



HUMAN RIGHTS DUE DILIGENCE FRAMEWORK FOR BUSINESSES IN KENYA

**A Guide to Businesses -state owned and private- on
how to conduct human rights due diligence**

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FOREWORD

In an era where businesses shape the social and economic landscape, the way they respect human rights is under intense scrutiny. Across the globe, in Africa, and here in Kenya, the call for ethical, sustainable, and rights-conscious business practices has never been louder.

This Human Rights Due Diligence Framework for Businesses in Kenya is designed to guide businesses in navigating the evolving landscape of corporate responsibility, ensuring that economic success is achieved alongside a steadfast commitment to human rights.

This framework aligns with global best practices drawn from internationally recognized principles, including the United Nations Guiding Principles on Business and Human Rights (UNGPs), the OECD Guidelines for Multinational Enterprises, and the ILO Conventions on labor standards. By embedding these global standards into business operations, Kenyan businesses can strengthen governance, ensure compliance with ethical labor practices, and foster a culture of inclusivity and respect for fundamental rights.

A structured approach to human rights due diligence enables businesses to proactively identify and mitigate risks, integrate ethical decision-making into policies, and establish transparent monitoring mechanisms. This commitment extends beyond mere legal compliance—it is about cultivating a business environment that values stakeholder engagement, prioritizes fair labor conditions, and maintains environmental responsibility.

Companies that embrace international best practices not only enhance their resilience and competitiveness in the global market but also build trust with stakeholders, consumers, and regulatory bodies. In doing so, Kenyan businesses can contribute to a more sustainable and just society—one in which economic growth is harmonized with human dignity and corporate success is measured by its impact on people's lives.

As Kenya positions itself as a leader in ethical business practices, this framework serves as more than a guide—it is a call to action. A commitment to responsible leadership, ethical integrity, and human-centered decision-making will define the future of business in Kenya.

LIST OF ABBREVIATIONS & ACRONYMS

AfCFTA	African Continental Free Trade Area
AU	African Union
CSDDD	Corporate Sustainability Due Diligence Directive
EIA	Environmental Impact Assessment
ESG	Environmental, Social & Governance
GRI	Global Reporting Initiative
HRDD	Human Rights Due Diligence
HRIA	Human Rights Impact Assessment
ILO	International Labour Organization
M & E	Monitoring & Evaluation
OECD	Organization for Economic Cooperation and Development
UNGPs	United Nations Guiding Principles on Business and Human Rights

INTRODUCTION: THE GROWING IMPORTANCE OF HUMAN RIGHTS IN BUSINESS

In recent years, there has been growing global, regional, and national scrutiny on corporate behavior and its impact on human rights. This heightened awareness has spurred calls for reform, with a focus on adopting legal frameworks that promote sustainable business operations and a steadfast commitment to respecting human rights. These efforts have sparked significant progress toward embedding human rights considerations into business practices, accompanied by a push for a binding international treaty to hold businesses accountable.

At the global level, the endorsement of the United Nations Guiding Principles on Business and Human Rights (UNGPs) in 2011 laid the foundation for corporate responsibility in this space. These principles emphasize the state's duty to protect human rights, the corporate responsibility to respect them, and the need for effective remedies. Complementary frameworks, such as the International Labour Organization (ILO) standards, offer further guidance on labor rights, while international human rights treaties underscore the role of businesses in safeguarding human dignity.

Regionally, several initiatives aim to regulate business conduct. In 2024, the European Union introduced the Corporate Sustainability Due Diligence Directive (CSDDD), mandating human rights and environmental due diligence for companies operating within its jurisdiction. Meanwhile, in Africa, the African Union (AU) has made strides with initiatives such as the operationalization of the African Continental Free Trade Area (AfCFTA) and ongoing efforts toward a binding African policy on business and human rights.

At the national level, Kenya boasts a vibrant civil society that has advocated tirelessly, both locally and globally, to enhance respect for human rights in business operations. This advocacy, coupled with strategic litigation, has placed human rights at the forefront of corporate accountability. The Constitution of Kenya establishes a robust legal foundation for respecting human rights in business. Article 20 affirms that the Bill of Rights binds all state organs and persons, encompassing entities such as companies, associations, and other corporate bodies. This constitutional mandate reinforces the state's commitment to protecting human rights, in line with regional and international obligations.

WHY SHOULD BUSINESSES CARE ABOUT HUMAN RIGHTS?

Businesses should prioritize human rights as a fundamental part of their operations to avoid legal, financial, and reputational risks. By integrating human rights considerations into existing processes like Environmental Impact Assessments (EIA) and Environmental, Social, and Governance (ESG) reporting, businesses effectively manage efficiency through reduction of operational risks, ensure regulatory compliance, and foster community trust. Furthermore, respecting human rights enhances market penetration, improves staff retention and builds a strong brand reputation, securing long-term sustainability and profitability.

Employee Engagement and Productivity

A commitment to human rights creates a fair, safe, and respectful working environment, helping attract and retain talent, enhancing employee engagement, and driving productivity.



Risk Management and Legal Compliance

Businesses need to ensure human rights protection to mitigate risks related to legal actions, reputational damage, and operational disruptions.



Reputational and Brand Value

Consumers and investors increasingly demand that businesses demonstrate ethical practices, including respect for human rights.



Market Access and Investor Confidence

International trade agreements and regulations increasingly require businesses to demonstrate respect for human rights by ensuring that their operations and supply chains are free from human rights violations.

SCOPE AND OBJECTIVES OF THE HRDD FRAMEWORK

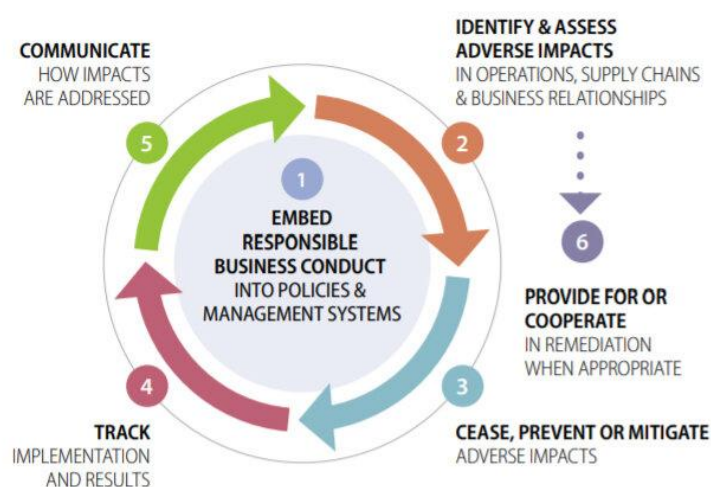
The Human Rights Due Diligence (HRDD) Framework is a global standard used by organizations to ensure that their operations respect human rights. It is based on the UN Guiding Principles on Business and Human Rights (UNGPs), and mandates companies to prevent, mitigate, and remedy adverse human rights impacts throughout their supply chains and business operations. Companies are expected to identify, prevent, mitigate, and account for how they address both potential and actual human rights abuses. The framework applies to all businesses (incorporated or not) including state owned enterprises, of all sizes, industries, and regions, aiming for a corporate responsibility to respect human rights.

The objectives of this framework are to help businesses in Kenya:

1. Conduct risk assessments, enabling them to proactively identify and evaluate potential human rights risks across their operations and supply chains.
2. Integrate human rights principles within corporate policies and decision-making processes, ensuring alignment with national laws and international standards.
3. Establish monitoring and reporting mechanisms to track the effectiveness of human rights initiatives, promote transparency, and enhance accountability.
4. Engage stakeholders by fostering meaningful consultation with employees, affected communities, and regulatory bodies to ensure inclusivity and responsiveness.
5. Implement effective remediation processes, providing accessible grievance mechanisms to address human rights violations and uphold corporate responsibility

STEPS IN THE HRDD PROCESS

1. **Assessment of actual and potential human rights impacts:** This initial step involves gathering information about the company's operations and value chain, identifying potential human rights risks, and evaluating the likelihood and severity of these impacts. This assessment should be conducted on an ongoing basis to reflect changing circumstances and emerging risks.
2. **Integration and action:** Based on the findings of the assessment, the company should integrate human rights considerations into its policies, procedures, and decision-making processes. This involves developing action plans to address identified risks and implementing measures to prevent or mitigate potential impacts.
3. **Tracking performance:** To ensure the effectiveness of its human rights efforts, the company should establish mechanisms to track its performance over time. This could involve monitoring key indicators, conducting audits, and seeking feedback from stakeholders. The results of this tracking should be used to inform ongoing improvements to the company's human rights approach.
4. **Communication:** Transparency and open communication are essential for building trust with stakeholders. The company should communicate its human rights policies, practices, and performance to employees, customers, communities, and other relevant stakeholders. This communication should be clear, accessible, and culturally appropriate.
5. **Remediation:** When human rights violations occur, the company should take steps to provide access to remedy for affected individuals or communities. This could involve working with stakeholders to develop appropriate solutions, providing compensation or other forms of redress, and taking steps to prevent similar violations from occurring in the future.



STAKEHOLDERS IN THE HUMAN RIGHTS DUE DILIGENCE PROCESS

Conducting Human Rights Due Diligence requires identifying the various stakeholders either internal or external to the business who are adversely impacted by the operations of the business or those who have a role in ensuring that human rights are respected and remedied if violations occur. Some of the stakeholders likely to be identified in the process of conducting due diligence include the following:

1. Institutions mandated to adopt, regulate and implement legal and policy frameworks

- International Bodies (UN, OECD) offer guidelines and frameworks, such as the UN Guiding Principles on Business and Human Rights, to guide businesses in conducting human rights due diligence.
- Governments are key stakeholders as they establish and enforce the legal and regulatory frameworks within which businesses operate.
- National Human Rights Institutions (NHRIs) provide oversight and guidance on business' human rights obligations.
- Access to remedy institutions including the judiciary and other internal organs and processes of a business.

2. The Internal Structures of the Business Entities/companies

- Management and Executives are responsible for integrating human rights considerations into business strategy, decision-making, and risk management.
- Human Resources are involved in ensuring fair labour practices, workplace safety, and non-discrimination policies.
- Procurement and Supply Chain Managers ensure suppliers and subcontractors adhere to human rights standards.
- Corporate Social Responsibility (CSR) Teams lead initiatives related to sustainability, ethics, and human rights.

3. Employees, Workers and Workers Unions

Workers within the business and its supply chain are directly affected by the business' policies on labour rights, wages, health, and safety. Unions and Workers' Representatives engage in dialogue with the business to advocate for workers' rights and better working conditions.

4. Investors and Shareholders

Investors increasingly recognize that human rights risks can have financial consequences for businesses.

Shareholders may engage with businesses on issues related to environmental, social, governance and human rights performance of the business.

5. Local Communities including indigenous communities

These are Communities affected by a business's operations, especially in cases where business activities lead to displacement, environmental degradation, or other impacts on livelihoods and rights.

6. Consumers and consumer advocacy groups

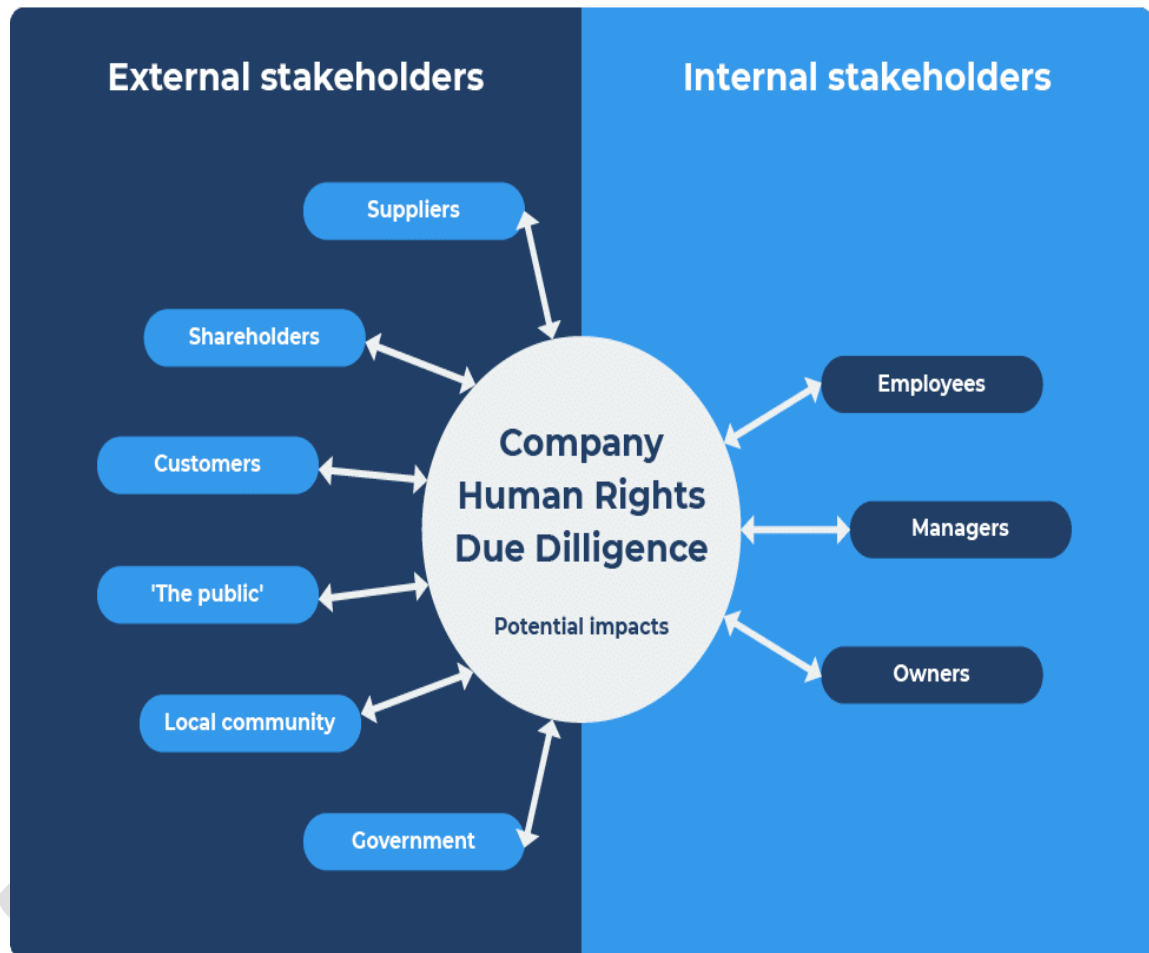
Consumers increasingly demand that the products and services they purchase and consume are produced ethically and without violating human rights. Consumer Advocacy Groups monitor and engage businesses regarding their human rights impacts.

7. Civil society organizations

They monitor and litigate adverse business practices and push for adherence to international human rights standards. They also play a watchdog role, exposing violations and holding companies accountable.

To enhance stakeholder engagement, businesses should integrate feedback loops into their HRDD framework. This means regularly updating stakeholders on actions taken in response to their concerns and demonstrating accountability. Businesses can use digital platforms, reports, and meetings to share progress and challenges. Ultimately, stakeholder mapping and consultation should be an ongoing process rather than a one-time exercise. As business environments evolve, new risks and opportunities emerge, requiring continuous engagement with stakeholders.

Examples of Stakeholders



HUMAN RIGHTS POLICY COMMITMENT

Establishing a clear and public commitment to respect human rights is a fundamental step for businesses. This commitment should be formalized in a human rights policy that outlines the business' stance on human rights, its scope of application and specific policy statements. The objective of such a policy is to establish a clear and public commitment to respect, protect and uphold human rights in all aspects of business operations, in accordance with international standards such as the UN Guiding Principles on Business and Human Rights.

Key elements of a human rights policy include;

1. Commitment to Human Rights

- Clearly state the business's dedication to respecting internationally recognized human rights, including those outlined in the Universal Declaration of Human Rights and the UN Guiding Principles on Business and Human Rights
- Acknowledge the responsibility to prevent, mitigate, and address adverse human rights impacts.

2. Scope and Applicability

- Define the policy's coverage, specifying whether it applies to employees, suppliers, contractors, business partners, and other stakeholders.
- Ensure alignment with national laws and international human rights standards.

3. Integration into Business Operations

- Outline how human rights considerations will be embedded into corporate governance, decision-making, and operational processes.
- Specify mechanisms for conducting human rights risk assessments and integrating findings into business strategies.

4. Stakeholder Engagement

- Commit to meaningful engagement with affected stakeholders, including employees, communities, civil society organizations, and government bodies.
- Establish consultation processes to ensure diverse perspectives are considered.

5. Grievance Mechanisms and Remediation

- Provide accessible channels for individuals to report human rights concerns.
- Outline procedures for investigating complaints and providing remedies for human rights violations.

6. Monitoring and Reporting

- Define how the company will track human rights performance, conduct audits, and report progress transparently.
- Commit to regular reviews and updates of the policy to reflect evolving human rights risks.

7. Leadership and Accountability

- Assign responsibility for human rights compliance within leadership structures.
- Ensure that senior management and board members actively support and oversee human rights commitments underscoring the commitment of the business to human rights at the highest level of governance.
- The policy should be publicly communicated on the business website and to all employees, suppliers and stakeholders.

HUMAN RIGHTS RISK ASSESSMENT AND INTEGRATION

A comprehensive approach to human rights risk assessment requires businesses to integrate risk analysis into all levels of decision-making. This involves conducting impact assessments, engaging with affected stakeholders, and using industry-specific tools to evaluate risks. Businesses should also consider external factors such as political instability, regulatory changes, and social dynamics that may exacerbate human rights risks. Conducting a periodic reassessment of risks ensures that emerging concerns are addressed in a timely manner. Furthermore, businesses should adopt a risk-based approach, concentrating efforts on the most severe risks rather than attempting to resolve all issues simultaneously.

Risk assessment should not be a standalone activity—it must be embedded within the broader HRDD strategy. Businesses should establish clear risk management protocols, assign accountability within leadership structures, and ensure continuous stakeholder engagement throughout the assessment process.

Businesses can follow a structured approach to Human Rights Risk Assessment by breaking it down into the following key steps:

I. Identify Human Rights Risks

Businesses should begin by mapping out potential human rights risks within their operations and supply chains. This involves reviewing industry-specific risks, engaging with stakeholders, and analyzing past incidents or trends that may indicate vulnerabilities.

II. Assess Severity and Likelihood

Once risks are identified, businesses must evaluate their severity and likelihood of occurrence. This step prioritizes risks based on their potential impact on individuals and communities, ensuring that the most critical issues receive immediate attention.

III. Engage Stakeholders

Meaningful engagement with affected stakeholders—including employees, suppliers, local communities, and human rights experts—is essential. Businesses should conduct consultations, surveys, and interviews to gain insights into human rights concerns and expectations.

IV. **Develop Mitigation Strategies**

Based on the assessment, businesses should design and implement strategies to prevent or minimize human rights risks. This may include revising policies, improving working conditions, strengthening supplier oversight, and integrating human rights considerations into business decisions.

V. **Monitor and Review**

Human rights risk assessment is an ongoing process. Businesses must establish monitoring mechanisms to track the effectiveness of mitigation measures, conduct periodic reassessments, and adapt strategies to emerging risks.

VI. **Report and Communicate**

Transparency is key to accountability. Businesses should document their risk assessment findings, share progress with stakeholders, and report on actions taken to address human rights concerns. Public disclosures and sustainability reports can enhance trust and credibility.

SECTOR SPECIFIC RISKS

Below are some examples of Sector Specific Risks that businesses should consider;

1. Agriculture Sector

- **Risks:** Child labor, wage exploitation, exposure to hazardous chemicals, and land disputes.
- **Rights at Risk:** Right to fair wages, right to safe working conditions, right to education (for children), and land rights.

2. Manufacturing Sector

- **Risks:** Poor working conditions, forced labor, excessive working hours, and lack of occupational safety measures.
- **Rights at Risk:** Right to fair wages, right to health and safety, right to rest and leisure, and freedom from forced labor.

3. Extractive Industries (Mining & Oil)

- **Risks:** Environmental degradation, displacement of communities, unsafe working conditions, and conflicts over resource ownership.
- **Rights at Risk:** Right to a clean environment, right to land and property, right to health, and right to security.

4. Infrastructure & Construction

- **Risks:** Forced displacement, lack of community consultation, unsafe working conditions, and exploitation of migrant workers.

- **Rights at Risk:** Right to housing, right to fair wages, right to safe working conditions, and right to participation in decision-making.

5. Technology & Telecommunications

- **Risks:** Data privacy breaches, digital surveillance, misinformation, and unethical AI deployment.
- **Rights at Risk:** Right to privacy, right to freedom of expression, right to access information, and protection from discrimination.

6. Tourism & Hospitality

- **Risks:** Exploitative labor practices, sexual harassment, discrimination, and environmental impact.
- **Rights at Risk:** Right to fair wages, right to protection from harassment, right to non-discrimination, and right to a clean environment.

COMMUNICATION STRATEGIES

Effective communication is a cornerstone of the Human Rights Due Diligence (HRDD) process. It ensures that businesses transparently convey how human rights impacts are identified, addressed, and mitigated. Clear and consistent communication fosters trust among stakeholders, enhances corporate accountability, and strengthens the credibility of HRDD efforts.

Businesses can adopt communication strategies that ensure transparency, stakeholder engagement, and public reporting in their HRDD framework.

Public Reporting

Public reporting is essential for demonstrating a business's commitment to human rights and providing stakeholders with visibility into HRDD efforts. Businesses should

- Publish detailed sections within annual or sustainability reports outlining human rights risks identified, mitigation efforts, and outcomes.
- Regularly update the business website with human rights policies, activities, and impact assessments.
- Utilize press releases, newsletters, and social media to share key developments in human rights due diligence.
- Ensure reports are accessible and written in clear, non-technical language to reach a broad audience.

Stakeholder Engagement

Engaging stakeholders is critical for ensuring that human rights concerns are adequately addressed. Businesses should;

- Organize community meetings in affected areas to share findings from HRDD processes and listen to concerns.
- Communicate the business's expectations to suppliers, partners, and contractors regarding compliance with human rights standards.
- Establish feedback mechanisms, such as surveys or grievance platforms, to allow stakeholders to voice concerns and provide input.
- Collaborate with civil society organizations, trade unions, and human rights experts to enhance dialogue and credibility.

Ensuring Transparency

Transparency is the foundation of an effective Human Rights Due Diligence (HRDD) process. Businesses must openly acknowledge challenges, limitations, and lessons learned in their human rights management efforts, as this fosters trust and

accountability. Rather than presenting an overly polished narrative, businesses should be willing to share the complexities of their journey, including areas where improvement is needed.

One of the most credible ways to reinforce transparency is through independent assessments—seeking external assurance from human rights experts, auditors, or civil society organizations enhances legitimacy and demonstrates a commitment to continuous improvement. Additionally, businesses should ensure that their response to human rights violations is publicly disclosed, providing detailed information on actions taken to mitigate harm and implement preventative measures. By maintaining transparency, companies not only strengthen their own credibility but also empower stakeholders to assess the adequacy of their responses to human rights risks.

Communication Channels

To ensure effective engagement with stakeholders, businesses must leverage diverse communication channels tailored to different audiences.

- Digital platforms, such as corporate websites and social media, provide an accessible means of sharing human rights policies, due diligence efforts, and updates.
- Traditional media, including newspapers, radio, and press releases, remains an important avenue for reaching broader audiences, especially in regions where digital access is limited.
- Internally, companies should prioritize employee communication through newsletters, training sessions, and town hall meetings, ensuring that human rights commitments are integrated into corporate culture.
- Direct engagement through stakeholder forums, roundtable discussions, and community meetings also allows businesses to facilitate meaningful dialogue.

MONITORING & EVALUATION: ENSURING CONTINUOUS IMPROVEMENT

Monitoring and Evaluation (M&E) are critical components of a business's Human Rights Due Diligence (HRDD) processes. An effective M & E framework should be able to identify and assess the human rights impacts of business operations, monitor the implementation of human rights policies and due diligence processes, evaluate the effectiveness of strategies in mitigating and addressing human rights risks, provide feedback for continuous improvement in human rights performance, and ensure transparency and accountability through regular reporting. Key components of the M&E Framework include:

- ❖ **Development of Objectives & Indicators:** Objectives define what the business aims to achieve through its HRDD processes, and indicators are developed to track progress.
- ❖ **Monitoring Tools and Methods:** Regular monitoring helps businesses stay informed about their human rights performance and identify areas for improvement.
- ❖ **Evaluation Methods:** Evaluation involves assessing the effectiveness of HRDD processes and making necessary adjustments.
- ❖ **Reporting and Communication:** Transparent reporting and communication are vital for building trust with stakeholders and demonstrating commitment to human rights.

By implementing a robust M&E framework and engaging stakeholders, businesses can ensure continuous improvement in their HRDD practices and demonstrate a commitment to respecting human rights in all aspects of their operations.