



**STRENGTHENING REGULATORY FRAMEWORKS
TO PROMOTE HUMAN RIGHTS**

**A PRESENTATION TO SEATINI UGANDA IN
PARTNERSHIP WITH BOTH ENDS AND THIRD
WORLD NETWORK STAKE HOLDER
ENGAGEMENT**

**THEME: Harnessing Uganda's investment Laws,
Policies, and Agreements to Prevent Business
Related Human Rights Violations"**

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INTRODUCTION

This paper looks into how the regulatory frameworks can be strengthened in order to promote Human rights in business relations. It also looks at the legal/regulatory framework of investing in Uganda and seeks to make recommendations on how the same can be strengthened.

The Rationale in Strengthening regulatory frameworks to promote human rights.

A carefully designed and all round strengthened regulatory framework sustains investor and consumer confidence which is necessary for development and meeting respective interests.

Factors to consider in strengthening the regulatory framework.¹

It's imperative that in a bid to strengthen regulatory frameworks, the following factors are put into consideration:

- Political commitment to reform; there is a need to have the responsible Ministries, Departments and Agencies on board towards promotion of human rights in investments related activities starting with the regulatory frameworks.
- Stake holder Mapping. This includes identification of all the people in the investment value chain. Mobilisation and co-operation of all stakeholders; the meeting here today is a step in the right direction and my humble appeal is that let this not stop with us, let us create a multiplier effect on all those concerned for these are issues that affect every one directly or indirectly.
- Systematic and early consultation of the private sector in the reform process; this serves the purpose of enabling decision/reform making premised on an informed point of view.
- High-quality implementing of regulations; this involves a 360degree approach in that there is a balance of interests of all stakeholders. One of the social cultural things we have seen in

¹ ENHANCING THE LEGAL FRAMEWORK FOR SUSTAINABLE INVESTMENT: LESSONS FROM JORDAN © OECD 2018

Uganda is that sometimes our laws don't require certain minimum standards for how nationals per se should be treated for example inexistence of a minimum wage that has brought about exploitation, there is no minimum requirement as to how many workers (foreign and national) should be in a factory; it wouldn't make sense for a foreigner to set up a factory where 80% of employees are foreigners. What we face may not be an issue of lack of laws but rather, the enforcement mechanism for what I have just described above is a scenario remedied by the National Local Content Act in that before grant of a work permit to a national is premised on a letter indicating that there is no Ugandan qualified for the same role. Some countries have already adopted a similar path for example, in Tanzania, a foreigner can only own land if he or she part owns it a national.

- Capacity of people in charge of implementing reforms; it goes without mention that capacity building plays a pivotal role in realization of the goals the reforms are intended to achieve.
- Accountability and transparency: this bolsters confidence of all stakeholders involved and provides fertile ground for investment/business development.
- Coherence and consistency in the different layers of investment rules and regulations
- A holistic approach to investment and business legislation

The Investment Legal Frame Work in Uganda.

Investment in Uganda requires an investor to ensure that they are within the confines of the Uganda Investment Code Act, 2019 (ICA). S.16 of the ICA establishes a mandatory requirement for an investor to register with the Authority after which they are issued with a certificate of registration as long as they meet the minimum investment capital i.e USD 250,000 for foreign investors and USD 50,000 for domestic investors. The purpose of the registration is to get assisted and promoted under the Act.

The process of investing in Uganda in a nutshell involves:

1. Company Registration
2. TIN Registration
3. Investment Licence Acquisition
4. Acquisition of secondary licenses depending on the nature of investment
5. Work permits (this normally involves foreign investors and workers)

A look into The United Nations Guiding Principles on Business and Human Rights.

In 2011, the United Nations Human Rights Council unanimously endorsed the UN Guiding Principles on Business and Human Rights, a set of guidelines for States and companies to prevent and address human rights abuses committed in business operations.² These contain three pillars which include:

- **Protect**; this pillar alludes to the fact that under international human rights law the state has a duty to protect all rights of people against all actors including businesses.
- **Respect**; this pillar relates to the Corporate Responsibility to Respect The Guiding Principles clarify what is expected of business enterprises with regard to human rights and outline the process through which companies can identify their negative human rights impacts and demonstrate that their policies and procedures are adequate to address them.
- **Remedy**; this pillar is hinged on the principle under international human rights law which states that where a right is violated, victims must have access to an effective remedy.

² https://www.ohchr.org/documents/publications/guidingprinciplesbusinesshr_en.pdf Accessed on October 4th 2021

Each of these pillars contain actionable steps that stake holders need to undertake in order to meet their respective duties and obligations in all operations.

How to respect human rights in investment activities?³

Institutional investors have a three-part responsibility to respect human rights:

1. **policy commitment;**
2. **due diligence processes;**
3. **enabling or providing access to remedy.**

POLICY	DUE DILIGENCE PROCESSES			ACCESS TO REMEDY
Adopt a policy commitment to respect internationally recognised human rights	Identify actual and potential negative outcomes for people, arising from investees	Prevent and mitigate the actual and potential negative outcomes identified	Track ongoing management of human rights outcomes	Communicate to clients, beneficiaries, affected stakeholders and publicly about outcomes, and the actions take Enable or provide access to remedy

³ <https://www.unpri.org/human-rights/why-and-how-investors-should-act-on-human-rights/6636.article> Accessed October 4th 2021

MAIN RECOMMENDATION:

S.17 of the ICA provides for the investment registration requirements. There should be an amendment to include a requirement of investors policy commitment in regard to respect of internationally recognised human rights and due diligence action plan in respect to the same.

Regular inspection of business entities to ensure adherence to the due diligence processes while focusing on interest areas such as effectiveness of worker's compensation, occupational safety and health hazards, corporate social responsibility, sexual harassment policy, equality in employee salary scale alignment among others.

Continuous engagement in civic debate on the status of investment, regulatory frameworks and human rights to address the prevailing circumstances at a time.