Preface and acknowledgements

The release of the United Nations (UN) Guiding Principles (GPs) on Business and Human Rights has underscored the emergence of a rapidly developing set of international law norms on human rights responsibilities of businesses and multinational corporations. In addition to minimizing litigation and reputational risks, understanding and demonstrating respect for human rights is vital to building a culture of trust and integrity amongst various stakeholders. Consequently, the application of the UNGPs in transnational and transactional contexts has generated a significant volume of literature that seeks to delineate its elements, scope and practical application in local contexts.

Despite the rise in business and human rights literature, the practical application of the UNGPs in the African context has yet to receive in-depth, exhaustive and book-length exposition. Yet, in a wide range of sectors, African countries are increasingly the epicentre of adverse impacts associated with irresponsible business decisions and investments. Chief among these is the concern that industrial activities, manufacturing processes and resource production operations, particularly in extractive industries, directly result in a wide range of adverse environmental, social, and human rights impacts across Africa. Large-scale social, environmental and human rights problems, such as climate change, water pollution, air pollution, loss of biodiversity, trade in endangered plant and animal species, gender-based exclusions, land grabs, and forced displacements, amongst others, resulting from resource exploitation and other industrial activities all accentuate the need for greater corporate accountability for human rights risks when operating in Africa.

This book investigates the extent to which the UNGPs provide human rights language for, and delineates the guiding principles for, promoting corporate accountability by various stakeholders operating in Africa. Consequently, the book fills a gap in existing literature by investigating the following questions: What are the good-fit approaches for achieving respect for and compliance with international human rights standards in the African context? How should African countries approach the political and evolving discourses about implementation of social norms ingrained in business and human rights principles?

This book explores the latest developments of law, regulations, policies and governance structures on business and human rights in Africa. It examines the normative contexts, functions, structure and implementation of the UN Guiding Principles, practical barriers to their effective implementation.
in Africa, and how such barriers could be addressed through good-fit and home-grown implementation approaches. The various chapters of the book explore how soft law initiatives, such as the UN Guiding Principles, can serve as a foundational yardstick for states’ duty to implementing the three pillars: the state duty to protect against human rights violations; the corporate responsibility to respect human rights in their operations; and greater access by victims to effective remedy, both judicial and non-judicial, for human rights violations, across different disciplines and industries.

As a result, the aim of this book is to investigate: the roles of non-state actors, especially business enterprises, in African economies, and how such roles impact human rights enforcement and compliance; the importance of local contexts in advancing the UNGPs across Africa; the good-fit approaches for achieving respect for and compliance with international human rights standards in the African context; how state and non-state actors can foster greater synergy and cooperation in designing and implementing policies geared towards human rights compliance; the problems and prospects of integrating business and human rights norms (such as corporate due diligence, Human Rights Impact Assessment) into corporate conduct; and how African countries can approach the political and evolving discourses about implementation of environment, social and good governance norms ingrained in business and human rights principles, ethics and ideals. With these questions and contexts in mind, this book provides an authoritative exploration of the nature, scope and practical implications of emerging business and human rights norms in African countries.

The book is prepared in a user-friendly style to enhance its utility among its primary audience, namely students, corporations, human rights institutions, departments and ministries, law firms, courts, arbitrators, notably international and regional committees and tribunals before whom arguments over the implications of business activities on fundamental human rights often come for resolution. The book analyses the key roles that institutions – such as the African Union, African Commission on Human and Peoples’ Rights, African Commission’s Working Group on Extractive Industries, Environment and Human Rights Violations in Africa, African Development Bank, and national institutions such as national oil companies, environment and climate change departments and ministries – play in translating business and human rights norms of the UNGPs from theory to practice. By evaluating gaps in extant institutional arrangements, the book provides practical ideas that could enhance greater coordination and institutional coherence in the implementation of the UNGPs across Africa.

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This book has endeavoured to state the position of the law as of 30 December 2021, although authors have been able to consider subsequent developments in one or two instances.

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