



UNITED REPUBLIC OF TANZANIA



COMMISSION FOR HUMAN RIGHTS AND GOOD GOVERNANCE

**WORKSHOP REPORT ON CHRAGG INVESTIGATORS' CAPACITY BUILDING
ON MONITORING AND INVESTIGATION OF BUSINESS AND HUMAN RIGHTS
ACTIVITIES**



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SESSION 1

1.0 INTRODUCTION, OBJECTIVES AND METHODS OF THE WORKSHOP

On 23-24 November 2022, the Commission for Human Rights and Good Governance (CHRAGG), with technical support from the Danish Institute for Human Rights (DIHR), conducted a two-day capacity building workshop on monitoring and investigation of Business and Human Rights (BHR) activities to over 30 of its staff. The workshop was held in Arusha with participants from the CHRAGG headquarters in Dodoma, Zanzibar Office and from the four branches of Dar es Salaam, Lindi, Pemba and Mwanza.

The workshop intended to orient staff on tools and approaches for monitoring and investigating BHR activities, incidences and complaints. The workshop was crucial to the staff because investigation and monitoring is one of the core functions of the CHRAGG provided under Articles 130 (1) of the Constitution of the United Republic of Tanzania of 1977 and several Sections of the CHRAGG Act (Cap 391).

The workshop was conducted in the wake of several Regional and International developments in BHR that include the 2010 Edinburgh Declaration in which National Human Rights Institutions (NHRIs) worldwide affirmed their responsibility to monitor and document business-related human rights abuses. This commitment was re-iterated by African NHRIs in the 2011 Yaoundé Declaration. CHRAGG, as other NHRIs, carries a significant role towards the promotion of the BHR agenda and the implementation of the UN Guiding Principles on Business and Human Rights (UNGPs), including through investigating and monitoring business-related activities.

1.1. Workshop Objectives

The specific objectives of the workshop were to:

1. Familiarise CHRAGG investigation officers with key business and human rights frameworks;
2. Deepen the investigating and monitoring skills of staff particular to dealing with business activities; and
3. Familiarise CHRAGG investigation officers with specific tools and approaches for investigation and monitoring of business activities.

1.2. Methodologies and Workshop Methods

Prior to the workshop, participants undertook a 2-week e-learning course on BHR targeting NHRIs. The online learning was useful to sharpen and level up knowledge on BHR frameworks across participants. Throughout the 2-day workshop, participatory methods were applied whereby participants were asked to share their views and experience through group work and discussion. Learnings were drawn from case studies and the personal experience of participants. This approach enabled the participants to strategize on how CHRAGG, as an NHRI, could best advance the BHR agenda of through monitoring and investigation.

SESSION 2

2.0 MESSAGES IN THE WORKSHOP OPENING REMARKS

The Workshop was inaugurated by Mr. Patience K. Ntwina, the Executive Secretary of the CHRAGG. The opening remarks centred on the CHRAGG's commitments and mandate in spearheading BHR in the country. The Executive Secretary further informed the participants of the expectation that has been extended to CHRAGG by the Government to take the lead in the initiation of the process for developing a National Action Plan on Business and Human Rights (NAP-BHR). The NAP-BHR is expected to provide strategic direction to the BHR work of state and non-state actors, with a view to UNGPs implementation and realization of responsible business conduct in Tanzania.

The Executive Secretary welcomed the Government commitments to develop a NAP-BHR, highlighting that there is a unique opportunity for CHRAGG to stimulate a national dialogue, mobilize stakeholders and advise on the content of the NAP-BHR to ensure that the policy document serves as a mechanism for holding government actors and businesses accountable to stakeholders, strengthening a culture of respect for human rights and honoring international human rights commitments.



Mr. Patience K. Ntwina, the Executive Secretary of the CHRAGG, delivering inaugural remarks during the CHRAGG staff Workshop on Investigation and Monitoring on November 23, 2022 at Arusha Spring Corridor Hotel in Arusha Region, Tanzania.

The Executive Secretary also emphasized CHRAGG's commitments toward preserving and protecting human rights in the country, including by ensuring the human rights compliance of businesses, in line with the UNGPs. He explained the extent to which business practices and human rights protection have captured a growing attention due to the vital forces of business activities and investments in the global development agenda. He said that developments were intimately linked with human rights impacts or obstruction of the realization of human rights, both directly and indirectly.

The Executive Secretary made the participants aware that the ongoing efforts by CHRAGG have been recognized by the Governments of Tanzania and translated into the prioritization of BHR as area of focus. He further pointed to CHRAGG's successful development and inauguration of the National Baseline Assessment (NBA) on BHR in 2017, which can serve to inform the NAP-BHR. Tanzania was one of the early countries in Africa to develop an NBA on BHR and continues to play a leadership role through NAP-BHR development. CHRAGG has also undertaken various activities in line with its mandate from routine investigations, monitoring, mediation, research and engagement of stakeholders for the realization of the BHR agenda.

The Executive Secretary thanked the DIHR, the organizers and all participants. He assured the participants that CHRAGG would work with the Government and all other stakeholders including business enterprises, civil society organizations, the communities and other interested stakeholders to protect and respect the rights of its people; to push forward the BHR agenda in the country.

SESSION THREE

3.0 BUSINESS AND HUMAN RIGHTS MONITORING AND INVESTIGATION

Over the two days, the workshop included a number of substantive sessions, focusing on the three areas of: (1) BHR frameworks; (2) CHRAGG case studies on monitoring and investigating business activities; and (3) tools and approaches for monitoring and investigating business activities, including focus on specific methodology elements such as interviewing, data analysis and reporting.

3.1. Business and Human Rights Frameworks

This introductory session, given by the DIHR, summarized key points from the e-learning undertaken by CHRAGG participants a month prior to the workshop. The session introduced the UNGPs, as recognized human rights standards, applying to all states and businesses. Information was provided on each of the three pillars: (1) the state duty to protect; (2) the corporate responsibility to respect; and (3) access to effective remedy for business-related human rights abuses. Particular attention was drawn to the types of remedies defined in the UNGPs: state-based judicial grievance mechanisms; state-based non-judicial grievance mechanisms; and non-state non-judicial grievance mechanisms.

The facilitator made clear that businesses should perform human rights due diligence (HRDD) by identifying, preventing, mitigating and accounting for any human rights impacts that may be caused, contributed to, or directly linked to their operations. HRDD is at the heart of the UNGPs and composed of four iterative steps which are: (1) identify and assess; (2) integrate and act upon findings; (3) track and verify responses; and (4) communicate and report. These steps should be underpinned by a policy commitment to human rights, ongoing stakeholder dialogue and an effective company-level grievance mechanism.



Ms. Salma Huerbi, a technical expert from the DIHR (standing and holding a microphone) making a presentation on BHR frameworks during the CHRAGG Staff Workshop on Investigation and Monitoring on November 23, 2022 at Arusha Spring Corridor Hotel in Arusha Region.

Reflecting on the difference between corporate social responsibility (CSR) and the second pillar of the UNGPs, the facilitator explained that while CSR might consider the role of business enterprises in integrating social and environmental concern on a voluntary basis, such as through community development projects, the corporate responsibility to respect takes a whole of business approach that provides a blueprint for businesses to prevent and address negative human rights impacts throughout their business activities. As such, performing CSR by undertaking community development projects does not exonerate the enterprise from its responsibility to respect human rights. Business enterprises must exercise HRDD to avoid infringing on human rights and address adverse human rights impacts.

The session also explored the advisory role of NHRIs in BHR, and their role in ensuring that policies, laws and regulations governing businesses include attention to respect for human rights. NHRIs also carry the role to create awareness on BHR, especially among duty-bearers (state actors, business enterprises), rights-holders and other stakeholders such as civil society. NHRIs have been mandated by laws in their respective state to support access to remedy through activities such as monitoring, investigation, mediation, conciliation, reconciliation, collaboration with other judicial and non-judicial grievance mechanisms, and systemic analysis on adverse human rights impacts related to different industries. During the plenary session, participants discussed how the state can be held accountable by NHRIs on the failure to implement some recommendations made to relevant authorities as result of investigation and monitoring findings.

3.2. Case Studies on Business and Human Rights



Ms. Jovina Jovita Muchunguzi, CHRAGG Principal Investigation Officer and Team leader of Business and Human Rights Thematic area, making a presentation on two of the selected cases in investigating and monitoring business activities at a Workshop to CHRAGG Staff on Investigation and Monitoring on November 23, 2022 at Arusha.

To get practical, three selected cases highlighting CHRAGG's work on investigation and monitoring of business activities were presented by Ms Jovina Muchunguzi, CHRAGG Principal Investigation Officer and CHRAGG team leader on BHR. The case studies were: (1) Land dispute between members of Maganzo Communities and Williamson Diamonds Limited (WDL) Mwadui Mining Company; (2) Buzwagi Mining Company Environmental Mismanagement; and (3) Labor Rights in the Fishing Industry in Mwanza Region.

Issues brought forward during the discussion included the silence of land laws on matters of resettlement. The laws in Tanzania only provide expression on compensation. It was also noted that in Tanzania, there was no provision of law that provided for ancestral land, but the Village Land Act (Cap 114.) that provides for the management of village land in which the village council has mandates for the management of land, the Land Act (Cap 113) that provides for the general land and several laws on protected or reserved lands like the Wildlife Conservation Act (Cap 283), the Forest Act (Cap 323), the Tanzania National Parks Act (Cap 283) and the Marine Parks and Reserves Act (Cap 146).

To avoid land disputes at village level, participants discussed the need for both the Local Government Authorities (LGA) and the Ministry of Land and Housing and Development to support villages to prepare Land Use Management Plans that would require village councils to have land registry. Participants also discussed the role of CHRAGG in mediation of the relationship between mining companies and communities around investment areas.



Mr. Pillemon Thomas Mponezya, CHRAGG Principal Investigation Officer and an expert in Business and Human Rights presentation a Case Study investigation and monitoring of Labor Studies in the Fishing industry in Mwanza Region at a Workshop to CHRAGG Staff on Investigation and Monitoring on November 23, 2022 at Arusha.

3.3. Tools and Approaches for Monitoring and Investigation of Business Activities

The majority of the substantive sessions of the workshop focused on tools and approaches for monitoring and investigation of business activities. The content of these sessions was focused on the different elements of monitoring and investigation, such as interviewing, data analysis and reporting. Furthermore, the different sessions were built around familiarizing CHRAGG investigation officers with monitoring templates and accompanying interview guides. These had been developed by the CHRAGG BHR team prior to the training, with technical support from DIHR, with a view to strengthening CHRAGG's approach to monitoring and investigating business activities.

The monitoring templates and interview guides are based on the Human Rights Indicators for Business and the Human Rights Impact Assessment Guidance and Toolbox, developed by the DIHR based on international human rights standards. They focus on different business areas, including: human rights due diligence management and governance; employment practices; environment and communities; security management; procurement and supply chain; and product marketing and quality. The monitoring templates are structured around questions and indicators for each of these areas, derived from national and international standards relevant to BHR. The complementary interview guides provide example questions that can be used by investigation officers when engaging with different stakeholders in the field when monitoring or investigating business activities.



Ms. Nora Götzmann, DIHR technical expert introducing Workshop participants to Investigation and Monitoring Tools at a Workshop to CHRAGG Staff on November 24, 2022 at Arusha Spring Corridor Hotel in Arusha Region.

Following the introduction of the monitoring templates and interview guides, participants discussed interviewing as the most common method for gathering information on human rights allegations in the context of business activities. This requires communication, analytical and interpersonal skills. The session considered the pros and cons associated with different types of interviews and engagements: unstructured (nondirective) and structured (directive) face-to-face or phone interviews that could be personal-one-on-one or mass interview; focus group; semi-structured; behavioral based interview; on-site and task-oriented or testing/probing interview. Participants also deliberated on the types of stakeholders to be interviewed when monitoring or investigating business activities. Furthermore, discussion considered how to deal with vulnerable respondents and accompanied ethical dilemmas.

In the session on data collection and analysis, participants discussed the different types of data that are important when investigating and monitoring business activities. The rationale was to broaden knowledge on the important data to be collected from business entities and other stakeholders to identify details of specific human rights abuses. The detailed discussion focused on data obtained through closed and open questionnaires; documentary data like legislation, policy, contracts/agreements, minutes, employee records, reports; data obtained from observations; survey and perception data; biological data like DNA and biometric data. The discussion also delved into problems that an investigator may encounter in data collection and how these could be addressed, for example: lack of cooperation; fear of reprisal; culture and language barriers; destruction or tampering with evidence; collusion between and among witnesses; and restricted access to sources of evidence. Participants also focused on the types of company documentation that could be important, such as: company registration certifications; articles of association; Memorandum of Understanding (MoU); certificate for acquisition of land for investment; Environmental and Social Impact Assessment (ESIA); sub-contracts; collective bargaining agreements; roster for compensation; company-level grievance policy; and reported incidences captured in Annual and Public Enquiry Reports etc. Participants also discussed where investigators would obtain different types of data from, possible foreseeable challenges in obtaining the data and how those challenges could be addressed.



Director of Complaints and Investigation, Mrs. Suzan Paschal Ndeona (second on the left) and a section of Workshop Participants in groups discussing, reviewing and making improvement on Monitoring and Investigation Tools during the Workshop at Arusha Spring Corridor Hotel in Arusha Region.

In the session on data analysis, recommendations and reporting participants discussed the importance of triangulating information between different sources to reach conclusions, as well as the importance of formulating actionable and precise recommendations. In terms of report writing and follow-up participants discussed how to establish potential recommendations which can solicit remedy action to victim of adverse impacts of relevant business enterprise activities. The reports of investigation should centre on types, nature and kind of investigation; the purpose of the report must be clear; the target audience must be clear; and the report should contain the critical elements like factual backgrounds of the matter, relevant legal frameworks, scope of the investigation (matters at issue), the adduced evidence, analysis of evidence and intelligence, findings of the facts, conclusion (relate the policy standards for reaching the conclusion and burden of proof) and recommendations for remedial measures.

SESSION FOUR

4.0 MATTERS ARISING, RESOLUTIONS AND WAY FORWARD

In concluding the workshop, the CHRAGG BHR team identified several areas for further attention in the area of monitoring and investigating business activities, resulting in the following action areas going forward:

- i. To enhance staff capacity through regular trainings on investigation of BHR activities and BHR generally;
- ii. To support public and communities' awareness on BHR, including the importance of cooperating with CHRAGG as an NHRI in mitigating the impacts of businesses on human rights;
- iii. To translate the Monitoring Tools and Interview Guide in Kiswahili Language;
- iv. To enhance staff capacity on the role of CHRAGG in BHR matters;
- v. To mobilize resources for implementation of BHR activities; and
- vi. To inform the staff on procedures for the preparation of the BHR-NAP, including working with MoCLA to engage Inter-Ministerial Technical Committee and aiding MoCLA in technical expertise in BHR in preparing a Cabinet paper to that effect.

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