



SHARED RESPONSIBILITY IMPLEMENTING THE GUIDING PRINCIPLES ON BUSINESS AND HUMAN RIGHTS IN NORTH AFRICA



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Introduction

The momentum for the Guiding Principles on Business and Human Rights is steadily increasing across various regions of the world. However, these principles, proposed in 2011 by the UN Special Representative on Business and Human Rights, John Ruggie, have not gained the same traction in specific geographical areas, particularly in the Global South. The principles were adopted by the Human Rights Council in 2011 through resolution No. 17/4, 2011.¹ The Guiding Principles call for the integration of human rights considerations into business practices through a combination of national and international measures, both mandatory and voluntary, to enhance business respect for human rights. They complement the UN framework on "Protect, Respect, and Remedy." These principles acknowledge the obligations of States to respect human rights and fundamental freedoms, as well as the responsibilities of transnational corporations and other business enterprises to comply with applicable laws and protect human rights in their operations and supply chains. The Guiding Principles apply to all States and all business enterprises, regardless of whether transnational or otherwise. The Guiding Principles serve as a valuable tool to encourage companies to adhere to internationally recognized human rights standards and ensure the rights of affected individuals, particularly through the second pillar focused on redress. Despite the consensus achieved around these principles, their implementation has not translated into practical actions in the North African region, prompting Maat to prepare this report. With the 13th United Nations Forum on Business and Human Rights scheduled for November 25-27, 2024, it is crucial to address the challenges hindering the dissemination of the Guiding Principles in specific areas such as North Africa, particularly in countries like Egypt, Morocco, Tunisia, Algeria, Libya, and Sudan. This report concludes that the push to establish and enhance awareness of the Guiding Principles on Business and Human Rights in North Africa is a shared responsibility between governments and transnational corporations. Just as States are obligated under the first pillar to protect human rights in business activities, companies must also exercise due diligence and respect human rights, as outlined in the second and third pillars of the Guiding Principles. This obligation can be effectively met through a participatory approach involving various stakeholders, including civil society and the private sector.

¹ Resolution adopted by the Human Rights Council* 17/4 Human rights and transnational corporations and other business enterprises, <https://documents.un.org/doc/resolution/gen/g11/144/71/pdf/g1114471.pdf>

Section I: Measures Towards Disseminating the Guiding Principles on Business in North Africa

Maat's evidence indicates a discrepancy in policies aimed at disseminating the Guiding Principles on Business and Human Rights in North Africa. While countries such as Morocco, Tunisia, and Egypt have taken steps to promote these principles, Algeria, Libya, and Sudan have not made similar efforts. On the contrary, countries such as Libya and Sudan show little interest in disseminating these guiding principles at all. This lack of engagement may stem from the ongoing armed conflicts that have afflicted Libya and are currently affecting Sudan.² In contrast, Tunisia has expressed its commitment to promoting the UN Guiding Principles on Business and Human Rights, striving to balance economic development with the protection and promotion of human rights.³ In addition, Tunisia is actively raising awareness and building the capacity of companies regarding human rights through initiatives like the Academy of Business and Human Rights by working to spread awareness and build the capabilities of companies regarding respect for human rights through cooperation with some international programs and donors. Tunisia is implementing a capacity-building project focused on the UN Guiding Principles in the fisheries value chain in the governorate of Medenine, located in southeastern Tunisia, with support from the United Nations Development Programme.⁴ However, Tunisia needs to accelerate the adoption of a national action plan on business and human rights. Although consultations have increased since 2023, they have since slowed down.⁵ At the 11th Annual Forum on Business and Human Rights, Tunisia pledged to discuss and adopt a national action plan for implementing these principles, but the plan has not yet been adopted as of November 2024.

In Morocco, steps have been taken to promote the Guiding Principles. The country welcomed the Chair of the Working Group on Business and Human Rights for an academic visit at the invitation of the National Human Rights Council from January 29 to February 1, 2024. The main objective of this visit was to promote the UN Guiding Principles and enhance stakeholder awareness of these principles.⁶ However, Morocco does not have a separate action plan on business and human rights; instead, it includes a chapter on this topic within subsection 7 of the National Plan for Democracy and Human Rights. Notably, the first objective of this plan is

² Sudan situation, <https://reporting.unhcr.org/operational/situations/sudan-situation>

³ Item 3: Interactive dialogue with the Working Group on the issue of human rights and transnational corporations and other business enterprises, Tunis, <https://tinyurl.com/bddjmdjy>

⁴ https://x.com/UNDPinTunisia/status/1420369044897738755/media_tags

⁵ Tunisia: 1st NAP (Under development) , <https://globalnaps.org/country/tunisia/>

⁶ PROMOTING UN GUIDING PRINCIPLES ON BUSINESS AND HUMAN RIGHTS: A VISIT TO MOROCCO BY THE CHAIR OF THE UN WG ON BHR, <https://www.cndh.ma/en/promoting-un-guiding-principles-business-and-human-rights-visit-morocco-chair-un-wg-bhr>

to develop and adopt a national action plan on business and human rights through engagement with all stakeholders. Other measures include urging companies to integrate human rights into their business practices and raising awareness and building capacity around these principles.⁷ In Egypt, the country called on the United Nations during the Human Rights Council sessions in June 2023 and June 2024 to accelerate the implementation of the Guiding Principles on Business and Human Rights during interactive dialogues with the Working Group on Transnational Corporations and other business enterprises. Additionally, the Egyptian Center for Corporate Responsibility has provided training courses on human rights for companies participating in the UN Global Compact, which has, at least in part, enhanced these companies' understanding of the Guiding Principles.

In Algeria, independent reports indicate that the country adheres to the UN Guiding Principles on Business and Human Rights only to a very limited extent.⁸ Algeria does not participate in the Extractive Industries Transparency Initiative⁹ and fails to comply with rules regarding the disclosure of environmental impact assessments and the mitigation of harm caused by corporate violations. Furthermore, Algeria has not taken significant steps to prepare a national action plan on business and human rights.

On the other hand, transnational corporations in North Africa have not demonstrated the same level of interest as those in Egypt, Morocco, and Tunisia in disseminating the Guiding Principles on Business and Human Rights and promoting their implementation. The efforts of these companies have been limited and varied across different countries. For example, Shell Egypt's Code of Conduct does not reference the Guiding Principles on Business and Human Rights,¹⁰ nor does Shell Morocco's Code of Conduct, even though Shell is one of the largest companies operating in both countries. In Sudan and Libya, where Libya is experiencing political division and Sudan is facing armed conflict, companies have shown little interest in promoting the dissemination of the Guiding Principles. On the contrary, these companies have not complied with these principles. This lack of compliance contradicts the second pillar of the Guiding Principles, which stipulates that transnational corporations are responsible for respecting human rights within their business activities and operations. Companies are not only responsible for preventing human rights harm but also for addressing the effects of such harm. Addressing adverse human rights impacts requires taking adequate measures to prevent,

⁷ Morocco: 1st NAP (Under development), <https://globalnaps.org/country/morocco/>

⁸ Call for inputs: Extractive sector, just transition and human rights, <https://tinyurl.com/2m8h4aka>

⁹ 2024 Investment Climate Statements: Algeria, <https://www.state.gov/reports/2024-investment-climate-statements/algeria/>

¹⁰ Shell Code of Conduct, <https://tinyurl.com/muv4d65f>

mitigate, and remedy these effects.¹¹ In Algeria, irresponsible practices have been evident in the extractive industries, both by the government and by companies, as illustrated by the restrictions imposed on demonstrations in the Ain Salah region against shale gas development projects in 2014 and 2015. The government did not allow any consultations with local stakeholders. Considering the measures described, it is clear that despite attempts by some countries in North Africa, such as Morocco, Egypt, and Tunisia, these efforts are insufficient to disseminate the principles, promote their widespread implementation, and encourage transnational corporations to comply with them.

¹¹ Report of the Special Representative of the Secretary-general on the issue of human rights and transnational corporations and other business enterprises, John Reggie,
<https://documents.un.org/doc/undoc/gen/g11/121/90/pdf/g1112190.pdf>

Section II: Opportunities for Implementing Three Pillars of Guiding Principles (Protection, Respect, Redress)

The Guiding Principles on Business and Human Rights are based on three pillars: **Protection**, which refers to the duty of states to protect their citizens from abuses by business enterprises; **Respect**, which denotes the corporate responsibility to respect human rights through the principle of human rights due diligence; and **redress**, which emphasizes the need for access to effective remedies for individuals whose rights have been violated. This access can be through judicial and non-judicial grievance mechanisms, including both non-judicial dispute resolution and judicial processes.¹² Despite the consensus that the Guiding Principles enjoyed upon their adoption in 2011, this consensus has not translated into actual measures in most countries. North African countries are not isolated in this regard, as they also face similar challenges in promoting and disseminating the Guiding Principles. Commitment to implementing the three pillars of the Guiding Principles has encountered various obstacles. Under the Guiding Principles,¹³ states are required to implement the first pillar related to protection, while companies must adhere to the second pillar by respecting human rights in the context of business and exercising due diligence to uphold these rights. This due diligence, as outlined in the Guiding Principles, requires businesses to identify, prevent, mitigate, and address the negative consequences of their activities and operations throughout their supply chains, which is often not the case. Both parties have a responsibility to ensure that those harmed by corporate activities and business-related abuses have access to effective remedies, such as judicial and non-judicial justice mechanisms. The following figure shows the three pillars and the responsibility of each party in implementing them.

Table 1: Three Pillars of Guiding Principles and Responsibilities of Each Party

Pillar	State	Companies
Protection	√	---
Respect	---	√
Redress	√	√

This section of the report includes an assessment tool to measure the compliance of different parties responsible for respecting human rights in the context of business. The term "advanced," as shown below, indicates that the state or transnational corporation (TNC) has

¹² Guiding Principles on Business and Human Rights, https://www.ohchr.org/sites/default/files/documents/publications/guidingprinciplesbusinesshr_en.pdf

¹³ Ibid

taken steps to implement the core pillar required by the Guiding Principles. A "high" rating signifies that both parties have taken positive but incomplete steps; a "limited" rating means that both the state and TNC are implementing the pillars only to a minimal extent; and a "weak" rating indicates that neither party is taking meaningful steps to enhance the protection and respect for human rights in the context of business. The following table shows the rating each North African country received for compliance with the pillars on which the Guiding Principles for Business and Human Rights are based.

Table II: Compliance Rating for Pillars of Guiding Principles on Business and Human Rights

State	Protection (State Responsibility)	Respect (Transnational Corporate Responsibility)	Remedy (Shared Responsibility)
Morocco	High	Weak	Weak
Egypt	High	Limited	Weak
Tunisia	High	Limited	Weak
Algeria	Limited	Weak	Weak
Libya	Weak	Weak	Weak
Sudan	Weak	Weak	Weak

The table above assesses the commitment of states and transnational corporations to the three pillars of the Guiding Principles on Business and Human Rights. It is noted that the responsibility of states to protect human rights in the context of business is increasing in Egypt, Morocco, and Tunisia, as all three countries utilize international platforms and human rights mechanisms to reaffirm their commitment to respecting human rights. Tunisia is conducting ongoing consultations to formulate a national plan on business and human rights, while Morocco has dedicated a chapter and subsection to its national plan on democracy and human rights for business. However, none of these countries has achieved an “advanced” rating in implementing the first pillar on protection, as they have been unable to formulate separate national plans that effectively strengthen the implementation of the Guiding Principles. At various times, they have also struggled to protect individuals affected by the activities of transnational corporations. Additionally, Algeria is making limited efforts to ensure the protection of human rights in the context of business activities and has not adopted a national action plan on business. North African countries could significantly contribute to the implementation of the Guiding Principles, and consequently the three pillars, if they took steps

to adopt national action plans on business and human rights. These plans should fully assess needs and gaps and strive to translate these needs into actionable measures.¹⁴ The table also indicates that transnational corporations in Egypt and Tunisia are making limited efforts to implement the pillar related to respect and due diligence regarding human rights. The commitment of transnational corporations to the Guiding Principles varies. For instance, while Coca-Cola adheres to the Guiding Principles in Egypt, Shell Egypt does not. Furthermore, it has been noted that BMW in Morocco has not complied with these principles in specific instances due to its involvement in the extraction of cobalt from a mine in Ouarzazate, Morocco.

In terms of implementing Pillar Three, we find minimal efforts from both parties, who share the responsibility to ensure that those harmed by business activities have access to redress and justice. This pillar stipulates that when a right is violated, victims should have access to effective, legitimate, accessible, predictable, fair, transparent, and rights-compliant remedies—an outcome not achieved in the six countries covered by the report.¹⁵ Pillar Three sets forth effective standards through judicial and non-judicial grievance mechanisms implemented by both states and companies. However, achieving this pillar in conflict-affected areas of North Africa proves challenging. For example, Sweden has indicted two executives of Lundin Oil on charges of complicity in war crimes in Sudan. According to the prosecutor, the company—having changed its name several times and sold most of its shares in 2022—requested the government secure a potential oil field in what is now South Sudan, knowing the area would be seized by force.¹⁶ These are allegations that the defendants have denied, and they have every right to do so, as companies are entitled to defend themselves against criminal prosecutions and civil lawsuits. However, it is inappropriate for companies to make unfounded counterclaims to intimidate victims. Principles 25 to 31 of the Guiding Principles on Business and Human Rights focus on the roles of states and companies in providing effective remedies to victims of business-related human rights abuses.¹⁷ Promoting access to effective remedies is essential for implementing the UN Guiding Principles. Guiding Principle 1 requires states to take appropriate steps to prevent, investigate, and punish business-related human rights abuses, as well as to seek redress for those affected within their territory or jurisdiction.

¹⁴ Guiding Principles on Business and Human Rights at 10: taking stock of the first decade,

<https://documents.un.org/doc/undoc/gen/g21/093/82/pdf/g2109382.pdf>

¹⁵ UNITED NATIONS GUIDING PRINCIPLES ON BUSINESS AND HUMAN RIGHTS, page 3,

<https://www.undp.org/sites/g/files/zskgke326/files/migration/in/UNGP-Brochure.pdf>

¹⁶ Indicted with complicity in grave war crimes – today the trial in the Lundin Oil case begins in Sweden,

<https://crd.org/2023/09/05/indicted-with-complicity-in-grave-war-crimes-today-the-trial-in-the-lundin-oil-case-begins-in-sweden/>

¹⁷ Implementing the third pillar: lessons from transitional justice guidance by the Working Group,

<https://documents.un.org/doc/undoc/gen/g22/373/37/pdf/g2237337.pdf>

Section III: Challenges Preventing Dissemination of Guiding Principles in North Africa

Despite the acceptance and consensus surrounding the Guiding Principles among all countries in North Africa—given that they are primarily voluntary—this acceptance has not translated into widespread dissemination of these principles across the six countries covered by the report. The reasons for this vary from country to country. Maat emphasizes the need to involve all stakeholders, including civil society and the private sector, in addressing these challenges and creating an environment that promotes respect for human rights in the context of business and the activities of transnational corporations. Through its assessment of the current context of corporate activities in North Africa, Maat notes that governments play a particularly crucial role in fostering respect for human rights by transnational corporations. Maat has identified several challenges that hinder the dissemination of the Guiding Principles on Business and Human Rights:

- **Slowness in Commitment to Publishing Guiding Principles:**

One significant challenge in the publication of the Guiding Principles is that the second pillar, which relates to respect and due diligence in the field of human rights, is not widely known in North Africa. Additionally, even companies familiar with the principles may be unwilling or unable to contribute to the implementation of this pillar, often to avoid raising awareness among workers about the rights contained in the principles.

- **Armed Conflicts**

Armed conflicts represent one of the most significant challenges to disseminating the Guiding Principles in North Africa, a region increasingly marked by tensions and violence. As the United Nations Guiding Principles on Business and Human Rights state: “The worst human rights violations involving business arise in the midst of a struggle for control of territory, resources, or power itself.” The seventh guiding principle indicates that human rights risks are magnified in areas affected by conflict. Accordingly, states should intervene to support companies in conducting human rights due diligence and deny such support to those involved in serious human rights violations.¹⁸

- **Lack of Knowledge**

Maat notes that a lack of knowledge and limited capacity regarding the implementation of the Guiding Principles represent another significant challenge. Joint efforts are required to enhance

¹⁸ The UN Guiding Principles on Business and Human Rights,
https://www.ohchr.org/sites/default/files/documents/publications/guidingprinciplesbusinessshr_en.pdf

the dissemination of these principles and build the capacities of those responsible for their promotion, given their importance.

- **Joint Complicity**

Collusion between companies and governments can also pose a challenge to promoting human rights in business activities, particularly when both parties benefit. Such complicity may raise suspicions of corruption, hindering efforts to disseminate the Guiding Principles.

- **Failure to Identify Responsible Institutions**

In some North African countries, such as Libya, Egypt, and Sudan, it is unclear which institution is responsible for disseminating and promoting the Guiding Principles on Business and Human Rights.

Section IV: Roadmap for Promoting Dissemination of Guiding Principles in North Africa

This final section of the report presents a roadmap that states and companies in North Africa can follow to promote the dissemination of the Guiding Principles and, consequently, enhance respect for human rights in business.

Main Stages	Suggested Action	Entities Responsible For Implementation	Implementation Partners
Study development of national action plans on business and human rights.	Adopt national action plans for business and human rights.	Countries + companies	Civil society + international donors and international organizations
Invite Working Group on Transnational Corporations to visit countries in North Africa to exchange experiences on strengthening guidelines.	Sending an official invitation to working group to visit individual countries.	Permanent missions in Geneva + Ministries of Foreign Affairs	Civil society, trade unions and specialized national councils when the working group is present
Call for annual forum on business and human rights.	Holding annual forum	Governments in North Africa	Transnational corporations + other stakeholders
Develop human rights due diligence programs by transnational corporations.	Inclusion of principle of due diligence and prior guidelines in internal regulations of transnational corporations and codes of conduct.	Companies + workers	Trade unions and civil society

Recommendations

- Accelerate the Development of National Action Plans to develop separate national action plans on business and human rights in North African countries.
- Transnational corporations should adopt a fully participatory approach and cooperate with judicial mechanisms to provide redress to victims harmed by their activities, thereby ensuring the achievement of the third pillar of the Guiding Principles.
- Encourage North African countries to lead regional consultations aimed at promoting the dissemination of the Guiding Principles in this geographical area.
- Consider seeking technical support, especially from the United Nations Development Programme and the Working Group on Transnational Corporations, to promote the dissemination of the Guiding Principles on Business and Human Rights.
- Give special attention to building the capacity of stakeholders in North African countries regarding the importance of disseminating and implementing the Guiding Principles.
- Explore the possibility for regional organizations to develop an index measuring the commitment of transnational corporations to human rights in business.