

The Impact of the UNGPs on Courts and Judicial Mechanisms

2024 Africa Update

**Debevoise
& Plimpton**



Disclaimer

This report is an update to Debevoise & Plimpton's "UN Guiding Principles on Business and Human Rights at 10 – The Impact of the UNGPs on Courts and Judicial Mechanisms," which was issued in 2021. The 2021 report was prepared in conjunction with the 'UNGPs 10+' project, organized by the United Nations Working Group on the Issue of Human Rights and Transnational Corporations and Other Business Enterprises to mark ten years since the adoption of the United Nations Guiding Principles on Business and Human Rights (UNGPs) by the UN Human Rights Council in 2011.

This update is designed to provide an overview of the application of the UNGPs by judicial and quasi-judicial mechanisms in several African countries between January 2021 and July 2024. It is not intended nor is it to be used as a substitute for legal advice. The information provided to you in this report is not intended to create and does not create an attorney-client relationship with Debevoise or with any lawyer at Debevoise. You may inquire about legal representation by contacting the appropriate person at Debevoise.

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TABLE OF ABBREVIATED TERMS

2021 Debevoise UNGPs Report	“UN Guiding Principles on Business and Human Rights at 10 – The Impact of the UNGPs on Courts and Judicial Mechanisms,” Debevoise & Plimpton LLP (2021)
ACCA	African Coalition for Corporate Accountability
AfCFTA	African Continental Free Trade Area
AfCFTA Agreement	African Continental Free Trade Area Agreement
African Charter	African Charter on Human and Peoples’ Rights
African Commission	African Commission on Human and Peoples’ Rights
AU	African Union
BHR	Business and Human Rights
CHRAGG	Commission for Human Rights and Good Governance
DIHR	Danish Institute for Human Rights
GBVF	Gender-Based Violence and Femicide
Guidance Note	Guidance Note for the Management of GBVF, Safety and Security Challenges for Women in the South African Mining Industry
ILO	International Labour Organization
NAP	National Action Plan
NBA	National Baseline Assessment
NGO	Non-Governmental Organization
NHRI	National Human Rights Institution
Nigerian HRC	Nigerian Human Rights Commission
Nigerian NAP	National Action Plan for the Promotion and Protection of Human Rights in Nigeria
PAPs	Project-Affected Persons
SADC	Southern African Development Community
SDGs	Sustainable Development Goals
TIP	Trafficking in Persons



UHRC	Uganda Human Rights Commission
UNGPs	UN Guiding Principles on Business and Human Rights
UNSDCF	UN Sustainable Development Cooperation Framework
UPR	Universal Periodic Review
Working Group	Nigerian National Working Group on Business and Human Rights
ZHRC	Zambia Human Rights Commission



INTRODUCTION

In 2021, Debevoise & Plimpton LLP (“**Debevoise**”) issued a report entitled “UN Guiding Principles on Business and Human Rights at 10 – The Impact of the UNGPs on Courts and Judicial Mechanisms” (the “**2021 Debevoise UNGPs Report**”).¹ The landmark Report provided a global analysis of the ways in which courts and tribunals around the world have factored the UN Guiding Principles on Business and Human Rights (“**UNGPs**”) into their decisions and jurisprudence.

However, the world of business and human rights (“**BHR**”) continues to evolve rapidly, and there have been a number of significant developments in the years since the publication of the 2021 Debevoise UNGPs Report. In this first update to the Report, we set out post-2021 developments across a number of **African jurisdictions**. Debevoise is grateful for the invaluable assistance of the following local counsel in compiling this update:

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- **Zambia:** John Kawana and Innocent Sampa (Bowmans).

As in the 2021 Debevoise UNGPs Report, the update surveys instances in which courts and tribunals have referred to the UNGPs and provides brief overviews of other continental and national developments related to BHR. We adopted a similar methodology to the one used to produce the original report. For each jurisdiction, we and local counsel reviewed judicial and quasi-judicial decisions issued since January 2021 containing references to: (i) the UNGPs or the OECD Guidelines; (ii) other international human rights standards the UNGPs seek to protect, such as the International Labour Organization (“**ILO**”) conventions; and (iii) other BHR standards. We also relied on secondary sources,

¹ Debevoise & Plimpton LLP, “UN Guiding Principles on Business and Human Rights at 10 – The Impact of the UNGPs on Courts and Judicial Mechanisms” (July 2021) ([link](#)) (hereinafter, “2021 Debevoise UNGPs Report”).

including book chapters, journals, reports, and policy documents, to assess the wider use of the UNGPs, along with broader BHR developments.

This is the first in a series of regional updates that Debevoise intends to publish on an annual basis. We hope you find it helpful and welcome any feedback at UNGPsReport@debevoise.com.

OVERVIEW

1. This update examines post-2021 references to the UNGPs by judicial and quasi-judicial bodies in Ghana, Kenya, Mozambique, Nigeria, South Africa, Tanzania, Uganda, and Zambia. Generally speaking, the trends that we highlighted in the 2021 Debevoise UNGPs Report continue: the African jurisdictions surveyed saw increasing discussion and recognition of BHR principles; however, relatively few courts explicitly referred to the UNGPs in their decisions.
2. Only South African, Kenyan, and newly as of this update, Ugandan courts have directly referred to the UNGPs. That said, some of the rights that the UNGPs seek to protect, which are included in instruments such as the ILO Conventions, have been subject to adjudication in the region. Courts have also cited to other international BHR standards based on the understanding that businesses have a responsibility to respect human rights, such as the UN Global Compact. Industrial courts in Kenya and labor courts in South Africa have referred to these instruments to contextualize and interpret national labor laws, as well as the rights protected by their respective constitutions. Nevertheless, such cases are limited in number, and between the three jurisdictions—Kenya, Uganda, and South Africa—there are just over a dozen cases that directly refer to these UNGPs-aligned standards, and only three new cases since publication of the 2021 Debevoise UNGPs Report.
3. Several national human rights institutions (“**NHRIs**”) have conducted investigations into alleged adverse impacts of business operations on labor and human rights, as well as the environment. While they do not specifically refer to the UNGPs, the investigations consider alleged failures by businesses to due diligence potential adverse human rights impacts, as encapsulated in Pillar II of the UNGPs. As discussed in the 2021 Debevoise UNGPs Report, investigations have been conducted in Kenya, Nigeria, and South Africa; no new NHRI investigations have been undertaken since the publication of the 2021 Debevoise UNGPs Report.
4. NHRIs have also continued to serve as major drivers of awareness and implementation of the UNGPs. In Tanzania, South Africa, Zambia, and, since 2021, in Kenya and Nigeria, NHRIs have played a vital role in developing national baseline assessments on business and human rights (“**NBAs**”) or conducting similar assessments to help implement a National Action Plan on Responsible Business Conduct (“**NAPs**”). NHRIs have worked with local stakeholders, indigenous peoples, and multinational corporations to publish reports, issue guidelines, and hold workshops on the UNGPs. The publications seek to improve awareness, assist individuals in bringing human rights claims, and ultimately shape new BHR legislation. Regional organizations and bodies, which influence the implementation of international obligations into domestic legal orders and

the direction of regional policy, have also reflected the UNGPs in guidance regarding, for example, trade agreements and combatting forced labor and trafficking.

5. Developments in the wider polity also show movement towards operationalizing the UNGPs. Kenya, Ghana, Tanzania, Mozambique, Nigeria, and Zambia have completed an NBA. Since the 2021 Debevoise UNGPs Report, Nigeria and Uganda have joined Kenya in implementing NAPs; and Ghana and Tanzania have joined Mozambique and Zambia in developing or committing to develop NAPs. Several countries have also passed domestic legislation based on the UNGPs. For example, as discussed in the 2021 Debevoise UNGPs Report, Ghana has implemented due diligence requirements for grant-seeking construction businesses in the extractive industries sector,² and Kenya has set forth an array of legally binding due diligence obligations under its 2017 Stewardship Code.³ Since the 2021 Debevoise UNGPs Report, the Nigerian government has also indicated that it will develop legislation based on its NAP.⁴
6. Developments in BHR legislation are often supported by the constitutional framework in African jurisdictions. Rights enshrined in the national constitutions of Ghana, Kenya, Mozambique, Tanzania, South Africa, Uganda, and Zambia are binding on private legal persons and are directly actionable before the national courts.
7. This update suggests that, as the UNGPs enter their second decade, they have become more deeply embedded in the consciousness of public entities at various levels throughout the region. Governments and other bodies have become more proactive in consulting with diverse stakeholders to formulate directives and action plans. There is much work still to be done on the implementation of the UNGPs, but the trend is towards a greater reflection of the UNGPs in national legal orders and policies. As such, we expect references to the UNGPs to be increasingly prevalent in the decisions of judicial and quasi-judicial bodies and the laws and regulations that they adjudicate.
8. Finally, regional frameworks provide an important backdrop to understanding how African Member States have reflected the UNGPs in their national legal orders and policies. These frameworks are either binding or influential on their Member States and will therefore have some influence over the national polity. The African Union (“**AU**”), the African Commission, the Southern African Development Community (“**SADC**”), and the African Continental Free Trade Area (“**AfCFTA**”) have directly referenced the UNGPs in either their constitutional, framework, or policy documents.⁵

² Directorate-General for External Policies, “Implementation of the UN Guiding Principles on Business and Human Rights” (2017), p. 32 ([link](#)).

³ See The Capital Markets Act (Cap. 485A), Stewardship Code for Institutional Investors (2017) ([link](#)).

⁴ Federal Republic of Nigeria, “National Action Plan for Promotion and Protection of Human Rights in Nigeria” (2024) ([link](#)) (“**Nigerian NAP**”).

⁵ The UNGPs have been referenced in other regional fora, including pan-African nonprofit organizations, such as the African Coalition for Corporate Accountability (“**ACCA**”). ACCA, launched in 2013, is a coalition of organizations based in Africa supporting communities and individuals whose human rights are adversely affected by the activities of corporations. ACCA

9. Some of the important jurisprudence arising in relation to these regional bodies and their underlying instruments is discussed in detail below. For present purposes, we provide a brief overview of relevant policies adopted by these regional bodies.

A. The Southern African Development Community

10. The SADC is a regional economic community comprising 16 States. The SADC is committed to regional integration and poverty eradication within Southern Africa, through economic development and ensuring peace and security.⁶ In 2016, the SADC published a Policy Brief that “outline[d] the elements of [trafficking in persons (“**TIP**”)], the vulnerable groups, the push and pull factors contributing to TIP, [and] the SADC regional response to the crime.”⁷ Although without explicit reference to the UNGPs, the brief proposed recommendations for effectively responding to TIP which aligned with the UNGPs’ foundational principles for States to respect, protect, and fulfill human rights and fundamental freedoms.⁸

B. The African Union

11. The AU is the largest regional body in Africa, consisting of 55 Member States. Its function is to draft treaties, conventions, and frameworks, including those relevant to human rights, which Member States are encouraged to adopt and implement.⁹
12. At the time of writing, the AU is expected to adopt its Business and Human Rights Policy Framework, titled the “AU Policy Framework on Business and Human Rights,” soon.¹⁰ The AU Policy Framework will “act as a roadmap for regulating the impact of business conduct on human rights in Africa” and “encourage cohesive implementation of the UNGPs by African states.”¹¹

C. The African Commission on Human and Peoples’ Rights

13. The African Commission was established by Article 30 of the African Charter on Human and Peoples’ Rights (“**African Charter**”) in 1981. The African Commission is a quasi-judicial body tasked with promoting and protecting human rights on the African continent, as well as the interpretation of the African Charter.¹²

advocates for individuals whose rights have been breached to access justice; it references the UNGPs as “internationally accepted human rights standards” in this area. See ACCA, “Terms of Reference: Access to Remedy” (Sept. 16, 2016) ([link](#)).

⁶ SADC, “Vision, Mission & Mandate” ([link](#)).

⁷ SADC, “Trafficking in Persons in the SADC Region” (Aug. 2016) ([link](#)), p. 1.

⁸ *Id.*, pp. 7-8.

⁹ African Union, “The African Union organizes Stakeholders Validation Workshop on the Draft AU Policy Framework on Human Rights and Business” (Mar. 2017) ([link](#)).

¹⁰ Global Policy Watch, “2023 African Forum on Business and Human Rights: What do companies need to know?” (Sept. 15, 2023) ([link](#)).

¹¹ *Id.*

¹² S. Gumedze, “Bringing communications before the African Commission on Human and Peoples’ Rights,” *African Human Rights Law Journal* (2003), p. 119 ([link](#)).

14. In 2023, the African Commission adopted a Resolution on Business and Human Rights in Africa calling on the AU to finalize the AU Policy Framework on Business and Human Rights (discussed above).¹³ The Resolution grounded this effort in the African Charter’s guarantees of “economic, social and cultural development” and “a generally satisfactory environment favourable to their development.”¹⁴ The Resolution further encouraged the AU to adopt the “African Regional Blue Economy Strategy,” an AU initiative that “encourages States to adopt a human rights-based approach to development and the implementation of national blue economy frameworks.”¹⁵ Finally, beyond its recommendations towards the AU, the Resolution tasked two African Commission Working Groups with addressing AU Member States’ “gaps in the implementation of their human rights obligations regarding business and human rights.”¹⁶ The Working Groups are expected to draw on the Commission’s and other related BHR standards to “ensur[e] accountability and access to remedy for business-related human rights violations in Africa, with particular focus on marginalized and vulnerable populations.”¹⁷

D. The African Continental Free Trade Area

15. The AfCFTA was established pursuant to the African Continental Free Trade Agreement, dated March 21, 2018 (“**AfCFTA Agreement**”). The AfCFTA Agreement has the principal objective of creating a single continental market for goods and services by building on and ultimately consolidating the integration already achieved through existing regional trade agreements.¹⁸ The AfCFTA aims to pursue its objectives through the free movement of businesses and investment, and ultimately the creation of a customs union encompassing at least 54 of the 55 AU Member States.¹⁹ To date, 48 countries have ratified the AfCFTA Agreement.²⁰ The AfCFTA entered its nominal operational phase on July 7, 2019.²¹ In 2024, the AfCFTA formally entered into its operational phase,²² characterized by: (1) a regime on rules of origin, (2) 90% tariff liberalization, (3) online mechanisms for reporting non-tariff barriers, (4) a pan-African payment system, and (5) the African Trade Observatory, a portal to address barriers to trade.

¹³ African Commission on Human and Peoples’ Rights, Resolution on Business and Human Rights in Africa, ACHPR/Res.550 (LXXIV) (Mar. 21, 2023).

¹⁴ *Id.*

¹⁵ *Id.*

¹⁶ *Id.*

¹⁷ *Id.*

¹⁸ Art. 5 of the AfCFTA Agreement envisages that the AfCFTA will build on existing regional trade agreements, such as COMESA. However, it is recognized that the relationship between the AfCFTA and the other regional trade agreements has not yet been fully developed or understood. See, e.g., COMESA, “Continental and Regional Trade Regimes Need Proper Management to Succeed” (Oct. 19, 2020) ([link](#)).

¹⁹ Tralac, “African Continental Free Trade Area (AfCFTA) Legal Texts and Policy Documents” ([link](#)).

²⁰ Tralac, “Status of AfCFTA Ratification” ([link](#)).

²¹ African Union, “Operational phase of the African Continental Free Trade Area is launched at Niger Summit of the African Union” (July 7, 2019) ([link](#)); Al Jazeera, “After months of COVID delays, African free trade bloc launches” (Jan. 1, 2021) ([link](#)).

²² African Union, “Operational Phase of The African Continental Free Trade Area Launched” (Aug. 16, 2024) ([link](#)).

16. The AfCFTA Agreement does not presently include references to the UNGPs. However, the AfCFTA Investment Protocol, adopted on February 19, 2023, incorporates BHR-related investor obligations, such as those relating to “indigenous peoples, and underrepresented groups, including women and youth.”²³
17. Having explored how regional bodies in Africa have continued to integrate the UNGPs into their policies since 2021, we turn now to progress made at the national level since 2021. In the sections that follow, we provide a survey of developments in eight states—Ghana, Kenya, Mozambique, Nigeria, South Africa, Tanzania, Uganda, and Zambia—to incorporate business and human rights principles into their legal frameworks. As in the Debevoise UNGPs Report, we focus below on judicial decisions, policy initiatives, and broader legislative efforts that reflect the evolving role of the UNGPs in domestic governance.

²³ AfCFTA Investment Protocol, Final Draft (Jan. 2023), preamble, art. 35 ([link](#)) (At the time of writing, the official version is not yet available).



GHANA

18. In the 2021 Debevoise UNGPs Report, we identified no cases from Ghanaian courts that referenced the UNGPs. However, we discussed Chapter 5 of the Ghanaian Constitution, which protects 18 fundamental rights and mandates respect for these rights by natural and legal persons. We also summarized two court decisions that involved workers' rights under ILO Conventions, and one case that involved women's rights under the Convention on the Elimination of All Forms of Discrimination Against Women.²⁴

A. Court Decisions

19. There continue to be no cases from the courts and quasi-judicial bodies in Ghana that refer to the UNGPs. However, certain decisions under the Ghanaian Constitution relating to the conduct of business have considered or applied standards akin to those contained in the UNGPs and other international instruments addressing human and labor rights. Indeed, the primary source of human rights obligations of business entities in Ghana remains the 1992 Constitution.²⁵
20. In several cases involving business entities, Ghanaian courts have engaged with the underlying principles of the UNGPs and other related international treaties even when relevant treaties have not been expressly incorporated into Ghanaian law. For example, in *Rita Kriba v. Africa World Airlines (AWA)*, the court decided whether a businessperson who was denied access to their booked flight was discriminated against by the airline based on her physical disability. The court discussed the constitutional freedom from discrimination particularly in relation to disabled persons and specifically addressed the Ghana Civil Aviation Authority, a state entity. The court recommended that all transportation authorities in the country should ensure that facilities, buildings, public spaces, and air- and seacraft are made accessible to disabled persons and that any craft incapable of modification for use by disabled persons should gradually be phased out of use.²⁶ This decision arguably aligns with Principles 1, 2, and 5 of the UNGPs.
21. Ghanaian courts have addressed discrimination claims in several other cases as well.²⁷ In 2021, the Supreme Court of Ghana addressed labour issues related to the right to work as a human rights issue. In *George Akpass v. Ghana Commercial Bank*, the Supreme Court's reasoning touched on themes addressed in Principles 1 and 2 of the UNGPs: "Like the property rights of spouses, labour matters touching on the right to work has been classified by this court as a human rights issue. . . . Being a human rights issue under our Constitution, the right to a fair trial must be adhered to at

²⁴ See 2021 Debevoise UNGPs Report, at 36-38.

²⁵ See Constitution of Ghana (1992) ([link](#)).

²⁶ *Rita Kriba v. Africa World Airlines (AWA)*, H1/219/2022, Court of Appeal, Ghana (May 23, 2023).

²⁷ See *Francis Kwarteng Arthur v. National Identification Authority*, H1/50/2020, Court of Appeal, Ghana (May 27, 2021) (providing an expansive definition of discrimination under Ghanaian law, touching on themes in Guiding Principle 3); *Evans Donkor and Jonathan Faara Ali & 113 Ors v. AngloGold Ashanti (Ghana) Ltd., Obuasi*, H1/37/2021, Court of Appeal, Ghana (May 27, 2021) (dismissing discrimination claim because the plaintiffs were unable to show disparate treatment on the basis of their membership in a protected class).

all costs for the development of our democracy. Every step taken in the adjudication process should be manifestly and undoubtedly be [sic] seen to be fair.”²⁸

22. Related to a state’s duty to protect human rights, a Ghanaian high court discussed in detail the right to profess and manifest any religion as provided under Ghana’s Constitution. In *Tyrone Marhguay v. Achimota School & Anor.*, the plaintiff was a minor who was asked to cut off his dreadlocks, which were maintained as part of his Rastafarian religion, or he would not be allowed to attend a prominent secondary school to which he had gained admission. The court acknowledged the link between the child’s right to education and right to practice religion while conducting a balancing test between the rights of the plaintiff and that of the school to enforce its rules and ensure proper conduct among its students. The court sided with the child, noting that religious intolerance is undemocratic while also considering international jurisprudence pertaining to the right to practice religion.²⁹
23. In *Crystalline Trading & Logistics Ltd v. National Security and the Attorney-General*, the plaintiff claimed that officers of the Ghanaian government wrongfully discharged and sold the plaintiff’s property. He sought assistance from the High Court for the enforcement of its fundamental rights to property and protection from deprivation of property. In support of its decision, the court cited not only Ghana’s Constitution but also Article 17 of the Universal Declaration of Human Rights and Article 14(7) of the African Charter. It also included reference to foreign high court judgments. The court held that there is not an absolute right to property, and since the plaintiff was not licensed to deal in petroleum products, they were rightfully seized. The court’s decision touches on standards reflected in Principles 1 and 3 of the UNGPs, as the court was tasked with balancing the enforcement of a human right against the requirements under the law for the importation of petroleum products.³⁰
24. Speaking more broadly, in *Customs Excise & Preventive Service (CEPS) v. National Labour Commission, Public Services Workers Union of GTUC (Interested Party)*, the Supreme Court held that courts are “under a duty to interpret the Constitution and statutes to conform to international legal norms and also to promote and encourage respect for human rights and freedom.”³¹

B. Other Developments

25. The Ghana Institute of Management and Public Administration published the Ghanaian NBA in July 2022 in conjunction with the Commission on Human Rights and Administrative Justice, the

²⁸ *George Akpass v. Ghana Commercial Bank*, Civil Appeal No. J4/08/2021, Supreme Court, Civil Appeal No. J4/08/2021Ghana (June 16, 2021).

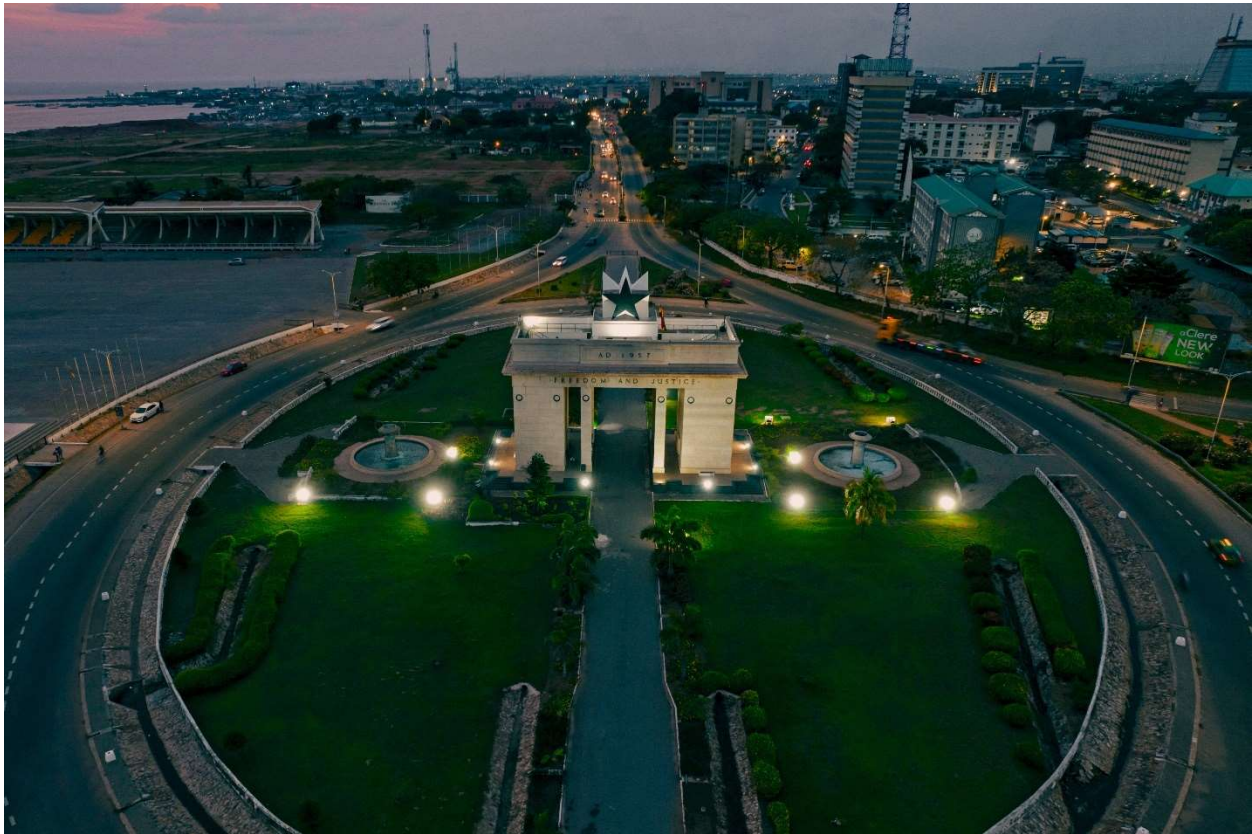
²⁹ *Tyrone Marhguay v. Achimota School & Anor.*, Suit No. HR/0055/2021, High Court, Ghana (May 31, 2021).

³⁰ *Crystalline Trading & Logistics Ltd. v. National Security and the Attorney-General*, E12/57/21, High Court, Ghana (Apr. 14, 2022). See also *Isaac Ofei & Another v. National Security Coordinator & 2 Others*, HR/025/2019, High Court, Ghana (Mar. 26, 2020) (High Court’s decision aligned with Guiding Principles 1 and 3 as it relates to the right to property).

³¹ *Customs Excise & Preventive Service (CEPS) v. National Labour Commission, Public Services Workers’ Union of GTUC (Interested Party)* (Feb. 4, 2009), Adinyira, JSC.

Danish Institute for Human Rights, and OXFAM Ghana.³² The NBA focused primarily on stakeholders in petroleum, telecommunications, mining, and finance sectors. The NBA was publicly launched by the Attorney General and Ministry of Justice and was disseminated through national news networks.³³

26. In response to the 2022 NBA, the government established a NAP Steering Committee. The 18-member, multistakeholder Committee is led by the Office of the Attorney General, the Office of the Ministry of Justice, and the Commission on Human Rights and Administrative Justice. On July 27, 2023, the Steering Committee organized a stakeholder consultative workshop towards developing a NAP on business and human rights.³⁴ To ensure broad stakeholder engagement, the Committee is undertaking stakeholder engagement exercises in all 16 regions of Ghana. These include interviews, focus group discussions, and other methods to solicit input.³⁵ The Committee’s first regional engagement took place in Accra in November 2022, and in July 2023, the Committee organized a consultative workshop focusing on women and persons with disabilities. According to an online repository of NAPs, “[i]t is understood that the NAP draft has been developed and it is awaiting finalization and validation.”³⁶



³² “Ghana National Baseline Assessment of Business and Human Rights” (July 2022) ([link](#)).
³³ National Action Plans on Business and Human Rights, “Ghana” ([link](#)) (“**Ghanaian NAP**”).
³⁴ *Id.*
³⁵ *Id.*
³⁶ *Id.*



KENYA

27. In the 2021 Debevoise UNGPs Report, we discussed the first instance in which the UNGPs were mentioned by Kenyan courts, in the 2020 case of *Kenneth Gona Karisa v. Top Steel Kenya Limited*.³⁷ In that case, the UNGPs were mentioned only while summarizing the petitioner's arguments; the Constitutional Court did not rely on the UNGPs in its reasoning. We also discussed relevant portions of the Kenyan Bill of Rights and the Kenyan Constitution, as well as two court decisions that included consideration of businesses' respect for human and labor rights while not explicitly referring to the UNGPs. We concluded the section by discussing the then-new Kenyan NAP, which continues to be in effect, as discussed below.³⁸

A. Court Decisions

28. In the 2021 case of *Robert Njenga & Another v. Sylvester Njihia Wanyoike & Another* before the Environment and Land Court, petitioners alleged respondents violated several constitutional provisions and Principles 13 and 14 of the UNGPs by installing and operating a concrete and wood treatment plant next to petitioners' homes without a National Environment Authority license.³⁹ The UNGPs were referenced only by the petitioners, not the Court. The Court found that the respondents' installation and operation of the plant without a license was a breach of the petitioners' right to a clean and healthy environment,⁴⁰ basing its holding on the 1999 Environmental Management and Co-ordination Act (EMCA), which outlines the license requirements.⁴¹
29. In December 2023, 183 petitioners brought claims against Meta Platforms, Inc. and several affiliates before the Employment and Labor Relations Court, claiming respondents violated Principles 1, 12, 13, 14, 17, 18, 19, 22, 23, 29 and 31 of the UNGPs.⁴² As summarized by the court,

The petitioners were nationals of various countries engaged as Facebook Content Moderators. The petitioners averred that they were engaged by the 1st and 2nd respondents to work in Kenya and that the recruitment was done through the 3rd respondent. The petitioners alleged that the 1st, 2nd and 3rd respondents had embarked on an unlawful and unfair termination of their employment for the sole reason that one of the moderators formerly engaged by the 1st and 2nd respondents through the 3rd respondent led a constitutional petition challenging the gross violation of moderators' rights by the 1st, 2nd and 3rd respondents. The petitioners thus claimed that the 1st and

³⁷ *Kenneth Gona Karisa v. Top Steel Kenya Limited* [2020] eKLR, ([link](#)).

³⁸ 2021 Debevoise UNGPs Report, at 38-44.

³⁹ *Robert Njenga & Another v. Sylvester Njihia Wanyoike & Another*; National Environment Management Authority (Interested Party) [2021] eKLR.

⁴⁰ *Id.*

⁴¹ *Id.*

⁴² *Arendse & 182 others v. Meta Platforms, Inc. & 3 others*; Kenya Human Rights Commission & 8 others (Interested Parties) (Constitutional Petition E052 of 2023) [2023] KEELRC 921 (KLR) (Apr. 20, 2023) (Ruling).

2nd respondents had orchestrated a sham redundancy to be undertaken by the 3rd respondent.⁴³

30. The corporations brought an interlocutory appeal, asserting the Kenyan courts lacked jurisdiction over them. The court dismissed the appeal and confirmed its jurisdiction,⁴⁴ finding that Meta was responsible for providing and controlling a virtual workspace where petitioners worked. No privity relationship was required between Meta and the petitioners.⁴⁵ As of the time of writing, the case has yet to be decided on the merits.⁴⁶
31. Beyond the UNGPs, courts have also heard claims from petitioners citing to the International Finance Corporation’s (IFC) Standards on Environmental and Social Responsibility. For example, in the 2022 case of *Mohammed Ibrahim Alio & 31 Others (Suing on behalf of the Residents of Kamor Location, Mandera East Constituency of Mandera County) v. Juma & 8 Others*, plaintiffs sought a temporary injunction restraining the respondents from interfering in any manner with the applicants’ peaceful occupation and use and enjoyment of community land.⁴⁷
32. Plaintiffs argued Respondents were colluding to illegally allocate to themselves plots of land belonging to the community with the intent to defraud and disinherit plaintiffs.⁴⁸ The Court ruled that plaintiffs deserved protection under IFC Standard 1, which underscores the importance of “managing environmental and social performance throughout the life of a project,” and Standard 7, which “recognizes that Indigenous Peoples, as social groups with identities that are distinct from mainstream groups in national societies, are often among the most marginalized and vulnerable segments of the population.”⁴⁹ Therefore, the Court granted Plaintiffs’ request for an injunction, finding Plaintiffs had an ancestral and cultural interest in the land dating back 27 years, using it as a source of livelihoods and for cultural, ceremonial, and spiritual purposes.⁵⁰

⁴³ *Id.*

⁴⁴ *Id.*

⁴⁵ *Id.*

⁴⁶ *Id.*

⁴⁷ *Alio & 31 others ((suing on behalf of the Residents of Kamor Location, Mandera East Constituency, of Mandera County)) v. Juma & 8 others* (Environment and Land Case Civil Suit E004 of 2022) [2022] KEELC 12679 (KLR) (Sept. 30, 2022) (Ruling).

⁴⁸ *Id.*

⁴⁹ *Id.* at 1-2; IFC, “Performance Standards on Environmental and Social Sustainability” (2012) ([link](#)), at 1.

⁵⁰ *Alio & 31 others*, [2022] KEELC 12679, at 3.

B. Other Developments

33. The 2020–2025 Kenyan NAP on Business and Human Rights is still in effect.⁵¹ The development of two frameworks under the NAP—the Operational Grievance Mechanism Framework and the Human Rights Due Diligence Framework—are ongoing. Discussions regarding a subsequent iteration of the NAP are reportedly planned to begin in early 2025. The NAP’s Steering Committee has faced funding issues, so discussions are expected to progress slowly.
34. The NAP has also contributed to growing awareness of the UNGPs among businesses and other stakeholders. Companies in Kenya are increasingly inquiring into the inclusion of UNGP commitments in their business operations.



⁵¹ Republic of Kenya, National Action Plan on Business and Human Rights for the Implementation of the United Nations Guiding Principles on Business and Human Rights (2020–2025) ([link](#)).



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MOZAMBIQUE

35. In the 2021 Debevoise UNGPs Report, we were unable to identify any cases before Mozambiquan courts that referred to the UNGPs. This remains true today. Publicly available court decisions contain no references to the UNGPs or to BHR issues more broadly. It is important to note, however, that jurisprudence is not systematically published in Mozambique.⁵²
36. In addition, in the 2021 Debevoise UNGPs Report we reported that Mozambique was in the process of developing, or was committed to developing, a NAP. In the years since then, no such NAP has been published. Generally speaking, there are no notable government-led efforts in Mozambique to address BHR issues in the period since the 2021 Debevoise UNGPs Report.



⁵² The Supreme Court rulings should in principle be published in *Boletim da República* (the Official Gazette), but this obligation is not often observed.



NIGERIA

37. In the 2021 Debevoise UNGPs Report, we were unable to identify any cases before Nigerian courts or quasi-judicial bodies that referred explicitly to the UNGPs. However, the 2021 Debevoise UNGPs Report included a summary of initial discussions related to Nigeria’s then-forthcoming NAP,⁵³ which, as detailed below, has since been published.

A. Court Decisions

38. There remain no cases from the courts and quasi-judicial bodies in Nigeria that cite to or discuss the UNGPs.

B. Other Developments

39. In 2024, the national human rights institution, the Nigerian Human Rights Commission (“**Nigerian HRC**”), published the National Action Plan for the Promotion and Protection of Human Rights in Nigeria 2024–2028 (“**Nigerian NAP**”).⁵⁴ The Nigerian NAP was approved by the Nigerian government in April 2023 and adopted on January 14, 2024.
40. The Nigerian NAP includes a chapter on Business and Human Rights that reinforces the three pillars of the UNGPs: (i) the State’s duty to protect human rights; (ii) the corporate duty to respect human rights; and (iii) access to remedy.⁵⁵ The Nigerian NAP also called for the establishment of a National Working Group on Business and Human Rights (“**Working Group**”) to coordinate the activities of government agencies that deal with human rights and business-related issues, which was inaugurated on December 6, 2023.⁵⁶
41. To fulfill the State’s duty to protect human rights, the NAP committed the Nigerian government to improving human rights protections through legislation, policy initiatives, and other interventions. These include the following:
- (i) the introduction of a requirement for all businesses to complete a human rights impact assessment before the commencement of business, and for existing businesses to complete a human rights impact assessment within two years. This is akin to the environmental impact assessment that companies in Nigeria are required to complete prior to commencing a project or activity that is likely to have a significant effect on the environment under the Environmental Impact Assessment Act;

⁵³ 2021 Debevoise UNGPs Report, at 45-46.

⁵⁴ See Nigerian NAP.

⁵⁵ *Id.*, pp. 152-166.

⁵⁶ Nigerian Tribune, “NHRC to mainstream human rights protection in business activities” (Dec. 6, 2023) ([link](#)).

- (ii) the Nigerian government will also complete human rights due diligence and a human rights impact assessment for all of its business operations, including during land acquisition for development or business;
 - (iii) the federal and state governments will enact laws to protect whistleblowers from victimization or retaliation. This legislation will consolidate and strengthen whistleblower protections that are currently fragmented across different laws;
 - (iv) the Nigerian government will enforce and review existing laws related to business and human rights. For example, a review of the Trade Union Act of 2005 will address freedom of association, the rights to collective bargaining, and the right to strike actions;
 - (v) contracts, memoranda of understanding, and business-related policy documents between the federal or state governments and counterparties will include clauses that create human rights obligations for the parties with accompanying sanctions for any violations;
 - (vi) the Nigerian government will ensure that companies conduct a stakeholder identification and analysis in their area of operation to enhance sustainable stakeholder consultation and engagement, and will require the free, prior, and informed consent of host communities be obtained in connection with any proposed project that may affect the lands they customarily own or otherwise use. This will expand an existing framework under the mining legislation; and
 - (vii) the Ministry of Labour and Employment will take steps to curb the incidence of casualisation in labour and hazardous workplace practices. The Working Group will also develop guidance notes for companies to manage their employment processes in compliance with human rights standards, including non-discrimination and the prevention of child labor.
42. In addition, the Nigerian NAP emphasizes corporate responsibility to respect human rights, which “obligates compliance of Corporations ... with human rights principles Failure to respect human rights should attract sanctions.” These obligations include:
- (i) development and implementation of a human rights policy;
 - (ii) conducting human rights due diligence to identify possible human rights violations that could arise from their operations;
 - (iii) reporting human rights compliance on an annual basis;
 - (iv) developing and implementing human rights-related capacity building programs;
 - (v) developing an operational level grievance mechanism;
 - (vi) developing community relations guidelines; and

(vii) fostering partnerships and collaborations that will support the realization of human rights in their area of operations.

43. Finally, the Nigerian NAP outlines a framework through which individuals and communities who are adversely impacted by business operations can access judicial and non-judicial remedies. The framework includes the following:

- (i) a State-based judicial mechanism. Currently, there is a low level of judicial awareness of the UNGPs in Nigeria, as evidenced by the lack of judicial decisions referring to the UNGPs in the country. The Working Group will advocate for the judiciary to issue “practice directions” that will facilitate speedy resolution of human rights claims against businesses and will educate judges and magistrates on the NAP;
- (ii) State-based non-judicial mechanisms, including via the Nigerian HRC, the National Oil Spill Detection and Response Agency, the Consumer Protection Council, and other relevant State agencies. Several initiatives will improve the effectiveness of these institutions, including (i) capacity building for the agencies; (ii) strengthening the Institute for Peace and Conflict Resolution; (iii) strengthening the Nigerian HRC to discharge its quasi-judicial responsibilities to address violations by businesses; (iv) convening periodic meetings of relevant regulatory bodies; (v) identifying and delineating the mandates of these institutions; and (vi) scaling up community sensitization on the functions of various agencies; and
- (iii) non-State-based grievance mechanisms, whether formal or informal, such as centers and agencies established by companies, non-governmental organizations (“NGOs”), media, civil society organizations, labor unions, faith-based organizations, and communities.





SOUTH AFRICA

44. In the 2021 Debevoise UNGPs Report, we discussed what remains the only case before South African courts to directly refer to the UNGPs, along with the South African Bill of Rights, and the 2008 Companies Act, which encourages compliance by companies with the protections enshrined in the Bill of Rights. We also summarized several investigations and other programs undertaken by the South African Human Rights Commission.⁵⁷

A. Court Decisions

45. No South African court has relied upon the UNGPs directly since the Western Cape High Court's decision in *Re University of Stellenbosch Legal Aid Clinic, et al.*⁵⁸ Although South African courts do not often rely on the UNGPs directly, they frequently rely on various other international rights instruments to guide their decisions. This is in accordance with the requirements of the Constitution of South Africa: (i) when interpreting legislation, to prefer a reasonable interpretation of the legislation that is consistent with international law over an interpretation that is inconsistent with international law; and (ii) when interpreting the Bill of Rights, to consider international law.⁵⁹
46. In the context of labor law, courts have applied international human rights and labor protections—such as those contained in the ILO and the UDHR—in their interpretation of South African legislation in several recent instances. The South African labor court has referred to the UDHR in at least four cases⁶⁰ and to the ILO Declaration in at least one,⁶¹ all of which predate the 2021 Debevoise UNGPs Report. Since then, additional cases have relied on international instruments in analyzing the South African Constitution and South African legislation.
47. In *Association of Mineworkers and Construction Union and others v. Anglo Gold Ashanti Ltd. t/a Anglo Gold Ashanti and others*, the Constitutional Court interpreted section 66(2)(c) of the Labour Relations Act 66 of 1995 in the context of secondary strikes.⁶² In reaching its decision, the Constitutional Court referred to various ILO conventions, including the ILO Conventions on Freedom of Association and Protection of the Right to Organise (Convention No. 87) and the Right to Organise and Collective Bargaining (Convention No. 98) to interpret the right to strike.⁶³ While acknowledging the ILO's position that secondary strikes should be subject only to the

⁵⁷ 2021 Debevoise UNGPs Report, at 46-51.

⁵⁸ *Re University of Stellenbosch Legal Aid Clinic, et al.*, High Court of South Africa (Western Cape Division, Cape Town), Case No. 16703/14 (July 8, 2015), Judgment, [2015] ZAWCHC99 ([link](#)).

⁵⁹ South African Constitution §§ 233, 39.

⁶⁰ *PFG Building Glass (Pty) Ltd. v. CEPPAWU & others* [2003] 5 BLLR 475 (LC); *Co-operative Worker Association & another v. Petroleum Oil & Gas Co-operative of SA & others* [2007] 1 BLLR 55 (LC); *Mondi Packaging (Pty) Ltd. v. Department of Labour & others* [2008] 3 BLLR 280 (LC); *Mohlaka v. Minister of Finance & others* [2009] 4 BLLR 348 (LC).

⁶¹ *Moslemany v. Unilever PLC & another* [2006] 12 BLLR 1167 (LC) ([link](#)), at 5-6.

⁶² *Association of Mineworkers and Construction Union and Others v. Anglo Gold Ashanti Limited t/a Anglo Gold Ashanti and Others*, [2021] ZACC 42 (CC) ([link](#)).

⁶³ *Id.* ¶ 42.

requirement that the primary strike is lawful,⁶⁴ the court held that the reasonableness of secondary strikes must be assessed with respect to both the primary and secondary employer.⁶⁵

48. In *Damons v. City of Cape Town*, Acting Justice Pillay, in a dissenting minority judgment, considered the importance of international law conventions, such as the United Nations Declaration on the Rights of Disabled Persons and the Discrimination (Employment and Occupation) Convention to determining the meaning of “inherent requirements of the job” and “reasonable accommodation” in the context of alleged unfair discrimination against disabled persons in the workplace.⁶⁶ Acting Justice Pillay noted, with reference to international law, that the mainstreaming of disability issues is “integral to strategies for sustainable development.”⁶⁷
49. In *Van Wyk and Others v. Minister of Employment and Labour*, the High Court considered whether provisions of the Basic Conditions of Employment Act 75 of 1997 and the corresponding provisions of the Unemployment Insurance Fund Act 63 of 2001 were inconsistent with the rights to equality and dignity under the Constitution.⁶⁸ The High Court held that all parents, irrespective of gender, should be entitled to four months of parental leave from their employers, thus ensuring gender equality and shared parental responsibility.⁶⁹ In reaching its decision, the Court referred to Clause 10 of ILO Recommendation 191, which contemplates that leave should be available to fathers and adoptive parents.⁷⁰ The issue is currently on appeal before the Constitutional Court.
50. Several other recent court decisions have addressed businesses’ responsibility to respect environmental rights. The South African Constitution guarantees the right to a protected environment “for the benefit of present and future generations.”⁷¹ In *Sustaining the Wild Coast NPC and Others v. Minister of Mineral Resources and Energy and Others*, the Eastern Cape High Court ordered the cessation of a seismic survey of the eastern coast of South Africa that aimed to determine whether there were any energy reserves below the sea floor.⁷² The court held that there was a reasonable apprehension of irreparable harm and imminent harm to constitutionally enshrined environmental rights, as the seismic survey would promote the extraction of fossil fuels and contribute to climate change, adversely impacting the applicant communities’ cultural practices, ocean conservation, and the spiritual and sustainable use of the ocean for healing and fishing purposes.⁷³ The Supreme Court of Appeal upheld the decision, primarily on the grounds

⁶⁴ *Id.* ¶ 46.

⁶⁵ *Id.* ¶¶ 100, 101, 109.

⁶⁶ *Damons v. City of Cape Town*, Case No. 278/20, [2022] ZACC 13 ([link](#)).

⁶⁷ *Id.* ¶ 55.

⁶⁸ *Van Wyk and Others v. Minister of Employment and Labour*, Case No. 2022-017842, [2023] ZAGPJHC 1213 ([link](#)).

⁶⁹ *Id.* ¶ 47.

⁷⁰ *Id.* ¶ 31.

⁷¹ South African Constitution § 24(b).

⁷² *Sustaining the Wild Coast NPC and Others v Minister of Mineral Resources and Energy and Others*, Case No. 3491/2021, [2021] ZAECGHC 118 ([link](#)).

⁷³ *Id.* ¶¶ 37-68.

that the governmental permission to conduct the seismic survey had been issued without adequate prior consultation with affected communities.⁷⁴

51. In the context of indigenous peoples' rights, the Western Cape High Court in *Observatory Civic Association and Another v. Trustees, Liesbeek Leisure Properties Trust and Others* granted an interim order against developers, preventing the further development of land in Observatory, Cape Town that applicants asserted to be a national heritage site of specific historic and cultural significance to the Khoi and San First Nation people.⁷⁵ The applicants argued that South Africa had a duty to protect the cultural heritage of indigenous communities under international instruments, including the International Covenant on Economic, Social and Cultural Rights, the UN Declaration on the Rights of Indigenous Peoples, and the International Covenant on Civil and Political Rights.⁷⁶ The court agreed that the "fundamental right to culture and heritage of Indigenous Groups" was "under threat in the absence of proper consultation" from the developers.⁷⁷

B. Other Developments

52. In addition to the judiciary's important role in ensuring corporate accountability for human rights violations, several recent legislative measures and government initiatives place obligations on businesses to promote and respect human rights in specific areas. In 2022, a new section was introduced into the Employment Equity Act 55 of 1998, which empowers the Minister of Employment and Labour to set numerical targets for national economic sectors aimed at achieving the equitable representation of suitably qualified people from designated groups (including women and black people) at all occupational levels in the workforce.⁷⁸ These sector-specific targets are intended to take into account the realities of a particular sector, thus informing decisions made by companies in the promotion of affirmative action measures.
53. Further, on July 30, 2024, amendments to the South African Companies Act 71 of 2008 were promulgated, with the date of implementation yet to be announced.⁷⁹ The amendments introduced provisions concerning remuneration disclosures for companies listed on the Johannesburg Stock Exchange aimed at addressing public concerns about the high levels of inequality in South African society. Some of the proposed amendments are designed to achieve better disclosure of senior executive remuneration, transparency in respect of the pay gap, and reasonableness of remuneration. The amendments provide for listed and state-owned companies to prepare a remuneration policy for directors and prescribed officers, to be approved at the

⁷⁴ *Minister of Mineral Resources and Energy and Others v. Sustaining the Wild Coast NPC and Others*, [2024] ZASCA 84 ([link](#)).

⁷⁵ *Observatory Civic Association & Goringhaicona Khoi Khoen v. Liesbeek Leisure Properties Trust & Others*, Case No. 1299/21 (Mar. 18, 2022), Judgment [2022] ([link](#)).

⁷⁶ *Id.* ¶¶ 43, 97, 99.

⁷⁷ *Id.* ¶ 143.

⁷⁸ Act No. 04 of 2022: Employment Equity Amendment Act (Apr. 6, 2023) ([link](#)).

⁷⁹ Act No. 16 of 2024: Companies Amendment Act (July 30, 2024) ([link](#)).

company’s annual general meeting and, thereafter, every three years or whenever there is a material change.

54. There have also been several interventions by the South African Government to combat gender-based violence and femicide (“**GBVF**”).⁸⁰ In 2020, the South African Government adopted a National Strategic Plan on GBVF that is aimed at tackling all forms of violence and abuse against women and children. As part of this plan, the National Council on Gender-Based Violence and Femicide Act was signed into law on May 24, 2024. The Act facilitates the establishment of the council, a statutory body that shall provide strategic leadership in the fight against gender-based violence and femicide in South Africa. It is envisaged that the council will be multisectoral and draw on the expertise of various stakeholders, including civil society, labor and business, to further strengthen national efforts to combat gender-based violence, using a more inclusive, focused, and better resourced approach.
55. In 2024, the Chief Inspector of Mines published a Guidance Note for the Management of GBVF, Safety and Security Challenges for Women in the South African Mining Industry (the “**Guidance Note**”), which seeks to address various gender-related challenges women experience in the mining industry.⁸¹ The Guidance Note places several obligations on employers, including, amongst others, reporting on GBVF, developing strategies and policies to combat GBVF in the workplace, conducting training on preventing and managing GBVF, and developing an implementation plan to ensure the proper implementation of the Guidance Note, which is submitted annually to the Department of Mineral Resources and Energy.
56. While legislative developments in specific areas have advanced human rights protections, the government has not formulated comprehensive policies related to business and human rights for South African businesses. Although South Africa has adopted two other NAPs—to Combat Racism, Racial Discrimination, Xenophobia and Related Intolerance,⁸² and on Women, Peace and Security⁸³—the South African Government has not yet committed to developing a NAP pursuant to the UNGPs.

⁸⁰ See, e.g., Republic of South Africa, “State of the Nation 2024 – Gender-Based Violence” ([link](#)).

⁸¹ Department of Mineral Resources and Energy, “Guidance Note for the Management of GPVF, Safety and Security Challenges for Women in the South African Mining Industry” (Aug. 2, 2024) ([link](#)).

⁸² Republic of South Africa, National Action Plan to Combat Racism, Racial Discrimination, Xenophobia and Related Intolerance (Feb. 2023) ([link](#)).

⁸³ Republic of South Africa, National Action Plan on Women, Peace and Security (2020–2025) ([link](#)).



TANZANIA

57. In the 2021 Debevoise UNGPs Report we did not identify any Tanzanian court cases explicitly referring to the UNGPs. However, we discussed initial steps taken to create the country’s first NAP, a process which is ongoing.⁸⁴

A. Court Decisions

58. There remain no decisions from the courts and quasi-judicial bodies in Tanzania that cite to or discuss the UNGPs or other BHR-related guidelines. However, in at least two cases, Tanzanian courts held businesses accountable for the impacts of their activities and policies on human rights.
59. *First*, in *Multichoice (T) Ltd. v. Alphonse Felix Simbu & 2 Others*, the Commercial Division of the High Court held that a broadcasting company violated the constitutional right to privacy of three Tanzanian Olympic athletes when the company used the athletes’ images to advertise a subscription service without their consent.⁸⁵ In reaching its decision, the High Court held that the right to privacy is a constitutional right enshrined in the Constitution of the United Republic of Tanzania, as well as various international and regional human rights instruments, including the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights, and the African Charter.⁸⁶
60. *Second*, in *General Manager African Barrick Gold Mine Ltd. v. Chacha Kiguha and 5 Others*, the Court of Appeal at Musoma held that a mining company owed a duty of care to project-affected persons (“PAPs”) residing near mining operations.⁸⁷ The company was held liable for breaching this duty by causing nuisance in its mining activities, including blasting explosives, in close proximity to the PAPs.⁸⁸ However, the Court of Appeal of Tanzania found that the PAPs presented insufficient evidence to support their claim that the mining activities had caused various health issues.⁸⁹ The Court of Appeal of Tanzania also determined that Tanzania’s Mining Act does not compel the PAPs, as lawful occupiers of land within a licensed mining area, to accept an offered amount of compensation to vacate the land, even if such compensation was approved by a government valuer.⁹⁰

⁸⁴ 2021 Debevoise UNGPs Report, at 51-52.

⁸⁵ *Multichoice (T) Ltd. v. Alphonse Felix Simbu & 2 Others* (Commercial Appeal No. 01 of 2023) [2023] TZHCComD 363 (Oct. 13, 2023).

⁸⁶ *Id.*, at p. 34.

⁸⁷ *General Manager African Barrick Gold Mine Ltd. v. Chacha Kiguha and 5 Others* (Civil Appeal No. 99 of 2019) [2024] TZCA 469 (June 14, 2024).

⁸⁸ *Id.*, at pp. 24-25.

⁸⁹ *Id.*

⁹⁰ *Id.*, at p. 26.

B. Other Developments

61. In Tanzania, the Commission for Human Rights and Good Governance (“**CHRAGG**”) is an independent institution, established as a national focal point for the promotion and protection of human rights, as well as good governance in Tanzania. In 2013, the Human Rights Action Plan (2013–2017) tasked the CHRAGG with conducting an NBA to support the development of a NAP.
62. As part of that process, CHRAGG has hosted a series of multistakeholder conferences, advocacy meetings, roundtables, and other engagements on implementing the UNGPs in Tanzania, including on the need for a NAP on business and human rights.⁹¹ In August and September 2021, CHRAGG and the Danish Institute for Human Rights (“**DIHR**”) organized a strategic workshop, through which CHRAGG solidified its top priorities to advance the BHR agenda in Tanzania, including (1) upscaling efforts to influence the development of a NAP; (2) increasing rightsholders’ awareness of business and human rights issues; and (3) promoting respect for human rights among businesses.⁹²
63. In March 2023, the Tanzanian government committed to developing a NAP, and a National Steering Committee for the NAP was established in November of that year.⁹³ Following the government’s commitment, CHRAGG produced a roadmap and continues to facilitate programming to progress NAP development in alignment with the UNGPs,⁹⁴ though a draft NAP has not yet been made publicly available.
64. In addition to progressing Tanzania’s NAP, CHRAGG conducts fact-finding and investigative missions focused on business compliance with human rights standards. In 2019 and 2020 CHRAGG conducted six BHR-related fact-finding and investigative missions stemming from complaints, as well as reports by the media and civil society organizations.⁹⁵ In partnership with DIHR, CHRAGG has provided training to its staff on monitoring and investigating BHR issues, including key BHR frameworks such as the UNGPs.⁹⁶

⁹¹ CHRAGG & DIHR, “Snapshot of Business and Human Rights Activities,” pp. 10-17 (Nov. 2022) ([link](#)).

⁹² CHRAGG & DIHR, “Advancing Business and Human Rights in Tanzania: CHRAGG Strategic Workshop on Business and Human Right” (2021) ([link](#)).

⁹³ National Action Plans on Business and Human Rights, “Tanzania” ([link](#)).

⁹⁴ CHRAGG, “Report on the Development Partners’ Breakfast Meeting to Support the Development of the National Action Plan on Business and Human Rights in Tanzania” (July 2023) ([link](#)).

⁹⁵ CHRAGG & DIHR, “Snapshot of Business and Human Rights Activities,” p. 14 (Nov. 2022) ([link](#)).

⁹⁶ CHRAGG, “Workshop Report on CHRAGG Investigators’ Capacity Building on Monitoring and Investigation of Business and Human Rights Activities” (Nov. 2022) ([link](#)), at 8, 11.



UGANDA

65. At the time of writing the 2021 Debevoise UNGPs Report, there were no cases in Ugandan courts or quasi-judicial bodies that cited to or discussed the UNGPs. The 2021 Debevoise UNGPs Report, however, discussed the publication of the “Human Rights and Business Country Guide Uganda,” which was intended to encourage education on BHR issues.⁹⁷

A. Court Decisions

66. Since 2021, the Ugandan courts have referenced the UNGPs once, but only in the course of summarizing the applicants’ arguments.⁹⁸
67. In *The Environment Shield Ltd. & Gawaya Tugule v. Jinja City Council & Zhongmei Engineering Group Ltd.*, the applicants, a local environmental NGO and a journalist and human rights lawyer, brought suit against the Jinja City Council and their contracted construction company (a private entity) to challenge the planned removal of endangered *Milicia excelsa* (Mvule) trees in Jinja City. The applicants sought a permanent injunction preventing the respondents from cutting down the endangered trees, as well as declarations from the Court that respondents’ planned tree cuttings threatened the right of residents to a clean, healthy, and decent environment; threatened the historic flair, touristic character, heritage, and reputation of Jinja City; and was devoid of meaningful, adequate and/or effective public participation in environmental decision-making.⁹⁹
68. In its decision, the Court summarized the applicants’ argument that businesses have a responsibility to respect human rights and that the UNGPs articulate the minimum duties of States with respect to human rights.¹⁰⁰ The respondents had already revised their plans such that no tree would be removed before the case was decided. However, the Court still granted the declarations requested by the applicants and issued a temporary injunction preventing the cutting or felling of the endangered trees for as long as they are safe to maintain.¹⁰¹ The injunction also required various consultations should any tree need to be removed.¹⁰²
69. The Court cited, *inter alia*, Article 20(2) of the Ugandan Constitution and Section 3 of the Ugandan National Environment Act of 2019 in support of its decision.¹⁰³ Article 20(2) of the Ugandan Constitution states that the rights enshrined in the instrument “shall be respected, upheld and promoted by all organs and agencies of the Government and by all persons.” According to the Uganda Consortium on Corporate Accountability, this constitutional provision is understood to confer a responsibility on non-state actors, including private entities, to respect

⁹⁷ 2021 Debevoise UNGPs Report, at 52-53.

⁹⁸ *The Environment Shield Limited & Another v. Jinja City Council & Another* (Miscellaneous Cause 21 of 2023) [2024] UGHC 345, at p. 16 (Apr. 30, 2024).

⁹⁹ *Id.*, at pp. 1-2.

¹⁰⁰ *Id.*, at p. 16.

¹⁰¹ *Id.*, at pp. 26-27.

¹⁰² *Id.*

¹⁰³ *Id.*

human rights.¹⁰⁴ Moreover, Section 3 of the National Environment Act states that every person has a “right to a clean and healthy environment” and places a duty on every person to “create, maintain and enhance the environment.”¹⁰⁵ Section 3(3) permits civil suits against persons who threaten this right through acts or omissions that have or are likely to cause harm to human health or the environment.¹⁰⁶

B. Other Developments

70. The Uganda Human Rights Commission (“**UHRC**”) was established by the 1995 Constitution of the Republic of Uganda.¹⁰⁷ The UHRC has since worked with the Danish Institute for Human Rights (“**DIHR**”) to strengthen the UHRC’s approach to investigating and monitoring business activities in Uganda.¹⁰⁸ The UHRC has conducted monitoring exercises to assess the protection and promotion of human rights in accordance with the UNGPs, including monitoring working conditions, health and safety policies, and grievance mechanisms at the Mayuge and Bugambe tea factories.¹⁰⁹
71. Since 2018, the UHRC has also organized the Annual National Symposium on Business and Human Rights in Uganda, bringing together various stakeholders across government, business, community groups, and civil society to review and assess opportunities and challenges related to the implementation of the UNGPs and other business and human rights issues.¹¹⁰
72. Following a Universal Periodic Review (“**UPR**”) of Uganda in 2016, a group of UN rapporteurs recommended, among other things, that Uganda: (i) implement the UNGPs framework to guarantee labor and land rights and (ii) adopt a NAP, building on the principles of the UNGPs.¹¹¹
73. In response to the UPR, and following consultations with various government ministries, civil society organizations, business stakeholders, and affected communities, Uganda launched its first NAP in alignment with the UNGPs’ “Protect, Respect, Remedy” framework in August 2021.¹¹² The NAP focuses on eight thematic priorities identified during consultations, which include land and natural resources; the environment; labor rights; revenue transparency, tax exemptions, and

¹⁰⁴ Constitution of the Republic of Uganda, Article 20(2) (1995); Uganda Consortium on Corporate Accountability, “A Brief Overview of the UN Guiding Principles on Business and Human Rights,” p. 6 (June 2018) ([link](#)).

¹⁰⁵ The National Environment Act, Section 3 (2019) ([link](#)), at 16-17.

¹⁰⁶ *Id.*

¹⁰⁷ Uganda Human Rights Commission, “UHRC Background” ([link](#)).

¹⁰⁸ Uganda Human Rights Commission, “The 26th Annual Report on the State of Human Rights and Freedoms in Uganda in 2023,” p. 186 (2024) ([link](#)).

¹⁰⁹ *Id.*, at p. 199.

¹¹⁰ *Id.*

¹¹¹ UNHRC, “Report of the Working Group on the Universal Period Review: Uganda,” A/HRC/34/10 (Dec. 27, 2016) ([link](#)) at 12-20.

¹¹² The Republic of Uganda Ministry of Gender, Labour and Social Development, “The National Action Plan on Business and Human Rights” (Aug. 2021) ([link](#)).

corruption; social service delivery by private actors; consumer protection; access to remedy; and women, and vulnerable and marginalized groups.¹¹³

74. The NAP tasks the Ugandan Ministry of Gender, Labour, and Social Development with responsibility for coordinating implementation of the plan, with the assistance of a Multi-Sectoral Technical Committee on Business and Human Rights composed of senior technical staff and chief executive officers from key government ministries and agencies.¹¹⁴
75. As noted in the NAP, Uganda has also specifically committed to increase accountability and transparency in the extractives sector and was admitted to the Extractive Industries Transparency Initiative (EITI) in August 2020.¹¹⁵



¹¹³ *Id.*, at p. v.

¹¹⁴ *Id.*, at p. 32.

¹¹⁵ EITI, "Uganda" ([link](#)).



ZAMBIA

76. In the 2021 Debevoise UNGPs Report, we identified no cases from courts or quasi-judicial bodies in Zambia that referred directly to the UNGPs. However, we identified two examples of Zambian courts addressing business accountability for adverse human rights impacts. We also considered elements of the Zambian Constitution that are relevant to BHR.¹¹⁶

A. Court Decisions

77. No court or quasi-judicial decisions were found in Zambia that directly address or mention the UNGPs. Three additional decisions by Zambian courts since January 2021, however, involve holding a person or entity accountable for the impacts of activities and policies on human rights and the environment.
78. *First*, in *Jonas Mwanza et al. v. Sable Transport Ltd.*,¹¹⁷ a group of landlords and farmers sued Sable Transport Limited for damage to their property and crops caused by the company's (allegedly illegal) quarrying operations on land neighboring their properties. The company contended that they did not damage the landlords' and farmers' property and that the company was authorized to engage in quarrying operations. The Court held the company violated Zambia's Environmental Protection and Pollution Control (Environmental Impact Assessment) Regulations by failing to conduct an Environmental Impact Assessment before beginning quarrying.¹¹⁸
79. *Second*, in *Dennis Sakala et al. v. Zambia Breweries PLC*, former employees of Zambia Breweries were fired following an incident where soft drinks were produced with incorrect expiration dates under the former employees' supervision.¹¹⁹ Upon discovery of the incorrect dates, the company recalled the distributed soft drinks and had workers rub off the wrong dates. The former employees attended a disciplinary meeting on May 7, 2007, and later received letters dismissing them from their jobs, which were dated May 4, 2007.¹²⁰ The former employees claimed that Zambia Breweries discriminated against them by firing them, while other equally responsible employees were not terminated. The Court explained a party must do more than merely state that they were treated differently than others to succeed on a discrimination claim; the party must show that the treatment given to him was less favorable than treatment given to another with similar circumstances.¹²¹ On this basis, the court ruled in favor of Zambia Breweries.
80. *Third*, in *African Banking Corporation (Zambia) Ltd. v. Lazarous Muntete*, a former Branch Manager of African Banking Corporation brought an action alleging he was wrongly dismissed from his job when he paid out money from an insufficiently funded account. In reaching its decision, the Court

¹¹⁶ 2021 Debevoise UNGPs Report, at 53-55.

¹¹⁷ *Jonas Mwanza and Another v. Sable Transport Limited*, High Court for Zambia, 2008/HP/0383 (Aug. 3, 2023).

¹¹⁸ *Id.* at 6.11.

¹¹⁹ *Dennis Sakala et al. v. Zambia Breweries PLC*, Court of Appeal of Zambia, Appeal No. 121/2022 (June 29, 2023).

¹²⁰ *Id.* at 5.2.

¹²¹ *Id.* at 7.14-7.15.

agreed with the lower court’s reliance on *Labour Law in Zambia – An Introduction*¹²² in finding that The Employment Code Act gave effect to Article 9(2) of the ILO Convention No. 158, which requires an employer to give a valid reason for termination prior to the dismissal.¹²³

B. Other Developments

81. At the 2023 Zambia National Stakeholder Dialogue on Business and Human Rights, the UN Resident Coordinator, Beatrice Mutali, remarked how important the areas of business and human rights are to Zambia as “[d]evelopment and development partners who respect human and environmental rights and contribute to long-term, responsible and sustainable development are critical given the challenges of our times, including increasing poverty and inequalities and climate change, and the implications of these on continued peace and stability in and across countries.” Further, Mutali called the UNGPs a “critical resource for the country” as Zambia “embarks on an economic transformation agenda aimed at growing the economy and creating jobs.”¹²⁴
82. The Zambian government and the UN are working together to attain Zambia’s Sustainable Development Goals (“SDGs”) via the newly established Zambia-UN Sustainable Development Cooperation Framework 2023–2027 (“UNSDCF”).¹²⁵ The SDGs focus on goals such as ending poverty and hunger, promoting health and wellness, ensuring quality education and gender equality, and obtaining clean water, energy, and sanitation, among others. The UNSDCF aims to achieve these goals by 2030.
83. The Zambia Human Rights Commission (“ZHRC”) is mandated to uphold the Bill of Rights, to investigate human rights violations and maladministration of justice, and to propose effective measures to prevent human rights abuses.¹²⁶ The Zambia NBA on Business and Human Rights was published by the ZHRC in 2016 and supplemented with a Pillar II analysis in 2021.¹²⁷ While conducted to help inform the development of an inaugural Business and Human Rights NAP, a NAP has not yet been developed. However, a road map for Zambia’s NAP has been developed and will guide the process going forward.¹²⁸

CONCLUSION

84. Engagement with the UNGPs continues to vary among African States. That said, the recent developments explored above reflect a growing commitment to human rights and environmental protections across the continent. Notable advances, such as the implementation of NAPs on

¹²² Roux, Rochelle Le, *Labour Law in Zambia: An Introduction*. By Chanda Chungu & Ernest Beele, 138 SOUTH AFRICAN L. J. 4 (2021).

¹²³ *African Banking Corporation (Zambia) Limited v. Lazarous Muntete*, Appeal No. 51 of 2021 at 10.3 (Feb. 10, 2023).

¹²⁴ United Nations Zambia, “Zambia National Stakeholder Dialogue on Business and Human Rights Lusaka, Zambia 18th to 19th April 2023” (Apr. 18, 2023) ([link](#)).

¹²⁵ United Nations Zambia, “Our Work on the Sustainable Development Goals in Zambia” ([link](#)).

¹²⁶ Zambian Human Rights Commission, “About” (Sept. 30, 2014) ([link](#)).

¹²⁷ National Action Plans on Business and Human Rights, “Zambia” (Feb. 22, 2024) ([link](#)).

¹²⁸ *Id.*

Responsible Business Conduct in Nigeria and Uganda, and Zambia's recent rulings on corporate misconduct, signal a regional movement towards deeper integration of human rights into business practices.

85. Amid these positive developments, there remain opportunities for greater engagement with BHR principles in the region. In particular, governments in African States can further strengthen legal protections from human rights abuses through judicial, administrative, and legislative means. Additional coordination between business, governments, and civil society organizations would also amplify the significant progress made to date.

