

**KUONI** EST. 1906

# ASSESSING HUMAN RIGHTS IMPACTS

Kenya Pilot Project Report  
November 2012







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# 1. INTRODUCTION

## 1.1 BACKGROUND TO KUONI'S COMMITMENT TO CORPORATE RESPONSIBILITY

Kuoni has been striving for over ten years now to enhance the positive impact of tourism on people and the environment and simultaneously minimize its negative ramifications. Kuoni and its staff are convinced that the company can make a major contribution to ensuring sustainable tourism development within its scope and the resources at its disposal.

As many other companies around the world have also found, the process of integrating Corporate Responsibility (CR) into Kuoni's overall business operations has not always been straightforward. The whole CR debate has also moved on substantially in recent years. Rather than embarking on isolated individual projects and initiatives, current CR thinking advocates the increasing integration of such activities into the core business of companies.

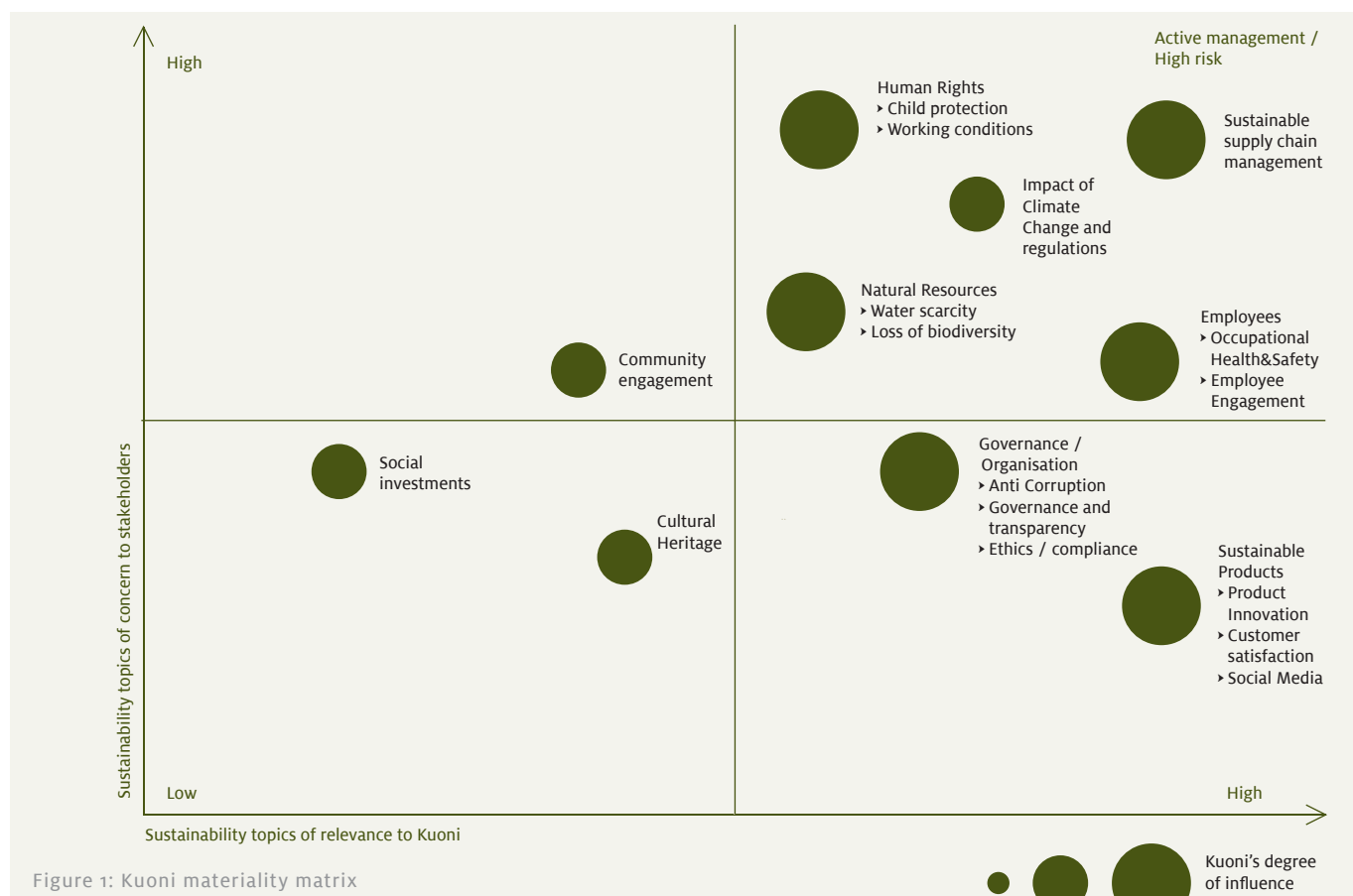
Kuoni, it can safely be claimed, has extensively integrated its Corporate Responsibility activities into

its overall business strategy over the last ten years. You will find a comprehensive overview of this strategic integration – which included establishing its own Corporate Responsibility unit, adopting stakeholder management, devising and implementing group wide CR policies and defining and pursuing key focus issues – on the Kuoni Group website.

On the basis of the overall Group CR strategy for 2012-2014, the CR risk assessment and the subsequent definition of the materiality matrix, the focus issues for corporate responsibility within the Kuoni Group are:

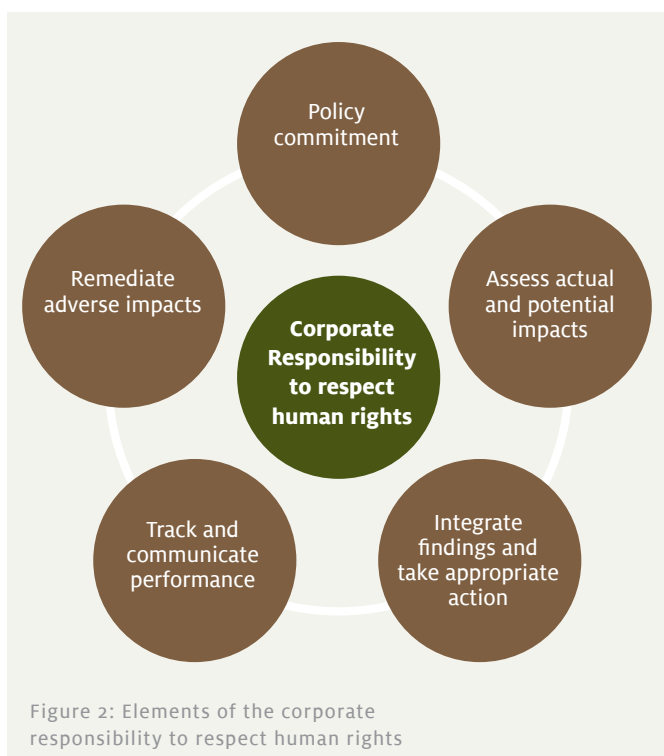
1. its employees;
2. sustainable supply chain management;
3. sustainable products;
4. human and labour rights;
5. natural resources and climate change and
6. governance and organisation.

For each of these focus issues, a road map has been developed and specific goals have been defined. These can also be viewed on the Kuoni Group website.



## 1.2 BACKGROUND TO THIS REPORT

In June 2011, the UN Guiding Principles for Business and Human Rights were unanimously endorsed by the UN Human Rights Council. They provide the global benchmark for government and business to address the human rights impacts of economic activity, and promote transparency, accountability, and access to remedy. The principles outline the central elements of the corporate responsibility to respect human rights, and the due diligence activities which companies need to undertake in order to fulfil it.



Kuoni has committed to respect human rights in its Statement of Commitment on Human Rights, which was developed through consultations with internal and external stakeholders. The Statement is endorsed by the Group Executive Board and was published in March 2012. In 2012, Kuoni set the goal of conducting human rights due diligence in one selected destination.

This pilot project represents a first assessment of the human rights risks and impacts arising from Kuoni's operations and business relationships. The selection of Kenya, where Kuoni operates through its fully-owned destination management company Private Safaris East Africa Limited (PSL), was based

on a number of criteria: For instance, Kenya combines both beach and safari / excursion tourism and therefore provides a good range of Kuoni's destination business activities. Its selection does not imply that the human rights challenges are greater in Kenya than in other destinations.

## 1.3 OBJECTIVES OF THE PILOT PROJECT

The objectives of the pilot project were twofold:

- Provide Kuoni with a more precise understanding of the human rights context of its operations and business relationships in Kenya, and the actual or potential human rights impacts it may cause, contribute to, or be linked to, as well as existing measures being taken to address them. Identify possible mitigating measures and means to enhance access to remedy.
- Develop and test a methodology for assessing human rights impacts which can subsequently be used for other destinations. Guiding this approach is an interest in generating a process which engages management and stakeholders at a corporate and destination level, is on-going, and can be embedded into Kuoni's business practice.

This report will be used for:

- Internal awareness-raising and informing decision making on possible prevention, mitigation and remediation actions.
- Sharing the learning widely with stakeholders in the tourism industry, civil society and beyond in order to inform future practice on human rights in the tourism sector.

Kuoni encourages interested stakeholders to provide feedback and comments on this report to [cr@kuoni.com](mailto:cr@kuoni.com).

## 1.4 PROJECT LEADERSHIP, PARTNERS AND OVERSIGHT<sup>1</sup>

The project was led by the **Corporate Responsibility team of Kuoni**, based in Zurich.

Throughout the process, they were supported by the management consultancy **TwentyFifty Limited**, who:

- Advised on the establishment of stakeholder oversight for the pilot
- Designed the project process and prepared the impact assessment methodology



- › Participated in the assessment visit: conducted business and human rights awareness workshops and gathered data with management and employees at Private Safaris; undertook management and employee meetings at key accommodation suppliers
- › Facilitated the identification of findings, conclusions and recommended mitigating actions with project partners and international stakeholders; drafted this report

**Tourism Concern (TC)** acted as an independent advisor and co-researcher on the impact assessment.<sup>2</sup> TC is a UK-based NGO that challenges exploitation in the global tourism industry. Throughout the project, TC utilised its extensive civil society networks to seek meaningful and appropriate consultations with rights-holders and/or their representatives. TC's role in the project was to:

- › Provide the project team with early insight into the human rights impacts of tourism in Kenya
- › Contribute to the design of the impact assessment process, methodology and drafting of the final report
- › Identify stakeholders to engage with during the assessment visit
- › Participate in the assessment visit and undertake stakeholder meetings with NGOs, community members, worker-associations, trade unions and government representatives

The key business partner was Kuoni's local destination management company in Kenya, **Private Safaris East Africa Limited (PSL)**, which is part of the Kuoni Group. PSL's role in the project was to:

- › Manage the logistics of the country visit of the assessment team
- › Select and reach out to business partners in Kenya to be involved in the project
- › Provide information during the assessment process
- › Give input into the design of mitigation actions

PSL's senior management were actively involved prior to, during and after the assessment visit. Their positive and genuine attitude and their desire to understand more about the human rights impacts of Kuoni / PSL's business was much appreciated and bodes well for the implementation of the proposed mitigating actions.

As approaches to human rights impact assessment are still in their infancy, Kuoni was particularly keen to benefit from the insight and oversight of the process which could be provided by a number of other international stakeholders. Therefore, representatives from seven NGOs, UN institutions and academic institutions were invited to act as **individual advisors**. Their input into the design and review of the impact assessment process was sought throughout the process in a series of individual and group discussions. Statements on the process from five advisors, Arbeitskreis für Tourismus und Entwicklung (AKTE), Fair Trade in Tourism South Africa (FTTSA), Tourism Concern, UNICEF, and the Swiss Centre for Expertise in Human Rights can be found in chapter 6.

<sup>1</sup> A brief description of each organisation can be found in appendix 1.

<sup>2</sup> The terms of reference for Tourism Concern's engagement are provided in appendix 5.



## 2. THE IMPACT ASSESSMENT PROCESS

### 2.1 PROCESS PHASES AND OUTPUTS

The human rights impact assessment process consisted of six phases:



The following table gives an overview of the tasks implemented in the different phases of the assessment process, the timeline, as well as key outputs of each phase. The assessment is not intended to be a one-off exercise and it does not end with the publication of this report.

Mitigation actions will be implemented from 2013 onwards. Kuoni will monitor the implementation and inform its stakeholders about progress made (see chapter 4).

Project phases	Goals and tasks	Key outputs
<b>I. Set-up (June-Aug. 2012)</b>	Goal: Clarifying the basics of the assessment process. Tasks: <ul style="list-style-type: none"> <li>▸ Definition of project plan and assessment process</li> <li>▸ Engagement with individual advisors</li> </ul>	<ul style="list-style-type: none"> <li>▸ Project plan</li> <li>▸ Stakeholder briefing document outlining the assessment process</li> <li>▸ Summary of feedback given by advisors on the briefing document</li> </ul>
<b>II. Preparation (July-Aug. 2012)</b>	Goal: Gathering background information and preparing the in-country assessment. Tasks: <ul style="list-style-type: none"> <li>▸ Background research</li> <li>▸ Briefing of PSL</li> <li>▸ Mapping and engagement of civil society stakeholders</li> <li>▸ Preparation of materials and logistics for the country visit</li> </ul>	<ul style="list-style-type: none"> <li>▸ Overview of Kuoni business practices, policies and corporate responsibility</li> <li>▸ Briefing documents on human rights protection framework and major human rights issues in tourism in Kenya</li> <li>▸ Country visit schedule</li> <li>▸ Assessment questionnaires for different stakeholder groups</li> <li>▸ Briefing letter for hotels in Kenya</li> <li>▸ Human Rights Impact briefing presentation for PSL management and employees</li> </ul>
<b>III. Country Visit (Aug. 2012)</b>	Goal: Collection of documentary evidence in Kenya on actual and potential human rights impacts and existing measures to address them. Tasks: <ul style="list-style-type: none"> <li>▸ Meetings with management and employees at PSL</li> <li>▸ Meetings with management and employees at six hotels</li> <li>▸ Meetings with local NGOs and communities at safari, beach and city destinations</li> </ul>	<ul style="list-style-type: none"> <li>▸ Meeting notes</li> <li>▸ Moderation cards with key points from PSL employee workshops</li> </ul>
<b>IV. Analysis and Documentation (Sept.-Oct. 2012)</b>	Goal: Analysing, structuring and reviewing the findings of the country visit. Tasks: <ul style="list-style-type: none"> <li>▸ Document findings and draft suggested actions</li> <li>▸ Review findings with PSL and Kuoni headquarters</li> <li>▸ Review report with group of individual advisors</li> </ul>	<ul style="list-style-type: none"> <li>▸ Briefing on civil society consultations and recommendations</li> <li>▸ Draft pilot impact assessment report</li> <li>▸ Executive briefing for internal use</li> <li>▸ Summary of feedback given by advisors on the draft report</li> </ul>
<b>V. Follow up (Sept.-Nov. 2012)</b>	Goal: Definition of mitigation actions. Tasks: <ul style="list-style-type: none"> <li>▸ Develop mitigation action plan</li> <li>▸ Finalise report</li> </ul>	<ul style="list-style-type: none"> <li>▸ Draft mitigation and remediation action plan</li> <li>▸ Final pilot impact assessment report</li> </ul>



<b>VI. Implementation, Review and Scale up (Starting 2013)</b>	<p>Goal: Implementation of mitigation actions and monitoring; dissemination of results; involve other business units of Kuoni.</p> <p>Tasks:</p> <ul style="list-style-type: none"> <li>▸ Disseminate report and share results appropriately</li> <li>▸ Develop, implement and monitor mitigation actions</li> <li>▸ Review and further develop human rights impact assessment; involve other business units of Kuoni at selected destinations</li> </ul>	<ul style="list-style-type: none"> <li>▸ Communication on status of implementation on the Kuoni website and annual report</li> </ul>
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## 2.2 PROCESS DESIGN AND THE UN GUIDING PRINCIPLES

The impact assessment process has been designed to strike a balance between the objectives of being credible, balanced, participatory and sufficiently thorough, without becoming overly burdensome on the business. It was designed to engage management within the business, and begin to build their capacity to undertake human rights due diligence on an on-going basis. It is a first step in a process of continual engagement with potentially affected stakeholders about human rights impacts.

The focus of the assessment was to identify the key areas of actual and potential human rights risk and impact of Kuoni's operations and business relationships in Kenya with input from potentially affected internal and external stakeholders. Therefore, the assessment team actively reached out to a range of stakeholders including workers, local management, communities and NGOs to explore their experiences, and assess available means for mitigation. The scope of the supply chain assessment was largely limited to accommodation suppliers and driver guides.

The human rights outlined in the International Bill of Human Rights formed the basis for the assessment. A special focus was put on labour and children's rights, which were the priority areas defined by Kuoni and its stakeholders. It is important to note that the assessment did not intend to give a legal judgement or to legally document cases of human rights violations related to tourism in Kenya.

The assessment process was designed to be in line with UN Guiding Principle 18, which presents the most

widely accepted benchmark for human rights impact assessments by corporations. In particular the project:

- drew on independent external human rights expertise,
- involved meaningful consultation with potentially affected groups and other relevant stakeholders.

## 2.3 ASSESSMENT METHODOLOGY

The assessment team used qualitative research methods that were applied sensitively to the local context. These methods were sufficiently standardised to allow for coverage of all major human rights issues and comparison of findings. The main methods employed were: document analysis, semi-structured interviews and focus group workshops.

### 2.3.1 BACKGROUND RESEARCH

During the preparation phase of the project, three short briefings were drafted:

- human rights protections in Kenya (TwentyFifty),
- the human rights impacts of tourism in Kenya (Tourism Concern),
- existing Kuoni / PSL policies and practices on sustainability (Kuoni).

These reports built on existing knowledge and information from a variety of credible sources including government, UN organisations, academia and civil society organisations. Together with phone and email conversations with selected experts, they formed the basis for a common understanding of possible areas of risk, the selection of potentially affected groups, and the development of questionnaires for the in-country assessment.

### 2.3.2 IDENTIFYING STAKEHOLDERS AND POTENTIALLY AFFECTED GROUPS

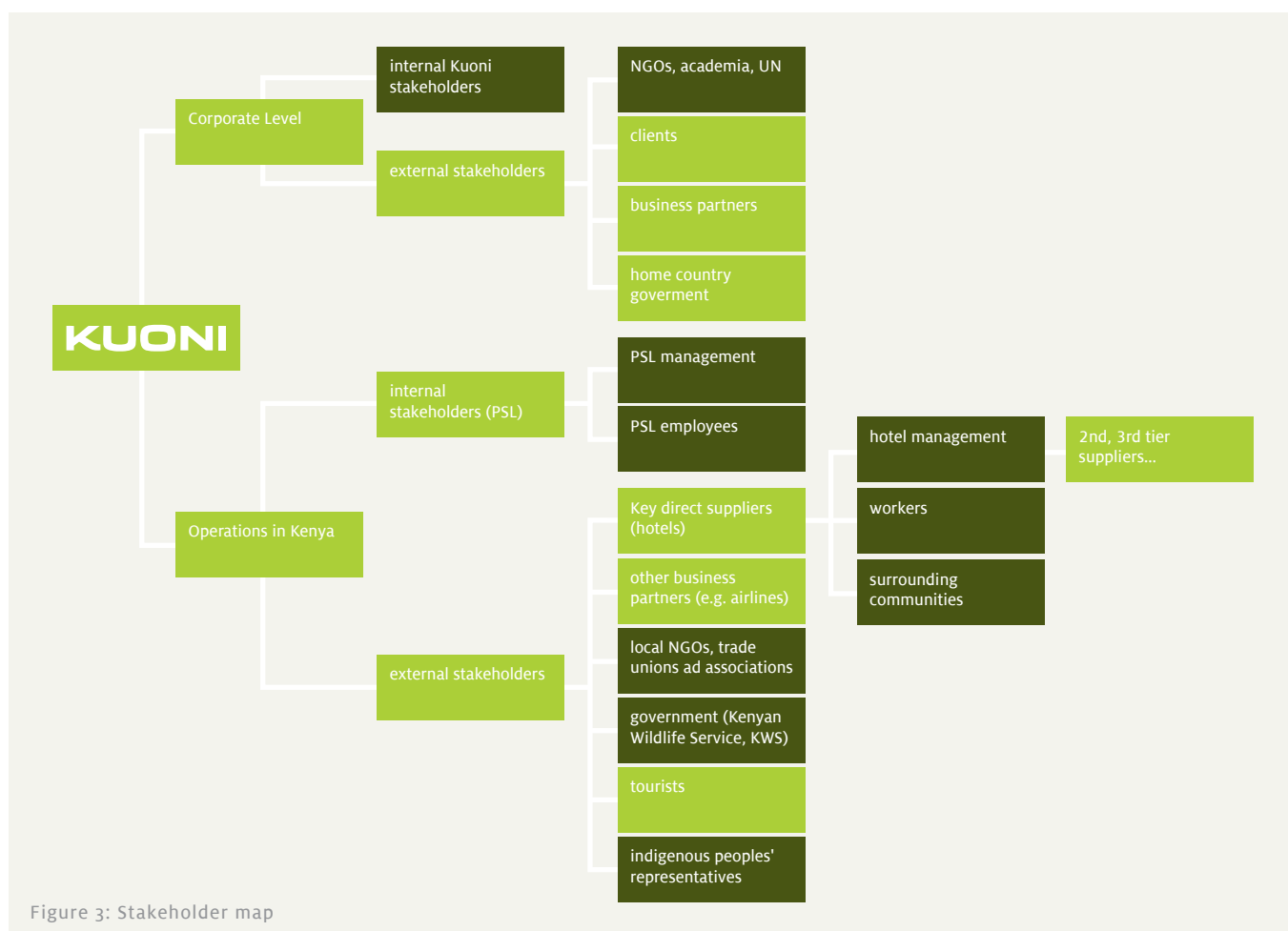
In Kenya, Kuoni / PSL offer safari and beach travel packages, as well as conference and event management services. The stakeholders identified are depicted in figure 3. These stakeholders were selected because they are either directly (e.g. PSL employees) or indirectly (e.g. workers at partner hotels, indigenous communities near safari parks) impacted by Kuoni/PSL's activities in Kenya, or because they may provide further insight into actual or potential impacts (e.g. NGOs). The stakeholder groups in dark green were prioritised for direct engagement in the assessment process (see Figure 3).

Following the mapping, meetings for the country visit were arranged with selected stakeholders (see country visit schedule and list of interviewees in appendix 3 and 4). Contact with organisations was made on the basis of recommendations from the individual advisors, trusted civil society contacts of Tourism Concern in Kenya, and existing contacts of Kuoni / PSL. All stakeholders were informed about the purpose and

content of the assessment, most of them prior to the country visit, either via email or personally through trusted local intermediaries.

### 2.3.3 SEMI-STRUCTURED ASSESSMENT QUESTIONNAIRES

In order to allow for a degree of standardisation of the interviews and comparability of results, a set of assessment questionnaires were developed in preparation for the country visit. The questionnaires served as conversation guides for the assessors to structure the meetings rather than as checklists. They draw input from existing business and human rights instruments such as the Danish Institute for Human Rights' Compliance Assessment Quick Check, and Rights and Democracy's Human Rights Impact Assessment Guide. UNICEF also provided the assessment team with a first draft of the Children's Rights and Business Principles Assessment Tool for companies.





The questions were selected and phrased to reflect the reality of the tourism business and the major areas of risk identified in the desk research. Open questions were used as much as possible, in order to allow respondents to answer using their own thoughts and words, and raise the issues they considered as important. In total, seven questionnaires for the following groups were developed: Management at PSL Nairobi and Mombasa; management at key suppliers (beach and safari hotels); employees at PSL Nairobi and Mombasa; employees at key suppliers (beach and safari hotels); community representatives; NGOs and other organisations; and child sex workers.

Each questionnaire consisted of a set of key questions and follow up questions. While the key questions were used in every interview wherever relevant, the follow

up questions were used to dig deeper into specific issues of import to the stakeholder. Each questionnaire (apart from the one for child sex workers) centred on seven focus areas as listed in the table below.

#### 2.3.4 IN-COUNTRY MEETINGS

In August 2012, a nine day country visit was conducted by the assessment team (see country visit schedule in appendix 3). While Tourism Concern led the engagement with NGOs, workers' associations, communities and Kenya Wildlife Service (KWS), Kuoni and TwentyFifty focused on PSL management, employees and suppliers. Kuoni was only present during meetings with management representatives and not during employee / worker interviews.

Issue Area	Includes questions on
<b>Employee rights and protection</b> (especially for vulnerable groups like women, migrant workers, seasonal workers, young workers, people with disabilities)	<ul style="list-style-type: none"> <li>› Recruitment and labour contracts / forced labour</li> <li>› Child labour</li> <li>› Determination and pay of wages</li> <li>› Working hours</li> <li>› Trade unions / collective bargaining</li> <li>› Health &amp; Safety</li> <li>› Just and favourable working conditions / non-discrimination</li> <li>› Privacy</li> <li>› Freedom of expression and religion</li> <li>› Standard of living / transport / benefits</li> <li>› Vulnerable groups of workers</li> <li>› Grievances and participation</li> </ul>
<b>Security / Safety</b> of personnel and tourists	<ul style="list-style-type: none"> <li>› Personal safety</li> <li>› Security personnel</li> <li>› Emergency procedures</li> </ul>
<b>Customer</b> protection and information	<ul style="list-style-type: none"> <li>› Sustainability communication</li> <li>› Privacy</li> <li>› Impacts by tourists</li> </ul>
Screening, selection, evaluation and monitoring processes for <b>suppliers, contractors, business partners</b>	<ul style="list-style-type: none"> <li>› Value chain management practices</li> <li>› Forced / child labour at suppliers</li> <li>› Labour conditions and wages at suppliers</li> <li>› Community impacts by business partners</li> </ul>
<b>Women's and children's</b> rights and protection	<ul style="list-style-type: none"> <li>› Measures to respect and support the rights of women and children</li> <li>› Child sex tourism</li> </ul>
<b>Community</b> impacts and engagement	<ul style="list-style-type: none"> <li>› Community consultation/engagement</li> <li>› Impacts of tourism on community rights and lifestyles (e.g. land, water, livelihoods, living conditions, culture)</li> <li>› Community grievances and access to remedy</li> </ul>
<b>Anti-corruption</b>	<ul style="list-style-type: none"> <li>› Policies and processes on bribery and corruption</li> </ul>

Meetings were held as open conversations, picking up the issues identified as important by the interviewee. The assessors decided not to digitally record interviews in order to promote a more trusting environment. All interviews were documented with written notes with permission of the interviewees. Most interviews were conducted in English, while local intermediaries translated in meetings with local community representatives.

During the country visit the following types of meetings and interactions were held:

- › **Meetings with management and employees at PSL (Kuoni, TwentyFifty):** During meetings with the management team at PSL in Nairobi and Mombasa, the assessors gave an introduction to human rights and the UN Guiding Principles. The assessors then interviewed different members of the management team, and spoke to a number of employees on the basis of the assessment questionnaires. In addition, two awareness raising workshops were held with 30-50 employees from different departments at PSL Nairobi and Mombasa. During these workshops, the employees received an introduction to business and human rights and were asked to collect and prioritise positive and negative human rights impacts of tourism in Kenya.
- › **Meetings with management and workers at key hotels (Kuoni, TwentyFifty):** During the country visit, three beach, one city and two safari hotels were visited. These hotels were selected by PSL based on

their strategic importance to the business, and to cover a range of maturity of sustainability practices. As the country visit took place during the high season, the assessment team had to be flexible in the timing and scope of the hotel visits. In most cases, the visits lasted three to five hours and consisted of the following:

- › A tour of the front and back office (e.g. kitchen, laundry, staff accommodation).
- › Talks with management representatives (most often the general manager and / or human resources) to identify how human rights issues are currently managed and gaps in this regard.
- › One-on-one talks with one to two employees. In most cases, it was only possible to have a brief five to ten minute talk with or without management present. In one case, a meeting with management and a group of ten workers from different departments was held.

The assessors stayed overnight in four of the hotels visited which allowed for additional observations and brief conversations with staff members.

In total, the assessors reached out to 33 employees at beach and safari hotels, among them 23 men (69.7%) and ten women (30.3%). Women were slightly over-represented among the employees consulted; females represented 20-25% of the workforce. Of the employees consulted, 45.5% work for safari hotels, and 54.5% work for beach hotels. In total, brief informal talks were held with 26 employees, while seven in-depth interviews focused on the major areas of the assessment questionnaire were conducted.

### Note on worker meetings

Most worker interviews at the hotels visited were organised spontaneously and upon request by the assessor. Only in a limited number of cases were workers chosen by management. The assessor sought to meet with a wide range of workers from different departments (e.g. employees from the spa, laundry, entertainment team, gardeners, security guards, kitchen personnel, and housekeeping) and to include both men and women from different age groups. Whenever possible, interviewees were asked to prioritise the issues identified during the interview.

In 20 out of 33 cases the talks were held in private, and without management present. All worker interviews were held on the site. Each interview started with an explanation of the project, the purpose of the interview, and how the information provided would be used. All interviewees were assured that they would remain anonymous. Efforts were made to put the interviewee at ease and alleviate any fear that providing information could lead to negative repercussions. Where workers reported that they feared repercussions, the assessor left her contact details and requested workers to inform the project team in case of reprisals.





- › **Meetings with community members (Tourism Concern):** Two meetings with Maasai community representatives were organised near Amboseli National Park. Participants included women and men of varying ages engaged in agriculture, pastoralism and informal sector tourism activities (e.g. selling jewellery and curios to tourists, hosting village tours). An informal settlement near the coastal hotels in Mombasa was also visited, hosted by a male elder. Local civil society contacts with established links to the communities facilitated the meetings and acted as translators.
- › **Focus group meetings with child sex workers and rehabilitated child sex workers (Tourism Concern):** The guiding questions for these interactions sought to establish the casual and systemic factors leading to children's involvement in sex work in the tourism sector, how they perceived the industry and government to be responding, and what needs to happen to address the situation in a meaningful way. Efforts were also made to ascertain whether specific Kuoni / PSL suppliers are involved. However, the participants were not willing to offer any explicit evidence on suppliers. The interactions were facilitated by an experienced local NGO, including

a social worker, who advised on an appropriate approach and language.

- › **Meetings with civil society, workers' associations, and government representatives (Tourism Concern):** Meetings were held with various local NGOs representing a range of issues, including sustainable / pro-poor tourism, minority rights, and socioeconomic rights. The main trade union representing the hospitality sector, various tourism trade associations, and the Kenyan Wildlife Service were also consulted (for a full list, see appendix 4).

Where possible, meeting notes were subsequently shared with interviewees to ensure accuracy and seek clarification on specific points.

#### 2.3.5 DATA ANALYSIS

After the country visit, the assessors summarised and structured the findings from the different meetings, and summaries were shared with the Kuoni CR team. A project team meeting was held to share, discuss, and prioritise the findings according to business risk and business influence. A summary of findings and suggested actions is provided in the following chapter.

#### Note on community meetings

In Amboseli, local Maasai facilitators met with community elders and representatives in advance of the impact assessment to explain the project, seek their consent to participate, and familiarise them with the areas that would be discussed. The communities were very interested to be involved, and were keen for their grievances to be heard. Expectation management was therefore very important. The Maasai cultural village requested that they remain anonymous out of fear that driver guides would stop bringing tourists in retaliation for speaking out.

All meetings included a brief explanation of the tourism supply chain linking Kuoni with the safari lodges / hotels. Although a gender balance was sought and the views of women were explicitly elicited, male attendance and participation was greater. None of the Maasai women spoke English (whereas a few of the men did), which meant that all their comments went through male intermediaries. Nor were there any direct interactions with women in the informal settlement in Mombasa. There is a risk that some meaning (including gender-specific concerns) was lost in translation.

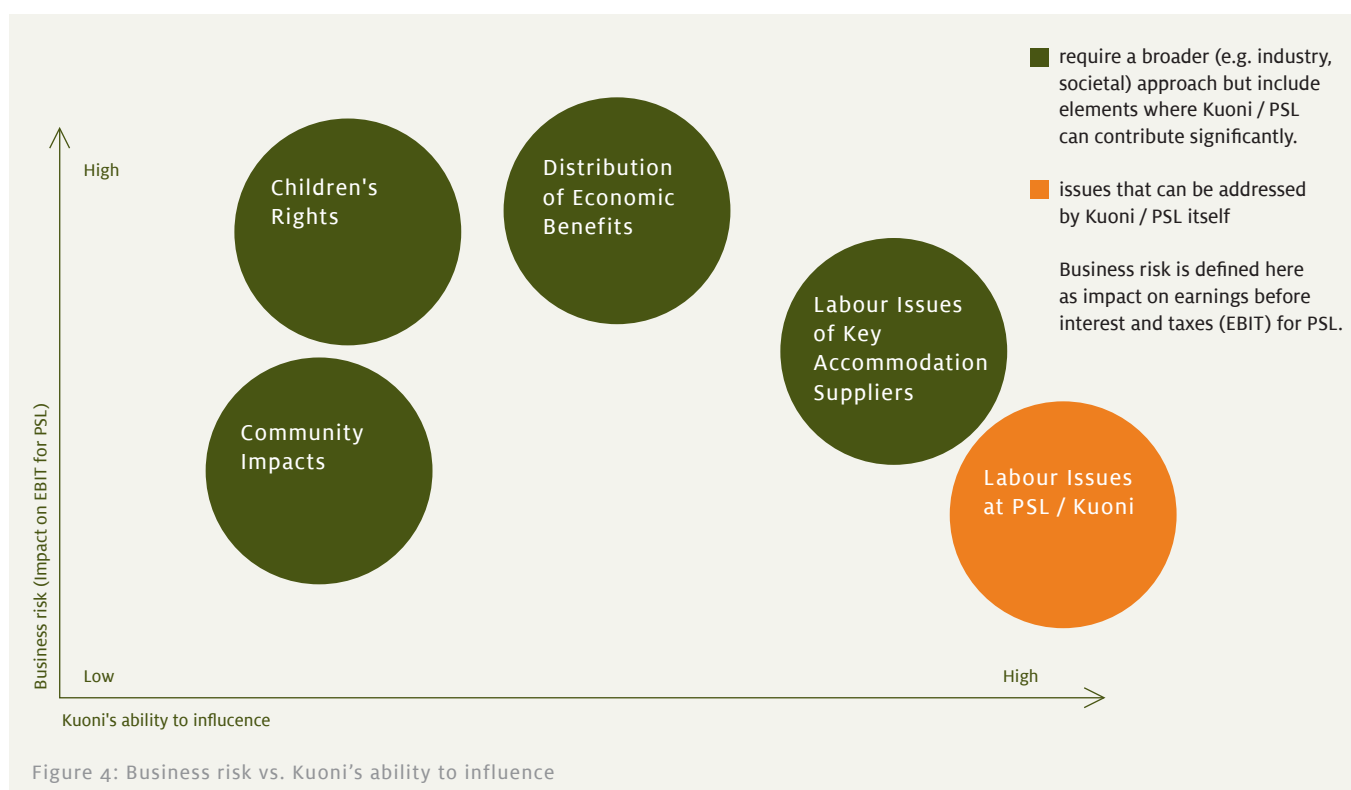
### 3. SUMMARY OF FINDINGS AND POSSIBLE ACTIONS

The assessment provided an overview of the areas of actual and potential human rights impact, and highlighted opportunities for Kuoni to improve the management of social and human rights issues. During the follow up workshop with the Kuoni CR team the findings were clustered and five major issue areas identified. An exercise to prioritise these five areas based on perceived business risk versus influence of Kuoni / PSL was undertaken, and is depicted in figure 4.

One of the challenges in undertaking this impact assessment was to explore whether it is possible to distinguish Kuoni / PSL's specific impacts from those of the tourism sector as a whole and, in particular, whether stakeholders and affected groups would make such a distinction. It was found that, in general, interviewees did not differentiate between impacts of Kuoni and other tourism businesses. Beyond PSL employees, the relationships which stakeholders and affected groups have to tourism are not exclusively with PSL, and their situation is affected by many actors, including government. As discussed below, the inequitable distribution of economic benefits of tourism is the obvious example where a complex range of factors are involved, and therefore the direct responsibility of Kuoni / PSL, and its ability to influence is not immediately obvious.

However, as one of the largest destination management companies in Kenya, it is clear that Kuoni / PSL can have an impact on a broad range of issues identified in this report. So accepting that this impact exists, and recognising the significant business risks which arise from an instability exacerbated by the perception of unfair economic distribution and exclusion from the tourism economy, the question becomes: Where can Kuoni / PSL have influence on this problem?

The opportunities for engagement and possible actions identified in this report arise from a reflection on this question and include suggestions from local stakeholders themselves. There are areas where PSL has direct responsibility, such as within its own workforce; and there are areas where PSL has indirect responsibility – for example by influencing the hotels and lodges it works with to provide opportunities for local communities to sell goods to tourists. There are other areas where PSL, as part of Kenya's tourism industry, is having an impact on wider issues and challenges, notably child sex tourism. Here too there are opportunities to build on the interest it shares with others in seeking improvements to the situation, e.g. by taking a leadership position and seeking to influence others in the industry and the government to take actions. The possible actions outlined below





are recommendations by stakeholders and not commitments by Kuoni/PSL. Mitigation actions that Kuoni has committed to as a follow-up to this impact assessment pilot project are outlined in chapter 5.

### 3.1 LABOUR ISSUES AT KUONI / PSL

**Findings:** In general, Kuoni/PSL employees were very satisfied with their employer. PSL offers permanent employment and income security, and they commended the good working environment and team spirit. In workshops and meetings with management and employees, the following main issues of concern were raised and/or identified:

- › There is widespread dissatisfaction with wage levels. Wages are above average for the industry, but reportedly do not constitute a 'living wage' and fail to keep in line with inflation rates.
- › Single parents and families were especially concerned, as they struggle to pay school fees and to provide a decent standard of living for their families.
- › Dissatisfaction was expressed with regard to the differing wage and allowance levels for Mombasa-based employees compared to

those based in Nairobi.

- › Dissatisfaction with training, career development and promotional opportunities
- › Dissatisfaction with management of employee grievances, employee-management interaction, and uptake of staff suggestions by management
- › Desire for more flexible working arrangements. This was especially raised by mothers in Nairobi.
- › Wish for transport to/from home to be offered by the company (in the interests of personal safety)
- › Specific work-related risks for driver-guides (e.g. poor pay, health issues, lack of unionisation, long hours, poor accommodation, requirements to pay associated costs out of own wages)

«I get very positive feedback on my work, still I get paid so little.»

**PSL employee**

«You have no motivation to advance yourself because there are no promotion opportunities within the company.»

**PSL employee**

<b>Existing mitigation measures</b>	<ul style="list-style-type: none"> <li>› PSL Company standing instructions from 2005 outline basic responsibilities of employees and the company</li> <li>› Kuoni Code of Conduct</li> <li>› Kuoni Global Annual Salary Review and HR management processes</li> <li>› PSL management seeks to operate an open door policy and employees can raise grievances through their Heads of Department</li> <li>› Kuoni EMPOWER survey (regular employee survey) and subsequent internal mitigation action</li> <li>› Internal auditing by Kuoni to monitor the implementation of company policies</li> </ul>
<b>Business risks for Kuoni / PSL</b>	Dissatisfaction with wage levels and career opportunities as well as lack of well-functioning grievance mechanisms may lower staff motivation and morale, leading to poor performance / customer service and low productivity.
<b>Affected groups</b>	PSL employees. Dissatisfaction was particularly high in the Mombasa office and among driver guides.
<b>Kuoni / PSL's influence</b>	Kuoni and PSL have direct responsibility for, and influence on, the working conditions of their own staff.
<b>Opportunities for engagement</b>	<ul style="list-style-type: none"> <li>› PSL is developing a new Human Resources Manual including a grievance mechanism</li> <li>› PSL has made plans to assess wage levels and look into offering flexitime</li> <li>› Opportunities for engagement with Tour Driver Guides Association</li> </ul>
<b>Possible actions</b>	<ul style="list-style-type: none"> <li>› Use opportunity of the development of new HR manual to incorporate issues highlighted during the assessment</li> <li>› Develop new HR manual with the (equal) involvement of employees in Nairobi and Mombasa</li> <li>› Commission an independent assessment of what constitutes a 'living wage' in Nairobi and Mombasa and review wage policy in reference to this</li> <li>› Develop systematic employee appraisal schemes in consultation with PSL employees</li> <li>› Develop an employee grievance mechanism in line with the effectiveness criteria described in Principle 31 of the UN Guiding Principles on Business and Human Rights</li> </ul>

### 3.2 LABOUR ISSUES OF KEY ACCOMMODATION SUPPLIERS

**Findings:** The assessment team noted that labour conditions and employee satisfaction varied significantly between the six hotels/lodges visited, although all of them stated that they operate within the framework of the Memorandum of Understanding between the major hotel workers' trade union (KUDEIHA) and the Kenya Association of Hotelkeepers and Caterers (KAHC). In some hotels, labour related concerns seemed to be less prevalent, union representation and organisation was effective, and management was perceived to be engaged in solving employee grievances, and creating a positive working environment. In one hotel, assessors identified significant gaps between the description of management processes and results by management, and the situation presented by workers. Furthermore, this particular hotel was the recipient of many industry awards. Information on labour-related human rights risks in the tourism supply chain in Kenya was also collected during interviews with NGOs, workers associations and a trade union.

The following priority issues were identified:

- › Minimum wages in the sector do not sufficiently reflect the cost of living and are not considered to be enough to support a family. Employees are highly dependent on service charges and tips, and even with these, wages do not often add up to a 'living wage'. The predominant trend towards all-inclusive hotels means tourists leave fewer tips.
- › Late payment of wages can make workers vulnerable to pressure from loan sharks.
- › Infringements on trade union rights by hotel management including: intimidation of trade union members, creation of alternative worker representation, and reports of dismissals on questionable grounds
- › Lack of written contracts in some hotels
- › Inadequate recording and compensation of overtime
- › Contract and casual workers (ranging between 25% to 75% of staff at the hotels visited) often face worse working conditions than permanent employees, have no access to pensions or other social benefits, are not able to join unions (eroding the membership base and effectiveness of the unions) and are often laid off during the low season or in times of crisis. Some workers at the hotels visited have been working there for several years in casual working arrangements without being regularised, as is required by law.

«When I look at what clients pay for my service and compare it to what I get per month - I feel used.»

**Hotel worker**

«Unions cannot operate freely here; management picks who they want to represent the workers.»

**Hotel worker**

«When I try to raise my problem with management they always say 'later'.»

**Hotel worker who claims to have been on an (oral) casual contract for eight years**

«I see my family once a year - you never get granted leave when you really need it.»

**Migrant hotel worker**

Increasing pressure to outsource services is felt by some of the hotels visited. Outsourced workers endure similar rights vulnerabilities as casual workers. It was reported that outsourcing is a growing trend in the Kenyan tourism industry.

- › Some hotel workers expressed feeling disempowered and are reluctant to voice problems with management out of fear of being easily replaced due to Kenya's high rates of unemployment.
- › Lack of satisfactory worker-management engagement and effective worker grievance mechanisms, as well as general inadequate access to remedy
- › Women are under-represented in the workforce, but are reportedly over-represented among casual contract workers. Women, often by-passed for promotional opportunities, are at risk of not being hired or losing their job when pregnant.
- › Female staff members and hotel entertainers face risk of sexual harassment by tourists.
- › Dissatisfaction with training and career opportunities, transport to and from work (in the interests of personal safety and affordability), worker accommodation, and working arrangements that impact negatively on family life
- › Lack of government monitoring of labour conditions in hotels


**Existing mitigation measures**

- › Suppliers are required to sign the Kuoni Supplier Code of Conduct
- › Independent sustainability audits of suppliers who are Travelife members
- › Monitoring of sustainability performance of other key suppliers

**Business risks for Kuoni / PSL**

- The inquiries showed a wide variation in labour satisfaction and treatment between the six hotels. Worker interviews were not always part of the existing supplier assessment system, such as Travelife audits and awards. One hotel in particular presented all the right documentation, but practices did not align. This leaves Kuoni / PSL exposed. Major risks are:
- › Reputational risks
  - › Poor customer experience due to low staff morale
  - › Threat of further social and political instability discouraging tourists from visiting, especially in Mombasa – one cause of which is the perceived unfairness in distributing the benefits of tourism

**Affected groups**

Workers at hotels, especially those in unskilled positions and particularly vulnerable groups (women, migrant workers, contract workers)

**Kuoni / PSL's influence**

- › Kuoni and PSL don't own or operate hotels. However, they can exert some influence, especially where they are a key partner
- › Large parts of the touristic supply chain are shared with other industry actors
- › The more structural issues, such as wages, require an industry-wide approach in cooperation with trade unions and the government

**Opportunities for engagement**

- › Increasing awareness of, and demand for, sustainability from certain tour operators and groups of customers
- › Openness of some hotel management to understanding their impacts and receiving advice and support to improve performance
- › Demand from some hotel management to engage in sharing of good practices between hotels
- › New Memorandum of Understanding signed between KUDEIHA and KAHK in June 2012
- › Newly-formed Association of Women in Tourism

**Possible actions**

- › Develop a robust supplier assessment system that includes worker interviews undertaken by a trusted independent third party as part of the process:
  - › Find an appropriate local organisation that could fulfil this role and arrange a series of assessments at key partners. These could be based on the new Memorandum of Understanding and the Kuoni Supplier Code of Conduct
  - › PSL management should work with the management of each hotel to establish the conditions for the assessments to be undertaken with a 'learning' and business improvement mindset
  - › The assessments should result in an agreed plan of improvement actions
  - › On the basis of the assessments, Kuoni should identify whether there are further actions to take, e.g. providing training to hoteliers on specific issues
- › Consider developing an incentive scheme for well-performing suppliers
- › Explore opportunities to address the issue of seasonality e.g. through targeted development and marketing of travel packages for the low season

In the long-term, a meaningful approach to labour rights in the supply chain needs to take into account opportunities for joint awareness-raising, incentives and monitoring activities with other tour operators and other actors in the industry and beyond (e.g. unions, government).



### 3.3 CHILDREN'S RIGHTS

**Findings:** The commercial sexual exploitation of children by tourists in Kenya is perpetuated by poverty and socioeconomic marginalisation. This includes exclusion from employment and training opportunities in the tourism sector, as well as the failure of government to effectively disburse the economic benefits of tourism through the provision of public services, including education. Child labour was not reported to be an issue in any of the large hotels, and exists mainly in the informal economy, including in agricultural production. Therefore Kuoni/PSL and their suppliers may be linked to child labour through their supply chains.

The following issues were identified during talks with management at hotels, NGOs and with child sex workers:

- › Basic awareness of child sex tourism is high at the hotels visited in Mombasa, and all of them have developed measures to ensure abuses don't occur on their premises. This has pushed the problem into

smaller hotels, clubs, brothels and private homes.

- › The Code of Conduct for the Protection of Children from Sexual Exploitation in Travel and Tourism (The Code) needs to be localised and institutionalised in order to foster ownership and effective implementation. Up-market hotels are well-aware of the problem, but the approach needs to be broadened to include other stakeholders (e.g. small hotels, bars, taxi drivers). Furthermore, it was reported that employees in some up-market hotels are still involved in facilitating tourist introductions to child sex workers.
- › Need for greater awareness-raising and sensitisation of communities, local leaders, hotel workers, private sector operators, police, magistrates and tourists of the dangers and illegality of child sex tourism, and to counter social acceptability

«There are no job opportunities. The only thing I have is my body I can sell to get my daily bread.»

**Child sex worker**

#### Existing mitigation measures

- › Kuoni signed The Code in 2006 and is committed to implementing its six criteria
- › Kuoni initiated child sex tourism awareness-raising and training for hotels at the Mombasa coast to promote The Code
- › Customer information
- › On-going dialogue with KAHK
- › Support for Child Welfare Society Kenya

#### Business risks for Kuoni / PSL

- › Reputational risks
- › Negative reputation affects destinations and loss of 'good' customers (e.g. families)

#### Affected groups

Both male and female children, especially at the coast. Children at higher risk of marginalisation (e.g. poor children, orphans, migrants) are at greater risk of abuse.

#### Kuoni / PSL's influence

Child sex tourism mainly occurs outside Kuoni / PSL's supply chain in smaller hotels, bars, clubs and private homes. This limits Kuoni / PSL's leverage to address the problem and highlights the need for an industry-wide approach involving the government and full range of affected stakeholders.

#### Opportunities for engagement

- › Goodwill is felt towards Kuoni that could be built on in taking a lead to engage others in the industry
- › New national Plan of Action to Combat the Sexual Exploitation of Children (due to be launched in late 2012)
- › Opportunity to build on workshop-series started by Kuoni with hotels in 2011

#### Possible actions

- A realistic strategy to eliminate child abuse in tourism in Kenya needs to start by addressing the attitudes of communities and society at large – something which cannot be done successfully by one company alone. Some areas where Kuoni could support a broader societal transformation are:
- › Encourage suppliers to openly display tourist information on the issue of child sex tourism and possible opportunities for action
  - › Work through supply chain and business networks to support the effective implementation of The Code, including through greater engagement of hotel employees
  - › Explore opportunities to intensify cooperation with local NGOs that work on the nationalisation of The Code and for supporting the new national action plan to combat sexual exploitation of children

- › Lack of enforcement of child protection laws, victimisation of child sex workers by the police, lack of access to remedy
- › «Cultural» perceptions leading to a failure to recognise sexual abuse and exploitation as an issue affecting boys. Lack of recognition of, and support for male child sex workers, especially those who are, or are perceived to be gay. Homosexuality is culturally taboo and sexual acts between men are illegal
- › Need for resources for further counselling, rehabilitation, education, life skills and vocational training for child sex workers, as well as seed-funding for micro-enterprises to support former child sex workers in alternative income-generating activities
- › In the view of certain local stakeholders, the all-inclusive model of tourism at the coast is particularly exclusive and detrimental for local traders, tour operators, and communities as it encourages little or no spending beyond the hotel walls. This can cause levels of tourist harassment to increase, which can further deter tourists from leaving the hotel.
- › Lack of training, employment and promotion opportunities for locals in large hotels. Concentration of tourism training institutions in Nairobi, with limited opportunities for less affluent Mombasa residents
- › Need for greater opportunities and assistance to Maasai women to market and sell their jewellery and curios to tourists and hotels
- › The most significant problem highlighted by rural communities was driver-guides retaining a large portion of the fees paid by tourists to visit Maasai cultural villages. In many cases, this is related to the low income of driver guides mentioned previously.

### 3.4 DISTRIBUTION OF ECONOMIC BENEFITS

**Findings:** The main positive impacts of tourism in Kenya cited by stakeholders were job creation, economic gains for the country, and improvements in infrastructure. However, at the same time, the lack of opportunities to benefit from tourism was identified as major negative impacts by stakeholders in all areas visited. The most prevalent issues raised during the country visit were:

- › Economic exclusion of communities and small-scale tourism entrepreneurs from the benefits of tourism by both private sector and government actors. This exacerbates poverty and leads to frustration and resentment, particularly where communities living adjacent to national parks are losing livestock and crops to wildlife without adequate compensation.
- › Limited sourcing and supply chain linkages with local producers and service providers
- › Limited geographical diversification of tourism product, e.g. over-concentration of tourism facilities in certain areas and exhaustion of existing itineraries

«People in the industry are suffering. They can't send their kids to school. We are working with peanuts.»

**Representative of Mombasa Boat Operators Association**

«Local entrepreneurs are left to pick up the crumbs that the big guys have left.»

**Representative of Mombasa Coast Tourism Association**

«Tourism / tourists are like clean water in a fast-flowing river that is rushing past, which we have no means to enter.»

**Maasai small farmer**

#### Existing mitigation measures

- › Kuoni/PSL support local businesses, including marketing small scale entrepreneurs and small camps, and offer educational workshops on business management, training and marketing.
- › Kuoni/PSL work with sub-hired vehicles, owned and managed by local individuals and small companies.
- › Kuoni/PSL actively develop new products focusing on rural areas including tea/coffee/pineapple plantations, flower farm visits, dairies, etc.
- › Kuoni/PSL support local tourism institutions through in-training/internship opportunities for students, employment and even financial support.

#### Business risks for Kuoni / PSL

- › Deep-rooted frustration at the lack of distribution of the benefits of tourism and exclusion from tourism economy is a contributing factor to wider social and political unrest. In Mombasa, this unrest has seen the emergence of a secessionist group; in Amboseli, there have been wildlife killing sprees around the national park. This growing instability and outbreaks of conflict in tourist areas is posing significant risks to the continuity of the business in the immediate and long term
- › High levels of tourist harassment are negatively affecting the tourist product and may lead to perceived limitations on freedom of movement.

<b>Affected groups</b>	Small-scale tourism entrepreneurs (e.g. beach-sellers, Maasai villages, local farmers); local communities
<b>Kuoni / PSL's influence</b>	Unequal disbursement of economic benefits from tourism cannot be addressed by Kuoni / PSL alone and will need a long-term approach involving the broader tourism industry, local communities and government. However, it is possible for Kuoni / PSL to take some practical actions, show leadership and encourage others in the industry to engage.
<b>Opportunities for engagement</b>	<ul style="list-style-type: none"> <li>➤ Scope for the private sector to influence the government on the issue of equitable benefit sharing, socioeconomic impacts and inadequate infrastructure</li> <li>➤ Opportunities to access new market segments and improve benefit sharing through diversification of tourism products, e.g. developing tours and accommodation in new areas, including group ranches outside national parks</li> <li>➤ Opportunities to learn from existing initiatives to develop an alternative ticketing / payment system for village tours and support initiatives training local Maasai as driver-guides</li> <li>➤ Learning opportunities from initiatives elsewhere for beach traders to improve self-organisation and mitigate tourist harassment (e.g. Travel Foundation)</li> </ul>
<b>Possible actions</b>	<p>There are actions which Kuoni / PSL can take alone, or with a limited number of partners. However, there are also broader questions here about the way the tourism industry operates. To tackle these, Kuoni / PSL will need to consider how it can show leadership within the system, engage with actors across the industry, and seek to stimulate broader reform of government policy and industry practices.</p> <p>Areas of engagement to explore are:</p> <ul style="list-style-type: none"> <li>➤ Review available methodologies for undertaking a baseline assessment of the current economic impact of Kuoni / PSL operations in Kenya (e.g. Oxfam poverty assessment, New Economics Foundation LM3)</li> <li>➤ Address the issue of tour fees withheld from villages in a participative and consultative manner, while attending to the concerns of driver-guides, e.g. through establishing a dialogue between driver-guides, hotels and communities, and introducing a non cash-based system</li> <li>➤ Explore opportunities to increase economic empowerment and capacity building of local communities to improve their employment opportunities, market access and inclusion into the touristic supply chain. A range of 'quick wins' are available e.g. providing Maasai women with better opportunities to sell their products. Any such initiatives should be undertaken in a participative, gender-sensitive manner.</li> <li>➤ Systematically explore the issue of local sourcing together with key hotels and local communities / associations to identify existing barriers to, and opportunities for, joint action</li> <li>➤ Greater engagement and partnership development with beach and boat operators associations in Mombasa</li> <li>➤ Advise hotels of concerns regarding the social and economic impact of all-inclusives and how these can undermine the quality of the tourism product</li> <li>➤ Explore and highlight the role of the customer in actively encouraging change through choices in the destination, e.g. consider developing a customer code of conduct in cooperation with local communities</li> <li>➤ Offer sponsorship / bursaries to local disadvantaged youth to attend tourism training courses</li> <li>➤ Establish mechanisms and / or channels for on-going engagement and consultation with local rights-holders / stakeholders. The dissemination of the impact assessment results could mark a starting point in this regard</li> </ul>

See chapter 5, page 26 for commitments of Kuoni/PSL towards distribution of economic benefits.





### 3.5 COMMUNITY IMPACTS

In addition to the economic issues affecting local community stakeholders discussed above, a range of social, cultural and environmental impacts were highlighted. This includes impacts arising from action or the lack thereof by Kuoni / PSL, suppliers or government. This includes:

- › Land-related grievances. In Mombasa community grievances about land taken for tourism development as part of a pattern of wider, historical socioeconomic exclusion are contributing to social and political conflict, including the emergence of a secessionist organisation as well as demands by the communities for the hotels to pay bednight fees.
- › Insecurity of tenure for informal settlement dwellers adjacent to tourism areas, who face risk of eviction without compensation or access to remedy
- › Inequitable appropriation of water supplies by the tourism sector. Loss of access to natural water resources for domestic and livestock use. Lack of water infrastructure and access within settlements and low water pressure caused by adjacent hotels appropriating public supplies
- › Environmental impacts of suppliers on communities, e.g. inadequate waste or waste water disposal by hotels

- › Harassment and tensions between communities and KWS, which, despite its community outreach and capacity building programmes, is perceived by many communities to value wildlife over humans, while providing inadequate compensation for loss of crops or livestock to wildlife (e.g. leading to wildlife killing sprees by Maasai in protest)
- › Cultural erosion due to touristic activity
- › Cultural misappropriation, e.g. non-Maasai lodge employees performing 'traditional' Maasai dances for guests
- › Need for increased tourist sensitisation on cultural, social and environmental issues
- › General lack of consultation and exclusion from tourism-related decision-making processes, as well as low levels of rights awareness within communities
- › Discrimination being felt by certain customer groups in hotels (e.g. black customers)

«KWS should be challenged to stop harassing people and to understand that humans are more important than wildlife.»

**Maasai at a cultural village**

#### Existing mitigation measures

- › Building water dams for local communities at Mombasa coast (2007-2010)
- › Roundtable with hotels to address water competition issues with local communities at Mombasa coast (started in 2011)
- › 'Water project' along Mombasa coast – establishing water management guidelines for hotels and start measuring consumption of key suppliers
- › Some issues addressed by Supplier Code of Conduct and Travelife audits
- › Specific negative impacts are raised with suppliers as PSL becomes aware of them
- › PSL engaged in developing the tourism market for local customers
- › Information is provided for customers in brochures, travel documents, itineraries etc. on various issues, such as child sex tourism, and cultural sensitivities

#### Business risks for Kuoni / PSL

- › Risks to the medium to long-term stability and attractiveness of the destination and the product
- › Risk of losing certain customer groups

#### Affected groups

Communities near hotels / safari parks and those that are affected by tourism or displaced by the creation of national parks or tourism developments. Socioeconomically marginalised communities in Mombasa, especially those living in informal settlements. Indigenous groups are particularly vulnerable. Women are disproportionately impacted by limited water access for domestic use, as they are primarily responsible for collecting water. Black customers are more vulnerable to discrimination.

#### Kuoni / PSL's influence

As it does not own or operate hotels, Kuoni / PSL's direct influence on these broader impacts in its supply chain is limited. Kuoni / PSL has very limited relationships and interactions with potentially affected communities, which may hinder its ability to remain alert to potential impacts. Kuoni / PSL can have a certain influence through awareness-raising etc. on the behaviour and choices of tourists travelling to / within Kenya.

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**Opportunities for engagement**

- › Search for areas where issues are presenting immediate business risks and scope potential opportunities to play a leadership role in bringing parties together to look for solutions
- › Opportunities to raise awareness about potential impacts with key suppliers
- › Opportunities to access new market segments / diversify the tourism product and reach new groups of customers
- › Guidelines provided by CEO Water Mandate on business engagement in sustainable water management and policy formation

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**Possible actions**

- › Develop on-going due diligence measures that will help Kuoni / PSL ensure they are not linked to land-rights abuses through their supply chains, founded upon the principle of free, prior and informed consent, and the recognition of customary land rights
  - › Explore opportunities for improving or starting dialogue between local communities, tourism stakeholders and government as part of this process
  - › Commission assessment of water-related risks at catchment level, possibly in partnership with other sector stakeholders. Make information available to relevant government departments, sector stakeholders, and communities, so that it can inform sustainable and participative tourism and water resource planning and management
  - › Build on Water Roundtable process, ensuring sufficient, genderbalanced, representation of local communities, including informal settlements. Support access to information to ensure communities can participate in an informed manner. Take into account power imbalances and ensure adequate <space> at meetings for community and gender-specific perspectives to be heard
  - › Finalise and disseminate water management guidelines for hotels. Begin measurement activities and work with suppliers to develop and implement targeted reductions in water consumption, where this is not already covered by the Supplier Code or other schemes
  - › Engage in awareness-raising about the issues highlighted with key suppliers, tourism associations and relevant NGOs. Identify and implement joint mitigation actions across the industry
  - › Explore opportunities for engaging in government lobbying on some of the issues highlighted, and to promote inclusive, sustainable tourism planning, including jointly with other partners and stakeholders
  - › Find meaningful ways to disseminate the results of the pilot human rights impact assessment locally, including by initiating a dialogue with affected stakeholders / rights-holders e.g. through interactive workshops
  - › Sensitise tourists on their potential impacts, e.g. through the development of a Code of Conduct for visitors developed jointly with affected stakeholders
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See chapter 5, page 26 for commitments of Kuoni/PSL towards community impacts.





## 4. LESSONS LEARNED

### 4.1 LESSONS ON THE PROCESS

One central aim of the project was to design an impact assessment methodology that works for the business, and can systematically be used by Kuoni

in other destinations. The following lessons were drawn from the pilot process:

<b>Skills of the team</b>	<ul style="list-style-type: none"> <li>› Kuoni, TwentyFifty and Tourism Concern combined business, human rights and tourism expertise, private sector and civil society perspectives, as well as research, engagement, and process management skills</li> <li>› The team has been able to engage effectively with a wide range of stakeholders in the business, and beyond. Access to, and openness of, different stakeholders was made possible by having TwentyFifty and Tourism Concern undertake the external engagement</li> <li>› The individual advisors provided valuable input and guidance throughout the project</li> </ul>
<b>Background research</b>	<ul style="list-style-type: none"> <li>› Identifying key areas of potential risk and the wider socioeconomic context helped inform the development of relevant stakeholder-specific questions. Care was taken to ensure this did not narrow the enquiry</li> <li>› Direct engagement with local stakeholders raised new issues, helped reveal their complexity, and assisted in the prioritisation of issues. Some areas of prepared questioning quickly became irrelevant, as they did not reflect the priorities of respondents, while others became a focus of every meeting</li> </ul>
<b>Use of open assessment and interview methods</b>	<ul style="list-style-type: none"> <li>› This allowed for the identification of a broad range of issues of relevance to stakeholders</li> <li>› The assessment team was able to confirm and test information received at one meeting at others, and compare information and perspectives from different stakeholder groups. This helped to unveil misunderstandings</li> <li>› There was a general consensus on what the main issues were across stakeholders groups</li> <li>› Critical reflection on the interview methods used is necessary</li> </ul>
<b>Need for flexibility due to nature of tourism</b>	<ul style="list-style-type: none"> <li>› The assessment team had to adapt its methods to the changing circumstances on the ground, especially as meetings were held during the high season</li> <li>› This resulted in varying depth and quality of interviews which might limit the comparability of results from different meetings</li> </ul>
<b>Different understanding of human rights and tourism by stakeholders</b>	<ul style="list-style-type: none"> <li>› The tight schedule restricted the time available to brief and raise awareness of the varying stakeholders involved in the process</li> <li>› This may have limited the level of insight provided in the interviews and will most certainly need further attention in implementation</li> <li>› In future assessments, a short business and human rights awareness raising exercise should be part of all engagements where appropriate / necessary</li> </ul>
<b>Confidentiality</b>	<ul style="list-style-type: none"> <li>› It is critical to assure workers and community members that their views will be treated confidentially, and that individual responses will not be revealed to management</li> </ul>
<b>Expectation management</b>	<ul style="list-style-type: none"> <li>› This needs to be a key element of all stakeholder interviews, as the human rights assessment process inevitably raises expectations, especially among workers and community members, who tended to view the assessors as people who could solve their problems</li> <li>› The effective dissemination of results will further assist in this regard. Many community, NGO and workers' association stakeholders expressed a keen desire to benefit and learn from the findings</li> </ul>
<b>Use of local facilitators</b>	<ul style="list-style-type: none"> <li>› This was essential to gaining access and engaging in meaningful consultations, especially with respect to vulnerable workers and community members</li> <li>› A limitation is that worker interviews were mainly held with people that spoke fluent English and in communities, those who spoke English tended to dominate the discussions</li> </ul>
<b>Gender balance</b>	<ul style="list-style-type: none"> <li>› The process recognised that the types and severity of impacts are experienced differently by women and men, but that the voices of women often remain unheard. Therefore, the process aimed to identify gender-specific issues and impacts both through the questions developed and through seeking gender-balanced consultations</li> <li>› However, women's participation at the community meetings remained limited, both in terms of representation and contributions to the discussions. This was partly because none of them spoke English and all discussions went through male intermediaries</li> </ul>

**Tightly packed schedule**

- › This allowed for little time for reflection between meetings

**Business engagement**

- › The project approach ensured the PSL team were involved from the outset, and that their capacity to identify and mitigate human rights impacts was built
- › Their continued positive engagement, ownership and buy-in is critical to the implementation of the findings

## 4.2 LESSONS FROM FINDINGS

**Level of insight**

- › The assessment has produced considerable insight into the human rights impacts of tourism in Kenya, and the types of actions which Kuoni – in some cases, with its industry partners – may take to contribute towards removing, mitigating or ameliorating these impacts, and promoting access to remedy
- › Assessment focused only on hotels as business partners and certain regions in Kenya
- › Priorities for further assessment include looking at other types of business partners (e.g. local airlines), as well as on other parts of the country and how these impacts might relate to Kuoni / PSL's business (e.g. working conditions on farms where hotels procure food, labour conditions at suppliers in other regions of Kenya)

**Kuoni / PSL's own employees and key partner hotels**

- › The assessment has highlighted the grievances which are held both by Kuoni / PSL's own employees and by workers at major business partners
- › Many interviewees appreciated the chance to voice their concerns and used the assessment as a channel to voice long-held grievances
- › Existing mechanisms for engagement and supply chain assessment are inadequate in detecting and addressing these impacts and grievances

**Communities**

- › Assessment helped to identify a broad range of issue areas with regard to community rights and societal benefits of tourism
- › Potential risks for the business, lack of adequate mitigation measures, and opportunities for taking a leadership role to initiate positive change were highlighted

**Kuoni / PSL leverage**

- › While some impacts identified can be directly mitigated by Kuoni / PSL, many lie outside the areas where they have direct leverage
- › Most of the issues require a broader, sustained industry approach involving key stakeholders in the tourism industry in Kenya and beyond
- › There was great interest and openness from civil society and tourism association stakeholders to learn from this process and collaborate in finding and implementing solutions

**Role of government**

- › The assessment has shown the crucial role of the government in fulfilling its duty to protect human rights, e.g. in addressing human-wildlife conflict, tackling child prostitution, protecting indigenous rights, ensuring a living wage, promoting access to remedy, targeting remote communities with rural development interventions, diversification of the tourism sector, ensuring sustainable and participative tourism planning, promoting responsible practices within the tourism sector, as well as job creation and training
- › Challenges regarding corruption, lack of accountability, responsiveness and participation on the part of government, were also identified in the assessment

**Sustainability of the process**

- › This is dependent on Kuoni and PSL forging on-going links and channels of communication with affected stakeholders

## 5. WAYS FORWARD

Kuoni/PSL are now designing and implementing concrete mitigating actions, which will aim to appropriately respond to the issues identified in this report. The pilot impact assessment is only a first step. Further engagement with stakeholders and deeper exploration of certain aspects are necessary to more fully understand and address the issues.

Furthermore, Kuoni is planning to refine and adapt the methodology of this impact assessment, and to roll it out in other destinations. In order to shape its future strategy and practice on assessing human rights impacts, and define appropriate follow-up actions, Kuoni invites interested stakeholders and parties to provide feedback to this report and the ideas presented in section 5.2. Kuoni will also provide clarifications and additional information on issues raised in this report upon request. Please address your feedback and requests to [cr@kuoni.com](mailto:cr@kuoni.com).

### 5.1 THE WAY FORWARD IN KENYA

Kuoni commits to planning and undertaking the following immediate follow-up actions:

#### 1. Labour issues at Kuoni/PSL:

- › Share positive and negative findings with all employees
- › Incorporate findings in the development of new PSL Human Resources manual, including a new grievance mechanism to be aligned with the UN Guiding Principles on Business and Human Rights
- › Alignment with results and follow-up actions of the EMPOWER survey, the employee satisfaction survey regularly conducted by the Kuoni Group worldwide
- › Conduct a living wage assessment and benchmark salaries
- › Institutionalise and reinforce an open door policy of management

#### 2. Labour issues at key accommodation suppliers:

- › Organise a capacity-building workshop for hotels in Kenya on «improving business performance through respect for labour conditions and social rights»
- › Continue to promote Travelife at the destination
- › Continue to act as an active member of the Travelife steering committee focussing in particular on integration of social and human rights issues within the whole Travelife system

#### 3. Distribution of economic benefits:

- › Establish a participative, gender sensitive

project to measure local economic benefit of PSL/suppliers, e.g. in Amboseli. As part of this project, organise a workshop for local stakeholders and identify actions to increase economic empowerment and involvement of local communities

- › Share outcomes of this project and the resulting improvement actions throughout the tourism industry in Kenya
- › Assess available learning from initiatives elsewhere that aim to mitigate tourist harassment by promoting beach operator and hotel cooperation

#### 4. Children's rights

- › Continue to lobby for the global establishment of The Code network
- › Support establishment and training/capacity building of local Code representative in Kenya

#### 5. Community impacts

- › Kuoni has not defined any concrete measures at this stage but will continuously monitor the situation
- › The potential impacts of any developments in this area will be addressed accordingly

The implementation of the follow-up actions will be monitored by Kuoni, through its internal audit program and Corporate Responsibility department. Kuoni will report on progress through its website and annual report.

### 5.2 THE WAY FORWARD FOR KUONI

The pilot impact assessment process has revealed interesting insights for Kuoni while highlighting contentious challenges and issues that will need to be considered when conducting future impact assessments.

Some reflections on the way forward and for further discussion in this regard include:

- › The specific challenges in each particular destination require thoroughly mapping the local supply chains to see where Kuoni can have an influence. This mapping can inform the selection of stakeholders to involve. Depending on the local context, it may also be valuable to involve additional stakeholder perspectives, such as tourists or relevant governmental departments.
- › The content and approach of future assessments need to be tailored closely to the specific challenges



and conditions in respective destinations, in terms of both human rights issues and the nature of the business. Varying assessment methods and formats could be developed and tested, e.g. combining workshops which include several tourism industry stakeholders and NGOs for an exchange on human rights impacts together with one-on-one talks with particularly vulnerable groups. Joint workshops could help establish common ground between stakeholder groups and lay the basis for the definition of widely-accepted and shared follow-up measures.

- For some destinations, it may be advisable to address human rights by integrating it into a broader sustainability approach, or jointly with other topics like biodiversity, environment or resource use. In others, a stand-alone approach will be more

appropriate. Kuoni may explore how human rights can be integrated more strongly into the regular sustainability dialogue with selected destinations and share this learning with other destinations.

- Kuoni will explore ways to integrate and discuss the challenges of assessing human rights impacts at its annual stakeholder dialogue.
- Priorities for future assessments could be planned and conducted jointly with other companies in the tourism sector.

Kuoni will inform its stakeholders about new developments and further activities in this area through its website and other reporting channels.



## 6. STATEMENTS BY EXTERNAL STAKEHOLDERS

Individuals that acted as advisors to the project have been invited to provide statements on the project which are included in this chapter.

«AKTE» Working Group on Tourism and Development, Switzerland

**Statement by Dr. Christine Plüss, Director**

«I am impressed by the quality of the reporting and by the comprehensive approach that has been adopted in this first ever Human Rights Impact Assessment (HRIA) in the tourism sector. The skilled and qualified HRIA team of specialists drawn from the industry and from human rights and tourism monitoring organizations has enabled a wide range of stakeholders from Kenya to be included in this impact analysis, from tourism managers to industry employees, representatives from local communities and unions and even minors involved in the sex trade. And it is this sheer range of coverage that makes the assessment so valuable and so unique.

The same stakeholders also showed a remarkable willingness and openness in their responses to the study and the corresponding discussions with the specialist team. Everyone concerned should now be comprehensively informed about the results, and should also be included and involved in any further actions planned in the light thereof.

The report clearly identifies a need for action to improve the working conditions of the local tourist sector personnel in accordance with the International Labour Organization's «Decent Work» guidelines. Other issues, however, such as the position of women in the tourism sector and concrete options for strengthening this and empowering the women concerned, remain less well highlighted.

A further area that remains underexplored in the present report is the whole issue of child labour, including but also extending beyond their sexual exploitation, which was already being described as «alarming» in ILO studies of the tourism sector more than ten years ago. Many minors are being exploited in the «backstage» tourism-sector companies – classic

suppliers such as laundries, plant nurseries, farms, craft workshops and transport firms.

It is to be hoped that Kuoni, with its commitment to respecting human rights all the way through to the suppliers in Kenya's value-adding chain, can wield some influence. Because it is here that the most burning questions arise regarding the fair involvement of the broader population: of farmers and fishermen, who supply the tourism sector and should be made fit to do so; of the indigenous communities, who should enrich the sector with their unique crafts and skills; and of the local residents in general, with whom a joint approach should be adopted to prevent possible conflicts over land or water use and to tackle the growing waste disposal problem.

The tangible results of this HRIA from Kenya are a valuable source of information for the entire management of the Kuoni Group, and must be communicated accordingly. This high quality report can be used to heighten the awareness among the persons responsible at Kuoni not only of the impact of their business activities but also of the risks such impact poses in terms of the group's future business performance.

I hope that similar human rights impact assessments, duly adapted to local contexts and conditions, can now be conducted at further destinations at which Kuoni, through its strong subsidiaries, can wield a significant influence on the local tourism sector. Kuoni's exemplary approach in performing its Human Rights Impact Assessment in Kenya has set out the key parameters – not only for the Kuoni Group but for all travel and tourism providers – by which such companies can live up effectively to their due diligence responsibilities and their duty to respect and protect human rights.»

## Fair Trade in Tourism South Africa (FTTSA)

**Statement by Jennifer Seif, Executive Director**

«This initiative by Kuoni is both welcome and timely. Human rights in business is becoming an increasingly important topic, particularly in Europe, and the travel and tourism industry must not be left behind. The findings of the pilot study underscore a number of imperatives going forward.

Firstly, companies like Kuoni must define their scope of influence and focus on «quick wins», at least initially, which will improve the working conditions and livelihoods of staff (sub)contracted to their own business units. Improved human resource practice is good for workers in destinations, good for their households and good for customers who depend on staff for their holiday experiences i.e. it makes good business sense. There will always be some disconnect between policy and practice and performance management systems should take into account employee feedback to incentivize management to «walk the talk».

Secondly, the question of a living wage is important, but problematic to define and often beyond the capacity of local suppliers facing difficult trading conditions, due in part to the global economic situation but also linked to aggressive price competition between tour operators. International tour operators need to broaden their understanding of Corporate Social Responsibility so as to reform their own commercial practice. This may result in less money being invested in «projects» so that the ordinary men and women labouring in the industry can secure a better quality of life.

Thirdly, to effect change beyond its immediate scope of influence, Kuoni should team up with peer organisations to develop common codes of conduct for hotels, lodges, ground transport operators and other tourism services.

Shared muscle in the supply chain will deliver stronger results compared to one company trying to impose conditions on second or third tier suppliers.

Collective action also presents opportunities to share the costs of conducting future human rights impact assessments in destinations.

Fourthly, certain negative impacts will continue to remain outside the scope of international tour operators. The roles and impacts of business, government, parks authorities, trade unions, trade associations and other interest groups need to be mapped on a destination by destination basis. International travel and tourism businesses working in concert can exert pressure for reforms - up to a point. They can also support the work of credible, local advocacy organisations through grant-making and cause related marketing to help get the human rights message into the public domain and call governments into account.

Fifthly, human rights issues must be mainstreamed within sustainable tourism certification and award programmes. Many programmes pay lip service to labour and community empowerment issues, partly because these are not well understood and often difficult to measure and also because the market is very focused on the «green» elements of travel. Sufficient time must be invested in auditing procedures to identify problems at firm level and disincentives for non-compliance with human rights standards enforced by buyers.

Lastly, educating and mobilizing tourists remains a challenge for everyone in the value chain. The work of campaigning organisations in source markets must be continually supported, financially and non-financially. Consumers and shareholders can and should put pressure on the industry to take seriously human rights problems and play their part, and on governments to be more accountable.

I look forward to sharing the findings of the pilot study with stakeholders in South Africa and hope that similar studies will be repeated throughout Africa.»

Swiss Centre of Expertise on Human Rights,  
Switzerland

**Statement by Prof. Dr. Christine Kaufmann ,  
University of Zurich**

The Swiss Centre of Expertise on Human Rights is an independent network of Swiss universities with business and human rights as one of its key areas of activities. Based on our experience we would like to offer three comments with a view to develop the framework further.

#### **1. Process:**

With its pilot project on Kenya Kuoni undertakes an important step towards implementing the UN Guiding Principles on Business and Human Rights and its own recently published Statement of Commitment on Human Rights. We commend Kuoni on actively engaging in a process that includes a variety of stakeholders and business partners. Tourism is a complex business and there are no easy solutions to address the manifold human rights challenges. The list of lessons learned during the pilot project is impressive and shows Kuoni's determination to fill its Human Rights Commitment with life. One of the particular challenges which the Report illustrates is interviewing employees. For future projects we would therefore suggest reviewing the setting for conducting the interviews and including culture specific expertise when drafting the questions.

#### **2. Suggested actions for Kenya:**

We appreciate that the Report contains actions for an immediate follow-up. However, some of the measures seem very general and need further clarification in order to be operationalized; others may not be the first choice in the cultural context of Kenya. For instance, criteria for living wage assessment and benchmark salaries need to be communicated and the financial resources to solve any discovered problems be set aside. Similarly, the conceptual underpinnings for the envisioned capacity building workshops need to be identified. What does business performance mean in this regard? Particularly ambitious are the suggested actions with regard to economic impact. We strongly recommend developing a more concrete set of measures with clear goals that can be measured. Overall, it is important for the action plan to include the criteria which will be applied for its evaluation.

#### **3. Follow-up:**

Kuoni has taken a very important step towards implementing the Guiding Principles with the Pilot Project on Kenya. While the first three elements of such a process – mapping stakeholders and the supply chain as well as identifying potential negative human rights impacts of business operations – are explained in the Report, there is no clear statement on the follow-up mechanisms. It is in our view essential to establish a transparent process of reviewing the goals set out in the action plan. Such an institutionalized review or evaluation process will substantially contribute to the credibility of the whole project.

Finally, we would like to encourage Kuoni to continue this ambitious policy. We hope that this project will mark the beginning of a process to implement the UN Guiding principles throughout the tourism industry.



Tourism Concern, UK

**Statement by Rachel Noble,  
Head of Policy and Research**

«Tourism Concern agreed to participate in this pilot human rights impact assessment because of the valuable learning we believed it would generate for a global business whose activities impact upon thousands of people, as well as for the wider tourism sector, civil society stakeholders in Kenya and beyond, plus other business sectors exploring what human rights due diligence means in practice. And this learning must be used to inform real changes in practice.

Kuoni has, we feel, shown real industry leadership in being the first tour operator to embark on such a process. We very much hope other tourism companies will engage with the findings and begin to follow suit, in recognition of the clear business and moral case for doing so.

We believe Kuoni's pilot HRIA has sincerely sought to be participative, consultative and inclusive. The multi-stakeholder approach, reflected in the convening of a diverse group of independent advisors, allowed for substantive and varied input to the process, which Kuoni was genuinely receptive to.

Naturally, the process has faced challenges and limitations. Firstly, the supply chain analysis was largely limited to accommodation providers. This means there may be rights violations linked to Kuoni suppliers that remain unidentified (e.g. in laundries, food and beverage production, airports). Resource constraints and Kuoni's primary sphere of influence determined this focus. Although such constraints are real and it is logical to prioritise, this does not preclude Kuoni's responsibility to respect human rights throughout its supply chains.

Another challenge relates to the issue of representation and power. Although we worked through trusted civil society contacts, it is always important to question who is claiming to speak on behalf of whom. For instance, «communities» contain a diversity of interests and unequal distributions of power. In particular, the discussions in Maasai villages were dominated by men, which means issues specifically affecting women may have been missed. Similarly, Kuoni is in a position of power relative to most local stakeholders in having the resources to conduct this research, to decide whose voices are heard and which opinions are conveyed within the pages of this report.

The greatest challenges undoubtedly lie ahead, in terms of how Kuoni implements the mitigating measures and establishes sustainable, effective, transparent and accountable mechanisms for on-going engagement with stakeholders/ rights-holders, including promoting access to remedy. This challenge applies to Kenya and elsewhere, and within the Kuoni brand and its subsidiaries.

The starting point for follow-up in Kenya should be the meaningful dissemination of the HRIA results (including making available the pretrip desk research into the legal, tourism development/ human rights context) to government, civil society, and tourism stakeholders, providing them with an opportunity to feedback and engage, as well as to freely utilise the information in their own initiatives aimed at promoting more socially inclusive and beneficial tourism. As the feedback on the implementation on the Code has demonstrated, local ownership and buy-in for addressing these issues on the ground are essential if remediating actions are to be sustainable.»

## UNICEF

**Statement by Bo Viktor Nylund, Senior Advisor  
CSR, UNICEF Private Fundraising and Partnership Division**

«UNICEF has engaged with Kuoni in the early days of building a business case for a focus on children's rights in corporate sustainability. Kuoni contributed towards the Children's Rights and Business Principles (developed in a process led by UNICEF, the UN Global Compact and Save the Children and released in London on 12 March 2012) and tools developed by UNICEF, and vice versa, UNICEF supported Kuoni during the company's initial steps to address children's rights in its sustainability approach, including through the Statement of Commitment on Human Rights, which was adopted by Kuoni on 5 March 2012. This was the first public corporate commitment to the Children's Rights and Business Principles, putting the issue of child rights firmly on the Kuoni sustainability agenda.

UNICEF welcomes this next step Assessing Human Rights Impacts – Kenya Pilot Project Report. This is the first human rights impact assessment in the travel and tourism industry that takes the opportunity to integrate concerns vis-à-vis children's rights. It has been an important pilot project, allowing each party to learn and improve so that others can benefit from this experience.

Kuoni has taken great care in this process to understand the different aspects relevant to children's rights, and the difference between: Child rights on the one hand, which refer to the full spectrum of rights as elaborated in the Convention on the Rights of the Child and are relevant to children's issues. This covers all aspects and angles and is the most comprehensive of the terms; and child protection on the other hand, which refers to the impact of and actions to address violence, exploitation and abuse is more narrow but refers to a subset of children's rights and responses.

The way the current project was implemented, to some degree, it decided beforehand that certain issues were more relevant than others and only studied certain aspects of children's rights as part of the impact assessment. In an effort to learn from Kuoni's experience it would be important to consider the full range of issues as part of the impact

assessment, and only then discuss and decide what is material based on the broader impact assessment. The risk being that important impacts on children's rights never were studied because they were not considered important.

UNICEF commends Kuoni's efforts to engage with children as part of the project, confirming the need for UNICEF and partners to provide further tools to the corporate sector demonstrating the importance of engaging with children as a distinct group of stake-holders and practical ways in which to do so. Children have important inputs in all parts of the assessment and implementation process, not only relevant to issues where a company expects there to be issues, such as in the area of sexual exploitation of children for the tourism industry, but engaging children on broader aspects of impact on children's rights. In fact, this approach could have allowed for a full picture of the main interlinkages, and for a prioritization process with children to decide what would be most material.

In relation to the issue of child labour, the study concludes that while child labour is not an issue among first tier contractors, Kuoni may be linked to child labour through its supply chain. Addressing child labour is a complex issue and it must always be addressed in partnership with other relevant actors, including government. Child labour is a symptom of broader issues of poverty and absence of services, such as education, and this discussion and assessment process could have led Kuoni to consider further how it might engage to support children's rights in positive ways.

UNICEF recognizes the reference to sponsorships in addressing economic impacts, but there is potentially a great deal more that Kuoni could do utilizing its business expertise in building up support for young workers through apprenticeships, strengthening education in collaboration with government, and advocating with others in the industry to take on greater responsibility for providing services to children.»





## APPENDIX

### 1. PROFILES OF PARTNERS

# KUONI

Kuoni's head office is located in Zurich, Switzerland, where Alfred Kuoni founded the company in 1906. Over the years Kuoni has developed into today's global travel services company, now employing around 12 000 people in more than 80 countries. In its European source markets the company has more than 160 of its own retail outlets and tour operating offices. Its global destination travel services business has several different types of office: sales offices in the source markets, particularly in Asia for group travel business; agency offices that look after guests at the destinations; offices dedicated to buying in and selling online-based destination services; and offices specialising in MICE business (meetings, incentives, conferences and events). Visa services provider VFS Global (external consular services) runs a worldwide business through more than 700 offices spread across every continent. Overall, counting all business activities, Kuoni has more than 1000 offices in 87 countries around the world. Kuoni has been committed to a sustainable development of the tourism industry for many years and strives to act as a good corporate citizen which takes into full account the current and future economic, social and environmental impacts of its business.

[www.kuoni.com](http://www.kuoni.com)

# twentyfifty

TwentyFifty Limited is a management consultancy with extensive practical knowledge in designing corporate human rights due diligence programs. TwentyFifty has a broad range of experience of tackling responsible business and sustainable development issues with global companies across many sectors including: oil, gas and mining, energy and water, utilities, IT and telecommunications, food, agriculture and beverages, banks and finance and government. They:

- › work with multinational businesses to address real business problems which have social and environmental as well as economic dimensions.
- › engage across the value chain, incorporating internal and external stakeholders in support of change.
- › guide and partner clients, creating shared approaches and building internal capacities.

TwentyFifty's team combines in-depth human rights knowledge, strong business acumen and experience, and organisational development and change management expertise to ensure that clients get practical, implementable outputs that speak to the business in language it understands.

[www.twentyfifty.co.uk](http://www.twentyfifty.co.uk)



Tourism Concern is an independent UK-based NGO that campaigns for ethical and fairly traded tourism. Our vision is for tourism that is free from exploitation, that provides meaningful benefits to communities living in tourism destinations, and which is founded upon respect for human rights. Spanning over 22 years, our work includes advocacy, research and campaigning to defend the rights of tourism sector workers and destination communities, particularly in the global South. We aim to raise industry standards and promote greater corporate and government accountability, and increase consumer awareness of tourism development issues and how the positive impacts of their holidays can be maximised.

[www.tourismconcern.org.uk](http://www.tourismconcern.org.uk)



Private Safaris (E.A), a member of the Kuoni Group, is a premier Safari Specialist and Event Management company in the East Africa region, covering Kenya, Uganda, Tanzania, Rwanda and Ethiopia. Its product range includes safari and beach packages, adventure tours, honeymoon packages, golf tours, incentive travel, conference and events management. The company is committed to excellent service provision and satisfaction to each one of their clients, and boast of a well trained staff compliment, and many years of experience. Their long standing and cordial association with suppliers ensures strong buying power, enhancing value for money without compromising on product and service quality.

The company's offices are well equipped and run on the latest technology. They own a fleet of locally assembled vehicles (minibuses, 4X4s, and coaches), all comprehensively insured and fitted with two way radio communication, binoculars, reference materials and realtime satellite tracking system. Private Safaris has a pool of multilingual staff with extensive knowledge of local culture, flora and fauna. Safari being one of their flagship products, their safari drivers are carefully selected, and highly trained in all areas, including defensive driving and first aid. As a responsible corporate citizen, the company engages in four strategic areas with an objective to reduce the negative impact of tourism locally; protection of children and adolescent's exploitation and abuse, ensuring fair working terms and conditions within the industry, improving water supplies in their destinations and mitigating the impact of climate change.

[www.privatesafaris.co.ke](http://www.privatesafaris.co.ke)

## 2. IMPLEMENTATION OF UN GUIDING PRINCIPLE 18

The following table gives an overview of how the requirements of UNGP 18 have been implemented in the pilot project.

Requirements of UNGP 18	Implementation in the pilot project
Draw on internal and / or independent external human rights expertise	<ul style="list-style-type: none"> <li>Project conducted in cooperation with independent NGO Tourism Concern and specialist business consultancy TwentyFifty Limited</li> <li>Representatives from seven NGOs, academic and UN institutions accompanied the project as individual advisors</li> <li>Outreach to a broad range of experts from academia, NGOs and local associations as part of the country research and visit</li> </ul>
Involve meaningful consultation with potentially affected groups and other relevant stakeholders	<ul style="list-style-type: none"> <li>Feedback by selected stakeholders acting as individual advisors sought on the impact assessment process</li> <li>Meetings and interviews with potentially affected groups (e.g. workers, community members, child sex workers) as well as international and local NGOs / associations during the country visit</li> </ul>
Pay special attention to human rights impacts on individuals from groups or populations that may be at heightened risk of vulnerability or marginalisation	<ul style="list-style-type: none"> <li>Active outreach to local NGOs, trade unions, indigenous groups, (former) child sex workers, inhabitants of informal settlements and potentially vulnerable groups of workers e.g. single mothers during the country visit</li> </ul>
Bear in mind the different risks that may be faced by women and men	<ul style="list-style-type: none"> <li>Attention was being paid to include the specific perspectives of both men and women and to identifying the specific risks and impacts on both groups</li> </ul>
Consult potentially affected groups directly in a manner that takes into account language and other potential barriers to effective engagement	<ul style="list-style-type: none"> <li>Local intermediaries known by Tourism Concern established contacts to local organisations and communities and helped with translation during the meetings</li> </ul>
Include all internationally recognised human rights as a reference point	<ul style="list-style-type: none"> <li>Assessment framework and content are based on the International Bill of Human Rights (Universal Declaration of Human Rights and the two Covenants on civil and political and economic, social and cultural rights) as well as the ILO Core Conventions</li> <li>The assessment encompassed all human rights, including a focus on the priority topics that Kuoni defined during the development of its human rights position, namely labour rights and rights of the child</li> <li>Additional human rights instruments were consulted where applicable (e.g. Convention on the Elimination of All Forms of Discrimination Against Women CEDAW, Convention on the Rights of the Child CRC, UN Declaration on Indigenous Peoples Rights)</li> </ul>
The assessment informs subsequent steps in the human rights due diligence process	<ul style="list-style-type: none"> <li>The assessment results will form the basis for the definition of mitigation and remediation actions, integration of findings across relevant functions and processes as well as tracking performance and communication</li> </ul>



### 3. COUNTRY VISIT SCHEDULE

The following table gives an overview of how the requirements of UNGP 18 have been implemented in the pilot project.

Date	Meeting schedule
Sunday 19 August	Arrival of assessment team in Nairobi
Monday 20 August	Travel Nairobi – <b>Amboseli</b> <ul style="list-style-type: none"> <li>› Meetings with management and workers at Safari Lodge 1 (Kuoni, TwentyFifty)</li> <li>› Meetings with local community representatives and external stakeholders (Tourism Concern)</li> </ul>
Tuesday 21 August	<b>Amboseli</b> <ul style="list-style-type: none"> <li>› Meeting with management and workers at Safari Lodge 2 (Kuoni, TwentyFifty)</li> <li>› Meetings with local community representatives and external stakeholders (Tourism Concern)</li> </ul> Travel Amboseli – Nairobi Meeting with management at <b>City Hotel</b> (Kuoni, TwentyFifty)
Wednesday 22 August	Meetings at <b>PSL Nairobi</b> (Kuoni, TwentyFifty) <ul style="list-style-type: none"> <li>› Morning: Business and human rights briefing for management team and one-on-one talks for data collection</li> <li>› Afternoon: Briefing workshop on human rights impacts, impact exercise and one-on-one talks with employees</li> </ul> Morning: Meeting with <b>NGOs and associations</b> in Nairobi (Tourism Concern) Travel Nairobi – Mombasa North Coast
Thursday 23 August	Morning: Meetings at <b>PSL Mombasa</b> (TwentyFifty) <ul style="list-style-type: none"> <li>› Business and human rights briefing and talk with General Manager</li> <li>› Briefing workshop on human rights impacts, impact exercise and one-on-one talks with employees</li> </ul> Afternoon: Meetings with management and workers at <b>Beach Hotel 1</b> (TwentyFifty) All day: Meetings with <b>NGOs and associations</b> (Tourism Concern)
Friday 24 August	Morning: Meetings with management and workers at <b>Beach Hotel 2</b> (TwentyFifty) Afternoon: Transfer to Mombasa South Coast All day: Meetings with <b>NGOs and associations</b> (Tourism Concern)
Saturday 25 August	Morning: Meetings with management and workers at <b>Beach Hotel 3</b> (TwentyFifty) Meetings with <b>NGOs and associations</b> (Tourism Concern)
Sunday 26 August	Free
Monday 27 August	Meetings with <b>NGOs and associations</b> in <b>Nairobi</b> (Tourism Concern)
Tuesday 28 August	Meetings with <b>NGOs and associations</b> in <b>Nairobi</b> (Tourism Concern)



#### 4. LIST OF STAKEHOLDERS INTERVIEWED

**During the country visit representatives of the following local NGOs, groups and associations were visited:**

##### **Labour rights:**

- › Driver Guides Association
- › Kenyan Union of Domestic, Hotels, Educational Institutions, Hospitals and Allied Workers

##### **Children's Rights:**

- › African Network for the Prevention and Protection Against Child Abuse and Neglect
- › Child Welfare Society (Mombasa and Nairobi)
- › End Child Prostitution Kenya
- › Male and female child commercial sex workers
- › Solidarity with Women in Distress (Kenya)

##### **Community impacts:**

- › A Maasai cultural village
- › Amboseli-Tsavo Group Ranch Game Scouts Association
- › Boat Operators Association
- › Centre for Minority Rights Development
- › Farmers Association of Namelok
- › Kenya Wildlife Service
- › Mnazi Moja (informal settlement) in Mombasa
- › Mombasa Urban Street Traders Alliance
- › Pamoja Trust

##### **General**

**(i.e. respondents commented on full range of issues):**

- › African Pro-Poor Tourism Development Centre
- › Kenya Ecotourism Society
- › Mombasa and Coast Tourism Association

## 5. TERMS OF REFERENCE FOR COOPERATION BETWEEN TOURISM CONCERN AND KUONI

### Agreement and Terms of Reference for Cooperation Between Tourism Concern and Kuoni Assessing Human Rights Impacts – Kenya Pilot Project

This is an Agreement and Terms of Reference for Cooperation between Tourism Concern Stapleton House, 277-281 Holloway Road, London N7 8HN, [www.tourismconcern.co.uk](http://www.tourismconcern.co.uk), and Kuoni Travel Holding Ltd Corporate Responsibility, Neue Hard 7, 8010 Zurich, [www.kuoni.com](http://www.kuoni.com)

The Kuoni Group will undertake a pilot human rights impact assessment in Kenya as described in the stakeholder briefing material. The impact assessment process will be shared with a wider group of stakeholders. Kuoni reserves the right to decide whether specific impact assessment results will be shared.

Tourism Concern has agreed to act as an advisor in preparing for, implementing and disseminating the results of the assessment.

#### 5.1. RESPONSIBILITIES OF TOURISM CONCERN

Tourism Concern will act as a critical advisor to Kuoni during the project. It will be closely involved in the planning and implementation stages of the project. In the preparation phase Tourism Concern will:

- › Provide a brief based on existing knowledge and available materials of the key social, economic, political and environmental context and human rights impacts of the tourism industry in Kenya.
- › Identify a list of potentially affected stakeholders or their representatives to engage with during the country visit (NGOs, communities), taking particular care to identify vulnerable or marginal groups or their representatives, and agree which stakeholders to visit in discussion with Kuoni and TwentyFifty.
- › Devise appropriate approaches for stakeholder engagement and assessment questionnaires or other methods for recording the information gathered.
- › Lead on contacting the selected potentially affected stakeholders and setting up meetings.

During the country visit Tourism Concern will:

- › Lead the engagement process with local NGOs and communities.

In the analysis & documentation phase Tourism Concern will:

- Provide a written summary of their engagements in Kenya with key impacts identified.
- Participate in the initial review of the country visit, data gathered and the identification of impacts and key findings with Kuoni and TwentyFifty.
- Review and provide feedback to the draft impact assessment process report (Report II) to be prepared by TwentyFifty Limited.

#### 5.2. RESPONSIBILITIES OF KUONI

Kuoni undertakes to:

- › Provide Tourism Concern with such details of their business plans and performance which will enable Tourism Concern to understand the business context and pressures in which Kuoni operates.
- › Be open to the advice and challenge of Tourism Concern and to work with good intent to integrate that advice into their practices and activity.
- › In circumstances where advice is rejected, explain to Tourism Concern the basis for this rejection.

All responsibility for the actions and decisions taken by Kuoni rests and remains with Kuoni.

#### 5.3. CONFIDENTIALITY

##### 5.3.1. COMMERCIAL CONFIDENTIALITY

Whereas Tourism Concern has received or will receive from Kuoni and/or its Affiliates i.e. parent and sister companies, direct and indirect subsidiaries (hereinafter collectively referred to as 'Affiliates') commercially-sensitive and/or confidential information (orally, electronically or in writing or in any other form) concerning Kuoni and/or its Affiliates, regardless of the content or whether such information is specifically identified as confidential (hereinafter collectively referred to as 'Confidential Information').

By their nature, confidential information is especially the following:

- › Data/information with reference to KUONI's and/or its Affiliates' customers e.g. personal data/information, financial and statistical data/information;
- › Classified (formally labelled as internal or confidential or strictly confidential or similar) or recognisable as such with reference to KUONI



and/or its Affiliates e.g. financial and statistical data/information and data/information regarding processes, business practices or other know-how of KUONI and/or its Affiliates;

- All personal data/information (about natural or juristic persons), e.g. data of employees, data of business partners and agents of KUONI and/or its Affiliates.

The Recipient shall keep all Confidential Information in strict confidence. The confidential information may be used only for the evaluation and execution of the Project and must not be used for private/other purposes.

#### 5.3.2. CONFIDENTIALITY REGARDING HUMAN RIGHTS IMPACTS

Kuoni reserves the right to decide whether specific impact assessment results will be shared with wider stakeholders.

Tourism Concern will respect the need for confidentiality with regards to certain aspects of this project, as advised by Kuoni, and fully appreciates the purpose of this project. However, Tourism Concern's principal accountabilities lie with the communities in destinations negatively impacted by tourism, and the local civil society organisations who legitimately represent them and with whom Tourism Concern collaborates in working towards the fulfilment of its mission.

Tourism Concern's integrity as a campaigning organisation is based on its perceived and actual independence from the tourism industry, and the organisation cannot allow this fundamental operational principal to be undermined in any way. Therefore, where Kuoni fails to take meaningful steps in a reasonable amount of time to begin addressing the adverse human rights impacts uncovered by the assessment process resulting either directly from its activities or relationships, or indirectly but in an area where Kuoni could potentially contribute towards their effective mitigation or remediation, Tourism Concern reserves the right to pursue whichever course of action it considers most effective aimed at protecting and promoting the human rights of the adversely affected stakeholders.

Tourism Concern will work with Kuoni in the first instance to support the remediation and resolution of such issues, as appropriate. In second instance, and in case Tourism Concern does not agree with the actions

Kuoni has taken in response to its impact on human rights, Tourism Concern and Kuoni agree to jointly select a third party stakeholder which shall then decide on appropriate measures and next steps. Choosing a third party stakeholder and following actions will be pursued before involving any other party or stakeholder, including the public.

In the interests of transparency, a summary of these terms of reference will be publically available. This publicly available summary will be previously agreed by both parties.

#### 5.4. EXTERNAL COMMUNICATION

It is intended that affected and interested stakeholders will be informed of the advice and recommendations provided by Tourism Concern on the impact assessment process.

No external communication will be made about the impact assessment results and the response of Kuoni thereto, including any actions to be taken by Kuoni and any other information not covered in Report II (Report I).

Tourism Concern and Kuoni agree that no public announcements will be made except by prior agreement between the two parties with regard to the form and content thereof.

#### 5.5. COMPENSATION

The costs for the research and advice provided by Tourism Concern will be covered by Kuoni as specified. Additionally, Kuoni will cover costs of travel, accommodation and meals during the impact assessment in Kenya under the condition that Kuoni has organised or approved such expenses and costs in advance.



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Report by: Kuoni Travel Holding Ltd. ([www.kuoni.com](http://www.kuoni.com)),  
TwentyFifty Ltd ([www.twentyfifty.co.uk](http://www.twentyfifty.co.uk)),  
Tourism Concern ([www.tourismconcern.co.uk](http://www.tourismconcern.co.uk))

Contact:  
KUONI TRAVEL HOLDING LTD.  
CORPORATE RESPONSIBILITY  
NEUE HARD 7  
CH 8010 ZURICH

[cr@kuoni.com](mailto:cr@kuoni.com)  
[www.kuoni.com](http://www.kuoni.com)