyers which is an umbrella organization that brings together individual lawyers, CSOs/NGOs and law firms committed to public interest litigation and advocacy.

### **Uganda Consortium on Corporate Accountability**

The Uganda Consortium on Corporate Accountability (UCCA) is a Civil Society consortium on corporate accountability aimed at enhancing accountability by corporations, States, international finance institutions and development partners for violations or abuses of Economic, Social and Cultural Rights (ESCRs). UCCA has a membership of four organizations specializing in different areas of rights protection, including the Initiative for Social and Economic Rights (ISER), the Public

Interest Law Clinic at Makerere University Law School (PILAC), Legal Brains Trust (LBT) and the Center for Health Human Rights and Development (CEHURD).

UCCA is currently conducting a baseline study on the effects and impact of corporate actions on the enjoyment of social, economic and cultural rights of Ugandans. The final report will be launched during the Conference.

### **Uganda Human Rights Commission (UHRC)**

Uganda Human Rights Commission is a national human rights institution that was established on 6<sup>th</sup> November 1996 to promote and promote human rights in Uganda. Under Article 52 of the Constitution of the Republic of Uganda, 1995, its functions include monitoring the enjoyment and realisation of all human rights (ESCR rights inclusive) in Uganda and Government's compliance with international treaties and conventions it has ratified. It also receives and initiates complaints of ESCR related abuses/violations and conducts ESCR advocacy and sensitisation activities with stakeholders at national level and at the grassroots. UHRC produces Annual and Special Reports on its findings and recommendations and they are submitted to Parliament of Uganda to follow up implementation from its stakeholders. In May 2016, Uganda Human Rights Commission (UHRC) and the Danish Institute for Human Rights (DIHR) launched a preliminary web-based country guide that aims to be a resource for businesses, Civil Society Organisations, Governments, multilateral institutions and all other relevant local and international actors, to enable these actors ensure that business fosters sustainable development in line with human rights standards. UHRC is accredited with "A status" by the Global Alliance of National Human Rights Institutions (GANHRI), Geneva Switzerland, giving it enhanced access to the United Nations human rights system. It is also a member of the Network of African NHRIs (NANHRI).

### **Global Rights Alert (GRA)**

GRA was established in 2008 and is a leading Non- Governmental Organization addressing natural resource governance in Uganda. The organisation works to promote good governance in the management of Uganda's Oil, Gas and other Minerals. With human rights based approach in our interventions, GRA supports local communities' access to information and create platforms for citizens' participation in decision making. Furthermore, because natural resource governance and exploitation often increases human rights risks and violations, GRA facilitates communities affected by natural resource exploitation to access justice. GRA supports communities by building their capacity to; advocate for transparency and accountability; monitor human rights trends and give them skills to meaningfully support the country's development programs. Building on human rights standards and principles, GRA works to ensure there is inclusion and equality in development processes with marginalized groups such as the poor; women, children and youth are specifically reached out to. Because free and informed civic engagement is an essential element for development in any democratic nation, GRA works to ensure that there is space for non-state actors- including citizens as individuals or in organised groups to speak, fulfil their responsibilities and hold duty bearers to account. In partnership with national and global actors, the organisation advocates for the implementation of Extractives Industries Transparency Initiative (EITI).