The Danish Institute for Human Rights (DHHR) is an independent, national, human rights institution modeled in accordance with the UN Paris Principles. The Institute, which was established by statute in 2002, carries on the mandate vested in the Danish Centre for Human Rights in 1987. This Centre for Human Rights (CHR) is an independent, national human rights institution operated within the Office of the Danish Ombudsman for Children and the Elderly. The Centre for Human Rights operates under a continuing program of research, education and practical activities meant to promote human rights and ensure a high level of human rights protection. The Centre for Human Rights does so through the Centre for the Elderly, the Centre for Children and the Elderly, and the Centre for the Elderly.

Human rights violations and abuse.

The Zambia Human Rights Commission, with support from the Danish Institute for Human Rights, was developed by the United Nations Development Programme and the European Commission. The Commission is an independent body mandated to carry out a continuing program of research, education and practical activities meant to promote human rights and ensure a high level of human rights protection. The Commission is housed in the Office of the President of the Republic of Zambia. The functions of the Commission are to investigate all human rights violations, monitor the implementation of international human rights treaties, and submit periodic reports on the implementation of the African Charter on Human and Peoples’ Rights.

The United Nations Development Programme (UNDP) is a United Nations agency that works with governments and people worldwide to help them reduce poverty, increase productivity, and improve the well-being of people. UNDP is the principal United Nations organization têmê closely linked to the Millennium Development Goals (MDGs) and is responsible for fundingUNDP's work in 170 countries.

UNDP is the global leader in the support of sustainable development, helping people reduce poverty and improve their quality of life. Nationally owned and led, UNDP is there for those who are left behind. UNDP’s work is based on the MDGs, and it focuses on building resilient communities to cope with the impacts of climate change, and reducing poverty. UNDP’s work is based on the MDGs, and it focuses on building resilient communities to cope with the impacts of climate change, and reducing poverty.
Introduction

The National Baseline Assessment on Business and Human Rights is a comprehensive and multi-dimensional initiative aimed at facilitating the implementation of the UN Guiding Principles on Business and Human Rights. The assessment is carried out by the Zimbabwe Human Rights Commission (ZHRC), with the support of international institutions, relevant stakeholders, and civil society organizations.

This baseline assessment serves as a crucial tool in identifying and quantifying the human rights impacts of businesses, particularly multinational corporations, operating within the country. It provides a comprehensive picture of the current state of business and human rights in Zimbabwe, highlighting areas of concern and identifying potential risks and challenges.

The report, published in 2014, is a result of extensive research and collaboration between the ZHRC and various stakeholders. It includes a detailed analysis of the business environment in Zimbabwe, examining the role of government, civil society, and businesses in safeguarding human rights.

Key aspects covered in the report include:
- The legal framework and regulatory environment
- Business operations and human rights
- Human rights impacts of business activities
- Corporate responsibility
- Mechanisms for addressing human rights violations

By providing a thorough and evidence-based analysis, the National Baseline Assessment helps to guide the development of effective strategies and policies to enhance the protection and promotion of human rights in the country. It serves as a valuable resource for businesses, government, civil society, and other stakeholders in aligning their actions with international best practices and the UN Guiding Principles.

The report’s findings are intended to inform the development of policies and strategies aimed at ensuring that businesses operate in an ethical and responsible manner, thereby contributing to the overall development and stability of Zimbabwe. Through this approach, the country works towards creating a more conducive environment for business while upholding the highest standards of human rights protection.
National Human Rights Action Plan & The National Baseline Assessment

The National Human Rights Action Plan & The National Baseline Assessment

Building Principles and other international standards into a process of human rights into national law, policies, and other measures of the government’s efforts on human rights.

Promoting the implementation of the Human Rights Action Plan to develop a National Human Rights Council (NHRC) in all of its member states in June 2014. The effective access to remedy;

3. Business enterprises have the responsibility to respect human rights;

2. Business enterprises have the responsibility to respect human rights;

1. The State has the duty to protect;

- Comprehensive and inter-related pillars:

- Framework consistent of human rights;

- The role of the business enterprises;

- To prevent and address business-related human rights issues;

- Environment and natural resources;

- National ownership and capacity;

- Commitment to address a particular sector;

- Environmental and social impact assessment; and

- Legal, human rights, and other mechanisms to address;

- Promote and support the private sector

- Underlying policies and frameworks;

- Investment and environmental impact assessments;

- Forestry and land tenure; and

- Community consultations.

- Government commitments and other measures of the government’s efforts on human rights.

- Human rights standards:

- Economic, social, and cultural rights under the consultation, implementation and enforcement of relevant business activities;

- Involvement of stakeholders;

- Collection and distribution of information and data;

- Participation in international standards;

- Implementing the Human Rights Framework.

Part 2 of the report outlines the key findings and recommendations of the baseline assessment (section 1.4) and an overview of the implementation of the Human Rights Action Plan.
Baseline and publication of the study in a peer-reviewed journal

4. Further stakeholder consultation to refine the key findings of the draft of the baseline draft preparation

3. Preparation of the consultation draft: stakeholders, see Annex II on seeing the draft in the baseline (Annex I, other stakeholders, interview kernel and missing information from the draft list of the stakeholders to verify the accuracy of government, civil society and business initial interviews in Lusaka with initial interviews)

2. List see the evidence (business in Zambia, for the full extent of business, the human rights impacts of economic sources providing case studies, reports and initiatives, analysis of business, reports on laws, regulations, etc.)

Following Steps: 2015 and January 2016 and involved the following steps: 2015 and January 2016 and involved the participation of NHRIs, after and Kenya are led by, or involve the process in Zambia, Tanzania, South Africa participation in Africa's current human rights

Methodology
Third parties and developed through NGOs should be carried out by neutral consultation and identified gaps in business and human rights standards. A NGA follows the lead on

The framework for the baseline is based on the principle of the guiding principles of Pillar III. The toolkits underpinning Pillar III: the toolkits, and local governments Action Plan on the CHRA

The core baseline team consisted of five consultants: see Annex II, other stakeholders, interview kernel and missing information from the draft list of the stakeholders to verify the accuracy of government, civil society and business initial interviews in Lusaka with initial interviews)
The agricultural sector employs the largest number of Zambians and makes a significant contribution to GDP. However, its contribution to GDP is shrinking, while the contributions of communications are growing. The structure of Zambia’s economy is changing. Mining’s share of GDP has fallen from 17.9 percent in 2000 to 12.4 percent in 2010, with manufacturing holding relatively steady at around 13 percent. Since 1995, Zambia’s gross domestic product (GDP) has grown at an average of 5 percent per year. Growth in factor productivity and structural reforms has been stronger in Zambia than in other countries with similar levels of development.

Source: Bank of Zambia

Annual Growth Rate of Zambia GDP

Per cent
Sectoral percentage share of GDP (1994 constant prices)

Agriculture

Labour

Economic sectors and regional disparities.

The mining industry, the backbone of the


According to media and

human rights concerns, these

Zambian economy has also been at the
centre of human rights concerns. These

and the reasons behind them can cross

months strike actions. These concerns,

Trade unions, employer council and

are dominated by Chinese

businesses and informal Zambian

example, is dominated by Chinese

for informal sector, construction, for

Many of the most severe violations are in

continue to be poor:

recognising adequate rest periods

equipment, providing social security and

worker's pay and worse

workers with little wage, and many girls

NGO reports, few businesses provide

It is worth noting that 40 to 60 per cent of Zambian's agricultural output is produced
Gaps in Implementation

By business activities:

- Communities that are adversely impacted
- Access to remedial remedies and
  guidance to companies and improving

- Including by reviewing laws, providing
  implementing the guiding principles,
  member states to take deliberate steps to
  The Human Rights Council called upon UN
  access to remedies;
  - Rights should be provided with
    and (II) victims of business-related human
    a responsibility to respect human rights;
    a duty to protect against human rights
    guidelines set forth (I) governments have
    - The United Nations guiding principles on
      the United Nations guiding principles

Government Commitment

Legislation, Regulations and Adjudication

Pillar 1: State Duty To Protect

Key Findings & Recommendations

such victims, and to initiate a dialogue

This baseline aims to provide a resource to

voice their complaints to have them

rights abuses often do not know where to

Government policies and victims of human

- Interactions between companies,
  - These abuses arise from the
    poor working conditions, as in other
    laws, emission, environmental pollution and

Zambia Human Rights Commission
Initiatives & International Standards & Participation

Recommendations to the Government

- The risks and impacts identified
- Adopt and implement the Guiding Principles
  under the G4+ (Guiding Principles on Due Diligence and
  Human Rights) and other relevant 
  international instruments.

- Implement the Guiding Principles
  on business and human rights
  identified in the specific sectoral
  matrices created by the United Nations.

- Map all relevant agencies
  with Implementation

- Identify gaps in implementation
  on the Guiding Principles

- Make a formal commitment to the
  Government

- Undertake sector-level analyses of the
  Guiding Principles

- Support other relevant instruments
  and initiatives

- Promote and develop a range of business 
  risk management frameworks
  of business and human rights
  identified in the specific sectoral
  matrices created by the United Nations.

- Undertake sector-level analyses of the
  Guiding Principles

- Support other relevant instruments
  and initiatives

- Promote and develop a range of business 
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  Guiding Principles

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  and initiatives

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  risk management frameworks
  of business and human rights
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  matrices created by the United Nations.

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  Guiding Principles

- Support other relevant instruments
  and initiatives

- Promote and develop a range of business 
  risk management frameworks
  of business and human rights
  identified in the specific sectoral
  matrices created by the United Nations.
Revenues from Business Activity

Collection & Distribution of Revenues

- In rural areas of interest in infrastructure revenue is not transferred into job creation and lead to socio-economic development. In Zambia, increasing copper exports will per cent. The World Bank has noted that

- has also seen from 6.5 per cent to 7.4 percent.

- of people living on less than $5.25 per day

- the same period. Moreover, the percentage

- in Zambia, the extractive industries

- business.

- human rights abuses by

- gender situational.

- environment in which people are able to

- present of enable the creation of an

- from business activities have profound

- the collection and distribution of revenues

- on security and human rights.

- the implementation of voluntary principles

- companies on joining and industry should provide guidance to

- the Ministry of Mines and the

- the African Mining Vision
been dispensed without being informed.

The Zambia Human Rights Commission reported in 2010 that communities had

recognized that the rights are often not fully

most vulnerable to displacement as their

pressure on land. Poor people are the

unemployment, have resulted in mounting

Growing population and increasing

increasing by a

these developments commonly lead to

industries. Industrial development, for a

town some, as well as

in recent years. In mining,

of customary tenure, there

land and water rights for conversion

process. Application for conversion

on behalf of the Ministry of Lands. These

council are authorized to administer land

At the local level, more than 70 districts

administration, is responsible for land

natural resources and environmental

lands, the Commissioner of the

Commissioner, the Commissioner of

process of proper

property and all other derivatives

The Constitution protects the right to own

dents, it has to be

and transferred with permission from local

Zambia's 17,500,000 acres, and 60 per cent of the land in

traditional leaders, and make up between

Zambia: As customary and state. The

There are two basic types of land tenure in

Acquisition

Land Ownership &

Economic, Social, and Cultural Rights under the Constitution

The Draft Constitution which includes

Recommends to the Government

recommendation.

Implementation

the draft of Rights. Thus making them

economic, social and cultural rights in

Recommends to the Government

Looking at the draft government there are

and legal reforms. An other

zambia economy heavily

These improvements, however, mask

Zambia is one of the poorest countries in the world.

since 2000, above slowly, and

investment and capital income have

compared to the 2014 Human

Zambia was ranked 141st out of 180

environment is vital for all human rights.

The state duty to protect against human
Customer Land Bill should require the security of tenure provided in the

- Contracted out an independent third
  - ownership. This ought should be
    - provided in an acceptable account of land
      - including a new directions map.
  - Undertake a comprehensive land
    - restatement which land purchases or
      - compensation when land purchases or
        - the calculation of
          - The lands Act should elaborate the
            - and citizens.
            - clearly communicated to businesses
              - ensure that these procedures are
                - and other relevant laws and policies.
        - Land Policy, National Restatement Policy
          - compensation in the lands Act, etc.
          - for land acquisition, leases and uses by
            - clarity the processes and procedures
              - recommendation to the government.


- Compensation to the Government
  - as lands or displaced as recipients.
  - Where a company purchases, leases or
    - distribution compensation in cases
      - beside of calculating and
        - The lands Act does not provide
          - approach.
          - rights of at risk human rights-based
            - should be compatible with human
              - not state that such consultancy
                - the law. Furthermore, the law does
                  - actions meet the requirement under
                    - due diligence and, this term is not
                      - Consultation by businesses when
                        - through the lands Act requires
                          - with land and for business investment:
                        - displacement of persons associated
                          - the extent of restatement on
                            - law on process to be followed in
                              - There are no detailed guidelines in the

- Leasing customer Land.

  - should be considered when acquiring or
    - sectors with information about who
      - Government or civil society
        - and child rights and gender
          - an updated land
            - customer or tenant, it is cannot
              - once has been transferred from
                - customer Land into subsistence land.
  - that covered large blocks of
    - a number of recent land acquisitions
      - customary tenure, and do not include
        - customary tenure, and do not include
          - excluded forest and 80% parts from
            - These figures, however, do not
              - with 60% can classified as subsistence
                - the land in Zambia is customary land,
                  - slight, approximately 9% of central
                    - according to the
                      - government has an administratively
                        - respectively published by the
                          - acquisition or subsistence use and
                            - similarly mentioned
                              - private sector land acquisitions is
                                - processes. The role of local councils in
                                  - overlapping and inefficient
                                    - clearly defined in law, resulting in
                                      - Ministry of Mines, for example— is not
                                          - the Ministry of Lands and the
                                            - interaction between government
                                              - distributing and influencing the
                                                - negligible with communities when
                                                  - companies are not clear for example,
                                                      - Process and procedures related to
                                                          - land acquisition, leases and uses by
                                                            - schools.
  - further away from health facilities and
    - displaced sometimes moved people
      - been resettled in urban areas.
Labour Law

- passed, but not been implemented to address the needs of women in the mining sector, making them ineligible for benefits.

- International human rights standards.

- The draft land policy should be reviewed to address some land issues.

- The need for meaningful consultation and transparency in the execution of the new resettlement policy and guidelines for compensation and resettlement.

- The need for a more effective consultation with affected communities when land is earmarked for resettlement.

....
include social issues, not specialty.

The provision in the Environmental
Gaps in Implementation

place, hinting them from participating.

same files, process was lacking
society organisations were not aware
kick start about what they continued to.
Civil society communities in the
implemented, leaving communities in the

The Consultation Draft still is the

Environmental Law

of compliance.

environmental record keeping and monitoring.

different issues related matters for
harmonise regulations providing for
should be reviewed and amended.

except their tenant.

should be adequately resisted to
District Civil Labour Committees,
The Labour department, including

environmental impact assessments (EIAs)

Atención Niños.

higher levels of pollutants than other

in industry is one of the most polluted areas of
province, home to much of the mining
Province. home to much of the mining
2010 study found that the cooperatives

regulations for EIAs are set in the

a negative impact on the environment.

and projected likely to have

environmental impact assessments (EIAs)

Recommendations to the Government

1. Inspections to curb child labour
2. Independently required to conduct

district civil labour committees are

by employees for workplace actions,

protected under the law for dismissal

their leaders are not

leading role of employers for those

and so are the

mining sector at being Bennett with air

challenges. the growing footprint of the

environmental harm caused as a major

in recent years, business impacts on the

Recommendations for environmental protection

regulations for environmental protection

Development Act of 2009 provides

and the mining and mineral

clean, safe and healthy environment?

The 2011 Environmental Management Act

natural resources in sustainable way,

preserves, develops and utilises summary’s

and conduct its affairs in a way that will

sustainable development to uphold laws and

The Consultation Draft still is the
Environmental Rights

Environmental rights are the promotion and protection of community leaders, and the judiciary,

strive to assess environmental

facilitate continuous training of ZEMA

officials and implement.

These regulations should be promulgated

for immediate assessment practices.

A resolution to establish the process of a

proposed the establishment of a

Environmental Impact Examiners

The Draft Regulations for

Training and Human Resources

including administrative, environmental,

effectively implement this mandate.

resources to enable the agency to

provide ZEMA with additional

expediency implemented.

These provisions include the

and management plan (section 87).

that a central environmental

management system includes all elements of

and environmental information to the

ZEMA is mandated to provide

such as court tribunal.

Independent and impartial bodies

only be overridden by

decision of approve projects can

declarations made by ZEMA to

affected communities

under international law (with

and informed consent, as detailed

consultation framework of leave prior

consultation (referring to the

That EIA includes meaningful

social and human rights issues.

That EIA address clearly defined

Management Act 2011 to require:

Amend the Environmental

Recommendations to the Government

practice. There is evidence that this occurs in

on environmental considerations and

decision by ZEMA to approve or

the Minister can overrule a

Management Act 2011 (section

Planning to the Environmental

pollution levels. Depending on companies to report

levels in air and water, revealing its

environmental to measure continuous

reportedly to assess the necessary

specialists to carry out its mandate. It

sufficient number of social or technical

districts, and does not have a

agency is only present in your

resources, environmental, and financial

restricted capacity to monitor impacts

Management Agency (ZEMA) has

The Zambia Environmental

Criticisms:

have specific professional skills or

do not receive clear directions to

The Environmental Management Act

influence on to be available in local

summary is to include non-technical

consultation as part of public are

Provisions requiring public

such consideration would entail,

which social issues should be
Gaps in Implementation

Access to Information & Corporate Reporting

Corporate Reporting

Access to Information &

Zambia Human Rights Commission

Detailed non-financial aspects relevant and human rights issues and targets.

and human rights issues and targets.

Financial Reporting. Clearly what type of information to include in

non-financial reporting. Clearly what type of information to include in

environmental and human rights

environmental and human rights

information addressing labour,

information addressing labour,

Regulations for non-financial

Regulations for non-financial

reporting (e.g. Companies Act)

reporting (e.g. Companies Act)

All Regulations relating to Corporate

All Regulations relating to Corporate

be promptly passed and implemented.

be promptly passed and implemented.

The access to information law should

The access to information law should

been enacted.

been enacted.

been enacted since 2002 but has not

been enacted since 2002 but has not

headwaters.

headwaters.

institutional where they are

institutional where they are

make such disclosures in the

make such disclosures in the

are promoted and required to

are promoted and required to

the OECD Guidelines for Multinational

the OECD Guidelines for Multinational

that have human rights leverage (e.g.

that have human rights leverage (e.g.

additional standards, including some

additional standards, including some

their observance or a number of

their observance or a number of

companies listed on the Lusaka Stock

companies listed on the Lusaka Stock

Principles.

Principles.

The government does not currently

The government does not currently

issue guidance to businesses about

issue guidance to businesses about

Other initiatives to report on non-financial

Other initiatives to report on non-financial

and form of such non-financial reporting.

and form of such non-financial reporting.

have produced guidance on the concept

have produced guidance on the concept

and international bodies.

and international bodies.

environmental and social impacts.

environmental and social impacts.

International Financial Reporting Standards Board, International

International Financial Reporting Standards Board, International

The Sustainability Board, International

The Sustainability Board, International

"The Sustainability Board, International

"The Sustainability Board, International

Risk Peculiar to Operation of Businesses outside or Where Impacts are

Risk Peculiar to Operation of Businesses outside or Where Impacts are

According to the guiding Principles, "State"

According to the guiding Principles, "State"

Frameworks to elaborate how, and what,

Frameworks to elaborate how, and what,

Standards Board) have produced

Standards Board) have produced

Corporate Social Responsibility in Carbon Disclosure

Corporate Social Responsibility in Carbon Disclosure

International Organization (e.g. The Sustainability Board, International

International Organization (e.g. The Sustainability Board, International

Organizations (e.g. The Sustainability Board, International

Organizations (e.g. The Sustainability Board, International

11
Recommendations to the Government

- Obligations: Business entities must comply with their legal obligations, ensuring that their activities do not violate human rights laws. The government must ensure that businesses operate within the framework of the law and respect international standards.

- Incentives: The government should create incentives for businesses to adopt best practices in terms of human rights due diligence. This can include tax breaks, subsidies, or other forms of support.

- Enforcement capacity: The government needs to strengthen its enforcement capacity to ensure that businesses comply with human rights laws. This includes increasing the number of human rights experts in relevant government departments, providing training and resources to law enforcement agencies, and ensuring that laws are effectively implemented.

- Gaps in implementation: The government must address gaps in the implementation of human rights laws, particularly in business and human rights. This includes strengthening regulatory mechanisms, increasing public awareness, and ensuring that businesses are held accountable for violations.

- Conclusion: The government must commit to the protection of human rights, particularly in the business sector. This requires a concerted effort at all levels of government to ensure that businesses operate in a manner that respects human rights.
Recommendations to the Government:
- Human rights: owned enterprises respect human rights and are obliged to exercise human rights throughout their state-owned entities, ensuring human rights are adopted and promoted a policy and the implementation of those policies.

Gaps in Implementation:
- Companies owned by the state: Other issues that have not been addressed by the government are the creation of state-owned enterprises and the Chinese government's involvement in the country. The government has been criticized for the lack of transparency in the awarding of contracts and the lack of accountability in the management of state-owned enterprises.

The State & State-Owned Enterprises:
- The government has failed to address the concerns raised by the Chinese government regarding the management of state-owned enterprises. The government has been criticized for the lack of transparency in the awarding of contracts and the lack of accountability in the management of state-owned enterprises.

Guiding Principles & Business Models Controlled by the State:
- Business models that have been implemented in the country are those that are owned by the state, and the government has been criticized for the lack of transparency in the awarding of contracts and the lack of accountability in the management of state-owned enterprises.

- Address human rights impacts in the business model. This may include, for example, carrying out impact assessments of key sectors, such as real estate, construction, and agriculture.

- Engage government departments and other key stakeholders to improve conditions. This may include, for example, engaging with local communities and ensuring that they are aware of human rights issues and are able to take action.

- Increase training on human rights for employees, including those in the informal sector.
local human development priorities,

unavailable Alliance with national or

frequently leading to, but not

participate in, the delivery of

Corporations’ corporate social responsiblity

Rights: Respect and fulfill human

projects, including the delivery of

Services are provided in accordance

an 8-week training conducted by the

government to the government. Crime of

There are no systematic, publicly

Gaps in Implementation

The guiding principles are outlined in the

0

Government’s

in the belief that these tasks are required

are available to the public at a subsisded

development and education, and

These health facilities are available for free

whites run two hospitals and eight clinics.

provided by private actors. Some

in addition to some public services being

wholly owned by local authorities.

operate as private companies that are

and sewage services, for example. Compture

provided by private sector. Some

those services are privatized.

human rights law to provide equitable

reach their duties under international

The guiding principles are outlined in the

Zambia Human Rights Commission

Guiding Principles: Public Service Delivery

The guiding principles: Public Service Delivery

Zambia Human Rights Commission

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Montreal, September 2023

Under sanctions, it does not include not being convicted of crimes or violation of human rights or performance of duties of a human rights officer. Recommendations to the Government:

- Make the ZPPA personnel more visible in the government.
- Ensure that the ZPPA has the authority to issue and enforce procurement directives.

Gaps in Implementation:

- The government’s human rights policies are not effective.
- The ZPPA’s coordination is insufficient.
- Public procurement processes are not transparent.

Recommendaions to the Government:

- Develop and implement a policy that includes human rights and public procurement.
- Ensure that the ZPPA has the authority to issue and enforce procurement directives.

Guiding Principle

Public Procurement Government Contracting &

Governments should develop and implement policies that include human rights and public procurement. This includes developing policies and procedures for human rights-based procurement, ensuring that procurement processes are in line with local and national human rights and environmental standards and that they meet the applicable standards set by the relevant authorities.

Recommendations to the Government:

- Develop and implement a policy that includes human rights and public procurement.
- Ensure that the ZPPA has the authority to issue and enforce procurement directives.

Zambia Human Rights Commission
Between ZDA and the Ministry of
Affairs), the Ministry of Children and Traditional
Vice President, Local Authorities and
Ministry of Lands, ZEMA, Office of the
least your Government Institutions
example of fake under the realm of all
acquisition by companies for
of business activities is unclear. Land
charged with regulating the practices

Gaps in Implementation

Government agencies and activities;
Issues is effectively implemented across
against business-related human rights
ensure that the State duty to protect
and policies and practices of all agencies to
Governments are also regulated to assess the
and national level. This means that
access departments and between the local
government under human rights

The guiding Principles state that

Guiding Principle 8: Policy Coherence

Based on common best practice
ZPPA should promote human rights,

Guidelines to its procurement

Agencies.

Agreements.
Investment Agreements and Contracts

Recommendations to the Government

- wide ranging, including human rights clauses in agreements, contracts, and

Guiding Principles Agreement Negotiations

Zambia Human Rights Commission

are announced publicly when they are

in the form of Commerce Annual Reports, and

state of the human rights situation in the

Investment Promotion

and public sector, they

have not been

insufficient to respond to

Because of the nature and other

Furthermore, the interaction between

and human rights governance.

not undertake systemic risk

crises in other jurisdictions, they do

Investment Agreements

Agreement between Zambia and

The Ministry of Commerce, Zambia

available.

such agreements are not publicly

human rights protection. Many

have agreed to increase environmental

ability to

controversy or investment contracts

investment treaties and contracts

agreements are not provided any

The gaps in implementation

concern double taxation and remittances.

investment promotion agreements

negotiated and come into force. Most

are consistent with business respect for

should be reflected and

from extraterritorial human rights duties.

in the俏的 negotiation should include clauses

are exclusive to bilateral investment treaties or

investment agreements (treaty-investor

The guiding principles state that

}
Pillar 3: Access to Remedy

**GUIDING PRINCIPLES 25 & 26: JUDICIAL GRIEVANCE MECHANISMS**

States have the obligation to provide effective judicial remedies to victims of human rights abuses, including non-financial criteria, particularly regarding environmental and human rights performance, in risk assessment and due diligence assessments of foreign investors, with the UN Principles for Responsible Contracts, i.e. consider human rights and principles for compliance with these human rights obligations of companies operating in Zambia is available to the public.

- Include non-financial criteria.
- Revise the current incentives on labour to include decent work criteria.
- Align international labour standards with environmental and human rights performance in the incentives criteria.

The Judicial Complaints Authority receives complaints regarding the misconduct of judicial officers. 46

**Gaps in Implementation**

- Complaints of labour exploitation, including failure to pay wages and forcing employees to work, can be lodged with local labour offices, who will arrange for corrective action to be taken. Complaints can also be lodged directly with the Labour and Industrial Relations Court. 46

- Complaints of business-related human rights harms, including forced labour and human rights abuses, are not only establishing courts, but also ensuring that the justice they deliver is swift, consistent, equitable and available to all without discrimination.

- Zimbabwe has a number of judicial remedy mechanisms relevant for addressing business-related human rights harms. This means not only establishing courts, but also ensuring that the justice they deliver is swift, consistent, equitable and available to all without discrimination.

- The cost of filing a claim is prohibitively high, especially for companies operating in Zambia.

- The procedural framework available to citizens is complex and expensive.

- Case resolution is slow and often results in prolonged delays.

- In cases of human rights abuses by businesses, most citizens do not know where to file a claim. In disputes over land, traditional and formal courts, as well as the Land Tribunal, may have jurisdiction depending on the tenure under which the land is owned.

- In cases of human rights abuses by businesses, most citizens do not know where to file a claim. In disputes over land, traditional and formal courts, as well as the Land Tribunal, may have jurisdiction depending on the tenure under which the land is owned.
The guiding principles recommended are:

2. Industrial Relations Court to All
3. Resources to Honour Court Pronouncements.
4. Effective and Efficient Administrative 
   Justice Systems, Especially as an 
   Alternative to Judicial Remedies.
5. Access to speedily hearings.
6. The Ministry of Justice and Judicial 
   Proceedings.
7. Clairely Judicial Remedies Mechanisms 
   to understand information that 
   was ordered at the lower court.
8. Informational Rights of Business-Related 
   Respondents for business-relevant 
   confidential data. The lower court 
   should be notified of the district legal 
   human rights breaches. This information 
   includes: establishing speedily hearings.

The guiding principles are:

1. Address public interest regarding 
   non-judicial in their region, where the most common and 
   cost-effective solution is where the most effective in 
   the applicable remedy bodles.
2. The Legal Aid Board should be de- 
   sect business-related human rights 
   breaches take place.
3. Grievance Mechanisms, including 
   non-judicial, and Paramount Tribunals. The Land Tribunal 
   is intended as an accessible alternative to 
   oversee local human rights committees in 
   Zambia has a number of non-judicial 
   remedies mechanisms available to victims.
increase funding and improve the
performance.

access, especially for vulnerable
mediation mechanisms to increase
their mandate, lower the cost
and proceed with the court system.

Gaining Principle 2:

effectiveness of these mechanisms that mean the
human rights due diligence, including
extraordinary measures, their
influence on organizations.

The Ministry of Commerce, Trade and
industry, and the Ministry of Justice, in
promote and protect human rights.

The government of the Zambian
constitutional and international
or jurisdictional, or international
information available on them.

The Zambian Human Rights
Commission;

Recommen
dations to the Government

Currently has only 5%.

Though mandated to have 150 staff, it
is understaffed and under-funded.

Commission’s which is mandated to
non-violent groups and those living in
vulnerable groups.

remains unworkable to most
matters, is still frequently raw and
resulting some human rights-realted
measures.

Court-mandated mediation, through
measures.

Commission’s, international-level
mediation, and court judical,
information about available non-
mediation.

The Zambian Human Rights
Commission’s, constitutional, function

Commission and Zambia’s monitor
through the Ministry of
non-judicial, commissions,
which can be slow and expensive.

Gaps in Implementation

According to the Public Complainants’
Commission’s reports, all public
complainants rights to be
administrative settlement of
commission.

the Anti-Corruption Act, section 9.
Depending on the case, it
is under-staffed and under-funded.

The Anti-Corruption Commission;

the legal and professional
investigative complaints of corrupt
other actions to remedy human rights

Zambia Human Rights Commission
ANNEX I:
National Baseline Assessment on Business and Human Rights
**GUIDING PRINCIPLE 1**

States must protect against human rights abuse within their territory and/or jurisdiction by third parties, including business enterprises. This requires taking appropriate steps to prevent, investigate, punish and redress such abuse through effective policies, legislation, regulations and adjudication.

### 1.1. International and Regional Legal Instruments

Has the government signed and ratified relevant international human rights instruments? 

<table>
<thead>
<tr>
<th>Indicators &amp; Scoping Questions</th>
<th>Implementation Status</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>International Human Rights Legal Instruments</strong></td>
<td>The Zambian Government has acceded to the following international and regional human rights instruments. However, the harmonisation system of the Zambian legal and regional legal frameworks, meaning that many relevant instruments are not directly applicable. They must first be translated into national legislation, policy or administrative measures before they can be applied. However, there is no</td>
</tr>
<tr>
<td>Has the government signed and ratified relevant international human rights instruments, such as ICERD, ICCPR, ICESCR, CEDAW, CAT, CRC, ILO Convention, CRPD, the Rome Statute, and any other relevant treaties?</td>
<td>Notable gaps and setbacks in the implementation of international human rights instruments are as follows:</td>
</tr>
<tr>
<td><strong>International Covenant on Civil and Political Rights (ICCPR acceded 1984)</strong></td>
<td></td>
</tr>
<tr>
<td>• Derogation clauses in Parliament and Government legislation whose interpretation tends to curtail the enjoyment of certain freedoms. Article 15 (2) and (3), Article 23 (4).</td>
<td></td>
</tr>
<tr>
<td>• Criminal and civil defamation laws, such as the Criminal Code, Penal Code, and provisions of the penal code such as the Official Secrets Act and the Computer Act.</td>
<td></td>
</tr>
<tr>
<td>• Some provisions and implementation of the Prevention of Corruption Act.</td>
<td></td>
</tr>
<tr>
<td>• Delays in enactment of the Access to Information law.</td>
<td></td>
</tr>
</tbody>
</table>
GUIDING PRINCIPLE 1

Policy to guide domestication of international and regional human rights

International Covenant on Economic, Social and Cultural Rights (ICESCR, adopted 1984)
- Economic, social and cultural rights are not protected in the current Constitution.
- Current legislation is inadequate to protect and promote rights like public participation mandatory and obtain public consultations for projects that may have socio-cultural and environmental effects. Part VII of the Environmental Management Act provides for public participation in environmental decision-making, but does not provide a legal framework for carrying out. Instead, it provides that “The Minister may, on his own initiative, make regulations to enhance the ability of the public to obtain information, to participate in decision-making, and to maintain their rights to information.”

Convention on the Elimination of All Forms of Racial Discrimination (ICERD, 1958)
- The Convention has been fully domesticated into comprehensive domestic law. For example, the Committee on Human Rights to OHCHR for a UPR compilation on Zambia, stated that Zambia “fully implemented the recommendation by the Committee on the Elimination of Racial Discrimination (CERD) to the Constitution so as to ensure the full implementation of the Convention on Racial discrimination. The Committee draws the attention of the State party to the recommendation XXX (2004) on non-citizens. It also stresses that respect for human rights and practices should not be ensured through a general exception clause in the Convention against discrimination, but should rather be implemented through positive remedies and measures.”

Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW, ratified 1985)
- There is need to fully domesticate CEDAW and address issues to the reservations contained in Article 23 (4).
GUIDING PRINCIPLE 1

- Marriage is not defined in the Marriage Act.
- Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT acceded 1998)
  - There is no law criminalising Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. Only civil liability has been legislated at the perpetrator and the State.
  - There is no law outlawing torture and non-torture in all settings.
  - There is no specific definition of child in statutes.
  - There is a need to incorporate the CRC and remove constitutional limitations including non-justiciability of ECSR.
- Convention on the Rights of Persons with Disabilities (CRPD ratified 2010)
  - The government has repealed provisions of the Criminal Procedure Code (CPC) that allow detention of persons with mental disability at the president’s pleasure and does not extradite such detentions.
- International Convention for the Protection of All Persons from Enforced Disappearance (CPED ratified 2019)
  - The Convention has not yet been domesticated.
- Optional protocol to the ICCPR (ratified 2004)
  - Very few people are aware of its existence and hence there is a need for awareness promotion among members of the public.
- Zambia has signed but not ratified the following international instruments:
  - Optional Protocol to the Convention against Torture (ratified 21 September, 2010)
  - Optional Protocol to the Convention on the Rights of the Child concerning the involvement of children in armed conflict (signed on 29 September, 2010)
**GUIDING PRINCIPLE 1**

- Child prostitution and child pornography (Signed 22 November 2006).
- Optional Protocol to the Convention on the Rights of Persons with Disabilities (Signed on 29 September, 2008).

Zambia has signed for acceptance of the following procedures for the following:

- CAT Article 20 (approved on 13 February, 1999)
- CED Article 7 (approved on 6 April, 2011).

Zambia has also signed and acceded to the following international human rights instruments:

- Convention on the Protection of the Rights of All Migrant Workers and Their Families (not ratified)
- Optional Protocol on communications procedure
- Optional Protocol relating to the elimination of the death penalty
- CESCR Addendum No 14 to the Covenant on Economic, Social and Cultural Rights relating to implementation procedures.

### Regional Human Rights Legal Instruments

<table>
<thead>
<tr>
<th>Instrument</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>African Charter on Human and People’s Rights</td>
<td>(ratified 1984)</td>
</tr>
</tbody>
</table>

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*Zambia Human Rights Commission*
### GUIDING PRINCIPLE 1

For the Promotion of Human Rights and Fundamental Freedoms; and any other relevant protocols?

- Some gaps include those highlighted under CEDAW, below.
- SADC Protocol on Gender and Development (signed in 2008)
- Gaps include those noted with regards to CEDAW, above.

### 1.2. International and Regional Soft Law Instruments

Has the government signed relevant international and regional soft law instruments?

<table>
<thead>
<tr>
<th>Indicators &amp; Scoping Questions</th>
<th>Implementation Status</th>
<th>Gaps</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>International Human Rights Law Instruments</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Has the government signed relevant international human rights soft law instruments?</td>
<td></td>
<td></td>
</tr>
<tr>
<td>The Zambian Government has signed a number of international human rights soft law instruments, including:</td>
<td></td>
<td></td>
</tr>
<tr>
<td>- Lima Declaration of Principles on Auditing Precepts (1977)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>- Maputo Declaration on Agriculture and Food (2005)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>- Rio Declaration on Environment and Development (1992)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>- Windhoek Declaration and Platform (1995)</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

- Review of Guidelines on Auditing Precepts (1977)

There is apparent lack of investment in the implementation of international human rights soft law instruments as follows:

- Lack of domestication of the Declaration on Audit Precepts. There is no local law corresponding to the Declaration. There is apparent lack of investment in the implementation of international human rights soft law instruments.

- Maputo Declaration on Agriculture and Food (2005)

Lack of domestication of the Declaration has meant that the agriculture budget allocations for 2011 to 2013 indicated that on average only 3% of the national budget of 10% of Zambia’s annual budget had been allocated to the agricultural sector. Between 2012, Zambia’s expenditure allocation share in the national budget has been falling and this has affected the creation of decent jobs in agriculture, a sector that employs more than 50% of the population in the country. These gaps also apply to the Malabo (CAADP) Declaration.

- Rio Declaration on Environment and Development (1992)
### GUIDING PRINCIPLE 1

The Zambian Environmental Management Act (2011) does not make provision of the Declaration; especially Principle 10 of the Declaration. The Act does not provide for participation of members of the public in decision-making, providing access to information, public hearing, and providing effective and appropriate redress and remedies for violation.

**Beijing Declaration and Platform for Action (1995)**

Many of the provisions have not been translated into domestic law and policy. Gaps include non-tangible domestication of the Declaration, especially those relating to strategic objectives F1 to F6 (women and development) and F13 (human rights of women as they relate to stereotyping and discrimination). The responses provided in response to the United Nations Questionnaire on the Beijing Declaration and Platform for Action (1995) and the Outcome of the Fourth Session of the General Assembly (2000) does not provide responses on these gaps regarding economy or discrimination.

Notable gaps with regards to the implementation of regional human rights soft law instruments are as follows:

**Grand Bay (Mauritius) Declaration and Plan of Action (1999)**

The declaration provides for inter alia; ratification of international and regional human rights treaties for those countries that have not and for countries that reports to treaty bodies as required. Further, it recommends the development and implementation of action plans on human rights. No policy has been adopted by the Government on the implementation of treaties in general and human rights treaties in particular. The Government of Zambia is in the process of treaty reports, resulting in treaty bodies not periodically providing adequate information and feedback.
## GUIDING PRINCIPLE 1

Recommendations. No human rights action plans have so far been developed.

### 1.3. UN Guiding Principles on Business and Human Rights

Is the State actively implementing the Guiding Principles?

<table>
<thead>
<tr>
<th>Indicators &amp; Scoping Questions</th>
<th>Implementation Status</th>
<th>Gaps</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Formal Statement of Support</strong></td>
<td>None found</td>
<td>The Zambian Government has not given a public statement in support of the Guiding Principles.</td>
</tr>
<tr>
<td>Has the State given a formal statement of support for the Guiding Principles?</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>Implementation Structures</strong></td>
<td>None found</td>
<td>The Government has also not enacted specific administrative measures to implement the Guiding Principles.</td>
</tr>
<tr>
<td>Has the State put in place relevant structures to ensure implementation of the Guiding Principles, for example, through the establishment or designation of a body tasked with implementation measures or through the allocation of internal resources?</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>Capacity-Building</strong></td>
<td>None found</td>
<td>The Government has so far not put in place any measures to capacitate government actors and local citizens with knowledge and information on the Guiding Principles.</td>
</tr>
<tr>
<td>Has the State put in place measures to capacitate government actors and local citizens with knowledge and information on the Guiding Principles, for example, through workshops, conferences, or other events?</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>Information</strong></td>
<td>None found</td>
<td>The Government has not disseminated any information about the Guiding Principles.</td>
</tr>
<tr>
<td>Has the State disseminated information about the Guiding Principles</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
GUIDING PRINCIPLE 1

through public media sources, internal guidance documents, or other materials?

1.4. Other Relevant Standards and Initiatives

Is the State supporting or participating in other standards and initiatives relevant to business and human rights?

<table>
<thead>
<tr>
<th>Indicators &amp; Scoping Questions</th>
<th>Implementation Status</th>
<th>Gaps</th>
</tr>
</thead>
<tbody>
<tr>
<td>Standards</td>
<td>Company Law and the LuSE Code of Corporate Governance require the disclosure of most non-financial items recommended by the OECD Guidelines for Multinational Enterprises. Large public companies and Government agencies, including the Zambia Electricity Supply Corporation (ZESCO), Energy Regulation Board (ERB), Lusaka Water and Sewerage Company (LWSC), and the Rural Electrification Authority (REA), use international performance standards such as the International Finance Corporation’s Social and Environmental Performance Standards (the IFC Performance Standards) when undertaking pre-project implementation due diligence. There are also many private sector projects in Zambia that seek international financing, some of which are required to meet the IFC Performance Standards as a qualifying criteria for doing so. Some types of development projects also refer to the IFC Performance Standards. For example, the Millennium Challenge Compact between the Millennium Challenge Corporation (an independent US Foreign aid agency) and the Zambian Government has not taken steps to support or participate in business and human rights standards; for example, requiring businesses to adhere to the IFC Performance Standards or the OECD Guidelines for Multinational Enterprises. It appears that companies implementing international performance standards are doing it voluntarily or are influenced by international finance institutions that are financing projects implemented by such companies. Some public companies in which the State has shares, such as Konkola, have been convicted of polluting the Copperbelt. This indicates that performance standards have not been implemented consistently in practice.</td>
<td></td>
</tr>
</tbody>
</table>
### GUIDING PRINCIPLE 1

Government, focusing on clean water supply and sanitation, requires that the program will be implemented in compliance with the Millennium Challenge Compact (MCC) Environmental Standards, and the IFC Performance Standards.  

The Compact Network Zambia was registered in 2002 with the aim to support policies. It is hosted by the Institute of Finance and Investment. The Advisory Board has representatives from the Ministry of Finance and the Ministry of Commerce, Trade and Industry, and the National Commission for Community Learning institutions in the private sector.

### Initiatives

Has the government participated in initiatives, multi-stakeholder or otherwise, on business and human rights, such as the Global Network Initiative (GNI), the International Code of Conduct for Private Security Service Providers Association (ICoCA), and the Voluntary Principles on Security and Human Rights (VPs)?

Zambia is a member of the Extractive Industry Initiative (EITI) and the Government is responsible to the EITI Secretariat, annually publishing a report on the amount of money paid to the State and local authorities. There are no other significant initiatives.

There is no evidence that the Government participates in, or actively works towards implementing, the following business and human rights initiatives, all of which are relevant for the Zambian context given that the extractive industries and agricultural sectors play a major role in the economy and society.

- Voluntary Principles on Security and Human Rights (2005)
- Guidelines for Local Social and Large Scale Land Based Investments (2012)

### 1.5. National Laws and Regulations

Does the general law of the State provide protection against business-related human rights abuses?

<table>
<thead>
<tr>
<th>Law</th>
</tr>
</thead>
<tbody>
<tr>
<td>[Baseline Assessment on Business and Human Rights]</td>
</tr>
</tbody>
</table>

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### GUIDING PRINCIPLE 1

<table>
<thead>
<tr>
<th>Indicators &amp; Scoping Questions</th>
<th>Implementation Status</th>
<th>Gaps</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Constitution</strong>&lt;br&gt;Does the constitution contain wording aimed at human rights protection?</td>
<td>Part III of the Constitution of Zambia provides for fundamental rights and freedoms. Part IX provides for economic, social and cultural rights, or what is referred to as the directive principles of State policy.</td>
<td>Some derogations under Part III of the Constitution are inconsistent with international law. A good example is the provision under Article 23 (4), which has consistently been cited by the CEDAW Committee concluding observations for compromising women’s rights. Another example is Article 20 (3), the provisions of which seriously compromise freedom of expression. A derogative clause in view of directive principles of State policy is provided for in Article 111 which states that the directive principles of State policy outlined in this part shall not be justiciable and shall not thereby, by themselves, despite being referred to as rights in certain instances, be legally enforceable in any court, tribunal or administrative institution or entity. This constitutes a major hurdle to the State’s ability to respect, protect and fulfil economic, social and cultural rights and goes against the principles of human rights, of interrelatedness, interdependence, inalienability, universality and indivisibility of rights.</td>
</tr>
<tr>
<td><strong>Labour Law</strong>&lt;br&gt;Has the government put in place labour laws and regulations to ensure the protection and promotion of workers’ rights?</td>
<td>The Employment Act CAP 268 is the basic employment law, and provides for the basic employment contractual terms such as minimum contractual age; establishment of employment contracts; settlement of disputes arising from such contracts, and conditions of employment such as leave, facilities etc. The Industrial and Labour Relations Act CAP 269 (ILRA) provides for industrial relations, including collective</td>
<td>The Ministry of Labour does not issue any guidelines to company owners or managers about their human rights obligations, nor does it sensitise workers to their rights and available redress mechanisms. Though International Labour Organisation conventions and the ICESCR provide for equal pay for equal work, the Employment Act (CAP 268) does not provide for specific wording to this effect. Ministry of Labour linkages with ministries addressing vulnerable groups,</td>
</tr>
</tbody>
</table>
GUIDING PRINCIPLE 1


These legislative changes were particularly important as they were introduced in tandem with economic liberalisation. The Joint Industrial Council (JIC) system, created to institutionalize collective bargaining, survived the changes, but the 1997 amendments, which also removed the mandatory nature of the JIC, weakened its efficacy.

The Industrial and Labour Relations Act provides that the Office of the Labour Commissioner is responsible for inspecting workplaces with regard to workers’ rights. The minimum wages and conditions of employment regulations (or “wages and workers) amended the Industrial Relations Act. The statutory instrument no. 47 of 2011 sets the minimum wages and conditions of employment.

CAPSULE: Conditions of Employment

The April 2011 sets the minimum wages by category of workers.

Environmental Law

The Constitution recognises the right to a healthy environment.

The Environmental Management Act no. 12 (2011) provides as follows regarding public participation in environmental matters:

Zambia’s Environmental Management Act has the following gaps:

- The Constitutional recognition of the right to a healthy environment is not justiciable, as with all rights in the Constitution. While the Environmental Management Act has made some small
<table>
<thead>
<tr>
<th>GUIDING PRINCIPLE 1</th>
</tr>
</thead>
<tbody>
<tr>
<td>protection of other rights of its citizens include a healthy environment for livelihoods including, for example, clean water, clean air, and cultivable land?</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Decision-making:</th>
</tr>
</thead>
<tbody>
<tr>
<td>(1) The public have the right to be informed of the material procedures and of available opportunities to participate in decision-making.</td>
</tr>
<tr>
<td>(2) The public have the right to participate in decisions concerning the adoption of new environmental policies, strategies, plans, or programmes, and to participate in the preparation of laws and regulations relating to the environment.</td>
</tr>
<tr>
<td>(3) The Agency and the approaches adopted should establish mechanisms to collect and respond to comments, concerns and questions from the environment including public hearings.</td>
</tr>
</tbody>
</table>

92. Public review of proposed and adopted prescribed manner.

93. Public participation is insufficient under public review prescribed by the prescribed manner.

4. (1) The Agency may, by statutory instrument, make regulations to enhance the ability of the public to acquire environmental information, to participate in decision-making and to protect the environment. |

In terms of addressing the rights of minorities and indigenous peoples, the legislation provides for protection of the environment and provides for punitive measures. The healthy environment, it recognizes the rights of the environment, constitutional provision under Article 20 adopted in force in effect.

- The social component of the Environmental Impact Assessment (EIA) requirement is not clearly elicit in the law. The result is that impact assessments focus on environmental rather than social and economic impacts, and that any coverage of social issues are superficial.

- The lack of community consultation in the EIA process is hampered by the fact that the information about projects and consultation concentrates on technical hearings, rather than making provisions for in-depth community engagement and consultation during the EIA process itself. The Act does not provide for attention to vulnerable groups in environmental decision-making.70

- The Agency’s legal framework does not require EIAs to be licensed or accredited.

- The Environmental Management Authority (ZEMA) is not well-resourced to implement its environmental monitoring and assessment. In essence, whilst ZEMA is mandated to perform monitoring and impact management, the Agency is only staffed to assess limited staff levels, hindering its ability to carry out this function.

- No legal provision addresses company impacts on the environment by companies and incentive companies that impacts are regulated.

- Final appeals regarding the go-ahead of projects is not established.
### Guiding Principle 1

Law provides that every person has a duty to cooperate with State organs and State institutions and other persons. The Environment Protection Fund, under the Ministry of Environment, is set up against future environmental liabilities that may arise if mining operations fail to meet their environmental and social closure of business.

- The law provides for public participation in decision-making but does not place restrictions on the public influences decision-making.
- The main objective of the Environment Protection Fund is to provide assistance with numerous problems, including the Ministry of Environment unable to hold defaulting companies accountable.
- Furthermore, mining companies do not fully contribute to the Fund. They also do not provide bank bonds or guarantees validated by the Bank of Zambia as required by laid down procedures and there is also failure by management (Ministry of Mines) to take action against defaulting companies.71

<table>
<thead>
<tr>
<th>Property and Land Management Law</th>
</tr>
</thead>
<tbody>
<tr>
<td>Has the government put in place land management laws and regulations to ensure the protection of the rights of its citizens, including the rights of customary land owners? Incorporating environmental and social considerations in the whole process of environmental impact assessment and projects licensing?</td>
</tr>
<tr>
<td>The Constitution provides for the right to property and requires the State to compensate land owners in cases of expropriation at fair compensation from the president. The Mines and Minerals Act No. 3995 provides for protection of the rights of owners of customary land rights. Allocating mineral rights of investment requires consent from local leaders and their traditional leadership. Customary tenure is determined through the chief and does not result in a document or land title certificate. Under the current law, traditional chiefs are limited in how much land they can allocate to companies. Blocs of land</td>
</tr>
<tr>
<td>Zambia’s Land Policy has been in draft form, and thus not in force, since 2002. Many of the following deficiencies in the legal framework have been a result of this gap:</td>
</tr>
<tr>
<td>- The need to regulate or specify in detail the administration of customary land tenure, for example how chiefs should allocate land.</td>
</tr>
<tr>
<td>- Though the law clearly states that before purchasing customary land, it does not provide adequate measures to ensure that customary leaders act in the best interest of the community.</td>
</tr>
<tr>
<td>- The Government has no mechanism at all for tracking purchases of customary land by companies, and then to render the land unprofitable to the community.</td>
</tr>
</tbody>
</table>
**GUIDING PRINCIPLE 1**

| practices? |
| --- | --- |
| More than 250 hectares are acquired with authority from the president. Once land has been acquired, it cannot revert to customary land, it remains State land. | Promises made by companies are not respected at the phase of the creation of a Resettlement Agreement. |
| The government also creates the Land Tribunal. Government guidelines now require that 30% of land allocation be given to women. This figure has since 2014 been increased to 40%. | Some women still cannot secure land allocated under affirmative action in their names. |
| There are a number of laws in place to strengthen Zambia’s land governance system. | The Land Act does not provide adequate protection of customary areas of land. It does not provide for resistance purposes, for example for the land’s common use or cultivation. |
| • Amendments to the Land Act (National Land Commission, by parliament) | • Valuation reports used by the Government Valuation Department that assess the physical value of land, and do not include economic factors such as the land’s common use or cultivation. |
| • Draft Land Policy (latest draft is of 2018) | The Zambia Development Agency is mandated to set up a land bank that outlines what land is available for investment, but this has not been established. |
| • Customary Land Act (National Land Commission, by parliament) | • Formalisation is too centralised to adequately administer land. For example, the issuance of title certificates is only possible through the District and Headquarters and key information about land is not indicated to the Ministry of Lands. |
| • National Resettlement and Change of Use Policy (Cabinet only) | • These laws have been found to be difficult to determine the extent of land ownership. |
| • Resettlement and Compensation Guidelines | |
| • Zambian Land Act and national land titling commenced in 2018 | |

**Health and Safety Law**

<table>
<thead>
<tr>
<th>Has the government established standards for workplace health and safety?</th>
<th>The Ministry of Labour is mandated to enforce the relevant legislative and statutory instruments pertaining to workplace health and safety.</th>
</tr>
</thead>
<tbody>
<tr>
<td>The Factories Act (1966) CAP 441, the Mines and Minerals Act (2008) CAP 213, the Workers Compensation Act (1999)</td>
<td>The Labour Department is under the Ministry of Labour and Health Inspectors, which are charged with the responsibility of enforcing health and safety laws through the Factories Act. They, however, are poorly resourced to effectively undertake their mandate.</td>
</tr>
</tbody>
</table>

*Baseline Assessment on Business and Human Rights*
## GUIDING PRINCIPLE 1

| Communities? | CAP 271 and the Occupational Health and Safety Act (2010) are the main pieces of legislation dealing with health and safety issues in the workplace. Review of health and safety legislation is currently ongoing and it is anticipated that by the end of the process the scope of coverage will be increased. Safety standards in the mining sector are enforced by the Mines Safety Department (MSD) of the Ministry of Mines and Minerals Development (MMMD). MSD is mandated to enforce the relevant legislative and statutory instruments, formulate new legislation and regulations, evaluate all aspects of safety in mining operations, offer technical advice and training, and offer exemptions from the relevant regulations where appropriate. The Occupational Safety and Health Services Department promotes and enforces occupational health and safety standards at places of work outside the mining sector, to ensure a safe and healthy working environment. The Workers’ Compensation Act provides compensation for disabilities and diseases suffered during the course of employment. As concerns equality of treatment, the Act covers all workers in Zambia regardless of nationality. It also covers accidents that occur or diseases contracted outside Zambia. Section 9(1) states that if an accident occurs or a disease is contracted by the worker while temporarily employed by a Zambia-based employer outside of Zambia, the worker shall be entitled to compensation in the same |
### GUIDING PRINCIPLE 1

manner as if the accident or disease had occurred or been contracted in Zambia. 74

<table>
<thead>
<tr>
<th>Corporate and Securities Law</th>
</tr>
</thead>
<tbody>
<tr>
<td>Has the government put in place corporate and securities laws and regulations to support ethical corporate behaviour and business respect for human rights, such as through financial reporting, incorporation/registration, and stock exchange listing requirements?</td>
</tr>
<tr>
<td>All listed companies are obliged to publish interim and annual financial statements within three months after the financial year. Listed companies are also required to disclose in the national printed media information that can affect the value of the price of their securities.</td>
</tr>
<tr>
<td>The legal requirement to furnish financial and non-financial reports on the performance of corporations is only applicable to the 23 companies listed on the Lusaka Stock Exchange. Non-financial disclosure is limited to information that can affect the value of the price of securities only.</td>
</tr>
<tr>
<td>There is no specific guidance in law or policy regarding coverage of human rights and social impacts in reporting.</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Tax Law</th>
</tr>
</thead>
<tbody>
<tr>
<td>Has the government put in place tax laws and regulations to support ethical corporate behaviour?</td>
</tr>
<tr>
<td>The Zambia Revenue Authority is the main administrator of tax law in Zambia. The legislative framework for taxation is provided under the Income Tax Act (2012) CAP 323 and the Customs and Excise Act (2014) CAP 322. The taxation of companies in Zambia is marked by multiple rates and preferential treatment. There are tax incentives and different tax rates across sectors.</td>
</tr>
<tr>
<td>There is a general corporate tax rate of 35%, though sector-specific tax rates are typically lower: 15% for agriculture, 30% for mining, 15% for manufacturing of fertiliser, 15% for non-traditional exports, and 15% for charitable organisations.</td>
</tr>
<tr>
<td>Each year, the Government publishes a ‘yellow book’ listing incentives and differential tax rates result in a low corporate tax yield. Incentives and differential tax rates result in a low corporate tax yield.</td>
</tr>
<tr>
<td>The corporate income tax burden is 2.7% of GDP, lower than the regional average of 2.94%.</td>
</tr>
<tr>
<td>The Government’s ‘yellow book’ listing all expenditures for the year is publicly available, but at a fee, limiting access for vulnerable populations.</td>
</tr>
<tr>
<td>Even though the Mines and Minerals Act provides for revenue sharing, there has been no constitutional amendment to remove limitations placed on the discretion of the State regarding budgetary allocations to facilitate revenue sharing or policy guidelines on how the revenue sharing would be done.</td>
</tr>
<tr>
<td>The vast majority of taxes and royalties paid by companies are remitted to the national treasury, without a clear legal framework for a proportion of the proceeds to be reinjected into projects with public co-benefits.</td>
</tr>
</tbody>
</table>
## GUIDING PRINCIPLE 1

<table>
<thead>
<tr>
<th></th>
<th>all Government expenditures in full. The Mines and Minerals Act provides for revenue sharing.</th>
<th>of revenue distribution to local communities, where the impacts of investment may be most acute.</th>
</tr>
</thead>
</table>
| **Trade Law**<br>Has the government put in place trade laws and regulations to support the protection and promotion of human rights within trade practices? | Trade laws are quite fragmented in Zambia, spread across the Zambia Competition and Consumer Protection Act (2013), Zambia Weights and Measures Act CAP 403, the Zambia Bureau of Standards Act CAP 416, the Local Government Act CAP 281, the Energy Regulation Act CAP 436, the Banking and Financial Services Act no. 25 of 2005, the Securities Act CAP 354, the Companies Act CAP 388 and many others. | In general, trade laws lack adequate implementation by responsible organs. For example, a World Bank study found that “Although a large part of the legal infrastructure for consumer/investor protection has been put in place, the Securities Exchange Commission does not have the capacity, either in terms of manpower or training, to fully implement the regulatory structure.” \(^{74}\)
The Zambia Competition and Consumer Protection Commission lacks specific powers to overrule decisions of other regulatory agencies where the resulting actions will contravene the Competition and Consumer Protection Act. For example, after the privatisation of Zambia Telecommunication (Zamtel) in 2010, the regulatory agency, ZICTA, imposed a moratorium on the licensing of new entrants into the mobile telephone market until 2015 and the Commission was unable to stop this development. \(^{75}\) |
<p>| <strong>Procurement Law</strong>&lt;br&gt;Has the government put in place laws and regulations to support the incorporation of human rights considerations into the procurement by the State of goods and services from the private sector? | See UN Guiding Principle 5, below. | See UN Guiding Principle 5, below. |</p>
<table>
<thead>
<tr>
<th>GUIDING PRINCIPLE 1</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Anti-Bribery and Corruption</strong></td>
</tr>
<tr>
<td>Has the government put in place laws and regulations aimed at promoting anti-bribery and combating corruption within and across governments?</td>
</tr>
<tr>
<td>The key legislation to curtail bribery and corruption is the Anti-Corruption Act no. 3 of 2012, Prohibition and Prevention of Money Laundering Act no. 14 of 2001 and the Forfeiture of Proceeds of Crime Act no. 19 of 2012. The Anti-Corruption Commission and the Drug Enforcement Commission are the key institutions enforcing laws to curb bribery and corruption in Zambia.</td>
</tr>
<tr>
<td>According to a report by Transparency International Zambia, the president controls the entire government machinery, including appointments of key personnel and control of funds. The Anti-Corruption legislation does not regulate political party funding and expenditure on elections. Though independent in law, all the institutions involved in combating bribery and corruption reportedly lack meaningful autonomy in practice, and are inadequately resourced to effectively carry out their mandates.</td>
</tr>
<tr>
<td><strong>Consumer Law</strong></td>
</tr>
<tr>
<td>Has the State put in place consumer laws and regulations to ensure business respect for human rights and to promote consumer interest in the human rights impacts of purchased products and services?</td>
</tr>
<tr>
<td>Zambia Competition and Consumer Protection Act no. 9 of 2013. The Zambia Competition and Consumer Protection Commission (ZCCPC) is a statutory body set up to monitor and implement laws relating to competition and fair trade. The Commission makes its operations public through annual reports and publishes information through regular press releases. The Commission also holds workshops on a regular basis with Government institutions, companies, the judiciary and other competition authorities, among others. Some weakness inherent in the 1994 Competition and Fair Trading Act, especially in the area of consumer protection and the administrative powers of the ZCCPC have been addressed in the new Competition and Consumer Protection Act no. 9 of 2013. The application of the laws and regulations governing competition and consumer protection are applied to all institutions, private, public and foreign</td>
</tr>
<tr>
<td>The Commission, due to inadequate resources, is only present in Lusaka and not the other parts of the country, hampering its outreach. There is also inadequate public knowledge of their mandate including access to remedy offered by the Commission. The Zambia Competition and Consumer Protection Commission is limited in its powers to regulate monopolies, but can intervene to prevent mergers that create monopolies. Consumer law is not grounded in international standards in providing remedies and redress to victims of human rights abuses. State organs are ill equipped, underfunded and inaccessible to most people in need of their services.</td>
</tr>
</tbody>
</table>
## GUIDING PRINCIPLE 1

alike. However, political interference and the categorisation of some activities as strategic in public institutions have introduced distortions in the market. In the new Act, the agency seeks to be more transparent and non-discriminatory by widely consulting stakeholders in relation to mergers and acquisitions, consumer protection and safety, and unfair trading. Media outlets are also used to highlight the enforcement of competition and consumer provisions.

The Zambia Bureau of Standards Act CAP 416 establishes the Zambia Bureau of Standards, a specialised organ serving the country in standardisation, standards formulation, quality control, quality assurance, import and export quality inspections, certification and removal of technical barriers to trade.

The Zambia Weights and Measures Act no. 13 of 2013 empowers the Zambia Weights and Measures Agency to ensure the accuracy of all measuring equipment and that of actual versus stated quantities on the labels of pre-packaged consumer goods.

<table>
<thead>
<tr>
<th><strong>Non-Discrimination Law</strong></th>
<th><strong>The Zambian Constitution provides for protection from discrimination of all forms in article 23 (2).</strong></th>
<th><strong>There is no specific law that comprehensively deals with discrimination in all its forms.</strong></th>
</tr>
</thead>
<tbody>
<tr>
<td>Has the State put in place anti-discrimination laws and regulations to support ethical corporate behaviour and business</td>
<td></td>
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</table>
## GUIDING PRINCIPLE 1

<table>
<thead>
<tr>
<th>Question</th>
<th>Response</th>
<th>Response</th>
</tr>
</thead>
<tbody>
<tr>
<td>respect for human rights?</td>
<td>The State has put in place laws regarding information security and privacy. The Electronic Communications and Transactions Act no. 21 of 2009 provides for protection of privacy in electronic communications and transactions.</td>
<td>The application of the law relates mostly to information and communications technology use. The legislation does not specify an organ responsible for its implementation. Few people know its provisions or how they can access remedy and redress when their right to privacy is violated.</td>
</tr>
<tr>
<td>Privacy and Technology Law</td>
<td>See Corporate and Securities law above and non-financial reporting under 3.3 below.</td>
<td>See Corporate and Securities law above and non-financial reporting under 3.3 below.</td>
</tr>
<tr>
<td>Has the State put in place information security and privacy laws and</td>
<td>The Public Interest Disclosure (Whistleblower Protection) Act no. 4 of 2010 provides for disclosure of conduct that is adverse to the public interest, in the public and private sectors. The law safeguards the rights of people who make public interest disclosures and provides a framework within which persons who make public interest disclosures shall be protected.</td>
<td>The State has not enacted a specific law, apart from provisions under the bill of rights in the Constitution, which protects human rights defenders. The Whistleblower Act is tilted towards protection of persons disclosing information regarding misappropriation of public resources and not human rights issues.</td>
</tr>
<tr>
<td>regulations to support ethical corporate behaviour and business respect</td>
<td></td>
<td></td>
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<tr>
<td>for human rights?</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Disclosure and Reporting</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Has the State put in place laws and regulations to support disclosure</td>
<td></td>
<td></td>
</tr>
<tr>
<td>and reporting by corporations on human rights, labour rights,</td>
<td></td>
<td></td>
</tr>
<tr>
<td>environmental impacts, corporate social responsibility, or other</td>
<td></td>
<td></td>
</tr>
<tr>
<td>ethical issues?</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Human Rights Defender and/or</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Whistleblower Protection</td>
<td></td>
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</tr>
</tbody>
</table>
### GUIDING PRINCIPLE 1

Defenders and/or whistleblowers?

#### 1.6. Investigation, Punishment, and Redress Measures

Do relevant State agencies responsible for law enforcement address business and human rights?

<table>
<thead>
<tr>
<th>Indicators &amp; Scoping Questions</th>
<th>Implementation Status</th>
<th>Gaps</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Sector Risk Assessment</strong></td>
<td></td>
<td>The State has not undertaken or supported directly any specific activities to identify specific business sectors or activities that may have particularly negative impacts on human rights, such as the extractive industries sector or the agricultural sector, two key industry sectors for Zambia.</td>
</tr>
<tr>
<td>Is the State undertaking or supporting any specific activities to identify specific business sectors or activities that may have particularly negative impacts on human rights, such as the extractive, apparel, and other sectors?</td>
<td><em>None found</em></td>
<td></td>
</tr>
<tr>
<td><strong>Vulnerable Group Assessment</strong></td>
<td></td>
<td>Women in Law in Southern Africa (WLSA) has pointed out that the Anti-Gender-Based Violence Act includes the term ‘domestic relationships,’ which excludes some forms of gender violence such as violence associated with prostitution; violence in the workplace; and violence by the police and security forces, including torture of detained women.79</td>
</tr>
<tr>
<td>Is the State undertaking or supporting any specific activities to identify specific impacts on particularly vulnerable groups, such as women, children, minorities, and indigenous peoples?</td>
<td></td>
<td>There is a general lack of implementation of many provisions in the Act. One such provision is the creation of gender-based violence fund to be used for empowerment of victims.</td>
</tr>
<tr>
<td>The Anti-Gender-Based Violence Act no. 1 of 2011 seeks to domesticate some of the provisions of CEDAW and other relevant human rights instruments and soft laws relating to non-discrimination and the rights of women and girls.</td>
<td></td>
<td>Existing child labour laws do not address the provisions of the ILO Convention on Worst forms of Child Labour no. 182 of 1999. The Employment of Young persons and Children Act also falls short when it comes to implementation on</td>
</tr>
<tr>
<td>The Children’s Code Bill, which is yet to be</td>
<td></td>
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</table>
## GUIDING PRINCIPLE 1

<table>
<thead>
<tr>
<th>Police</th>
</tr>
</thead>
<tbody>
<tr>
<td>Have police authorities been provided with information and training on issues related to business and human rights? Are the police given statutory authority to address business-related human rights harms?</td>
</tr>
<tr>
<td>The police have the authority to address business-related human rights impacts when such impacts amount to the commission of a crime.</td>
</tr>
<tr>
<td>There is no publicly available record of information or training that has been provided to police regarding human rights principles or the Guiding Principles. There is also no information regarding the availability of guidance on police interaction with businesses, including prevention and redress of human rights violations. For example, In July 2006, four NFC mine workers were shot and wounded by the company’s management in combination with police while protesting during a wage dispute. In 2007, police shot and killed five miners</td>
</tr>
</tbody>
</table>

enacted into law by parliament, will aim to comprehensively address the Convention. The Persons with Disabilities Act no. 6 of 2012 is intended to promote and protect the rights of persons with disabilities. The Government, working with stakeholders, has developed a Disability Implementation and Action Plan and is currently undertaking a baseline study to understand the constituents of people with disabilities and how different groups can benefit from the legislation. The Citizens Economic Empowerment Commission (CEEC) Act creates the Citizens Economic Empowerment Commission and a Citizens Empowerment fund. The Fund provides resources to business owners in rural areas, and reserves 30% for women entrepreneurs. the ground. There are still young persons and children under the age of 15 who are involved in labour, contrary to legislative provisions and the ILO Convention. The implementation of the Persons with Disabilities Act has generally been ineffective to date due to lack of a comprehensive and coherent action plan. Many buildings are not yet wheelchair access compliant and workplaces still discriminate against people with disabilities. In 2005, the employment rate of persons with disabilities was 45.5% of the population, compared to an employment rate of 58% among persons without disabilities. There is lack of autonomy and independence in the implementation of the Citizens Economic Empowerment Commission’s mandate. The funds are limited and accessed mostly by those who are well connected whilst the poor and marginalised find it extremely difficult to access the funds. Administration of the funds is not decentralised enough for access by the rural poor majority.
## GUIDING PRINCIPLE 1

### Labour, Health, and Safety

**Are relevant labour, health, and safety authorities aware of potential or actual adverse impacts by business on labour, health, and safety? Are such State actors given statutory authority to address business-related human rights harms?**

The Occupational Health and Safety Act no. 36 of 2010 provides for the creation of the Occupational Health and Safety Board, which functions as a State oversight organ regarding implementation of the Occupational Health and Safety policy.

The Occupational Health and Safety Board reports to the Minister of Health, which may compromise its independence and impartiality in the execution of its mandate.

The statute has no criminal and civil sanctions provisions that can be enforced against businesses that violate occupational health and safety regulations.

### Environment

**Have relevant environmental authorities been provided with information and training on issues related to business and human rights? Are such State actors given statutory authority to address business-related human rights harms?**

The Zambia Environmental Management Authority (ZEMA) is the relevant statutory authority.

To the extent that ZEMA is mandated to monitor environmental impacts and issue fines for non-compliance, as well as seek amendment of, or reject, project proposals based on anticipated adverse environmental impacts (that also impact on human rights) it can be said that ZEMA has statutory authority to address business-related human rights harms.

No guidance or training on business and human rights appears to have been provided to ZEMA personnel.

ZEMA is insufficiently resourced to effectively exercise its mandate to monitor environmental impacts and seek their mitigation or redress. Such lack of resourcing includes: financial, equipment (e.g. limited air pollution monitors) and human resources (e.g. ZEMA is only present in four districts, and very few staff members have been hired to act specifically as social experts).

### Tax

**Have relevant tax authorities been provided with information and training on issues**

The State organ that administers taxes is the Zambia Revenue Authority, whose mandate and powers are provided for

There is no evidence of training in the Guiding Principles for tax authorities.
## GUIDING PRINCIPLE 1

<table>
<thead>
<tr>
<th>related to business and human rights and connections to local tax laws? Are such State actors given statutory authority to address business-related human rights harms?</th>
<th>under the Zambia Revenue Authority Act no. 10 of 2014.</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Judicial and non-judicial grievance mechanisms</strong></td>
<td>See Pillar III below.</td>
</tr>
</tbody>
</table>
GUIDING PRINCIPLE 3
In meeting their duty to protect, States should:
(a) Enforce laws that are aimed at, or have the effect of, requiring business enterprises to respect human rights, and periodically to assess the adequacy of such laws and address any gaps;
(b) Ensure that other laws and policies governing the creation and ongoing operation of business enterprises, such as corporate law, do not constrain but enable business respect for human rights;
(c) Provide effective guidance to business enterprises on how to respect human rights throughout their operations;
(d) Encourage, and where appropriate require, business enterprises to communicate how they address their human rights impacts.

3.1. Development and Enforcement of Relevant Laws and Regulations
What laws and regulations exist that directly or indirectly regulate business respect for human rights?

See section 1.5, above.

3.2. Relevant Policies
Have policies that seek to foster business respect for human rights been adopted and publicly communicated by the State?

<table>
<thead>
<tr>
<th>Indicators &amp; Scoping Questions</th>
<th>Implementation Status</th>
<th>Gaps</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>National Action Plans</strong></td>
<td>None found</td>
<td>The Government has not yet developed a National Action Plan on Business and Human Rights.</td>
</tr>
<tr>
<td>Has the State introduced and/or implemented policies to help facilitate business respect for human rights through the adoption of National Action Plans (NAPs) on business and human rights, corporate social responsibility, development, anti-</td>
<td></td>
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</tr>
</tbody>
</table>
GUIDING PRINCIPLE 3

discrimination, government transparency, women’s rights, or human rights in general?

Sector-Specific Policies
Has the State introduced and/or implemented sector-specific policies to help facilitate business respect for human rights within particularly high-risk industries, such as the extractive, apparel, and other sectors?

The Ministry of Commerce has prioritised a number of sectors, including manufacturing, agriculture / forestry, construction and tourism as areas for future growth. In recent years, the Government has made significant investments in infrastructure to facilitate Zambia’s move into higher-value sectors and activities.

Government prioritisation of specific industry sectors does not include addressing the human rights impacts of those sectors, nor does it incentivise companies in those sectors to identify and address their social impacts. Investments in infrastructure have not been coupled with extra controls on environmental, social and human rights impacts.

Most sector-specific laws and policies lack implementation by the State, especially those regarding businesses and violations of human rights.

Apart from the extractive industries sector, other sectors that have a significant contribution to GDP and employment—such as construction, wholesale and retail—do not have transparency initiatives or sector-specific efforts to improve their human rights performance.

3.3. Corporate Reporting and Public Communications
What type of reporting and public communications by business enterprises on how they address their human rights impacts is required by law?

<table>
<thead>
<tr>
<th>Indicators &amp; Scoping Questions</th>
<th>Implementation Status</th>
<th>Gaps</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Financial Reporting</strong></td>
<td>Publicly listed companies are required to send a copy of the annual accounts to each shareholder. Banks are required to publish their annual statements in a newspaper of general circulation.</td>
<td>No law or policy obligates all companies to report on their non-financial performance and ensure that human rights impacts are included in the consideration of factors.</td>
</tr>
</tbody>
</table>
### GUIDING PRINCIPLE 3

Clarifying that, in some cases, human rights impacts are ‘material’ to the economic performance of the reporting company?

 circulation in Zambia. Unlike publicly listed companies, banks are required to produce a statement of changes in financial positions and changes in shareholders’ equity from the last fiscal year in their annual report. Annual financial statements have to be made available to the Secretariat even if they are not published according to Lusaka Stock Exchange (LUSE) listing rules.

The Companies Act requires financial statements to include a balance sheet, income statement, and explanatory notes and must be accompanied by an auditor’s report. In addition, companies are not required to file a cash flow statement; however, the LUSE listing rules require firms to prepare their financial statements in accordance with the issuer’s national law and Generally Accepted Accounting Practices (Listing Rules 8.51 (a)). Large listed firms generally include a cash flow and changes in equity statement in their annual reports.

Companies are required to file consolidated financial statements, except in the case that the company is a wholly-owned subsidiary of another company incorporated in Zambia.

The Companies Act also requires that directors include a board report in the annual report.

The securities regulator monitors compliance through on-site inspections and following the public press against filings. Sanctions for non-compliance may include warnings, fines, suspensions, public reprimands, restatements, civil penalties and criminal penalties (Securities Act, Sections 48-52).

| Non-Financial Reporting | There are very limited human rights reporting requirements for companies as provided for under the Companies Act CAP 388. However, companies listed on the Lusaka Stock Exchange are required under the Securities Act CAP 354, to report on all their activities locally and elsewhere to the Stock Exchange and the Securities and | See above |

### See above
### GUIDING PRINCIPLE 3

In some cases, human rights impacts are ‘material’ to the performance and operations of the reporting company. These reporting requirements focus on assessment of risk to investors, and do not focus on human rights, nor do they include consideration of the supply chain. They are also encouraged to comply with OECD guidelines as part of enhancing good corporate governance in the boardrooms.

Voluntary CSR reporting by extractive industries companies has brought about public disclosure of vital information to the general public on how much the Government receives in terms of taxes; this in turn empowers citizens to make demands for certain development undertakings from Government. However, this transparency is limited to the extractive industries and apart from voluntary disclosure on CSR spending, no other vital information is disclosed regarding responsible business behaviour and adherence to international standards and the Guiding Principles.

There are legal requirements for companies to have public consultations before commencement of a major project that may impact local communities.

For more information, see the explanation on Environmental Law in section 1.5, above.

<table>
<thead>
<tr>
<th>Public Consultations</th>
</tr>
</thead>
<tbody>
<tr>
<td>Are there legal requirements for companies to have public consultations before, during, and after the commencement of a major project that may impact local communities? Is there a requirement for the free, prior, and informed consent (FPIC) of impacted communities? Is there a mandatory public release of environmental and social impact assessments by companies?</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>3.4. Guidance and Incentives</th>
</tr>
</thead>
<tbody>
<tr>
<td>The requirements for public consultation and participation do not extend to project implementation and the project closure or exit phase.</td>
</tr>
<tr>
<td>There is no legal requirement for the free, prior, and informed consent (FPIC) of impacted communities. The environmental impact assessment final decision is determined by the Environmental Management Agency and it is not mandatory to publicly release decisions arising from environmental and social impact assessments by companies.</td>
</tr>
</tbody>
</table>
GUARDING PRINCIPLE 3

Does the State provide guidance and incentives for companies in terms of business respect for human rights?

<table>
<thead>
<tr>
<th>Indicators &amp; Scoping Questions</th>
<th>Implementation Status</th>
<th>Gaps</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Guidance based on industry sectors, human rights issues and company size</strong></td>
<td>The State provides incentives to foreign investors (tax holidays, lower corporate tax rates, duty-free imports, etc.) based on whether they operate in priority sectors and the number of jobs their investment creates. The State also provides incentives to companies that create a large number of ‘high-quality’ jobs, meaning those that require education or qualifications, and are likely to result in up-skilling of the Zambian workforce.</td>
<td>The State does not provide incentives to companies that manage their human rights impacts or engage in dialogue with their stakeholders over non-financial criteria. Though the legal framework regarding tax incentives is freely available, it is not clear if companies are receiving individual incentive contracts, and agreements with companies are generally not publicly available. The State has not developed any guidance for specific industry sectors on respecting human rights.</td>
</tr>
<tr>
<td><strong>Guidance on expected outcomes and best practice</strong></td>
<td>None found</td>
<td>The State has not developed indicators of expected human rights outcomes, information regarding relevant national laws and regulations, and examples of best practice and due diligence methods in relation to human rights and business.</td>
</tr>
<tr>
<td><strong>Incentives</strong></td>
<td>None found</td>
<td>The State does not provide incentives for businesses to respect human rights.</td>
</tr>
</tbody>
</table>

3.5. National Human Rights Institutions (NHRIs)
### GUIDING PRINCIPLE 3

**Has the State formally recognised and supported the role of NHRI in promoting implementation of the Guiding Principles?**

<table>
<thead>
<tr>
<th>Indicators &amp; Scoping Questions</th>
<th>Implementation Status</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>NHRI Establishment, Recognition and Support</strong></td>
<td>T</td>
</tr>
<tr>
<td>Has the State established a National Human Rights Institution (NHRI), the Zambia Human Rights Commission (ZHRC), in 1996 under Article 125 of the Zambian Constitution?</td>
<td>T</td>
</tr>
<tr>
<td>The duties of the Commission are provided for in the Human Rights Commission Act. These duties include a programme of research, education, training and rehabilitation, investigation of human rights abuse; conducting inquiries into allegations of human rights abuses, identifying patterns and trends of abuse and detention. Section 9 of the enabling Act empowers the Commission to ‘do all such things as are incidental or conducive to the performance of its functions’. This provision gives the Commission the flexibility to deal with any other issues as long as they are in line with the broad objectives of investigating and protecting human rights. ZHRC, as a NHRI, has a mandate to conduct a wide range of work in support of the Guiding Principles. The Commission currently increases its communication with human rights activist, provides training on business and human rights, in partnership with other NHRI, both globally and regionally. Human rights is part of the current Strategic Action Plan.</td>
<td></td>
</tr>
<tr>
<td><strong>NHRI Focus on Business and Human Rights</strong></td>
<td>T</td>
</tr>
<tr>
<td>Does the NHRI’s mandate include business and human rights? Does the State finance NHRI activities within the field of business and human rights? Does the State support the NHRI in providing guidance on human rights to business enterprises?</td>
<td>T</td>
</tr>
</tbody>
</table>

- There is no formal State recognition of ZHRC as a key institution in promoting implementation of the Guiding Principles.
- Even though the ZHRC has a wide mandate that allows for addressing business-related human rights impacts, it has not been provided with adequate resources in terms of financing, human resources and political backing to work actively in this area.
### GUIDING PRINCIPLE 4

States should take additional steps to protect against human rights abuses by business enterprises that are owned or controlled by the State, or that receive substantial support and services from State agencies such as export credit agencies and official investment insurance or guarantee agencies, including, where appropriate, by requiring human rights due diligence.

#### 4.1. Businesses Owned or Controlled by the State

Does the State exercise special measures to support the human rights performance of State-owned or -controlled business enterprises?

<table>
<thead>
<tr>
<th>Indicators &amp; Scoping Questions</th>
<th>Implementation Status</th>
<th>Gaps</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Human Rights Due Diligence Requirements</strong></td>
<td>Zambia has 41 wholly State-owned enterprises.</td>
<td>There are no dedicated policies applying to State-owned enterprises, nor are they subject to greater requirements than privately owned companies. They are regulated like all other private-sector actors. The only due diligence required of businesses is the environmental impact assessment (see 4.2 below). There is no law or policy requiring State-owned or controlled businesses to undertake supply chain management for the promotion of respect for human rights. There is further no evidence that the State has set out any other special measures to support the human rights performance of State-owned or controlled business enterprises.</td>
</tr>
<tr>
<td><strong>Supply Chain Management Requirements</strong></td>
<td>ZPPA is currently developing guidelines on green procurement under the proposed revised</td>
<td>There is no evidence in law or policy that the State requires State-owned or controlled businesses to undertake supply chain management to ensure respect for human rights.</td>
</tr>
</tbody>
</table>
GUIDING PRINCIPLE 4

Associated government departments ensure that effective supply chain management is being carried out? What type of scrutiny and oversight do such government departments have over these enterprises (for example, inclusion of supply chain information in management reports to relevant State agencies)?

procurement framework to include green supply chain management.

4.2. Businesses Receiving Substantial Support and Services from State Agencies

Does the State exercise special measures to support the human rights performance of businesses receiving substantial support and service from State agencies (for example, export credit agencies, public banks, public pension funds, official investment insurance or guarantee agencies, development agencies, or development finance institutions)?

<table>
<thead>
<tr>
<th>Indicators &amp; Scoping Questions</th>
<th>Implementation Status</th>
<th>Gaps</th>
</tr>
</thead>
<tbody>
<tr>
<td>Human Rights Due Diligence Requirements</td>
<td>The Development Bank of Zambia (DBZ) was established in 1972 pursuant to section 3 of the DBZ Act CAP 363 as a joint venture between the Government, Public Sector Financial Institutions, the domestic private sector and foreign institutions. It is committed to tackling poor and costly access to capital for investment and removing micro-level structural rigidities that hinder public and private investment growth, productivity, wealth, and employment creation. DBZ endeavours to develop Zambia and empower its citizens by providing short, medium and long term financing and technical assistance to clients. The Government also has shares in local banks such as</td>
<td>There is no evidence in law or policy that businesses receiving substantial support and services from State agencies are required to take into account human rights considerations.</td>
</tr>
<tr>
<td>GUIDING PRINCIPLE 4</td>
<td>Zanaco Bank and Indo-Zambia Bank.</td>
<td></td>
</tr>
<tr>
<td>-------------------</td>
<td>----------------------------------</td>
<td></td>
</tr>
<tr>
<td><strong>Supply Chain Management Requirements</strong></td>
<td><strong>None found</strong></td>
<td>There is no policy or legislation in place to deal with supply chain management and human rights.</td>
</tr>
<tr>
<td>What types of supply chain management measures by State-owned or -controlled business enterprises are required by the State? How do associated government departments ensure that effective supply chain management is being carried out? What type of scrutiny and oversight do such government departments have over these enterprises (for example, inclusion of supply chain information in management reports to relevant State agencies)?</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
**GUIDING PRINCIPLE 5**

States should exercise adequate oversight in order to meet their international human rights obligations when they contract with, or legislate for, business enterprises to provide services that may impact upon the enjoyment of human rights.

5.1. Public Service Delivery

Does the State ensure that human rights are protected in situations where private enterprises provide for government services that may impact upon the enjoyment of human rights?

<table>
<thead>
<tr>
<th>Indicators &amp; Scoping Questions</th>
<th>Implementation Status</th>
<th>Gaps</th>
</tr>
</thead>
<tbody>
<tr>
<td>Legislative or Contractual Protections</td>
<td>The State has adopted legislative protections for human rights in the delivery of privatised services by local authorities related to public health, education and housing. In the provision of water and sanitation services, the National Water and Sanitation Council (NWASCO) was established as an independent regulator to implement policy. The powers of NWASCO are vested in the Water Supply and Sanitation Act no. 28 of 1997. NWASCO regulates local authorities and commercial utilities providing water and sanitation and other non-commercial water and sanitation services run by local authorities and private entities. The Copperbelt Environmental Project (CEP) was created with assistance from the World Bank to deal with environmental liabilities left by private companies and a fund was created to avoid burdening new mine owners with environmental issues they did not create. There are also companies established to provide specific services by the State, especially in the area of provision of water, in each</td>
<td>There is no evidence that legal protections include requirements for the State to assess and address any potential human rights impacts of the consequences of privatising public services. Furthermore, there is no policy that guides the provision of such services by private businesses to ensure that they are carried out in line with the relevant national and international standards. There is no evidence that the Government has undertaken an analysis of the human rights impacts of private companies providing public services where this is not part of their core business (e.g. private mining companies providing health care services).</td>
</tr>
</tbody>
</table>
**GUIDING PRINCIPLE 5**

| awareness of and respect for human rights by businesses that the State commercially contracts with? | province.  
In the area of provision of housing services, the National Housing Authority has been established to build houses. Some companies have been engaged by the State to build housing units. Some foreign companies (primarily from China) have entered into contracts with the Zambia Development Authority to build housing units in Lusaka and elsewhere.  
Many health facilities, especially in Lusaka and other major towns, are run by private businesses. Religious institutions also operate a number of health services institutions across the country.  
In addition to some public services being provided by private or semi-private companies, a number of business enterprises provide education and health care to their employees or surrounding communities. This is most prevalent in the extractive industries sector, especially by companies that took over mines from formerly nationalised operations. Most of the services provided by companies are for their own employees and their families. Others who wish to access the services are required to pay a fee, which is normally too high for vulnerable people. For example, Mopani Mines runs two ISO-certified hospitals, seven township clinics and several workplace clinics. KCM runs two hospitals and eight clinics. These facilities are available free to employees and dependants but are also available to the general public at a subsidised fee.  
facilities to workers and local communities).  
The Environmental Protection Fund is not aligned to the Guiding Principles. |

<table>
<thead>
<tr>
<th>Screening</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>What kind of screening processes does the State have in place to promote business respect for human rights? Does the State engage in selective processes that give preferential treatment to companies that demonstrate respect for human rights? Does the State exclude from the bidding process those companies that have demonstrated poor respect for human rights (such as poor and hazardous working conditions, as well as excessive use of force or maltreatment of individuals receiving care)?</td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Monitoring and Oversight</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Do relevant State agencies effectively oversee the activities of the enterprises that provide services on behalf of the State? Does the State provide for adequate independent monitoring and accountability mechanisms of the activities of the private providers? Does the State provide for specific oversight of high-risk services, such as those related to health and security?</td>
<td></td>
</tr>
</tbody>
</table>

| Other Measures | None found | The State is not party to the International Code of Conduct for Private Security |
## GUIDING PRINCIPLE 5

**GUIDING PRINCIPLE 6**
States should promote respect for human rights by business enterprises with which they conduct commercial transactions.

### 6.1. Public Procurement
Which types of requirements or incentives to respect human rights can be found in legislative measures or in terms of public procurement?

<table>
<thead>
<tr>
<th>Indicators &amp; Scoping Questions</th>
<th>Implementation Status</th>
<th>Gaps</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Planning for Procurement Needs and Risks</strong></td>
<td>Each Government agency is responsible for its own procurement. The Zambia Public Procurement Authority (ZPPA) oversees 600 procurement agents as an umbrella body, providing guidance, standards and oversight. ZPPA’s procedures require all procurement processes (above a spending threshold) to be carried out transparently through an open-bidding process taking no less than four weeks. Bidders are chosen based on financial criteria. ZPPA also administers a grievance mechanism wherein unsuccessful bidders can challenge the process by which they were not chosen as the contractor.</td>
<td>There is no policy or legal provision that bars contractors with records of human rights abuses from public procurement, except where a bidder is under a UN embargo. There have been no evident efforts to expand the scope of pre-project screening requirements to include environmental, social or human rights considerations. Pre-award screening consists exclusively of assessing whether bidding companies are under UN sanctions or have been convicted of a crime in a foreign jurisdiction.</td>
</tr>
<tr>
<td><strong>Providing Notice During Bid Solicitation</strong></td>
<td><em>None found</em></td>
<td>There is no evidence that State agencies notify potential contractors when there is a significant risk of a human rights violation that undermines fair competition.</td>
</tr>
</tbody>
</table>
## GUIDING PRINCIPLE 6

<table>
<thead>
<tr>
<th>Screening and Selection</th>
<th>Award Stage</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>undermines fair competition? Does such notice trigger specific disclosure and compliance obligations?</strong></td>
<td><strong>Do State agencies have criteria and sub-criteria for what constitutes the most economically advantageous tender, including human rights criteria? Have State agencies taken steps to clarify how human rights</strong></td>
</tr>
<tr>
<td>In addition to evaluating price and capacity, do State agencies evaluate whether potential contractors are responsible, based on integrity and business ethics and on compliance with domestic law that protects the safety and health of workers and communities? Do State agencies engage in selective or targeted public procurement, such as preferential award to discriminated groups (for example, ethnic minorities) or to companies working to achieve specific human right objectives (for example, gender equality)? Do State agencies require contractors to certify that they know their subcontractors, including specific locations of production or supply, and that they have management systems to ensure compliance? Do State agencies exclude companies with commercial contracts in high-risk countries or a bad human rights record from public procurement?</td>
<td>Small- and medium-size enterprises, Zambian companies and companies that ‘promote development’ are given extra eligibility points in the awarding of contracts. As of September 2015, ZPPA was developing</td>
</tr>
<tr>
<td>Section 61 of the Procurement Act allows ZPPA to refuse bids by companies that have been convicted of crimes in other jurisdictions or are under sanctions, where such information is available. All procurement contracts include a requirement for the bidder to follow all Zambian laws.</td>
<td>There is no evidence that the State takes steps to clarify how human rights standards and policies might be used to form part of the award criteria for a particular contract. Procurement awards are not made on the basis of non-financial criteria, and ZPPA is not mandated to do so.</td>
</tr>
</tbody>
</table>
## GUIDING PRINCIPLE 6

| Standards and policies might be used to form part of the award criteria for a particular contract? Do State agencies require contractors to disclose information on their supply chain, including specific subcontractors and the addresses of factories or sites of supply? Do State agencies confirm a contractor's assurances and required development of compliance plans during the award stage? | An e-procurement database that would publish information about all tenders and awarded bids publicly. | Bidders for Government contracts are not obligated to release information on their social performance, supply chain or use of contractors, and ZPPA auditors are not mandated (nor qualified) to assess based on such criteria. |
| Contract Terms | None found | Procurement contracts do not include non-financial criteria. |
| Is the State taking steps to ensure that human rights requirements, material to the procured good or service, are a part of contractual performance clauses? Have State agencies inserted compliance obligations into contract terms? When a State agency identifies a risk of harm or human rights violations, does it authorize contract officers to insert into the contract an obligation to comply with the domestic law of the country of production or supply? | ZPPA monitors projects for compliance with the contractual terms of the procurement. This primarily applies to payment of taxes and social security for workers. The Agency has a program to promote ‘green’ procurement, i.e. projects that protect the environment and promote sustainability. | There is no evidence that ZPPA identifies risks of human rights violations. It does not authorise contract officers to insert into contracts an obligation to comply with the domestic law of the country of production or supply. ZPPA contracts do not include social or human rights criteria (beyond the requirement to follow all applicable Zambian laws), and the Agency does not monitor projects for social impacts or |
| Auditing and Monitoring | Do State agencies have information systems to audit and monitor contractors to ensure that the contractor meets its performance or compliance obligations and does not adversely impact human rights? Do such systems respond to work complaints? Are such systems independent from, yet accountable to, the State? | | |
### GUIDING PRINCIPLE 6

| | labour conditions. Auditing for working conditions and environmental impacts are the responsibility of the Ministry of Labour and the Zambian Environmental Management Agency, respectively; there is no dedicated system for information-sharing between the relevant agencies. ZPPA has only 15 staff performing audits, though they are budgeted for between 30 and 40. Their full staff allocation is 95 employees, but as of September 2015, they only had 53 staff members. |

<table>
<thead>
<tr>
<th>Enforcement of Contract Terms and Corrective Action</th>
<th>See above</th>
<th>See above</th>
</tr>
</thead>
<tbody>
<tr>
<td>Do State agencies dedicate staff to enforcement of the contract terms and provide them with detailed policies? Have State agencies put in place procedures to correct adverse human rights impacts identified, such as financial or other remedies if a contractor violates human rights? Do the procedures favour changing the behaviour of the contractor to improve their human rights performance rather than simply terminate the relationship? Do State agencies provide for due diligence as both a defence and as a remedy for breach of compliance standards?</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

#### 6.2. Other Commercial Activities

Has the State taken measures to promote awareness of and respect for human rights by other enterprises with which the State conducts commercial activities?
### GUIDING PRINCIPLE 6

<table>
<thead>
<tr>
<th>Indicators &amp; Scoping Questions</th>
<th>Implementation Status</th>
<th>Gaps</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Business Partnerships</strong></td>
<td>There is no evidence of any measures taken by the State to promote respect for human rights in businesses with which it engages in commercial relationships.</td>
<td>There is no clear legal and policy framework to guide implementation of the Guiding Principles in this regard.</td>
</tr>
</tbody>
</table>

Does the State take measures to promote respect for human rights among other businesses with which it engages in commercial relationships, such as through business partnerships for economic development and innovation (for example, growth funds, or strategic support for innovation in certain sectors, such as green energy or medical technology)?
**GUIDING PRINCIPLE 8**

States should ensure that governmental departments, agencies and other State-based institutions that shape business practices are aware of and observe the State’s human rights obligations when fulfilling their respective mandates, including by providing them with relevant information, training and support.

### 8.1. Policy Coherence

Have efforts been made within the State to support knowledge and understanding for human rights and business and the State duty?

<table>
<thead>
<tr>
<th>Indicators &amp; Scoping Questions</th>
<th>Implementation Status</th>
<th>Gaps</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Clear Commitment</strong></td>
<td><em>None found</em></td>
<td>The State has not provided a firm written commitment to business and human rights.</td>
</tr>
<tr>
<td>Has the State developed a firm written commitment to business and human rights, and has this commitment been communicated to governmental departments? Further, does this commitment help to clarify the role of different departments (for example, labour, business, development, foreign affairs, finance, or justice)?</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>Roles and Responsibilities</strong></td>
<td><em>None found</em></td>
<td>The State has not developed a clear division of responsibilities to coordinate human rights and business issues.</td>
</tr>
<tr>
<td>Has the State developed a clear division of responsibilities to help coordinate human rights and business issues between and across different government agencies and departments?</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>Resources</strong></td>
<td><em>None found</em></td>
<td>There is no specific entity or office given the mandate and resources to deal with business and human rights issues.</td>
</tr>
<tr>
<td>Has the State provided the responsible entity or office with adequate resources in terms of economic funding and political backing, in order for it to work actively in contributing to meeting the duty of the State to protect</td>
<td></td>
<td></td>
</tr>
<tr>
<td>GUIDING PRINCIPLE 8</td>
<td></td>
<td></td>
</tr>
<tr>
<td>--------------------</td>
<td></td>
<td></td>
</tr>
<tr>
<td>human rights within individual areas of responsibility and expertise?</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Guidance and Training</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Has the State developed guidance material and training to help clarify the roles of different departments in promoting and protecting human rights with regard to the role of business?</td>
<td></td>
<td></td>
</tr>
<tr>
<td>None found</td>
<td></td>
<td></td>
</tr>
<tr>
<td>The State has not developed guidance material or conducted training to help clarify the roles of different departments in promoting and protecting human rights with regard to the role of business.</td>
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</tbody>
</table>
GUIDING PRINCIPLE 9

States should maintain adequate domestic policy space to meet their human rights obligations when pursuing business-related policy objectives with other States or business enterprises, for instance through investment treaties or contracts.

9.1. Bilateral and Multilateral Investment Agreements and Arbitration of Disputes

Has the State put in place policies, guidance, monitoring, and reporting for relevant ministries or agencies with regard to the conclusion of bilateral and multilateral investment agreements and with regard to the arbitration of disputes?

<table>
<thead>
<tr>
<th>Indicators &amp; Scoping Questions</th>
<th>Implementation Status</th>
<th>Gaps</th>
</tr>
</thead>
<tbody>
<tr>
<td>Human Rights Provisions in IIAs and BITs</td>
<td>Zambia has signed 13 Bilateral Investment Treaties (BITs) since 1966 and is currently negotiating with a number of countries. Zambia has, however, only ratified five of the 13 BITs. Out of the six BITs that are publicly available in English language on Investment Policy Hub (of UNCTAD) only the BIT between Zambia and Finland contains clauses explicitly referring to labour rights, health, safety and environmental measures; protecting the Zambian regulatory space to adopt measures to ‘protect public health and safety, including environmental measures necessary to protect human, animal or plant life’. None of the other five agreements make reference to human rights, labour rights, environmental matters or sustainability.</td>
<td>Whilst a number of the IIAs include provisions that address the protection of health and safety, labour, environmental and even human rights aspects, there is a notable absence of such provisions in the BITs that are publicly available. This can in part be attributed to the nature of the agreements themselves, but also due to Zambia’s technical capacity to negotiate the contents of such agreements in its own favour.</td>
</tr>
<tr>
<td>Inclusion of Social Issues in IIAs and BITs</td>
<td>Out of the eight other International Investment Agreements listed on Investment Policy Hub, all available in English language, the vast majority include references to the protection of the environment, including co-ordination for the sustainable development of natural resources and environmental policy measures, and the protection of labour rights. Similarly, most of these agreements refer explicitly to the protection of the State’s right to regulate in the public interest, including with regard to aspects such as health and safety, labour rights or environmental matters, and note that the State shall not derogate from such measures for the purpose of investment promotion (e.g. COMESA Investment Agreement). Investment Promotion and Protection Agreements (IPPAs) are bound to existing national laws</td>
<td></td>
</tr>
</tbody>
</table>

National Baseline Assessment on Business and Human Rights
GUIDING PRINCIPLE 9

Investment Agreements

Investment agreements do not provide further guarantees. This means that existing laws that seek to promote and protect human rights remain applicable and no clauses will be included in IPPAs that nullify or derogate in domestic law.

Stabilisation Clauses

Has the State put in place measures to ensure that stabilisation clauses do not limit the host government’s ability to meet its human rights obligations?

Stabilisation Clauses

The State has not put in place measures to ensure that stabilisation clauses do not limit the host government’s ability to meet human rights obligations. The previous (pre-2008) Mines and Minerals Development Act provided minimal protection when negotiating and balancing clauses. As well, the stabilisation clauses in the new mining projects, the new mining laws (Mines and Minerals Development Act, 2013) and the Finance Act, 2013, substantially provided that existing investment agreements were not nullified by new legislation. Accordingly, a number of investors who had entered into agreements that included stabilisation clauses under the previous rules were pleased with the clauses and royalties. The enactment of the Mines and Minerals Development Act, 2013, has altered the practice of negotiating individual clauses for each mining investment agreement. The new legislation ushered in a new and uniform license issuance regime. The law states that investments can be expropriated in the national interest through the increase of “public” interest in the area clarified.

9.2. Government Agreements

Has the State put in place a code of guidance for relevant ministries and agencies with regard to the conclusion of investment agreements?

<table>
<thead>
<tr>
<th>Indicator</th>
<th>Implementation Status</th>
<th>Gap</th>
</tr>
</thead>
<tbody>
<tr>
<td>Human Rights in Government</td>
<td>The Government gives preference to companies owned or co-owned by Zambians or bidding as</td>
<td>State due to factual omission</td>
</tr>
</tbody>
</table>
GUIDING PRINCIPLE 9

Agreements
Does the State take steps to ensure that human rights considerations are made in agreements between the State and corporations? Are such agreements aligned with the UN’s Principles for Responsible Contracts?¹

<table>
<thead>
<tr>
<th>Investment Incentives offered under the ZDA Act</th>
</tr>
</thead>
<tbody>
<tr>
<td>The Zambia Development Agency Act, No. 2 of 2006 offers three types of incentives in the form of allowances, exemptions and grants. The Act also provides for investment thresholds that distinguish between fiscal and non-fiscal incentives. There are five categories of investors under the provisions of the ZDA Act.</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Investments of US$10 million and above</th>
</tr>
</thead>
<tbody>
<tr>
<td>This category of investors is entitled to a package of incentives that include additional incentives other than what are offered to small and medium-sized enterprises.</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Investments of US$10 million and above in Priority Sectors or Products and Multi-Facility Economic Zones</th>
</tr>
</thead>
<tbody>
<tr>
<td>This category of investors is entitled to the general incentives available to the following categories of investEAR:</td>
</tr>
<tr>
<td>(i) 50 percent tax rate on dividends for 5 years from the year of first declaration of dividend</td>
</tr>
<tr>
<td>(ii) 50 percent tax on profits for 5 years from the first year that profits are made. For years 6 to 8, only 50% of profits are taxable. In years 9 and 10, only 75% of profits are taxable.</td>
</tr>
<tr>
<td>(iii) Zero percent import duty on raw materials, capital goods and machinery, including trucks and specialized motor vehicles for five years.</td>
</tr>
</tbody>
</table>

ZDA only monitors for the implementation of tax agreements and incentives, not of environmental and social criteria.

Negotiators should negotiate in accordance with the Principles For Responsible Contracts, i.e. consider human rights from the outset.
GUIDING PRINCIPLE 9

(v) Deferment of VAT on machinery and equipment, including trucks and specialised motor vehicles.

(vi) Foster better incentives for investors in micro and small enterprises and investors who invest at least K50,000 in priority sectors or products.

(vii) Foster better incentives for investors who invest any amount in a sector or in a product that is not providing for a new priority sector or product under the Act. This category of investor is then also entitled to any further incentives provided under the various pieces of legislation.

Income Tax incentives:

• Income earned by investors in the first year of holding shares in the Stock Exchange qualifies for a 2% discount on the company tax payable by companies with more than one-third of their shareholders holding shares for a 7% discount;

• Implements, machinery and plant used in the construction or tourism qualify for wear and tear allowance for 12 years;

• Buildings used for mining and prospecting qualify for wear and tear allowance of 10% in the first year and the second year;

• Duty free access to new capital equipment for the mining and agriculture sectors;

• Overseas income tax to non-income from:
  • Farming;
  • Water production;
  • Mining of non-traditional exports (all exports other than copper and cobalt);

• Farm works allowance of 100% of expenditure on stumping, clearing, prevention of soil erosion, bore holes, aerial and geophysical surveys and water conservation;

• Development allowance of 10% of the cost of capital expenditure on growing coffee,
bananas, citrus fruits or similar plants;

- Farm improvement allowance—capital expenditure incurred on farm improvement is deductible in the year of incurring the expenditure;

- Interest paid out of farming profits are exempt for the first five years from the date of incorporation of the company commences business;

- Interest on capital expenditure incurred in the construction of an industrial building is deductible;

- Foreign exchange gains in respect of foreign currency in the course of business for the purchase of machinery, plant and equipment are tax deductible;

- Dividends declared by a company on the distribution of profits of Ltd. motor cycles and bicycles are exempt for the first five years from the date of declaration of dividends; and

- Carry Forward of Losses:
  - Copper—7 years
  - Gold—7 years
  - Non-metallic minerals
  - Petroleum and non-traditional exports (5 years).

The above amendments were repealed with the enactment of the Mines and Geosciences Act of 2008, and the practice of negotiating individualised terms with mining companies was formally stopped. 92

Negotiated protection and promotion agreements (IPPAs) between Government and companies are still being offered through the ZDA Act, but remain confidential. The standard IPPA template expressly excludes stabilisation clauses and states that fiscal terms and tax schedules
### GUIDING PRINCIPLE 9

<table>
<thead>
<tr>
<th>will not form part of IPPAs and will instead follow those provided in the national laws.(^{93})</th>
</tr>
</thead>
<tbody>
<tr>
<td>ZDA monitors the implementation of these agreements. The investment promotion agreements between countries are available in the annual report. The Ministry of Finance approves the investment incentives.</td>
</tr>
</tbody>
</table>
GUIDING PRINCIPLE 10

States, when acting as members of multilateral institutions that deal with business-related issues, should:

(a) Seek to ensure that such institutions neither restrain the ability of their member States to meet their duty to protect nor hinder business enterprises from respecting human rights;

(b) Encourage these institutions, within their respective mandates and capacities, to promote business respect for human rights and, where requested, to help States meet their duty to protect against human rights abuse by business enterprises, including through technical assistance, capacity-building and awareness-raising;

(b) Draw on these Guiding Principles to promote shared understanding and advance international cooperation in the management of business and human rights challenges.

10.1. Membership in Multilateral Institutions

How does the State seek to ensure that the institutions it is a member of neither restrain its duty to protect nor hinder the business responsibility to respect?

<table>
<thead>
<tr>
<th>Indicators &amp; Scoping Questions</th>
<th>Implementation Status</th>
<th>Gaps</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Internal Procedures and Commitment</strong></td>
<td>Zambia is a member of numerous international and regional bodies, including the United Nations, African Union, Southern African Development Community (SADC), Common Market for Eastern and Southern Africa (COMESA) and the African Development Bank (ADB). There is no evidence that Zambia has significant influence over these bodies regarding human rights and</td>
<td>There is no evidence that the State has established procedures and measures to</td>
</tr>
<tr>
<td><strong>Promotional Activities</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Does the State encourage the business to protect and the corporate responsibility to protect and respect institutions, including international trade and financial</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>GUIDING PRINCIPLE 10</th>
</tr>
</thead>
<tbody>
<tr>
<td>institutions, the UN system, regional institutions, and with business organisation and workers associations?</td>
</tr>
</tbody>
</table>
### GUIDING PRINCIPLE 25

As part of their duty to protect against business-related human rights abuse, States must take appropriate steps to ensure, through judicial, administrative, legislative or other appropriate means, that when such abuses occur within their territory and/or jurisdiction those affected have access to effective remedy.

#### 25.1. Redress for Business-Related Human Rights Abuses
Has the State put in place measures to ensure redress for business-related human rights abuses?

<table>
<thead>
<tr>
<th>Indicators &amp; Scoping Questions</th>
<th>Implementation Status</th>
<th>Gaps</th>
</tr>
</thead>
<tbody>
<tr>
<td>Sanctions</td>
<td>The relevant policies, regulations and legislation in place to ensure the following:</td>
<td>Gaps include:</td>
</tr>
<tr>
<td>Has the State put in place mechanisms that introduce civil liability, criminal sanctions, and administrative sanctions, such as fines or limited access to government funding, for human rights abuses?</td>
<td>Constitution:</td>
<td>- The Constitution of Zambia 1996, whilst providing for justiciability under the Bill of Rights (Part V of the Constitution), excludes economic, social and cultural rights from this provision (Art 30). This means that rights-related claims for redress for any breaches of economic, social and cultural rights under the Constitution need to be captured in the Bill of Rights, not the Constitution.</td>
</tr>
<tr>
<td>Financial or Non-Financial Compensation</td>
<td>Courts of Law:</td>
<td></td>
</tr>
<tr>
<td>Has the State put in place mechanisms that introduce civil liability, criminal sanctions, and administrative sanctions, such as fines or limited access to government funding, for financial or non-financial compensation?</td>
<td>The courts may adjudicate civil and criminal cases alleging violation of human</td>
<td></td>
</tr>
</tbody>
</table>

*Zambia Human Rights Commission*
### GUIDING PRINCIPLE 25

**Mechanisms of redress and compensation, and for the restoration of livelihoods for human rights abuses?**

**Prevention of Harm**

Has the State put in place mechanisms that introduce processes for the prevention of harm, such as injunctions or guarantees of non-repetition, for human rights abuses?

**Apologies**

Has the State put in place mechanisms to promote apologies for human rights abuses?

---

<table>
<thead>
<tr>
<th>Rights.</th>
<th>(Section 91 of the Constitution creates the following courts:</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. The Supreme Court of Zambia;</td>
<td>- the Supreme Court of Zambia;</td>
</tr>
<tr>
<td>2. The High Court for Zambia;</td>
<td>- the High Court for Zambia;</td>
</tr>
<tr>
<td>3. The Subordinate Court;</td>
<td>- the Subordinate Court;</td>
</tr>
<tr>
<td>4. the local court;</td>
<td>- the local court;</td>
</tr>
<tr>
<td>5. such lower courts as the constitution provides for</td>
<td></td>
</tr>
</tbody>
</table>

Section 19 of the Subordinate Courts Act No. 13 of 2010 provides for the jurisdiction of the Subordinate Court.

Sections 9 and 10 of the Local Government Act No. 1 of 2011 provide for the civil jurisdiction of the aforesaid courts.

The jurisdiction of the Industrial Relations Act is provided for under Section 68 of the Local Government Act 2011.

The Industrial Relations Act CAP 269 provides under Section 68 of the Act:

1. The Court shall have original and exclusive jurisdiction to hear and determine any industrial relation matters and any proceedings under this Act.
2. The Court shall have jurisdiction to commit and punish for contempt any person who disobeys or unlawfully refuses to carry out or to be bound by, an order made against that person by the Court under this Act.
Guiding Principle 25

In terms of criminal and administrative sanctions, such as fines or limited access to government funding, for human rights abuses, there are several specific legal frameworks regarding different areas of possible human rights violations, for example:

- Personal Injury Compensation Act CAP 271: The statute provides for mandatory contributions to the compensation fund and appropriate compensation for victims who sustain injuries in the course of their work.

- Environmental Management Act no. 12 of 2011: Provides for the establishment of the Environmental Management Agency and the Environmental Protection Act, which introduces a new judicial redress mechanism for environmental harm.

- Penal Code Act CAP 87: Provides for the imposition of criminal fines for criminal offences which may constitute human rights violations.

- Depending on the context, some securities for criminal prosecutions as a way of punishing corporate responsibility is regulated by the Administration of Fines Act.

- High Court Act CAP 117 (Part XXVII on Injunctions): The Supreme Court under this Act provides for powers of granting injunctions to protect human rights and the rights of residents. These powers provide for court procedures in placing injunctions.

State-Based Mechanisms

Has the State put in place any state-based and non-judicial mechanisms to be raised in principle 27, below.

For Baseline Assessment on Business and Human Rights
## GUIDING PRINCIPLE 25

State identified and removed barriers (financial, legal, practical, and evidentiary) to accessing those mechanisms?

<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Has the State supported non-State based mechanisms?</td>
<td>None found</td>
<td>None found</td>
</tr>
</tbody>
</table>

**Other Measures**

Has the State put in place other measures to ensure redress for business related human rights abuses?

| None found | None found |

### 25.2. Roles and Responsibility Within States

Has the State defined clear roles and responsibilities within the State on access to effective remedy?

<table>
<thead>
<tr>
<th>Indicators &amp; Scoping Questions</th>
<th>Implementation Status</th>
<th>Gaps</th>
</tr>
</thead>
<tbody>
<tr>
<td>Competent Authorities</td>
<td>See Guiding Principles 26 and 27, below.</td>
<td>See Guiding Principles 26 and 27, below.</td>
</tr>
<tr>
<td>Has the State defined competent authorities to investigate allegations of business-related human rights abuse? If so, are these authorities equipped with the knowledge necessary in order to attribute the abuses to the relevant redress mechanism?</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

---

National Baseline Assessment on Business and Human Rights
### 25.3. Public Information Sharing and Accessibility
Has the State developed measures to publish information about grievance mechanisms available, grievances brought, and relevant processes?

<table>
<thead>
<tr>
<th>Indicators &amp; Scoping Questions</th>
<th>Implementation Status</th>
<th>Gaps</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Public Information on the Mechanism</strong></td>
<td>Event-driven</td>
<td>There is no adequate information publicly available regarding available grievance mechanisms. The Government has not taken concrete steps to promote public awareness and understanding of grievance mechanisms. Individual institutions publicise remediation services that they offer, but this information is fragmented and does not reach groups that are at the highest risk of business-related human rights abuses.</td>
</tr>
<tr>
<td><strong>Accessibility</strong></td>
<td>Event-driven</td>
<td>CoG’s specific mechanisms might in principle be available to all affected stakeholders, it is not clear to what extent the Government is providing these measures to respond to and include, for example, women, peoples with disabilities, children, and indigenous peoples. There is a need for policy guidance and well packaged information.</td>
</tr>
</tbody>
</table>

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[Baseline Assessment on Business and Human Rights](#)
**GUIDING PRINCIPLE 26**

States should take appropriate steps to ensure the effectiveness of domestic judicial mechanisms when addressing business-related human rights abuses, including considering ways to reduce legal, practical and other relevant barriers that could lead to a denial of access to remedy.

### 26.1. Judicial Mechanisms

Has the State put in place a judicial mechanism with the competency to adjudicate business-related human rights abuses within the national jurisdiction of the State? If so, are these mechanisms in line with the criteria of impartiality, integrity, and ability to accord due process?

<table>
<thead>
<tr>
<th>Indicators &amp; Scoping Questions</th>
<th>Implementation Status</th>
<th>Gaps</th>
</tr>
</thead>
</table>
| **National and Regional Courts**<br>Do the national and regional courts have the competency to adjudicate business and human rights abuses, including for abuses that take place outside of their territorial jurisdiction, as permitted by the Guiding Principles and international human rights law? If so, do they do so in a way that is impartial and with integrity and ability to accord due process? | The relevant judicial mechanism has jurisdiction to address human rights abuses across the country. | Gaps include:  
- A 2009 study by the African Human Security Initiative found that the judiciary suffers from an insufficient number of judges—for example, only 40 Supreme Court Judges for a country of 12 million people—and a lack of gender equality. Consultations for this Baseline indicated that while some progress has been made in terms of the gender imbalance, that the problem of under-staffing remains.  
- The level of literacy has been found to be insufficient, which results in high allegations of corruption by judges.  
- Access to justice has not been easy. This results from a combination of factors which affects access to legal representation, notably the Standardised Aid Board lacks autonomy from the Ministry of Justice. |
| **The Supreme Court**<br>The Supreme Court of Zambia has the competency to address human rights abuses under its jurisdiction and powers, as provided by the Constitution and other laws, as outlined above. The Constitution. The Supreme Court of Zambia has a high number of barriers, including the interpretation of the Constitution. |  |  |
| **The High Court**<br>The High Court of Zambia is established under Article 91(1) (b) of the Constitution of Zambia CAP 1. Article 94 (1) of the Constitution states that the High Court of Zambia shall have, except as to the proceedings in which the Industrial Relations Court has exclusive jurisdiction under the Industrial and Labour Relations Act, |  |  |


### GUIDING PRINCIPLE 26

The unlimited and original jurisdiction to hear and determine any civil or criminal proceedings under any law and such jurisdiction and power as may be conferred on it by the Constitution or any other law.

The Supreme Court of Zambia is a superior court of record and has jurisdiction to try all criminal proceedings before any Subordinate Court. It may, either in person, and may make such orders, issue such writs and give such directions as it considers appropriate for ensuring that justice is done expeditiously and efficaciously.

The Industrial Relations Court is established under Article 269 of the Constitution of Zambia as part of the judicial system. It is created by the Industrial Relations Act CAP 269. Currently, there is only one such Court in Lusaka and the other in Ndola. The Court has jurisdiction over the following matters in all industrial relations matters, including:

- Inquiring into and resolving disputes
- Interpreting and applying the relevant legislation and collective agreements
- Governmental powers in any matter affecting the conditions of employment of the employees and privileges of employees, employers and the interest of the organizations.

**Subordinate Courts**

These are the lower courts and the courts of the first instance. The Subordinate Courts are a creation of the Subordinate Courts Act CAP 28.

**Labour Tribunals**

The Industrial Relations Court (which is at the same level as the High Court) is provided for under Part XI of the Industrial and Labour Relations Act to hear and determine disputes between employers and employees. The majority of people as the Court is created to ensure that the

---

1. The geographic reach of the Industrial and Labour courts is important as the lack of access to free legal services is largely perceived as not only denying the poor and women access to justice but also making the administration of justice inaccessible to the majority of people who are represented by lawyers in lower courts.

2. One of the major concerns is the poor knowledge and application of national human rights instruments relevant to the administration of justice, even among judges.

3. According to the Institute for Security studies, the Director of Public Prosecutions lacks autonomy, efficiency and effectiveness.

4. Renewal of judges’ contracts is subject to the executive branch.
### GUIDING PRINCIPLE 26

Do national labour tribunals have the competency to adjudicate business and human rights abuses? If so, do they do so in a way that is impartial and with integrity and ability to accord due process?

Act CAP 269. It has exclusive jurisdiction to hear most industrial and labour related grievances.

The gaps identified above, namely funding, renewal of judges’ contracts and the insufficient number of judges, also apply.

<table>
<thead>
<tr>
<th>Other Mechanisms</th>
</tr>
</thead>
<tbody>
<tr>
<td>Do other judicial mechanisms have the competency to adjudicate on business related human rights abuses? If so, do they do so in a way that is impartial and with integrity and ability to accord due process?</td>
</tr>
<tr>
<td>The Lands Tribunal is created under Part IV of the Lands (amendment) Act CAP 184. It is a quasi-judicial mechanism. The main objective of establishing the Tribunal was to give the public a fast-track method of resolving land disputes that is efficient and cost-effective compared to the regular court system. The Lands Tribunal is a circuit court and can sit at any place in Zambia where there is a dispute. It investigates and makes awards and decisions relating to any dispute of compensation relating to the Lands Act. The Tribunal is based in Lusaka and the appeal is to the Supreme Court.</td>
</tr>
<tr>
<td>Accessibility to the Lands Tribunal is a major challenge, although it is a circuit court in reality due to funding most hearing are in Lusaka and Ndola. Poor funding and transport are also major constraints. Most under-privileged persons are unable to access the Lands Tribunal mainly due to its limited jurisdiction and lack of mandate to arbitrate over land disputes in customary areas and Statutory Improvements Areas where most under-privileged persons are situated. Court Annexed Mediation is only available in Lusaka and Ndola, limiting accessibility to those far away from the two centres.</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>26.2. Barriers for Access to Judicial Remedy</th>
</tr>
</thead>
<tbody>
<tr>
<td>Has the State taken measures to ensure that there are no barriers to access to judicial remedy for addressing business-related human rights abuses?</td>
</tr>
<tr>
<td>The judiciary provides two Alternative Dispute Resolution (ADR) mechanisms. One is the Court Annexed Mediation for resolution of non-criminal human rights violations. Mediation was introduced in Zambia through Statutory Instrument No. 71 of 1997.</td>
</tr>
<tr>
<td>Accessibility to the Lands Tribunal is a major challenge, although it is a circuit court in reality due to funding most hearing are in Lusaka and Ndola. Poor funding and transport are also major constraints. Most under-privileged persons are unable to access the Lands Tribunal mainly due to its limited jurisdiction and lack of mandate to arbitrate over land disputes in customary areas and Statutory Improvements Areas where most under-privileged persons are situated. Court Annexed Mediation is only available in Lusaka and Ndola, limiting accessibility to those far away from the two centres.</td>
</tr>
</tbody>
</table>
### GUIDING PRINCIPLE 26

<table>
<thead>
<tr>
<th>Indicators &amp; Scoping Questions</th>
<th>Implementation Status</th>
<th>Gaps</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Legal Barriers</strong>&lt;br&gt;Has the State taken measures to ensure that there are no legal barriers to prevent legitimate cases from being brought before the courts? This includes: (1) ensuring that it is possible to hold corporations accountable under domestic criminal and civil laws, meaning that liability exists under the law; (2) ensuring that all members of society can raise complaints, including indigenous peoples, migrants, women, and children, and are afforded the same legal protection as for the wider population; (3) ensuring that extraterritorial harms can be addressed within the courts, as permitted by the Guiding Principles and international human rights law; and (4) ensuring that issues such as conflicts of law, statutes of limitations, parent company liability, and standards of liability do not result in barriers to victims of business-related human rights harms in accessing the courts?&lt;br&gt;The State has taken some measures to ensure that there are no barriers to prevent legitimate cases from being brought before the courts. For example, by decentralising courts to most districts and creating circuit courts. The Government has also created, under the Legal Aid Act CAP 34, the Legal Aid board to provide legal representation to those who cannot afford private legal service providers.&lt;br&gt;The law itself provides for clear procedures in bringing criminal and civil litigations at different levels of courts, regarding abuses of human rights by businesses. It further provides that all members of society, including indigenous peoples, migrants, women, and children, are afforded the same legal protection as for the wider population and can raise complaints.</td>
<td>The decentralisation of courts is still limited to mostly urban districts along the lines of rail and provincial centres, thereby limiting access. Subordinate courts are present in only 54 out of 72 districts and on average, 15% of Magistrates serve rural areas whilst 85% are in urban areas. 102&lt;br&gt;The circuit courts are poorly resourced. 103&lt;br&gt;The law does not provide for extraterritorial harms to be addressed within the courts, as permitted by the Guiding Principles and international human rights law.</td>
<td>&lt;br&gt;The Legal Aid Department is not very effective because it is underfunded and understaffed. 104&lt;br&gt;The Legal Aid Fund charges a fee for users and is insufficiently funded, limiting accessibility for rights-holders.&lt;br&gt;Civil society organisations and trade unions are not adequately...</td>
</tr>
<tr>
<td><strong>Practical and Procedural Barriers</strong>&lt;br&gt;Has the State taken measures to ensure that there are no practical or procedural barriers to prevent legitimate cases from being brought before the courts? This includes: (1) ensuring financial support, (2) providing legal representation or</td>
<td>The State has created the Legal Aid Board to provide legal representation for the poor, class actions and multi-party litigations.&lt;br&gt;The State also provides training to State prosecutors and judicial officials.</td>
<td>...</td>
</tr>
</tbody>
</table>
### GUIDING PRINCIPLE 26

<table>
<thead>
<tr>
<th>Social Barriers</th>
<th>See above</th>
<th>Lack of awareness of rights-holders about their rights as well as the mechanisms themselves constitute major barriers to access to justice.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Has the State taken measures to ensure that there are no social barriers to prevent legitimate cases from being brought before the courts? This</td>
<td>There is no law or policy put in place by the State to specifically protect human rights defenders. Many human rights defenders in Zambia operate</td>
<td></td>
</tr>
</tbody>
</table>

The Public Interest Disclosure (Protection of Whistleblowers) Act 2010 provides general and specific protection for whistleblowers from retaliatory actions.

Supported by the Government in promoting grievance mechanisms for rights-holders, particularly vulnerable and marginalised groups. Paralegal services are similarly under-resourced.

The Legal Aid Committee was established by the Legal Aid Act to determine how legal aid should be distributed. The Committee is underutilised, however, and in practice decisions regarding receipt of legal aid are made by the Director of the Legal Aid Board at the head office or lawyers in provincial centres.

The law does not provide for financial support to litigants who cannot afford expenses attached to the judicial process or recovery of attorney fees.

Access to justice in Zambia is very expensive, slow and complicated for ordinary people, especially vulnerable and marginalised individuals and groups.

According to a survey carried out by the Danish Institute for Human Rights in 2012, 73% of juveniles in Zambia had never had legal representation. Eighty-two percent of survey respondents said that it would be difficult for them to access legal services. Distance was the greatest obstacle cited by respondents (over 60%), followed by cost (over 25%).
## GUIDING PRINCIPLE 26

includes: (1) addressing imbalances between the parties, (2) targeted awareness-raising among vulnerable groups (for example, women, indigenous people, and children), (3) availability of child-sensitive procedures to children and their representatives, (4) legal aid and other type of assistance, (5) efforts to combat corruption, and (6) protection of human rights defenders. as non-governmental organisations. The State has enacted a Non-Governmental Organisations Act no. 16 of 2009, to provide for regulation and coordination of civil society in Zambia. Part V of the Act provides for self-regulation of NGOs by creating the Zambia Congress of Non-Governmental Organisations and the Council of Non-Governmental Organisations.

about their role, their mandate, and how they can be accessed. Lack of gender sensitivity amongst the judiciary has been noted as a barrier to access to justice, with consideration of gender equality found to be particularly problematic in rural areas. 

Corruption has been reported in judicial agencies. In the 2012 DIHR survey, the police were perceived to be the most corrupt justice agency by 68% of respondents, followed by the Prosecution Services (59%), with legal aid providers ranked as the least corrupt (23%).

The cost of legal services is prohibitive for much of the population.

According to a number of NGOs consulted in the preparation of this Baseline Assessment, the NGO Act, in practice, poses significant hindrances to their work. Section 6 (1) – (4) provides for an NGO registration board, most of whose members are State agents. Only 7 members out of 15 are appointed by NGOs and are subject to veto by the Minister.

The Chairperson and Vice Chairperson are appointed by the Minister. Areas of operational focus of NGOs must be authorised by the board and appeals for deregistration are sent to the Minister for final decision-making. As such, the Minister has a significant role in permitting and restricting the areas of operational focus chosen by NGOs.

### 26.3. Remedy for Abuses Taking Place in Host-States
# GUIDING PRINCIPLE 26

Has the State taken measures to address the issue of access of victims to judicial remedy for abuses by domiciliary companies in host States?

<table>
<thead>
<tr>
<th>Indicators &amp; Scoping Questions</th>
<th>Implementation Status</th>
<th>Gaps</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Remedy of Extraterritorial Effect</strong></td>
<td>There is very little information available regarding State measures in place to promote access to remedy of claimants that have been denied justice in a host State, enabling them to access Zambian courts for remedy. An exception is section 9(1) of the Workers Compensation Act no. 10 of 1999, which states that if an accident occurs or a disease is contracted by the worker while temporarily employed by a Zambian based employer outside Zambia, the worker shall be entitled to compensation in the same manner as if the accident or disease had occurred or been contracted in Zambia.108</td>
<td>There are no State laws, policies or any other measures identified, other than section 9(1) of the Workers Compensation Act no.10 of 1999, that are in place to promote access to remedy of claimants (including vulnerable groups such as indigenous peoples, women, and children) that have been denied justice in a host State, enabling them to access Zambian courts. It is also not clear how well known section 9(1) is to workers of Zambian companies abroad and how many have used the mechanism so far.</td>
</tr>
<tr>
<td><strong>Forum Non Conveniens</strong></td>
<td>The State allows courts considering a forum non conveniens motion to consider factors against dismissal in addition to factors 90in favour of dismissal.</td>
<td>None found</td>
</tr>
</tbody>
</table>
GUIDING PRINCIPLES 27 & 31

States should provide effective and appropriate non-judicial grievance mechanisms, alongside judicial mechanisms, as part of a comprehensive State-based system for the remedy of business-related human rights abuse.

27.1. Types of Non-Judicial Mechanisms

Has the State provided effective and appropriate non-judicial grievance mechanisms?

<table>
<thead>
<tr>
<th>Indicators &amp; Scoping Questions</th>
<th>Implementation Functions</th>
<th>Gap</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Mediation-Based Mechanisms</strong></td>
<td>The judicial and the Alternative Dispute Resolution (ADR) mechanisms in the country refer to non-judicial mechanisms. These are referred to under the Arbitration Act no. 13 of 1998. The ADR mechanisms are effective and are provided for in the Arbitration Act no. 15 of 1999. These are effective and provide for the appointment of arbitrators. The fees payable to mediators may not be affordable to some, in particular vulnerable and marginalised individuals and groups. ADR mechanisms are relatively new mechanisms and still require promotion to the general public. The mechanisms (ADR) do not meet the effectiveness criteria under Guiding Principle 31, in particular accessibility is an issue as the ADR mechanisms are only available in certain centres; furthermore, there is a fee to access these mechanisms. The mechanism is not complaint-driven. Compensation:</td>
<td></td>
</tr>
<tr>
<td><strong>Adjudicative Mechanisms</strong></td>
<td>The High Court Chief has an administrative mechanism that hears complaints, especially of land disputes between farming chiefdoms. The Anti-Corruption Commission’s Integrity Committee is an administrative mechanism that hears cases related to public-sector corruption and transparency in ministries, departments and agencies. The concept has been extended to the private sector. The concept of compensation:</td>
<td></td>
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<tr>
<td></td>
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</tbody>
</table>

| | | |
| | | |
| | | |

Zambia Human Rights Commission
GUIDING PRINCIPLES 27 & 31

Other Mechanisms

Does the State provide other forms of non-judicial mechanisms to address related human rights abuses? Do these mechanisms meet the effectiveness criteria set out in UNGP 31?

- The Competition and Consumer Commission Act provides a tribunal that hears and decides matters related to competition and consumer matters.
- The Workers Compensation Fund created under the Workers' Compensation Act provides compensation to workers affected by injuries during the course of their work.
- The Commission for Protection of People from Harassment and Sexual Harassment.
- The Judicial complaint.

The last two institutions do not seem to function effectively. The complaint channel in the workers' compensation fund is not well known by the general public. The fund has been criticized for handling complaints slowly and inefficiently. The mechanism has not been effective in providing timely compensation to workers. The judicial channel is not an efficient mechanism for providing compensation or addressing grievances.

27.2. Role of the NHRI

Has the State provided specific competency to the national human rights institution (NHRI) to perform the role of an independent mechanism for addressing grievances?

Occupational Diseases and the Workers' Compensation Act

The NHRI is responsible for the protection of human rights in the workplace, including the Occupational Diseases and Health Laws, including the Workers' Compensation Act. The compensations paid out by the Workers Compensation Fund are often inadequate.

Overall, policy cohesion that allows for close working relationships across mechanisms is lacking. Quick referral of cases across mechanisms and inter-institutional exchange of information do not appear to be facilitated in law or practice.
### Guiding Principles 27 & 31

<table>
<thead>
<tr>
<th><strong>Complaints-Handling Role</strong></th>
<th>The Human Rights Commission (ZHRC) is established under article 125 of the Zambian Constitution and mandated by the Human Rights Commission Act no. 39 of 1996 to promote and protect human rights in Zambia, for all persons. The functions of ZHRC are to investigate all human rights violations, maladministration of justice, propose effective measures to prevent human rights abuse, visit prisons and other detention related facilities with a view to assess and inspect conditions. The HRC is further mandated to carry out a continuing programme of research, education and facilitate rehabilitation of victims of human rights abuse to enhance the promotion, protection and respect for human rights in the country. In Zambia, the Human Rights Commission carries the overall mandate of promoting and protecting human rights including investigating business-related human rights abuses and the State has not designated another entity with the responsibility of investigating business-related human rights abuses. The ZHRC has insufficient capacity to execute its mandate. This is due to limited human resources, finances and State support. The Human Rights Commission is only available in 6 out of the 10 provinces and has no district offices anywhere in the country. It only has 53 members of staff (with majority being support staff) out of an establishment of 154.</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Supportive Role</strong></td>
<td>Has the State given the NHRI the mandate that allows the NHRI to be in a supportive role to claimants, such as through mediation, conciliation, expert support, or legal aid?</td>
</tr>
<tr>
<td><strong>Awareness-Raising</strong></td>
<td>Has the State given the NHRI the mandate to promote awareness on remedy to and redress for corporate human rights abuses?</td>
</tr>
<tr>
<td><strong>Training</strong></td>
<td>Has the State given the NHRI the mandate to provide training of relevant stakeholders on their access to remedy for corporate human rights abuses?</td>
</tr>
<tr>
<td><strong>Counselling</strong></td>
<td>Has the State given the NHRI the mandate to provide counselling on which remedy to follow?</td>
</tr>
</tbody>
</table>

Under Section 9 (e) of the Human Rights Act no. 39 of 1996, the law mandates ZHRC to provide education and information in the promotion and protection of human rights including on remedy to and redress for human rights abuses.
GUIDING PRINCIPLES 27 & 31

Has the State taken measures to ensure that there are no barriers to access to non-judicial remedy for addressing business-related human rights abuses?

<table>
<thead>
<tr>
<th>Indicators &amp; Scoping Questions</th>
<th>Implementation Status</th>
<th>Gaps</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Practical and Procedural Barriers</strong></td>
<td>See Guiding Principle 26</td>
<td>See Guiding Principle 26</td>
</tr>
<tr>
<td>Has the State taken measures to ensure that there are no practical or procedural barriers to prevent legitimate cases from being heard by non-judicial mechanisms?</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>Other Barriers</strong></td>
<td>See Guiding Principle 26</td>
<td>See Guiding Principle 26</td>
</tr>
<tr>
<td>Has the State taken measures to ensure that there are no other barriers to prevent legitimate cases from being heard by non-judicial mechanisms?</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
**GUIDING PRINCIPLES 28 & 31**

States should consider ways to facilitate access to effective non-State-based grievance mechanisms dealing with business-related human rights harms.

### 28.1. Facilitating Access to Mechanisms

Has the State supported access to effective non-State-based grievance mechanisms dealing with business-related human rights harms?

<table>
<thead>
<tr>
<th>Indicators &amp; Scoping Questions</th>
<th>Implementation Status</th>
<th>Gaps</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Business-Based Grievance Mechanisms</strong></td>
<td>Companies such as Konkola Copper Mines have established Integrity Committees with guidance and support from the Anti-Corruption Commission. Under the Anti-Corruption Act no. 3 of 2012, it is mandatory for all Government institutions to establish Integrity Committees. For companies, it is voluntary. Other than this, there is no evidence that the State has supported access to company or multi-stakeholder grievance mechanisms for business-related human rights abuses.</td>
<td>Zambian law does not require companies to establish grievance mechanisms to hear employee or community complaints.</td>
</tr>
<tr>
<td><strong>Multi-Stakeholder Grievance Mechanism</strong></td>
<td><em>None found</em></td>
<td>The Government is not actively supporting access to multi-stakeholder grievance mechanisms.</td>
</tr>
<tr>
<td><strong>Organisational-Based Grievance Mechanisms</strong></td>
<td><em>None found</em></td>
<td>The Government is not actively supporting access to organisational-based grievance mechanisms.</td>
</tr>
</tbody>
</table>
### GUIDING PRINCIPLES 28 & 31

| **Grievance Mechanisms** (including the union systems) through efforts such as dissemination of information and support for access? | **International Grievance Mechanisms**
Has the State supported access to international grievance mechanisms through efforts such as dissemination of information, support for access (for example, through legal aid) as well as support for establishing contact between the claimants in international system? | **Regional Grievance Mechanisms**
Has the State supported access to regional grievance mechanisms through efforts such as dissemination of information and support for access (for example, through legal aid)? | **Other Mechanisms**
Has the State supported access to other grievance mechanisms through efforts such as dissemination of information and support for access? |
---|---|---|---|
| **International Grievance Mechanisms**
Has the State supported access to international grievance mechanisms through efforts such as dissemination of information, support for access (for example, through legal aid) as well as support for establishing contact between the claimants in international system? | Several complaints to international grievance mechanisms have been made, particularly to the Compliance Advisor Ombudsman of the International Finance Corporation. However, there is no evidence that the State has supported access to these grievance mechanisms or issued guidance to communities on how to access them. | The Government is not actively supporting access to international grievance mechanisms. | In customary land disputes, cases can be appealed to the senior or paramount chief. | The Customary Land Bill should address the role of this type of dispute resolution. |
22. Citizens Economic Empowerment Commission
21. Anti-Corruption Commission
20. Ministry of Finance
19. Zambia Weights and Measures Agency
18. Road Transport and Safety Agency
17. Energy Regulation Board
16. Independent Broadcasting Authority
15. Media Institute of Southern Africa (Zambia Chapter)
14. Zambia Bureau of Standards
12. Executive Industry Transparency Initiative
11. Zambia Law Development Commission
10. Lusaka Stock Exchange Limited
9. Zambia Environmental Management Authority
8. Zambia Development Agency
7. Ministry of Labour and Social Services
6. Ministry of Commerce, Trade and Industry
5. Motions
4. Oxfam
3. Zambia Land Alliance
2. Zambia Chamber of Mines
1. Zambia Public Procurement Authority

By ZHRC and DHRU. The following stakeholder institutions were consulted:

- The First consultation consisted of telephone discussions and visits to identified institutions to
- Develop a stakeholder matrix. This was used to identify stakeholders to be consulted.

Annex II: Stakeholders Consulted
12. Zambia Congress of Trade Unions (ZCUT)
11. Zambia Chamber of Mines
10. Zambia Association of Women in Business
9. Zambia Land Alliance
8. Women and Law in Southern Africa
7. Ministry of Justice
6. Ministry of Labour and Social Security
5. Judiciary
4. Ministry of Lands
3. Office of the Reserve Bank of Zambia (RBI) Central Bank
2. Ministry of Industry, Trade & Development
1. Zambia National Assessment Authority

Consultative Committee. The following stakeholders were also engaged:

- Ministry of Mines and Minerals Development
- Office of the Human Rights Chief to the United Nations in Zambia
- Ministry of Information and Broadcasting
- Lusaka City Council

Zambia Human Rights Commission
The Human Rights Commission (HRC) is a National Human Rights Institution established pursuant to Article 230 of the 1991 Constitution of Zambia as amended by Act No 18 of 1996 and Act No 2 of 2016. The functions and powers of the HRC are now spelt out both in the Constitution and the HRC Act, Chapter 48 of the laws of Zambia.

About Human Rights Commission

What we do:

- Investigate any human rights abuses
- Investigate any maladministration of justice
- Propose effective measures to prevent human rights abuse
- Ensure that the Bill of Rights is upheld and protected
- Investigate any human rights abuses
- Visit prisons and places of detention or related facilities with a view to assessing and inspecting conditions of the person held in such places and make recommendations to redress existing problems.
- Establish a continuing programme of research, education, information
- Develop and promote education and the rehabilitation of victims of human rights abuse to enhance the respect for and protection of human rights.

For information about our current work please visit our website at www.hrc.org.zm or contact:

The Director

Human Rights House

Independence Avenue

Human Rights Commission

P.O. Box 33812

Lusaka, Zambia

Email: director@hrc.org.zm

Fax: +260-21-1251342

Tel: +260 - 21-1251327/251357