



# AFRICAN BUSINESS 2024 & HUMAN RIGHTS FORUM

PROMOTING RESPONSIBLE BUSINESS CONDUCT IN A RAPIDLY CHANGING CONTEXT



## Nairobi Declaration on African Business and Human Rights Forum 2024

Nairobi, Kenya | 10 October 2024

### Preamble

We, the representatives of African Governments, the Private Sector, Civil Society Actors, National Human Rights Institutions (NHRIs), academia, rights holders, and other stakeholders, gathered in Nairobi, Kenya, from 8 to 10 October 2024 for the 3<sup>rd</sup> African Business and Human Rights Forum (ABHRF) under the theme “Promoting Responsible Business Conduct in a Rapidly Changing Context.”

1. **CONSIDERING** the obligations that African Union (AU) Member States have subscribed to under the 1981 African Charter on Human and Peoples’ Rights (African Charter) and the confirmation of their responsibility in the 2000 AU Constitutive Act to promote and protect human and peoples’ rights in the African Continent;
2. **ACKNOWLEDGING** Africa’s economic potential and human rights challenges, reaffirming our commitment to advancing the realization of international human rights standards and corporate accountability;
3. **RECOGNISING** the United Nations Guiding Principles on Business and Human Rights (UNGPs) endorsed by the Human Rights Council in its resolution 17/4 of 16 June 2011 as the global normative framework articulating the duties of States and responsibilities of companies to protect and respect human rights;
4. **ACKNOWLEDGING** that the African Continental Free Trade Area Agreement (AfCFTA), if implemented from a human rights-based approach, can serve as a catalyst for achieving the Agenda 2030 and Agenda 2063;
5. **REITERATING** that sustainable development, human rights, and respect for the environment are intertwined with implications on the protection of human rights;
6. **EMPHASIZING** the need to ensure that the necessary care and investment are dedicated to conducting heightened human rights due diligence and adopting conflict sensitivity in conflict-affected settings;
7. **NOTING** the emerging trends and recent legislative developments introducing mandatory requirements to conduct human rights due diligence, including international efforts to develop a legally binding instrument” on Business and Human Rights or BHR

8. **COGNISANT** of the persistent human rights abuses in a range of economic sectors, and the disproportionate impacts on children, indigenous peoples, and other vulnerable individuals and groups, in contravention of core clauses of international, regional<sup>1</sup> and national instruments;
9. **FURTHER NOTING** the serious human rights abuses connected to business activities in conflict areas;
10. **ACKNOWLEDGING** the potential of business operations to exacerbate the triple planetary crises of climate change, biodiversity loss and pollution;
11. **NOTING** the rapid transformations in the development and use of digital technologies and the related human rights impacts;
12. **RECOGNISING** the crucial role of government engagement and support and affirming governments' responsibility to develop policies, implement a smart mix of measures, and uphold their obligations under international law to protect human rights;
13. **REITERATING** that peoples' rights, including indigenous peoples' rights, are recognized and protected under Articles 19, 20 (1), and 22 of the African Charter and the UN Declaration on the Rights of Indigenous Peoples.
14. **REAFFIRMING** That in the context of climate change and biodiversity loss and the associated proposed land-based response measures including in green economy and energy transition, indigenous peoples as people of the land will remain on the frontline of adverse effects; and
15. **BUILDING** on the successes of the previous fora held in Ghana (2022) and Ethiopia (2023), and acknowledging the important platform created by this 3rd edition of the ABHRF to foster dialogue, knowledge exchange, and peer learning among diverse stakeholders.

### **We call on African States to:**

16. Strengthen mechanisms for the development, effective implementation, and enforcement of laws, regulations, and policies, including the UNGPs, and create an enabling environment for businesses to advance the responsible business conduct agenda;
17. Invest in and expedite the development and implementation of National Action Plans (NAPs) on Business and Human Rights;
18. Consider that extensive and inclusive stakeholder consultations are crucial to the development of NAPs; undertake National Baseline Assessments as a basis for NAP development to ensure that specific national context and cultural appropriateness are considered; ensure continuous review of adopted NAPs to incorporate changes in the business and human rights landscape; ensure that NAPs provide guidance on non-financial reporting by businesses and support continuous capacity building efforts by Development Partners from the initiation of the NAP development process for Government representatives, businesses and civil society;
19. Prioritize the rights of vulnerable and marginalized groups, including women, children, youth, indigenous peoples, persons with disabilities, and those working in the informal economy, and protect these groups from exploitation and human rights abuses;
20. Develop regulatory and policy frameworks for most vulnerable groups, including children, as key rights holders to be protected and considered in responsible business conduct efforts;
21. Develop youth-centric BHR frameworks;

<sup>1</sup> Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa (the Maputo Protocol), the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Persons with Disabilities in Africa, and the African Charter on the Rights and Welfare of the Child among others

22. Adopt technology, leverage digital tools and platforms to ensure transparency and accountability in supply chains, and monitor compliance with human rights and environmental standards;
23. Address the root causes of informality—such as economic insecurity and limited resources by building strong partnerships, to ensure that responsible practices contribute to long-term formalization, sustainable development, and advancement of human rights in Africa;
24. Introduce incentives and enhance collaboration among business networks, governmental bodies and sector-specific associations to motivate informal and other micro, small, and medium enterprises to adopt responsible business practices;
25. Enhance transparency and accountability: Implement mechanisms for regular reporting and independent monitoring of business practices related to labour migration;
26. Leverage the AfCFTA framework to promote the free movement of people, goods, services, and capital. This can help young people access broader job markets and economic opportunities within the continent.

### **We call on Civil Society Actors to**

27. Engage in collaborative efforts with governments and businesses to promote responsible business conduct and accountability for violations;
28. Empower communities and collaborate with NHRIs and other actors on awareness raising and capacity development to advocate for policy and legislative changes.

### **We call on the businesses and investors with activities in Africa (including small and medium-sized enterprises) to:**

29. Conduct human rights due diligence (HRDD) to prevent, mitigate, and address the risks of adverse human rights, in alignment with international human rights standards, and remediate adverse impacts;
30. Ensure meaningful information disclosure and accessibility on programs or projects implemented in indigenous peoples' territories and ensure full and effective operationalization of the principles of free, prior, and informed consent (FPIC);
31. Engage with youth-led enterprises by establishing partnerships to drive innovation in ethical practices, offering resources, technology, and market access in return for their commitment to BHR principles.

### **We call on Development Partners to:**

32. Broaden their mandates, policy, and programmatic interventions vis-a-vis business and human rights in alignment with African continental priorities to address pervasive human rights challenges under the purview of responsible business practices;
33. Increase financial and technical support for national-level processes by all stakeholders in their diversities, to domesticate responsible business conduct frameworks, including through support to development processes of NAPs on business and human rights;
34. Increase support for accompanying measures needed to ensure that emerging human rights and environmental due diligence standards have a positive effect on rights holders and are based on effective consultation of relevant stakeholders;

35. Support the capacity development of all rights holders and other vulnerable groups on Business and Human Rights.

### **We call on National Human Rights Institutions to:**

36. Assess, document, and monitor the human rights impacts of economic policies and business activities (domestic, multinational, private, or state-owned) with a focus on those individuals and groups that are most vulnerable to abuses;
37. Provide capacity strengthening support and platforms to the business sector, rights holders and other actors to strengthen understanding of the corporate responsibility to respect and of human rights due diligence.

### **Overall recommendations:**

38. **Capacity Building and Knowledge Sharing:** We emphasize the importance of building the capacity of all stakeholders, including businesses, civil society, NHRIs, and governments, to effectively implement responsible business conduct. This includes developing solid resources based on data and expertise and providing access to quality resources, training, and technical assistance, particularly in the areas of HRDD, environmental sustainability, and the integration of human rights into supply chains, and reporting state obligations under articles 21 and 24 of the African Charter.
39. **Regional and International Cooperation:** We call for enhanced collaboration between African countries, regional organizations such as the AU, and international partners to advance responsible business conduct and corporate accountability in Africa. The AU's Agenda 2063 and the AU-UN Joint Framework for Peace, Security, Development, and Human Rights in Africa provide a solid foundation for integrating human rights into regional development efforts. We urge continued alignment with these frameworks.
40. **Leveraging the AfCFTA for Sustainable Development:** The AfCFTA represents a significant opportunity to promote responsible business conduct in Africa. We commit to leveraging the AfCFTA to drive inclusive and sustainable economic growth, promote responsible business practices, and ensure that trade and investment in Africa are conducted to respect human rights and the environment. Institutional and policy frameworks for the free mobility of persons and (AfCFTA) should align with the overarching African human rights architecture for the protection of the human rights of cross-border traders, labour migrants, and border communities.
41. **Addressing Emerging Challenges and Opportunities:** We acknowledge the rapidly changing global and regional contexts, including the rise of new technologies, the need for a just green energy transition, and the evolving regulatory landscape. African businesses and governments must proactively address these challenges while seizing opportunities for innovation and sustainable development.

## **COMMITMENTS**

In conclusion, we reaffirm our shared commitment to promoting responsible business conduct and corporate accountability in Africa. We pledge to continue building on the momentum generated by the 3rd African BHR Forum by taking concrete actions to implement the recommendations made during the Forum. These actions will include:

- Advocacy, capacity development, and multi-stakeholder engagement
- Continued support to key stakeholders in complying with the emerging international supply chain regulations, and promoting sustainable development while safeguarding the rights of vulnerable populations, including children and indigenous peoples.

- Strengthened national policies and regulations that support responsible business conduct in Africa.
- Strengthened regional engagement for tailored, impactful solutions;
- Guidance on global implementation of key international supply chain regulations through key practical insights;
- The promotion of human rights due diligence and transparency in global, regional and national supply chains.
- Support to vulnerable groups to ensure their participation in inclusive and sustainable structural economic transformation in Africa
- Support governments and businesses to integrate child-rights approaches in overall Responsible Business Conduct (RBC) efforts to ensure measures benefit the majority of the population.
- Remain anchored on the 2030 Agenda and Sustainable Development Goals, the Global Compact for Safe, Orderly and Regular Migration, the UN Guiding Principles on Business and Human Rights, and the ILO Tripartite Declaration of Principles concerning Multinational Enterprises and Social Policy and related standards and guidance on responsible business conduct.

Together, we will work toward an Africa where businesses thrive in a way that respects human rights, fosters sustainable development, and contributes to the well-being of all.

**Adopted in Nairobi, Kenya, on 10 October 2024**