The Role of Litigation in Protecting the Environment Against Development-induced Violations

A publication of Zimbabwe Lawyers for Human Rights

ZIMBABWE LAWYERS FOR HUMAN RIGHTS

Fostering a culture of human rights

The Role of Litigation in Protecting the Environment against Development-Induced Violations

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Roselyn Hanzi

Executive Director

Zimbabwe Lawyers for Human Rights

ABOUT ZIMBABWE LAWYERS FOR HUMAN RIGHTS

Established in February 1996, Zimbabwe Lawyers for Human Rights (ZLHR) is a not-for-profit law-based human rights organisation. ZLHR works to foster a culture of human rights in Zimbabwe by encouraging the growth and strengthening of human rights at all levels of Zimbabwean society through the observance of the rule of law. ZLHR is committed to upholding respect for the rule of law and the unimpeded administration of justice, free and fair elections, the free flow of information, and the protection of constitutional rights, human rights, and freedoms enshrined in human rights instruments in Zimbabwe and the surrounding region. We keep these values central to our programming activities. ZLHR holds observer status with the African Commission on Human and Peoples' Rights, is a sustaining partner of the Southern Africa Development Community Lawyers' Association and has affiliate status with the International Commission of Jurists.

ZLHR's aims and objectives are:

1. To strive to protect, promote, deepen and broaden the human rights provisions in the Constitution of Zimbabwe.
2. To strive for the implementation and protection in Zimbabwe of international human rights norms as contained in important sub-regional, regional and international human rights instruments.
3. To strive for the adoption of a Southern African Development Community (SADC) Charter on Human Rights and to develop and/or strengthen the implementing mechanisms.
4. To endeavour to find common ground with and to work alongside other Zimbabwean groups, organisations, activists and persons who share a broadly similar concern for and interest in human rights.
5. To liaise and work with other human rights groups wherever situated but particularly in Southern Africa, and especially those closely linked to the legal profession.
6. To do all other things necessary to promote and protect human rights, the rule of law and the separation of powers in Zimbabwe and the region.

Contents

LIST OF ACRONYMS

ACC – Administrative Court Case
BHR – Business and Human Rights
CSDDD – Corporate Sustainability Due Diligence Directive
EHRDs – Environmental Human Rights Defenders
EIA – Environmental Impact Assessment
EM Act – Environment Management Act
EMA – Environmental Management Agency
EPO – Environmental Protection Order
EPZ – Export Processing Zone
ESG – Environmental, Social and Governance
FPIC – Free, Prior and Informed Consent
GWRT – Greater Hwange Residents Trust
HRDD – Human Rights Due Diligence
IFC – International Finance Corporation
MHREDD – Mandatory Human Rights and Environmental Due Diligence
MURRA – Masvingo United Residents and Ratepayers Alliance
NDS2 – National Development Strategy 2
NHRI – National Human Rights Institution
OECD – Organisation for Economic Co-operation and Development
PRI – Principles for Responsible Investment
RDC – Rural District Council
SAZ – Standards Association of Zimbabwe
SOE – State-Owned Enterprise
TNCs – Transnational Corporations
UMSCC – Upper Manyame Sub-Catchment Council
UNGPs – United Nations Guiding Principles on Business and Human Rights
WHO – World Health Organisation
ZDI – Zimbabwe Defence Industries
ZHRC – Zimbabwe Human Rights Commission
ZINWA – Zimbabwe National Water Authority
ZLHR – Zimbabwe Lawyers for Human Rights
ZPC – Zimbabwe Power Company

1. EXECUTIVE SUMMARY

Development remains a central aspiration for Zimbabwe as it pursues economic transformation under Vision 2030 and the National Development Strategy 2. In principle, development should advance the well-being of communities and realise the universally recognised right to development. In practice, however, large-scale investments in mining, agriculture, energy, and infrastructure have often produced severe environmental harm and development-induced displacement, particularly in communal areas where communities rely on land, water, and ecosystems for livelihoods, culture, and survival. Where free, prior and informed consent (FPIC) is absent or reduced to a procedural formality, communities face loss of land, environmental degradation, restricted livelihoods, and heightened conflict risks, undermining the very development such projects purport to advance.

This research situates these challenges within the business and human rights (BHR) normative framework, anchored in the UN Guiding Principles on Business and Human Rights (UNGPs). It demonstrates how Zimbabwe's legal and regulatory environment, characterised by weak enforcement, political interference, and limited administrative and non-judicial remedies, has struggled to prevent or redress environmental harm and forced relocations linked to business operations. While the Constitution of Zimbabwe provides strong justiciable environmental and procedural rights, including protections against arbitrary eviction and guarantees of administrative justice, regulatory institutions such as the Environmental Management Agency (EMA) and local authorities have frequently failed to act effectively. As a result, communities are often left with litigation as the only viable avenue to assert their rights and seek accountability.

Against this backdrop, the paper showcases the strategic role of Zimbabwe Lawyers for Human Rights (ZLHR) in advancing environmental justice and accountability through public-interest litigation. Drawing on cases spanning extractive industries, urban development, agriculture, and pollution, the research illustrates how litigation has been used to halt unlawful activities, challenge defective approvals, compel state action, and enforce constitutional environmental rights. Beyond securing immediate relief, ZLHR's litigation has reinforced the State's duty to protect, challenged harmful corporate conduct, and expanded access to remedy under Pillars I, II, and III of the UNGPs. Collectively, the analysis demonstrates that, in Zimbabwe's current development context, marked by extractive expansion and weak governance, rights-based litigation remains an indispensable tool for ensuring that development proceeds in a manner that is lawful, participatory, environmentally sustainable, and respectful of human dignity.

2. INTRODUCTION

Business operations in sectors such as mining, agriculture, and energy increasingly pose complex and far-reaching social, environmental, and human rights challenges, a trend further accelerated by the Fourth Industrial Revolution (4IR). Advances in digital technologies, automation, artificial intelligence, and data-driven resource extraction have transformed the scale, speed, and reach of business activities, often intensifying pressures on land, labour, and the environment.[1] While international human rights law has traditionally focused on the obligations of states, the realities of globalised and technologically enabled economic activity have further blurred the distinction between public and private actors. Transnational corporations (TNCs) now wield immense economic and technological power, in many cases exceeding the regulatory and enforcement capacity of smaller or resource-dependent economies.

Historically, human rights systems were designed to regulate the actions of governments. However, globalisation and technological change have blurred the lines between public authority and private economic power. Today, transnational companies can exercise significant influence over local economies, natural resources, and livelihoods, sometimes exceeding the capacity of the States in which they operate. This imbalance is especially evident in Zimbabwe's extractive sector, where large-scale mining projects have expanded rapidly. Foreign mining companies, including those from China, have faced repeated allegations of environmental harm, unsafe labour practices, inadequate community consultation, and forced displacement of communities.[2] In many cases, affected communities struggle to secure protection or redress through ordinary administrative or regulatory channels. Most rural communities live on communal land where they enjoy only use rights. These rights are increasingly at risk as large-scale land investments, mineral, oil, and gas exploration, sugarcane production for biofuels, and fuel blending for import substitution are on the rise. Renewable energy technologies, such as standalone and off-grid systems, are encouraged to promote energy security and support import substitution. Export processing zones (EPZs) have been gazetted to increase Zimbabwe's productive capacity and make it a middle-income country by 2030. All these projects require vast swathes of land, resulting in the displacement and relocation of communities. Thus, their FPIC becomes a priority so that their rights are not violated. Land is a source of livelihood and shelter for communities living on communal lands, whose rights are guaranteed by the Constitution of Zimbabwe.

The business and human rights (BHR) agenda emerged in response to these realities, seeking to clarify responsibilities and strengthen accountability where traditional governance mechanisms fall short. This agenda was formally consolidated in 2011 with the adoption of the United Nations Guiding Principles on Business and Human Rights (UNGPs). The UNGPs provide a practical and widely accepted framework for addressing business-related human rights harms, built around three mutually reinforcing pillars:

1. The duty of the State to protect people from human rights harm linked to business activities.

2. The responsibility of businesses to respect human rights by avoiding and addressing negative impacts; and

1 Kaltenecker E & Piasecki L, "The Impact of the Fourth Industrial Revolution in the Ownership, Location and Internalization Advantages of Firms: An Exploratory Study", available at https://api.repository.cam.ac.uk/server/api/core/bitstreams/1088f275-0d7c-4d31-856d-68109095a46b/content [Accessed on 21 July 2025].

2 ILO, "Environmental integrity and doing business in Zimbabwe: Challenges and engagement of sustainable enterprises", available at https://www.ilo.org/media/401331/download [Accessed on 21 July 2025].

3. The need to ensure access to effective remedies for individuals and communities whose rights have been violated.

This protect–respect–remedy framework offers a useful lens for understanding why litigation remains a critical tool in contexts like Zimbabwe, where power imbalances, weak enforcement, and recurring environmental and displacement harms persist. It also provides a structured way to assess the contribution of ZLHR in using the courts to advance accountability, protect communities, and reinforce human rights standards in business operations.

2.1 Research objectives

To showcase ZLHR's exceptional strategic litigation in business and human rights cases involving environmental degradation and forced relocations in Zimbabwe, highlighting how litigation has been used as a critical tool to protect affected communities, assert constitutional environmental rights, and challenge harmful business practices.

To situate ZLHR's litigation work within Zimbabwe's broader business and human rights context, demonstrating how persistent environmental harm, extractive-sector expansion, weak corporate accountability, and ongoing forced relocations create a compelling and urgent demand for sustained and expanded public-interest litigation.

To underscore the importance of continued support for rights-based litigation as a driver of accountability and reform, by illustrating how ZLHR's legal interventions contribute to safeguarding environmental rights, strengthening the rule of law, and advancing compliance with regional and international business and human rights standards.

2.2 Business, Environment and Forced Relocations in Zimbabwe: A Human Rights Context

Tensions between economic development and human rights protection often give rise to competing interests.[3] While both economic development and human rights are fundamental, it is imperative that states balance economic interests with their human rights obligations, particularly the duty to protect the environment and to ensure sustainable development.[4] In Zimbabwe, as in many developing countries, economic development is often pursued through partnerships with TNCs, particularly in the energy, mining and agricultural sectors.[5] On the one hand, TNCs are lauded as a source of economic development and employment opportunities. On the other hand, TNCs are often criticised for exacerbating inequality, exploiting labour, undermining local industries, and contributing to environmental degradation.[6] Their operations often prioritise profit over people, leading to the displacement of communities, poor working conditions, and limited accountability.

3 Müllerová H, "Right to Environment, Balancing of competing interests and proportionality" available at https://www.researchgate.net/publication/325903696_Right_to_environment_balancing_of_competing_interests_and_proportionality [Accessed on 28 July 2025].

4 Buys, E. and Lewis, B. (2021) 'Environmental protection through European and African human rights frameworks', The International Journal of Human Rights, 26(6), pp. 949–977, available at https://www.tandfonline.com/doi/epdf/10.1080/13642987.2021.1986011?needAccess=true [Accessed on 28 July 2025].

5 Africa policy Research Institute, "Lithium Mining and National Economic Development in Zimbabwe", available at https://afripoli.org/lithium-mining-and-national-economic-development-in-zimbabwe [Accessed on 28 July 2025].

6 Yangailo T, "The Dark Side of Transnational Corporations in Africa", available at https://www.researchgate.net/publication/387910217_The_Dark_Side_of_Transnational_Corporations_in_Africa [Accessed on 28 July 2025].

The business and human rights normative framework sets clear standards that embed human rights due diligence, accountability and community participation into economic decision-making, ensuring that economic growth does not come at the expense of people's rights, the environment and human dignity. This section demonstrates that the business and human rights normative framework is firmly grounded in and derives authority from international and regional human rights instruments. Focusing on environmental rights and development-induced displacements is justified because, in the Zimbabwean context, large-scale agricultural, energy, mining, and other infrastructure projects have had significant impacts on land, livelihoods, and ecosystems, making these issues central to balancing development objectives and protecting communities' rights.

2.3 Global and Regional Human Rights Frameworks

While governments remain the primary duty-bearers for protecting human rights, there is now broad agreement that businesses also have responsibilities. Globally, recognition that business activities can cause or contribute to environmental harm and human rights violations, including displacement and loss of livelihoods, has triggered legal and policy responses. Decisions made by TNCs about resource extraction, manufacturing, waste disposal, labour practices, and land use often have large-scale impacts on ecosystems and communities. Therefore, business actions can directly harm the environment and infringe on people's rights. Initiatives like the UNGPs on Business and Human Rights formally acknowledge this business responsibility to respect human rights and avoid causing or contributing to harm. Similar principles appear in environmental, social and governance (ESG) standards and corporate sustainability frameworks, underscoring the need for companies to assess and manage their impacts.

Environmental degradation and development-induced displacement are increasingly recognised as human rights issues, not merely environmental or development concerns. Environmental damage caused by businesses is now widely understood to have human rights consequences. For example, pollution can harm the right to health, contaminated water can affect the right to safe drinking water, and land degradation can affect community livelihoods.

The Convention on Biological Diversity is a leading legal framework for protecting the environment. It sets out three objectives: to conserve biodiversity, promote its sustainable use, and ensure the equitable sharing of the benefits arising from its utilisation.[7] Article 14 of the Convention on Biological Diversity presents a crucial aspect on environmental impact assessments and minimising adverse impacts on the environment by extending an obligation on contracting parties to, "Introduce appropriate procedures requiring environmental impact assessment of its proposed projects that are likely to have significant adverse effects on biological diversity with a view to avoiding or minimising such effects and, where appropriate, allow for public participation in such procedures".[8]

The right to a clean, healthy and sustainable environment was recognised by the UN General Assembly (2022) as a universal human right. This right includes access to clean water, safe land, healthy ecosystems, and environmental information. Environmental protection is acknowledged in the Stockholm Declaration on the Human Environment.[9] The Declaration was the first significant international document to place environmental issues at the forefront of global concern by outlining principles

7 Convention on Biological Diversity, Article 1.

8 As above.

9 Stockholm Declaration on the Human Environment, available at https://docs.un.org/en/A/CONF.48/14/Rev.1 [Accessed on 24 July 2025].

for sound environmental management.[10] The principles of the Declaration outline intergenerational obligations regarding the protection and improvement of the environment for present and future generations; sustainable development concepts; the sovereign right to dispose of natural resources, however responsibly to ensure activities within their jurisdiction do not cause damage to the environment of other states or of areas beyond the limits of national jurisdiction, amongst others.[11]

The Rio Declaration on Environment and Development, which builds on the principles of the Stockholm Declaration, emphasises public participation in environmental decision-making.[12] The Declaration further asserts that human beings are central to sustainable development and that precautionary steps are needed to safeguard the environment against potential harm.[13] More importantly, article 11 outlines the necessity of environmental legislation and creates an expectation on states to develop laws to protect the environment.[14]

The United Nations Charter on Economic Rights and Duties of the States fundamentally addresses international economic relations and emphasises the right of all states to control their natural resources, regulate foreign investment, and participate in international trade.[15] However, the Charter also includes provisions relevant to the environment. Specifically, article 30 of the Charter outlines that states are collectively responsible for protecting the environment for present and future generations. Moreover, each state is invited to develop environmental and development policies that reflect this duty, ensuring such policies do not hinder the development prospects of developing countries. Finally, states have a responsibility to prevent environmental harm beyond their borders and cooperate in creating international environmental norms and regulations.[16]

Furthermore, the United Nations Framework Convention on Climate Change (UNFCCC), operationalised by the Kyoto Protocol and later complemented by subsequent agreements such as the Paris Agreement, provides a foundational framework for protecting the environment by promoting climate sustainability. Under these frameworks, states undertake obligations to reduce greenhouse gas emissions,[17] enhance adaptive capacity, and implement policies to prevent dangerous human interference with the climate system.[18] In doing so, they not only recognise the shared responsibility of the international community but also affirm the principle of sustainable development, ensuring that economic growth proceeds without compromising the environment or the needs of future generations.[19]

10 As above.

11 Principles 1, 2, 3, 5, 6 and 21 of the Stockholm Declaration on the Human Environment.

12 Principle 10, The Rio Declaration on Environment and Development.

13 Report of the United Nations Conference on Environment and Development, available at https://www.un.org/en/development/desa/population/migration/generalassembly/docs/globalcompact/A_CONF.151_26_Vol.I_Declaration.pdf [Accessed on 28 July 2025].

14 Article 11, the UN Charter on Economic Rights and Duties of the States.

15 The UN Charter on Economic Rights and Duties of the States, available at https://www.aaas.org/sites/default/files/SRHRL/PDF/IHRDArticle15/Charter_of_Economic_Rights_and_Duties_of_States_Eng.pdf [Accessed on 28 July 2025].

16 Article 30, the UN Charter on Economic Rights and Duties of the States.

17 The Kyoto Protocol.

18 United Nations Framework Convention on Climate Change (UNFCCC).

19 Kameri-Mbote, P & Kabira, N, "Engendering the Legal Framework for Environmentally Sustainable Development: Some Reflections", Environmental Policy and Law, 53(5-6), 335-346, available at https://doi.org/10.3233/EPL-23901 [Accessed on 28 July 2025].

The business and human rights normative framework, grounded in international human rights law, addresses development-induced displacements by extending state obligations to corporate conduct, environmental law, and emerging business accountability standards. The International Covenant on Economic, Social and Cultural Rights and related interpretations by the treaty bodies prohibit forced evictions and protect rights to adequate housing, livelihoods, culture, and an adequate standard of living. The United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP) states that relocation of indigenous people shall not take place without free, prior and informed consent (FPIC), and fair compensation. The UNGPs on Business and Human Rights clarify that companies are expected to avoid contributing to development-induced displacement, conduct human rights due diligence to identify and prevent displacement risks, and address adverse impacts when they occur.

FPIC has been described repeatedly as a "right" in different international conventions and procedures, including the United Nations Human Rights Committee, the UN Committee on Economic, Social, and Cultural Rights, the UN Committee on the Elimination of Racial Discrimination, the UN Expert Mechanism on the Rights of Indigenous Peoples and the UN Permanent Forum on Indigenous Peoples. Others feel it is more appropriate to describe FPIC as a "principle." Some have even referred to it both as a "right" and as a "principle." The variety in terminology is understandable, given that, in large part, FPIC is neither "an end in itself" nor a "stand-alone" right per se, but, if anything, a derivative of the substantive rights it is designed to protect. It is a norm or standard that supplements are a means of effecting these substantive rights. These include the rights to property, participation, non-discrimination, self-determination, culture, food, health, and freedom against forced relocation.

The Convention on Access to Information, Public Participation in Decision-making, and Access to Justice in Environmental Matters (Aarhus Convention) (1998) grants the public rights of access to information, public participation, and access to justice in governmental decision-making processes on matters concerning the local, national, and transboundary environment. It focuses on interactions between the public and public authorities. The Convention is a multilateral environmental agreement which gives citizens an opportunity to access environmental information in a transparent and reliable manner. It is a way of enhancing the environmental governance network, introducing a reactive and trustworthy relationship between civil society and governments and adding the novelty of a mechanism created to empower the value of public participation in the decision-making process and guarantee access to justice: a "governance-by-disclosure" that leads a shift toward an environmentally responsible society. The Convention recognises that public participation in decision-making on environmental issues that affect them is key. The public must be informed about all relevant projects (including those with potential displacement), and must have the opportunity to participate in decision-making and legislative processes. Access to justice is also guaranteed in the Convention. The public has the right to judicial or administrative recourse if a state party violates or fails to comply with environmental law and the convention's principles.

At the regional level, Africa has adopted several binding and non-binding instruments that promote environmental protection and sustainable development. Primarily, the African Charter on Human and Peoples' Rights (African Charter) outlines that "All peoples shall have the right to a general satisfactory environment favourable to their development".[20] This right is further interpreted by the African Commission on Human and Peoples' Rights in cases such as the *Social and Economic Rights Action Center , Center for Economic and Social Rights v Nigeria*, where Nigeria was found in violation

20 Article 24 of the African Charter on Human and Peoples' Rights.

of environmental rights due to the State's failure to regulate oil exploitation.[21] The African Charter also supports this provision by providing for the right to freely dispose of wealth and natural resources, which should be exercised in the inclusive interest of all people.[22]

Similarly, the African Convention on the Conservation of Nature and Natural Resources, also known as the Maputo Convention, promotes environmental protection, sustainable development, and the conservation of natural resources across the African continent.[23] Its key provisions and principles emphasise the need to balance environmental, social, and economic interests; ensure conservation and management of natural resources are treated as an integral part of national and/or local development plans; and to involve local communities and indigenous groups in environmental governance.[24] The Convention espouses a duty on states to ensure that developmental and environmental needs are met in a sustainable, fair and equitable manner, and to establish legal remedies for environmental harm.[25] The African normative framework also provides the right to a healthy and sustainable environment for specific groups of people, including women and children, in provisions of the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa, and the African Charter on the Rights and Welfare of the Child.[26] Finally, the African Union (AU) Agenda 2063 includes environmental sustainability as one of its seven aspirations. It emphasises ecological integrity and climate resilience, which directly inform development policies across member states to foster a sustainable and climate-resilient continent.[27]

The AU was the first to adopt binding instruments to protect internally displaced persons (IDPs) in the territories of state parties to the African Union Convention on the Protection and Assistance of Internally Displaced Persons in Africa (Kampala Convention). The legislative objective of the Convention is found in its Preamble, in which the AU expresses its consciousness of the "gravity of the situation of IDPs as a source of continuing instability and tension for African states" and the "suffering and specific vulnerability of IDPs", and their determination "to adopt measures aimed at preventing and putting an end to the phenomenon of internal displacement by eradicating the root causes." This means that other than seeking to adopt measures to protect IDPs and their families, the Convention stresses the need to "prevent" internal displacement, and where it has occurred, to "protect" affected people. For this reason, the primary obligation of states under the Convention is to "refrain from, prohibit, and prevent arbitrary displacement of populations".

2.4 African Jurisprudence

The notion cemented in the ground-breaking case of, *Social and Economic Rights Action Center (SERAC), Center for Economic and Social Rights (CESR) v Nigeria* by the ACHPR is that states cannot prioritise economic development projects in a manner that violates environmental sustainability and the

21 This case is discussed further in the section that follows on dissecting the tensions between economic development and environmental protection.

22 Article 21 of the African Charter on Human and Peoples' Rights.

23 African Convention on the Conservation of Nature and Natural Resources.

24 The African Convention on the Conservation of Nature and Natural Resources.

25 Article 3(3) of the African Convention on the Conservation of Nature and Natural Resources.

26 Article 18, Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa; Article 11(2)(g) African Charter on the Rights and Welfare of the Child.

27 Africa Union Agenda 2063 - Aspiration 1, Goal 7, available at https://au.int/en/agenda2063/aspirations [Accessed on 25 July 2025].

well-being of people.[28] In this case, SERAC and CESR submitted a communication to the ACHPR on behalf of the people of Ogoniland, alleging that the government of Nigeria, in consortium with Shell, was in violation of a series of articles of the African Charter through the environmental degradation caused by oil extraction activities in the region.[29] Subsequently, the ACHPR found the government of Nigeria in violation of the rights of people to freely dispose of their resources and to a healthy environment,[30] amongst other articles of the African Charter. More specifically, the ACHPR explicitly recognised the right to a healthy environment as an integral part of human rights. It affirmed that environmental degradation caused by state or corporate actions can violate human rights protected under the African Charter. The ACHPR also outlined that Nigeria ought to ensure that appropriate environmental and social impact assessments are carried out prior to any future oil developments; establish effective and independent oversight bodies for the petroleum industry; and provide information on health and environmental risks.[31]

Another case, *LIDHO & Others v. Republic of Côte d'Ivoire*[32], crystallises the enduring tension between state-led economic development and environmental protection in West Africa. In 2023, the African Court on Human and Peoples' Rights (African Court) found Côte d'Ivoire internationally responsible for failing to protect fundamental rights under the African Charter, notably the right to life and to a satisfactory environment after approximately 400 tonnes of toxic petroleum waste from the Probo Koala (linked to the Trafigura) were illicitly discharged in and around Abidjan in August 2006. The disaster affected roughly 100,000 residents, with local hospitals treating some 30,000 people and 17 confirmed deaths. To date, many survivors continue to report chronic respiratory and dermatological conditions.[33]

The African Court's judgment exposes how development imperatives, weak regulatory capacity and ad hoc governance arrangements can create openings for hazardous industrial practices that externalise environmental and health costs onto vulnerable populations. Côte d'Ivoire's later settlement with Trafigura, designed to secure funds for clean-up but conditioned on immunity for company actors, further illustrated the problematic trade-offs that governments may accept to attract or retain commercial activities and short-term financial gains that undermine the right to the environment and victims' access to remedy. Consequently, the African Court's remedial order emphasised the creation of a victim-centred compensation fund, an independent inquiry into civil and criminal liability, and legislative and regulatory reforms to prevent future toxic imports, the need to reframe environmental governance as integral to, not subordinate to, development policy. Crucially, the African Court emphasised meaningful community participation and effective remedies as prerequisites for just development.[34]

28 Social and Economic Rights Action Center (SERAC) and Center for Economic and Social Rights (CESR) v Nigeria - 155/96., available at https://achpr.au.int/en/decisions-communications/social-and-economic-rights-action-center-serac-and-center-economic-15596 [Accessed on 28 July 2025].

29 Articles 2, 4, 14, 16, 18(1), 21 and 24 of the African Charter on Human and Peoples' Rights.

30 Article 21 and 24 of the African Charter on Human and Peoples' Rights.

31 As above.

32 LIDHO and Others v Republic of Cote d'Ivoire (Application 041/2016) [2023] AfCHPR 21 (5 September 2023), available at https://africanlii.org/en/akn/aa-au/judgment/afchpr/2023/21/eng@2023-09-05 [Accessed on 28 July 2025].

33 International Federation for Human Rights, "Ivory Coast: Victory at the African Court for Victims of the TRAFIGURA Toxic Waste Dump." 12 Oct. 2023, www.fidh.org/en/issues/business-human-rights-environment/business-and-human-rights/ivory-coast-victory-at-the-african-court-for-victims-of-the-trafigura [Accessed on 28 July 2025].

34 LIDHO and Others v Republic of Cote d'Ivoire (Application 041/2016) [2023] AfCHPR 21 (5 September 2023), available at https://africanlii.org/en/akn/aa-au/judgment/afchpr/2023/21/eng@2023-09-05 [Accessed on 28 July 2025].

The cases above reveal that, while legal frameworks should serve as guiding principles, the lack of effective regulatory institutions, transparent governance and some legal loopholes has made it challenging to balance economic development and environmental conservation. For Zimbabwe, achieving a sustainable balance between economic growth and environmental protection remains a critical challenge. Economic development has been conceptualised and implemented in ways that fail to serve the public interest, advancing extractive models that compromise the environment.[35]

35 Mubonderi J, "Environmental Protection and Economic Development in Zimbabwe", available at https://www.researchgate.net/publication/372460593_Environmental_Protection_and_Economic_Development_in_Zimbabwe [Accessed on 28 July 2025].

3. PART I: THE STATE DUTY TO PROTECT (UNGPs PILLAR I)

3.1. The State Duty to Protect Environmental Rights and Prevent Forced Relocations

Pillar I of the UN Guiding Principles on Business and Human Rights (UNGPs) requires States to protect against human rights abuse by third parties within their territory and/or jurisdiction, including business enterprises. States are required to take appropriate steps to prevent, investigate, punish, and redress such abuse through effective policies, legislation, regulations, and adjudication. In other words, effective procedural and substantive remedies should be available to victims of such abuse. States are obliged to put in place a full range of lawful preventive and remedial measures, including policies, legislation, regulations, and conflict-resolution strategies. Thus, the State's mechanisms to address adherence to the rule of law must ensure equality, accountability, and transparency, even in the mining-related possible conflicts. It also follows that Zimbabwean laws and policies applicable to the mining sector need to be conclusive enough to be able to address the challenges, violations of rights and conflicts that are associated with the mining activities, including unjustified displacements.

3.1.1 Constitutional and statutory obligations of the State of Zimbabwe

Section 73 of the Constitution of Zimbabwe provides that:

"(1) Every person has the right, (a) to an environment that is not harmful to their health or well-being; and (b) to have the environment protected for the benefit of present and future generations, through reasonable legislative and other measures that,(i) prevent pollution and ecological degradation; (ii) promote conservation; and (iii) secure ecologically sustainable development and use of natural resources while promoting economic and social development. (2) The State must take reasonable legislative and other measures, within the limits of the resources available to it, to achieve the progressive realisation of the rights set out in this section."[36]

The Constitution's elaborative nature also opened the door for citizens to assert and enforce environmental rights through the courts. Specifically, section 85 of the Constitution provides access to court for any individual whose rights are infringed. When read with section 73, these rights ensure that environmental rights are justiciable in Zimbabwe.[37] Additionally, section 73 commits the State to "take reasonable legislative and other measures, within the limits of the resources available to it, to achieve the progressive realisation of the rights set out in this section".[38] As such, there is a duty on the State to ensure that environmental rights are progressively realised and justiciable.

The constitutional mandate to protect the environment is also extended to traditional leaders in section 282(d) of the Constitution, which outlines that, "in accordance with an Act of Parliament, to administer Communal Land and to protect the environment".[39] Moreover, the principles governing policy on agricultural land in the Constitution impose a duty to conserve the environment for future

36 The Constitution of Zimbabwe Amendment (No. 20) Act 2013, Section 73.

37 Madembwe T, "A rights-based approach to environmental protection: The Zimbabwean experience" available at https://www.ahrlj.up.ac.za/images/ahrlj/2015/Chapter%205_1_2015.pdf [Accessed on 12 August 2025].

38 The Constitution of Zimbabwe Amendment (No. 20) Act 2013, Section 73 (2).

39 The Constitution of Zimbabwe Amendment (No. 20) Act 2013, section 282(d).

generations.[40] The State must make long-term environmental conservation a priority.[41] Moreover, through section 289(e), the Constitution extends procedural rights to a natural or juristic person to enforce environmental rights for the benefit of future generations.[42] As such, the Constitution provides a robust framework towards the realisation of environmental rights in Zimbabwe. However, it is worth noting that, where section 289(e) is construed against the clawback clause in section 73(2), conservation of the environment could be restricted to "current generations and imminent environmental issues" only, to the extent of resources available to the State and to the detriment of future generations.[43] Section 77 of the Constitution guarantees the right to food and water. This right is closely related to the right to a clean environment that is not harmful to community health. This exemplifies the indivisibility, interconnectedness and interrelatedness of human rights. Thus, the violation of one right amounts to a breach of all rights.

The Environmental Management Act (EM Act) of 2002 provides for "the sustainable management of natural resources and protection of the environment; [and] the prevention of pollution and environmental degradation".[44] Moreover, it streamlines requirements and regulations for Environmental Impact Assessments (EIAs) across all developments.[45] The EM Act expressly highlights key environmental entitlements, which include the right to live in a clean environment and the right to access environmental information.[46] The EM Act also establishes the EMA, which is responsible for sustainable resource management, pollution prevention, and the preparation of environmental protection plans.[47]

The right to FPIC in Zimbabwe is not a stand-alone right but is embedded in various constitutional provisions. FPIC is integrated into the fundamental rights expressly provided by the Constitution, which include: the right to administrative justice (section 68); the right to information (section 62); and freedom from arbitrary eviction (section 74). Section 74 of the Constitution provides that no person may be evicted from their home or have their home demolished without an order of the court made after considering all relevant circumstances. This is a very progressive provision given that the mining sector is associated with massive community displacements without fair and adequate compensation. Section 74 makes it mandatory to follow due process and imposes an obligation on those responsible for evictions to provide alternative, better accommodation to those being evicted. Additionally, the Constitution recognizes key principles of good governance, including the equitable distribution of national resources such as land, as well as the devolution and decentralization of governmental powers and functions. Good governance is one of the Constitution's founding values, as set out in section 9(1). This means the legal and policy framework should promote, among other things, accountability, transparency, justice, and responsiveness, the equitable sharing of national resources, including land, due respect of

40 The Constitution of Zimbabwe Amendment (No. 20) Act 2013, section 289(e).

41 Tsabora J, "Unpacking the Environmental Rights Clause in the Zimbabwean Constitution" available at https://zimlii.org/akn/zw/doc/book-chapter/2020-06-30/chapter-12-unpacking-the-environmental-rights-clause-in-the-zimbabwean-constitution/eng@2020-06-30 [Accessed on 12 August 2025].

42 Natural or Juristic persons have locus standi to institute legal proceedings as regards environmental rights for the benefit of future generations. See also, Tsabora J (n 39 above).

43 The Constitution of Zimbabwe Amendment (No. 20) Act 2013, section 73(2) and 289(e).

44 The Environmental Management Act (EMA) (Chapter 20:27).

45 Chirisa I, Muzenda A, "Environmental Rights and the Zimbabwean Constitutional Debate: Implications for Policy and Action" Southern Peace Review Journal, available at https://www.researchgate.net/publication/258299172_Environmental_Rights_and_the_Zimbabwean_Constitutional_Debate_Implications_for_Policy_and_Action [Accessed on 8 August 2025].

46 The Environmental Management Act (Chapter 20:27), section 4.

47 The Environmental Management Act (Chapter 20:27), section 9 and 10.

vested rights and the devolution and decentralisation of governmental power and functions. Section 13(4) of the Constitution also provides that "the State must ensure that local communities benefit from the resources in their areas." Section 13 provides for the incorporation of communities' rights into the formulation of plans and programmes, and for communities to benefit from resources in their areas as a national objective. This provides an entry point for the realisation of FPIC.

3.1.1.1 Strengths and Weaknesses of the Mines and Minerals Act Against Core Expectations of the UNGPs

The United Nations Guiding Principles on Business and Human Rights (UNGPs) establish clear expectations for states to protect against business-related human rights abuses, including through effective regulation, transparency, participation, oversight, and access to remedy. When assessed against these benchmarks, Zimbabwe's Mines and Minerals Act (Chapter 21:05) presents a mixed picture. While the Act contains provisions that indirectly support certain aspects of the UNGPs, particularly in relation to environmental protection and occupational health and safety, it falls short of fully integrating a comprehensive business and human rights framework.

One of the strengths of the Mines and Minerals Act lies in its recognition of environmental and safety considerations within mining operations. The Act requires consideration of environmental impacts in applications for special mining leases. Section 158(2) mandates the Mining Affairs Board to consider, among other factors, the anticipated environmental impact of mining operations, including proposed measures to assess, prevent, or minimise pollution, as well as plans for land reclamation and rehabilitation. This aligns, albeit partially, with the UNGPs' emphasis on due diligence to identify and mitigate adverse impacts.

The Act also contains provisions aimed at protecting the health, safety, and welfare of mine workers, which resonate with the UNGPs' expectation that states regulate business activities to prevent harm. Sections 403 and 404 empower the Minister to make regulations relating to workplace safety, health, feeding, housing of labourers, accident reporting, and supervision of labour welfare. Furthermore, section 403(4) authorises the Minister to order the cessation of mining operations where there is non-compliance with safety and health regulations, regardless of the size of the mine. These provisions demonstrate a degree of regulatory authority that could support the State's duty to protect under Pillar I of the UNGPs.

Additionally, the Act provides limited property and land-use protections. Section 31 prohibits mining on private land without the owner's written consent, on communal land without the relevant Rural District Council's (RDC) written consent, and on ploughed land, orchards, and plantations. Section 32 provides for dispute resolution between landowners and prospectors through the Administrative Court. These provisions offer some procedural safeguards, though they remain inadequate in protecting broader community land rights and participation.

Despite these strengths, the Mines and Minerals Act exhibits significant weaknesses when measured against the UNGPs' core expectations of human rights due diligence, participation, transparency, and access to effective remedies. A significant gap is the absence of mandatory human rights due diligence (HRDD). While the Act emphasises environmental assessments, it does not require mining companies to conduct human rights impact assessments, adopt business and human rights policies, or integrate human rights considerations into decision-making. This falls short of UNGP Pillar II, which expects

businesses to identify, prevent, mitigate, and account for adverse human rights impacts across their operations, including impacts on land rights, livelihoods, and community wellbeing. Environmental due diligence is not balanced with safeguards for vulnerable groups, particularly communities living on communal land.

The EM Act also fails to provide for effective non-judicial grievance mechanisms, a core requirement under UNGP Pillar III. Beyond the Mining Affairs Board, the Secretary, Provincial Mining Directors, the Minister, and ultimately the President, the Act does not establish any independent, accessible, or community-level grievance mechanisms. While the Mining Affairs Board is empowered under sections 63, 65, and 67 to receive applications and hear evidence, it lacks decision-making authority and can only make recommendations to the Minister. The EM Act explicitly states that the Board "shall not have the power to approve or refuse an application," rendering it largely ceremonial and ineffective as a grievance redress mechanism. Similarly, although section 346 accorded quasi-judicial powers to Provincial Mining Directors to hold "court" in mining districts in a "cheap and expedient" manner, this parallel system operates outside the Administrative Court or High Court and lacks clear guarantees of independence, transparency, and human rights expertise. Rather than strengthening access to remedy, this structure risks undermining procedural fairness and accountability.

Another critical weakness is the lack of public participation and access to information. The Act provides minimal scope for public comment or community participation in the granting of mining claims, special grants, or permits. There is no publicly accessible database of mining applications, whether pending or approved, and no obligation to disclose this information upon request. This contravenes UNGP expectations that states ensure transparency and enable informed participation, and it also conflicts with constitutional rights to access information and administrative justice. The scarcity of official mining information has fuelled suspicion, community tension, and, in some cases, the criminalisation of civil society actors accused of "publishing falsehoods."

The EM Act's approach to land rights and displacement is particularly problematic. Section 381 empowers Provincial Mining Directors to order occupants to vacate mining locations if they are deemed not to be using the land for bona fide mining purposes. This provision does not require prior consultation, court oversight, or consideration of alternative accommodation or compensation, exposing communities to forced evictions. Such powers are inconsistent with the Constitution's protection against arbitrary eviction and international standards, including the UNGPs and the Vancouver Declaration on Human Settlements, which require fair compensation, resettlement, and respect for dignity.

Finally, the concentration of decision-making power in the Minister and the President, coupled with the vesting of mineral rights in the President, undermines accountability and participatory governance. Traditional leaders and local authorities, despite their constitutional role in administering communal land and protecting the environment, have no decisive role in approving or rejecting prospecting and mining activities on communal land. This contradicts constitutional provisions and weakens local-level protection of community rights.

In summary, while the Mines and Minerals Act contains provisions that tangentially support environmental protection and worker safety, it does not meet the core expectations of the UNGPs. The absence of mandatory human rights due diligence, effective non-judicial grievance mechanisms, meaningful public participation, and robust protections against forced displacement highlights the need for comprehensive legislative reform. Re-alignment with the Constitution and explicit integration of

the UNGPs would strengthen the State's duty to protect, clarify corporate responsibilities, and improve access to remedies for communities affected by mining activities in Zimbabwe.

3.1.1.2 Strengths and Weaknesses of the Environment Management Act Against Core Expectations of the UNGPs

A key strength of the EM Act lies in its explicit recognition of environmental rights and principles, which closely align with constitutional guarantees and the State duty to protect under Pillar I of the UNGPs. Section 4(1) enshrines the right of every person to live in a clean environment that is not harmful to health, access environmental information, and have the environment protected for the benefit of present and future generations. These provisions recognise environmental harm as a rights-based issue rather than merely a technical or regulatory concern, thereby reinforcing the justiciability of environmental rights.

The Act also embeds principles of participation and inclusivity in environmental management. Section 4(2) outlines General Principles of Environmental Management applicable to all persons and government departments, emphasising that people and their needs must be placed at the centre of environmental decision-making, and that all people should participate in environmental management. The EM Act further emphasises environmental education, awareness-raising, and knowledge-sharing as mechanisms for building community capacity and promoting sustainable development. These principles resonate strongly with international norms on public participation and the UNGP expectation that affected communities should be meaningfully engaged in decisions that affect their rights.

Another significant strength is the Environmental Impact Assessment (EIA) regime, established under sections 97, 98, and 99. EIAs are mandatory for listed projects, including mining, forestry, quarrying, infrastructure development, and large-scale agricultural and energy projects. When properly conducted, EIAs serve as a preventive tool by identifying environmental, social, and economic risks before project implementation. They also create a formal space for community consultation, enabling affected communities to raise concerns about land use, water resources, livelihoods, and potential displacement. In this sense, the EIA process can operationalise both Pillar I (state regulation and oversight) and Pillar II (corporate responsibility to identify and mitigate adverse impacts) of the UNGPs.

The EM Act further incorporates the polluter-pays principle, providing that any person who causes pollution or environmental degradation bears the cost of remedying the resulting harm. This principle strengthens corporate accountability and reinforces the expectation that businesses internalise environmental and social costs rather than externalising them onto communities. In addition, section 87 provides for the development of a National Environmental Plan through consultative processes, which can serve as a strategic framework for long-term environmental protection and sustainable development.

Despite its progressive design, the EM Act's effectiveness is significantly undermined by weak implementation, enforcement failures, and limited community participation in practice. While the Act guarantees participation and access to information, affected communities, particularly in rural and extractive contexts, often lack timely access to project information, technical expertise, or meaningful opportunities to influence outcomes. Consultation under the EIA process is frequently reduced to a procedural formality, with decisions effectively predetermined, thereby falling short of the UNGPs' expectation of meaningful and informed engagement.

Institutional capacity constraints and political interference further weaken the EM Act's protective potential. The Environmental Management Agency, although mandated to regulate and enforce compliance, has often been criticised for selective enforcement, delayed responses, and limited independence, especially where powerful political or economic interests are involved. This undermines the State's ability to prevent foreseeable environmental harm linked to business activities, contrary to UNGP Pillar I.

Moreover, while the EIA framework provides a mechanism for identifying risks, the EM Act does not explicitly require businesses to conduct human rights impact assessments or to engage in ongoing human rights due diligence. Environmental considerations tend to dominate EIAs, often at the expense of broader human rights concerns such as land rights, cultural heritage, food security, and displacement. As a result, development-induced relocations and livelihood losses may be inadequately assessed or mitigated, even where projects comply formally with environmental approval processes.

Access to remedy under the EM Act also remains limited. Although the EM Act outlines environmental rights and enforcement powers, non-judicial grievance mechanisms accessible to communities are weak or underdeveloped, and administrative remedies are often ineffective or inaccessible. In practice, affected communities frequently resort to litigation as the only viable avenue to compel enforcement, obtain information, or halt harmful activities, highlighting a gap between the law's aspirations and its real-world operation under UNGP Pillar III.

With regards to Free, Prior and Informed Consent, gaps in relation to the Environmental Management Act are as follows:

- The Act does not expressly provide for FPIC of local communities.
- There is no consideration of FPIC for communities in the conferment of appropriate authority status to Rural District Councils, even though they are the custodians of natural resources, wildlife, and mineral resources located in their areas.
- Neither the interested and affected parties nor public participation are defined by this Act. The challenge communities face is ensuring that their views are considered in the Environmental Management Agency's approval of EIAs, especially when short-term business interests may prevail over their needs. This violates the rights of present and future generations. They may also not be aware of how to hold the local authorities accountable through demanding EIA certificates from the project developers. Section 108 of the Act provides for public inspection of environmental impact assessment reports for a fee. It is important to note that the local communities may either be unaware of this inspection process or do not have money to pay for them to have access to these reports. This means they may never know whether their views were eventually incorporated in these reports. This defeats the very essence of FPIC of communities.
- The Act does not promote social environmental impact assessments (EIAs) and feasibility studies, which are important for PFIC of communities.
- Participation by community representatives is often limited, as the EIA is conducted after the mining licence has already been issued, thereby removing the community's right to decide whether to consent to a project being implemented. According to Zimbabwe Environmental

Law Association (ZELA), "the problems and misunderstandings that have arisen in areas where natural resources are exploited are often the result of failure to consult local communities".[48]

- The Act does not provide for equitable access to environmental resources, benefits and services.

3.1.2 Regulatory responsibilities in the context of business operations

In Zimbabwe, regulatory responsibilities are distributed across multiple institutions, including the Ministry of Environment, Climate and Wildlife; the Environmental Management Agency (EMA); central and local government authorities; and sector-specific regulators in mining, energy, and agriculture. In principle, these bodies are mandated to issue permits, conduct inspections, enforce compliance with Environmental Impact Assessment (EIA) conditions, and take corrective action where environmental harm or rights violations occur. The Environmental Management Act requires EMA to prevent pollution, ensure sustainable use of natural resources, and issue Environmental Protection Orders where activities pose a threat to the environment or public health. Similarly, local authorities and line ministries are expected to integrate environmental and social safeguards into development planning and land-use decisions.

The consequences of weak regulation are most acutely felt by rural and communal land communities, whose land tenure is often insecure and whose livelihoods depend directly on natural resources. In the absence of proactive regulatory enforcement, these communities are frequently exposed to pollution, loss of access to land and water, and forced relocations without adequate consultation or compensation. Administrative and non-judicial remedies, such as complaints to EMA or local authorities, are often ineffective, delayed, or inaccessible, leaving affected communities with little confidence in regulatory protection.

As a result, litigation has emerged as a critical mechanism for enforcing regulatory responsibilities where administrative systems fail. Strategic legal interventions by organisations such as ZLHR have compelled regulators to investigate violations, suspend unlawful operations, and enforce compliance with environmental standards. Courts have increasingly been called upon to clarify regulatory duties, restrain unlawful approvals, and reinforce the accountability of both state institutions and business actors. This pattern underscores a central reality of Zimbabwe's business and human rights landscape: while regulatory frameworks exist on paper, their effectiveness in practice often depends on judicial oversight and rights-based litigation.

3.2 ZLHR Litigation Advancing the State Duty to Protect

3.2.1 Challenging Weak Enforcement:

Notably, in a ZLHR case in February 2025, the Chinhoyi High Court ordered the EMA to investigate alleged breaches of the special conditions of an Environmental Impact Assessment (EIA) Certificate following protests by villagers in Chasara and Kapere in Magunje, where Labenmon Investments was establishing a construction site. The Chinhoyi High Court also prohibited Labenmon Investments from commencing operations on the site pending the outcome of EMA's investigations. Despite this, ZLHR lawyers learnt that the mining company had not ceased operations as ordered by the High Court. While ZLHR lawyers have since filed an application for contempt of court against the Chinese-owned

48 Zimbabwe Environmental Law Association 2013; & Transparency International Zimbabwe 2012

company, accusing it of violating the terms of the High Court order, this case highlights the judiciary's limited enforcement of judgments and the challenges in ensuring environmental conservation in Zimbabwe.

3.2.2 Challenging unlawful approvals, weak enforcement, and state complicity

Conservation Society of Monavale and Harare Wetlands Trust v City of Harare, Environmental Management Agency, Minister of Local Government, Public Works and National Housing and Minister of Environment Water and Climate[49]

In the case of the Conservation Society of Monavale and Harare Wetlands Trust, developers began pegging stands and preparing land for construction on Monavale Wetland, an internationally protected Ramsar site. Concerned about the imminent threat to the wetland, the Conservation Society of Monavale reported the matter to the relevant authorities. Despite being notified, no action was taken to stop the development. The Conservation Society then engaged ZLHR lawyers, who, on 6 July 2017, wrote a letter of demand to the Town Clerk and other authorities, requesting clarification and the immediate cessation of development on the site. On 10 July 2017, lawyers further submitted letters of objection from concerned residents and neighbouring property owners. Over the next two days, 12 and 13 July 2017, ZLHR lawyers engaged extensively with the Director of Works from the City Planning Department, who ultimately confirmed that the development had not been authorised. As a result of ZLHR's intervention, the developers were ordered to halt all activities and submit a formal application, including the requirement to conduct a comprehensive Environmental Impact Assessment. This outcome effectively stopped the unlawful development and protected the Monavale Wetland from destruction. The case demonstrates how ZLHR's timely legal action safeguarded an internationally recognised wetland, upheld Zimbabwe's obligations under the Ramsar Convention, and reinforced the constitutional right to a clean and healthy environment.

3.2.3 Strategic use of constitutional and administrative law

The Lake Chivero cyanobacteria contamination case illustrates the strategic deployment of constitutional and administrative law tools to enforce the State Duty to Protect against development-induced environmental harm. In December 2024, following a public statement by the Zimbabwe Parks and Wildlife Management Authority confirming severe cyanobacteria pollution in Lake Chivero, multiple wildlife deaths were recorded, including rhinos, zebras, wildebeests, fish eagles, and livestock from surrounding farms. The incident highlighted systemic failures in environmental management linked to ongoing sewage discharges from urban and industrial activities, raising serious concerns about the State's ability to safeguard ecological systems and public resources.

ZLHR intervened by directing legal action towards the EMA, invoking the regulator's constitutional and statutory obligations to prevent and respond to environmental harm. Rather than focusing solely on individual polluters, ZLHR strategically engaged administrative enforcement mechanisms, demanding urgent water quality testing and the issuance of Environmental Protection Orders (EPOs) against the City of Harare and the Upper Manyame Sub-Catchment Council. This approach emphasised the duty of regulatory authorities to act decisively where environmental degradation is foreseeable and ongoing,

49 *Conservation Society of Monavale and Harare Wetlands Trust v City of Harare, Environmental Management Agency, Minister of Local Government, Public Works and National Housing and Minister of Environment Water and Climate.*

reinforcing the State's obligation to prevent harm rather than merely respond after irreversible damage has occurred.

The intervention demonstrates how rights-based constitutional guarantees to a clean and healthy environment can be operationalised through administrative law to protect ecosystems, wildlife, and dependent communities. By seeking regulatory enforcement and remedial action, the case underscored that environmental harm, particularly when linked to economic and infrastructural activities, constitutes a human rights concern engaging the State duty to protect under the UN Guiding Principles on Business and Human Rights. The Lake Chivero case thus exemplifies accountability and preventive environmental protection in Zimbabwe.

4. PART II: THE CORPORATE RESPONSIBILITY TO RESPECT (UNGPs PILLAR II)

4.1. Corporate Impacts on Environmental Rights and Community Displacement

Pillar II of the UN Guiding Principles on Business and Human Rights (UNGPs) requires that business enterprises respect human rights. This means that they should avoid infringing on the human rights of others and should address adverse human rights impacts with which they are involved. The responsibility requires that business enterprises avoid causing or contributing to adverse human rights violations through their own activities and address such violations when they occur. They are further required to prevent or mitigate the adverse consequences of human rights violations that are directly linked to their business operations, products, or services through their business relationships, even if they did not contribute to those violations. Additionally, this will be rooted in the adequacy of legislation and policies that provide guidance for the operation of these private business entities.

4.1.1 Business-related environmental harm and relocations in practice

In a 2015 study, the Zimbabwe Environmental Law Organisation (formerly the Zimbabwe Environmental Law Association) revealed that a Chinese mining corporation, Anjin Diamond Mine, and other diamond mining companies in Chiadzwa were discharging raw effluent into the Odzi River, destroying the livelihoods of communities in the process.[50] Members of the community have complained about cattle deaths, skin diseases in children and loss of biodiversity and the river ecosystem, all linked to the pollution of the Save River and Odzi River.[51] According to Zimbabwe Environmental Law Organisation (ZELO), the effects of water pollution by Anjin and other mining companies were so severe that they caused chemical, biological and physical contamination of water.[52] These claims were also supported by a scientific study conducted by the University of Zimbabwe, which found high levels of toxic waste in the rivers due to activities in the Marange diamond fields.[53]

In April 2024, a Chinese mining company was reportedly engaged in illegal alluvial gold mining within the Haroni Rusitu Botanical Reserve, a core area of the UNESCO-designated Chimanimani Biosphere Reserve.[54] The mining activities were allegedly conducted without an Environmental Impact Assessment (EIA) and without the knowledge of the Environmental Management Agency EMA.[55] Although alluvial mining has been publicly banned through statutory instruments, no legally binding

50 ZELA, " No strings attached "The plight of Workers at Chinese Controlled Mines In Zimbabwe the Case of Anjin Diamond Mine", available at https://zela.org/download/no-strings-attached-the-plight-of-workers-at-chinese-controlled-mines-in-zimbabwe-the-case-of-anjin-diamond-mine/?_gl=1*1xql2t2*_ga*MTA3MTIyNDg0OS4xNzI3MTYyMjky*_ga_8G8TY6LY59*MTcyODk3Mzc5My4xNy4xLjE3Mjg5Nzc2MTUuNjAuMC4w [Accessed on 15 August 2025].

51 As above.

52 ZELA, "Scientific Assessment of the Quality of Water in Save and Odzi Rivers", available at https://zela.org/download/report-on-the-scientific-investigation-of-the-impact-of-marange-diamond-mining-operations-on-water-quality-in-the-save-and-odzi-rivers-including-assessment-of-the-health-environmental-and-livelihoo/ [Accessed on 17 August 2025].

53 Business and Human Rights Resource Center, "Zimbabwe: Chinese mining firms accused of environmental degradation", available at https://www.business-humanrights.org/en/latest-news/zimbabwe-chinese-mining-firms-accused-of-environmental-degradation/ [Accessed on 17 August 2025].

54 See NewsHawk, "Chinese company mining in Zim Unesco biosphere reserve", available at https://thenewshawks.com/chinese-company-mining-in-zim-unesco-biosphere-reserve/ [Accessed on 17 August 2025].

55 As above.

law criminalising it has been enacted to effectively prevent the environmental degradation caused by this practice.[56]

Across Zimbabwe, several communities have been arbitrarily displaced from their traditional homelands because of mining and infrastructure projects, including in Mutoko, where black granite mining takes place, and along the Great Dyke, which stretches north to south for about 550km, with a width of 11km in some places. In the Marange Diamond Fields, an estimated 1,800 families have been relocated from their traditional homelands in Marange to Arda Transau, on the outskirts of Mutare. It is estimated that when the relocation of people from the diamond fields is completed, it will affect 4,300 to 4,500 households (Mbetsa 2013). These arbitrary evictions have all taken place without a court order and without households being paid fair and adequate compensation. In 2022, villagers residing adjacent to the Chinese-owned Nyamakope mines reported cracks on their Chinese-built houses and blasting debris everywhere.[57] They further reported that the Chinese mining company issued a vacation notice to them without compensation.[58]

The Chisumbanje Green Fuel ethanol project is one of Zimbabwe's most prominent examples of business-related environmental harm and of development-induced displacement in agriculture. Implemented by Green Fuel (Pvt) Ltd in partnership with the State-owned Agricultural and Rural Development Authority (ARDA), the project involved large-scale sugarcane cultivation to supply an ethanol plant in Chipinge District. While promoted as a renewable energy and rural development initiative, the project displaced thousands of villagers from communal lands used for farming, grazing, and cultural practices.[59] Affected communities reported that land was taken without meaningful consultation, adequate compensation, or comprehensive resettlement planning, resulting in the loss of livelihoods, food insecurity, and social dislocation. Parliamentary investigations and civil society reports documented allegations of forced relocations, destruction of homes and fields, and disruption of access to water sources and ancestral graves. Environmental concerns were also raised, including water pollution from industrial effluents, degradation of river systems, and loss of biodiversity, all of which further undermined the economic and social well-being of surrounding communities.[60]

From a business and human rights perspective, the Chisumbanje case reflects systemic failures under the UN Guiding Principles on Business and Human Rights (UNGPs). The State failed to adequately protect communities from foreseeable harm arising from commercial agricultural operations, while corporate actors did not demonstrate sufficient human rights and environmental due diligence, particularly regarding land acquisition and resettlement impacts. The case illustrates that development and "green energy" projects can still result in serious human rights violations where safeguards are weak, reinforcing the importance of litigation and legal advocacy in enforcing environmental rights and accountability in Zimbabwe.[61]

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56 See NewsDay article, "Ban alluvial mining through law not pronouncement" available at https://www.newsday.co.zw/theindependent/local-news/article/200031483/ban-alluvial-mining-through-law-not-pronouncement [Accessed on 17 August 2025].

57 The East African Review, "Power Imbalance in Africa-China Investment and Development Deals: The Case of Zimbabwe (2000–2018)", available at https://journals.openedition.org/eastafrica/1719 [Accessed on 15 August 2025].

58 As above.

59 Parliament of Zimbabwe, Report of the Portfolio Committee on Lands and Agriculture on the Operations of Green Fuel in Chisumbanje (2013)

60 Zimbabwe Lawyers for Human Rights (ZLHR), Forced Evictions, Land Rights and Development-Induced Displacement in Zimbabwe; The Standard, "Green Fuel Told to Compensate Villagers" (22 February 2015)

61 UN Human Rights Council, Guiding Principles on Business and Human Rights (2011); Publish What You Pay Zimbabwe, Position Paper on Development-Induced Displacements and Extractive/Agribusiness Projects (2021)

4.1.2 Failure to conduct human rights and environmental due diligence

A persistent feature of development-induced environmental harm in Zimbabwe is the failure by both state-linked and private business actors to conduct meaningful human rights and environmental due diligence (HREDD) prior to commencing operations. Although Zimbabwe's Environmental Management Act and sectoral laws, such as the Mines and Minerals Act, require Environmental Impact Assessments (EIAs), these processes are often treated as procedural formalities rather than substantive tools for identifying, preventing, and mitigating risks to communities and ecosystems. In practice, projects often proceed without valid EIAs, without community consultation, and without assessment of cumulative social, environmental, and human rights impacts. This regulatory gap, coupled with weak oversight and political interference, means that communities are routinely exposed to displacement, pollution, land degradation, and loss of livelihoods before any safeguards are triggered. As a result, litigation has emerged as a critical mechanism through which affected communities compel businesses and regulators to retroactively account for due diligence obligations they neglected at the outset.

The case of *Jacob Kanyandura and 19 Others v Zim Win Mining (Private) Limited*[62] (Mudzi District) starkly illustrates this failure. Zim Win Mining, a foreign-owned lithium exploration company, commenced operations on communal land without securing informed consent from residents, without disclosing a valid prospecting licence, and without producing an Environmental Impact Assessment certificate. The company further attempted to coerce villagers into signing vague consent forms after excavation had already begun. Through ZLHR's legal intervention, including letters of demand to the Provincial Mining Director and EMA, and a cease-and-desist notice to the company, residents were able to challenge the legality of the operations and force scrutiny of the company's compliance with licensing and environmental requirements. While framed initially as an urgent response to unlawful mining, the litigation functioned as a *de facto* human rights' due diligence trigger, compelling both the company and regulators to account for whether human rights risks to land, livelihoods, and the environment had been identified and addressed. The case demonstrates that, in the absence of mandatory HREDD frameworks, courts and legal advocacy are the primary means by which communities enforce minimum due diligence standards.

Similarly, in *Residents of Ingagula Township v Environmental Management Agency and Zimbabwe Power Company*[63] *(ZPC)*, litigation played a decisive role in exposing the consequences of inadequate due diligence in large-scale energy infrastructure projects. The commissioning of Units 7 and 8 at the Hwange Power Station proceeded despite prior EIA recommendations that residents be relocated due to anticipated air pollution risks. For years, residents experienced deteriorating air quality and respiratory health problems, while attempts to access EIA reports and air quality data through administrative channels were frustrated. ZLHR's legal engagement compelled EMA and ZPC to release environmental reports, which confirmed that emissions exceeded national and WHO standards and revealed structural defects, such as substandard chimney height, that exacerbated pollution. Although the matter did not immediately result in relocation, the litigation forced ZPC to acknowledge harm, engage affected communities, and initiate discussions around mitigation and relocation. In effect, the legal process compelled the company to confront and respond to human rights and environmental risks that should have been identified and addressed through robust due diligence prior to project implementation.

62 Jacob Kanyandura and 19 Others v Zim Win Mining (Private) Limited, Mudzi District, ZLHR Annual Case Reports.

63 Residents of Ingagula Township v Environmental Management Agency and Zimbabwe Power Company, ZLHR Annual Case Reports.

Taken together, these cases underscore a broader pattern in Zimbabwe's development landscape: human rights and environmental due diligence are often ignored until communities mobilise the courts. Litigation thus serves not only as a remedy mechanism but as a substitute for preventive governance, compelling corporations and state agencies to assess impacts, disclose information, and engage affected rights-holders after harm has already occurred. This reactive model highlights the urgent need to address HREDD requirements and to strengthen regulatory enforcement, while simultaneously explaining the sustained and growing demand for strategic litigation in business and human rights cases in Zimbabwe.

4.1.3 Risks associated with State Owned Enterprises

State-owned enterprises (SOEs) occupy a central position in Zimbabwe's development model and are key actors in sectors such as energy, mining, water, transport, and urban services. While these entities are often justified as instruments for advancing national development objectives under Vision 2030 and NDS2, their operations present distinct and heightened business and human rights (BHR) risks. SOEs frequently operate at the intersection of commercial activity and state authority, benefitting from political protection, weak oversight, and blurred accountability lines. This structural positioning enables them to evade meaningful scrutiny when their activities result in environmental degradation, forced displacement, or adverse impacts on health, livelihoods, and land rights. As a result, communities affected by SOE-led projects face compounded barriers to remedy, as harm is simultaneously perpetrated by both a commercial actor and the State itself, undermining the effectiveness of administrative and non-judicial accountability mechanisms.

A recurring risk for SOEs in Zimbabwe is the failure to conduct robust human rights and environmental due diligence before project approval and implementation. Projects are often fast-tracked in the name of national interest or energy and economic security, sidelining constitutional environmental rights and public participation requirements. *The Residents of Ingagula Township v Environmental Management Agency and Zimbabwe Power Company*[64] case illustrates this dynamic. ZPC, a wholly state-owned enterprise, commissioned additional power generation units despite prior EIA recommendations that called for relocating nearby residents due to anticipated pollution risks. For years, affected communities were denied access to environmental data, while emissions exceeded permissible standards and structural design flaws worsened pollution exposure. The reluctance of EMA to enforce compliance against ZPC highlights the regulatory capture and institutional deference that often shield SOEs from accountability. Litigation became the only viable avenue to compel disclosure, acknowledgement of harm, and engagement on remedial measures, underscoring the heightened BHR risks posed by SOEs operating without independent oversight.

SOEs also pose systemic risks to environmental governance and access to remedy by weakening regulatory independence and eroding public trust in enforcement institutions. In cases involving municipal authorities, such as unlawful wetland developments by the City of Harare or hazardous waste management practices by the City of Masvingo, local authorities acting as SOEs or quasi-commercial entities have simultaneously been regulators, developers, and beneficiaries of environmentally harmful activities. This conflict of interest undermines due diligence, normalises non-compliance with EIA and planning laws, and leaves communities exposed to long-term environmental and health risks. ZLHR's litigation in these matters demonstrates how courts have used their powers to pierce this institutional insulation, compel compliance with environmental standards, and reaffirm that SOEs are not exempt from constitutional obligations under section 73 of the Constitution.

64 As above.

Ultimately, the human rights risks associated with SOEs in Zimbabwe reveal a critical accountability gap within the business and human rights framework. While the UN Guiding Principles affirm that states must take additional steps to protect against human rights abuses by SOEs, Zimbabwe's current governance arrangements fall short of this standard. In practice, SOEs often operate without meaningful due diligence, transparent reporting, or effective remedies for affected communities. This reality underscores the centrality of litigation as a tool for reasserting constitutional supremacy, enforcing environmental and human rights norms, and challenging the assumption that state ownership equates to public-interest compliance. Without stronger legal safeguards and independent oversight, SOEs will continue to represent a significant and unresolved risk to human rights and environmental protection in Zimbabwe.

4.2 ZLHR Litigation Challenging Corporate Conduct

4.3.1 Litigation targeting harmful business practices

ZLHR has intervened in stopping some Chinese enterprises from discharging hazardous effluent water containing cyanide into utility water sources. For instance, in December 2021, Ming-Chang Sino Africa Mining Company commenced mining operations in Saimona Village in Bindura. The mining company established a poorly secured slime dam which resulted in a spillage of cyanide which damaged some of the villagers' crops and land. Subsequently, the Chinese mining company was ordered to pay a fine by the EMA, and to seal off its contaminated slime dam and relocate it elsewhere. [65] However, it was only after legal interventions that the EMA compelled the company to take responsibility.

4.3.2 Using litigation to assert standards aligned with UNGPs, ESG, and due diligence norms:

The case of *United Mutare Residents and Ratepayers Trust v City of Mutare and Freestone Mines (Pvt) Ltd*[66] illustrates how public-interest litigation can be used to operationalise international business and human rights standards at the local level, even in the absence of explicit domestic legislation on corporate human rights due diligence. The dispute arose after the City of Mutare entered into a lease agreement with Freestone Mines (Pvt) Ltd, permitting quarry mining at Dangamvura Mountain without consulting affected residents. The project posed significant environmental, cultural, and safety risks, given the mountain's sacred status, its ecological importance, and its location within a densely populated residential area.

From a UNGPs perspective, the case directly implicated Pillar I (State Duty to Protect) and Pillar II (Corporate Responsibility to Respect). The City of Mutare, as a public authority, failed to exercise due oversight by authorising a mining project without meaningful community consultation, environmental safeguards, or clear rehabilitation obligations. This regulatory failure exposed residents to foreseeable harm, undermining the State's duty to protect communities from business-related human rights abuses. At the same time, Freestone Mines proceeded without demonstrating adequate human rights and environmental due diligence, including by failing to assess impacts on cultural rights, environmental integrity, and community safety. The deficiencies in the lease agreement further highlight misalignment

65 *Nelson Choto & 2 others v Ming Ching Sino Africa Mining Company.*

66 United Mutare Residents and Ratepayers Trust v City of Mutare, Freestone Mines (Pvt) Ltd, ZLHR Annual Case Reports

with ESG standards. The absence of land rehabilitation obligations, inadequate environmental protections, and the minimal annual lease payment of US$7,557 reflected poor environmental governance, weak social safeguards, and limited accountability mechanisms. Under widely accepted ESG norms, responsible extractive operations are expected to internalise environmental costs, respect community rights, and ensure long-term sustainability, standards that were notably absent in this arrangement.

Through litigation, residents, supported by ZLHR, sought to assert these global norms through constitutional and public policy arguments, framing the lease as contrary to environmental protection, community well-being, and the public interest. Although the matter was ultimately rendered moot following the cancellation of the lease before the hearing date, the legal action itself was significant. It exerted pressure on both the municipal authority and the company, resulting in the termination of the agreement and the subsequent facilitation of a deed of settlement. This case demonstrates how litigation functions as an indirect but powerful due diligence enforcement mechanism, particularly in contexts where regulatory oversight is weak. By invoking environmental rights, public participation principles, and public policy considerations, the case aligned local accountability processes with international BHR standards, reinforcing expectations that both state authorities and businesses must proactively prevent harm rather than respond only after damage has occurred.

4.3.3 Corporate Accountability through court processes

The case of *Letios Karembera v Eureka Gold Mine, Guruve Rural District Council and the Environmental Management Agency*[67] highlights the use of court-based legal action to enforce corporate accountability for environmental harm and public health risks linked to mining activities. In April 2024, Eureka Gold Mine negligently discharged cyanide-contaminated effluent into the Dande River, the primary source of potable water for Guruve Township and downstream communities up to Mushumbi Pools. The incident disrupted water supplies forced the closure of local businesses, and exposed residents to serious health and environmental risks.

ZLHR intervened on behalf of Letios Karembera, a local resident and Chairperson of the Guruve Residents and Ratepayers Association, after regulatory authorities failed to provide clear information about the extent of the contamination and remedial measures. Through formal legal demands, ZLHR sought urgent action from Eureka Gold Mine, EMA, and ZINWA, including the provision of clean water, decontamination of the river, public disclosure to affected communities, and preventive measures to avert future spills. In response, Eureka Gold Mine admitted that a cyanide spill had occurred, although it downplayed the severity of the incident.

Following legal pressure, the mining company, working with EMA, ZINWA, and the Civil Protection Unit, took steps to restore access to safe drinking water for affected residents. The case illustrates how litigation can serve as an effective accountability mechanism, compelling corporate actors and regulators to respond to environmental harm even in the absence of a final court determination. From a business and human rights perspective, the case underscores the importance of environmental due diligence, transparency, and regulatory oversight, reinforcing the principle that industrial development must not undermine the constitutional rights to safe water, health, and a clean environment.

67 Letios Karembera v Eureka Gold Mine, Guruve Rural District Council and Environmental Management Agency, ZLHR Annual Case Reports.

5. PART III: ACCESS TO REMEDY (UNGPs PILLAR III)

Pillar III of the UN Guiding Principles on Business and Human Rights (UNGPs) focuses on access to effective remedy, affirming that both states and business enterprises have a responsibility to ensure that individuals and communities affected by business-related human rights abuses, including environmental harm and development-induced displacement, can obtain timely and meaningful redress. For states, this entails guaranteeing access to independent and impartial courts and tribunals, as well as strengthening administrative and other non-judicial mechanisms capable of addressing grievances before harm becomes irreversible. For businesses, Pillar III requires the establishment of effective, legitimate, and accessible grievance mechanisms that enable affected communities to raise concerns without fear of retaliation. Remedies under this pillar extend beyond judicial decisions and include reparations, adequate compensation, land restitution, livelihood rehabilitation, and environmental restoration. Collectively, Pillar III underscores that accountability and redress are central to preventing impunity and ensuring that economic development does not occur at the expense of fundamental human rights.

Across all cases, ZLHR has positioned access to remedy as a central pillar of its litigation strategy, ensuring that affected communities are not left without recourse where environmental harm occurs. Courts were used to secure urgent interdicts, halt unlawful activities, compel disclosure of information, and enforce compliance with environmental laws, as seen in *COSMO Trust, Peter Maneswa, and Claremont and Worringham*[68]. In other instances, such as Masvingo United Residents and Ratepayers Alliance, litigation resulted in negotiated settlements and consent orders, delivering concrete outcomes including the closure of harmful facilities and commitments to safer alternatives.

Even where litigation failed on the merits, as in *Mind Masuko & Others v Rio Zim Mine*[69], ZLHR's interventions highlighted procedural and evidentiary barriers faced by communities, underscoring the structural challenges to accessing justice in business-related environmental harm cases. Taken together, these cases demonstrate how ZLHR has used litigation not only to obtain immediate relief but also to strengthen accountability, improve governance practices, and expand the practical meaning of access to remedy under Zimbabwe's constitutional and regional human rights framework.

5.1. Barriers to Remedy for Affected Communities

5.1.1 Structural obstacles to justice in environmental and relocation cases

Despite the existence of relatively progressive environmental and natural resource governance laws in Zimbabwe, rights holders continue to face significant structural obstacles in accessing justice, particularly in cases involving environmental harm and development-induced violations. A central challenge lies in the disconnect between policy and practice in the management of natural resources and the environment in Zimbabwe. For instance, parallel functions among state institutions, traditional leaders, and environmental management agencies have complicated effective environmental management and made it challenging to implement laws.[70] This is particularly demonstrated through the dual allocation

68 Peter Maneswa, Blessing Chigova, Treasure Maziti v Minister of Environment, Climate and Wildlife & 5 Others HCMT 246/24, for the Peter Maneswa case.

69 Mind Masuko 32 Ors v Rio Zim Mine HC505/21

70 Macheka M, "Environmental management and practises in Zimbabwe's Chivi district: A political ecology analysis" https://www.tandfonline.com/doi/full/10.1080/23311886.2021.2000569#d1e489 [Accessed on 20 August 2025].

of roles between state institutions and traditional leaders.[71] For instance, according to the Communal Lands Act (Chapter 20:04), the Rural District Councils (RDCs) are empowered as "appropriate authorities" to control the utilisation and management of natural resources in communal areas.[72] For communities affected by environmentally harmful business activities, this gap translates into delayed remedies, unclear accountability, and limited protection from ongoing harm.

Meanwhile, traditional leaders also have vested powers over the same land, creating a duplication of roles.[73] This duplication of mandates undermines institutional coherence and weakens the oversight capacity of EMA and other environmental agencies tasked with protecting communal land and its ecosystems. Similar institutional overlaps have contributed to weak implementation, compliance, and enforcement of sustainable environmental practices. These challenges partly arose from the former split mandate of the Ministry of Environment, Climate and Wildlife, previously known as the "Ministry of Environment, Climate, Tourism and Hospitality Industry", which diluted the ministry's focus on environmental protection and undermined its capacity to enforce environmental laws and promote environmental justice effectively.[74] These overlapping and duplicative institutional mandates complicate compliance monitoring for communities, weaken regulatory oversight, and make it difficult for affected rights holders to identify which institution is responsible when environmental harm occurs. Collectively, these structural deficiencies entrench barriers to justice and underscore the need for litigation and legal advocacy to navigate institutional fragmentation and compel state actors to fulfil their environmental protection obligations.

Environmental mismanagement in Zimbabwe is further compounded by prolonged delays in the adjudication of environmental violation cases, during which environmental damage continues unchecked and without remedy. For instance, in April 2025, the EMA called for the establishment of dedicated environmental courts to address complex cases more effectively, noting that the absence of such specialised structures within the general court system has hindered the timely enforcement of constitutionally guaranteed environmental rights.[75]

Procedural failures significantly weaken communities' ability to assert their rights in cases of development-induced displacement, as courts are often approached only after displacement decisions have been finalised or substantially implemented, thereby narrowing the scope for effective judicial remedies. Under section 71(3) of the Constitution, the State may lawfully expropriate land in the public interest, a power frequently invoked to justify large-scale agricultural, mining, and other infrastructure projects such as the Chiadzwa diamond fields and the Chilonga lucerne grass project. Since affected communities are often excluded from decision-making processes, they are presented with relocation as a fait accompli. Communities face practical barriers, including limited access to information, power imbalances in negotiations with investors, fear of reprisals, and resource constraints that limit their ability to access remedies.

71 As above.

72 Macheka M, "Environmental management and practises in Zimbabwe's Chivi district: A political ecology analysis", available at, https://www.tandfonline.com/doi/full/10.1080/23311886.2021.2000569#d1e489 [Accessed on 21 August 2025].

73 Communal Lands Act (Chapter 20:04); Traditional Leaders Act [Chapter 29:17].

74 Herald Online, "Tourism industry welcomes split of ministries", available at https://www.heraldonline.co.zw/tourism-industry-welcomes-split-of-ministries/?utm_source=chatgpt.com [Accessed on 25 August 2025].

75 NewsDay, "EMA calls for setting up of environmental courts", available at https://www.newsday.co.zw/local-news/article/200040840/ema-calls-for-setting-up-of-environmental-courts?utm_source=chatgpt.com [Accessed on 4 September 2025].

A further structural obstacle lies in the absence of robust social accountability and oversight mechanisms to ensure compliance with resettlement standards in extractive and development projects. The Chiadzwa resettlements starkly illustrate how weak coordination between government ministries, local authorities, and private investors results in fragmented responsibility, poor monitoring, and limited remedies for rights violations. Even where legal challenges are mounted, prolonged court proceedings and deference to "development" narratives often undermine the timely provision of relief. These systemic shortcomings demonstrate that development-induced displacement in Zimbabwe is not merely a question of isolated rights violations, but a broader governance challenge requiring stronger procedural safeguards, enforceable FPIC standards, and accessible remedies aligned with the State's duty to protect under the UN Guiding Principles on Business and Human Rights.

5.1.2 Limitations of administrative and non-judicial mechanisms

In Zimbabwe, the persistent weaknesses of administrative and non-judicial mechanisms have rendered litigation, in most instances, the only viable avenue available to communities seeking redress for environmental harm and development-induced displacement. While laws formally provide for EIAs, public participation, administrative objections, and ministerial appeals, these mechanisms are frequently inaccessible, ineffective, or exhausted without remedy. In cases such as the Chiadzwa diamond resettlements and the Chilonga agricultural project, affected communities raised concerns through administrative channels but were met with inadequate consultation, delayed or non-responsive authorities, and decisions that had already been finalised or implemented. Complaints to regulators such as EMA or line ministries rarely result in enforceable outcomes, and community engagement processes are often reduced to procedural formalities rather than genuine opportunities to influence decisions. Non-judicial grievance mechanisms linked to investors or state projects are similarly limited, lacking independence, enforceability, and transparency, and offering no meaningful prospect of restitution or prevention of harm.

Against this backdrop, litigation has emerged not as a preferred strategy but as a necessary and ongoing response to structural governance failures in the protection of environmental and land rights. Courts are routinely called upon to fill accountability gaps left by weak administrative oversight, overlapping institutional mandates, and the absence of social accountability mechanisms in the extractives and development sectors. As demonstrated across multiple displacement and environmental justice cases, communities turn to litigation to halt unlawful projects, compel disclosure of information, enforce constitutional environmental rights, and secure recognition of procedural violations such as the failure to obtain free, prior and informed consent. This sustained reliance on courts underscores the centrality of litigation within the business and human rights landscape in Zimbabwe, reflecting both the inadequacy of non-judicial remedies and the urgent demand for judicial enforcement of state and corporate obligations in development-related contexts.

5.1.3 Why courts remain a critical avenue of last resort

Environmental governance and development decision-making are deeply shaped by political and economic interests that routinely override environmental protection and community rights. Government priorities in agriculture, mining, energy, and infrastructure development have consistently privileged rapid capital accumulation over compliance with environmental standards, often sidelining regulators such as the EMA. Primarily, environmental agencies such as EMA have limited control where political

actors influence decisions.[76] Government elites are known to provide immunity to corporations that commit human rights violations against the environment and abuses against villagers, artisanal miners and mining workers.[77] In 2018, a Parliamentary Portfolio Committee on Mines and Energy inquest into the diamond loss was terminated after government authorities refused to appear before the committee.[78]

This erosion of transparency and accountability is not new. As early as 2006, Madebwe observed that in Zimbabwe, environmental protection objectives had been supplanted by political and economic paternalism, with political interference compromising the integrity of environmental governance systems.[79] Generally, political interference at all levels of environmental governance led to a situation where factors, such as transparency and accountability, were directly compromised, bringing the environmental management sector into disrepute."[80] That assessment remains strikingly relevant today. The continued failure to enforce environmental standards reflects a broader governance reality in which natural resources function as a source of enrichment for political elites, rather than as assets held in trust for present and future generations. In this context, administrative remedies are frequently ineffective, compromised, or inaccessible, leaving affected communities with little option but to turn to the courts. Litigation thus becomes not merely a remedial tool, but a structural necessity, one of the few remaining mechanisms capable of compelling disclosure, halting unlawful activities, and enforcing constitutional environmental rights. The sustained demand for litigation in Zimbabwe's business and human rights landscape is therefore a direct consequence of entrenched political interference, regulatory weakness, and the absence of credible non-judicial accountability pathways.

76 USAID, "Corruption and the Environment - November 2002", available at https://pdf.usaid.gov/pdf_docs/pnact876.pdf, [Accessed on 25 August 2025].

77 London school of Economics, "Sustainability Impact Assessment in Support of Negotiations with Partner Countries in Eastern and Southern Africa in view of Deepening the Existing Interim Economic Partnership Agreement", available at https://www.lse.ac.uk/business/consulting/assets/documents/Case-Study-Mining.pdf [Accessed on 26 August 2025].

78 As above.

79 Madebwe, C., "Environmental Governance and Political Interference in Southern Africa" (2006).

80 Madebwe C, Madebwe V, Madebwe T, Streamlining environmental management legislation in Zimbabwe: the case of the new Environmental Management Act Chapter 20:27/2002, available at https://www.academia.edu/114021548/Streamlining_environmental_management_legislation_in_Zimbabwe_the_case_of_the_new_Environmental_Management_Act_Chapter_20_27_2002?nav_from=b6bf89c4-fc9c-49e3-bda6-0dcac492c8c6 [Accessed on 26 August 2025].

6. DEMONSTRATING THE ONGOING DEMAND FOR LEGAL INTERVENTION

Zimbabwe's development trajectory under the National Development Strategy 2 (NDS2) and Vision 2030 is anchored in accelerated economic growth driven by natural resource extraction, industrialisation, and infrastructure expansion. Mining, agriculture, energy, and large-scale development projects are positioned as central pillars for achieving upper-middle-income status by 2030. Zimbabwe's endowment in gold, chrome, coal, and, increasingly, lithium has attracted significant foreign investment, particularly amid global demand for transition minerals. However, while domestic legislation, such as the EM Act and the Mines and Minerals Act, contains environmental safeguards, these frameworks do not explicitly require human rights due diligence nor provide robust mechanisms to prevent or remedy business-related human rights harms. Combined with limited transparency in mining contracts and weak regulatory oversight, this gap has enabled corporate impunity and heightened the risks of environmental degradation, forced relocations, and livelihood loss, creating fertile ground for legal contestation and sustained litigation demand.

At the global level, the regulatory environment governing business conduct is undergoing a decisive shift toward mandatory human rights and environmental due diligence (mHREDD) and enhanced sustainability reporting. Instruments such as the EU Corporate Sustainability Due Diligence Directive (2024) and France's Duty of Vigilance Law (2017) require companies to identify, prevent, and address adverse human rights and environmental impacts across their operations and value chains. Although these laws originate outside Zimbabwe, their extraterritorial and market-based effects are significant. European investors, financiers, and downstream buyers increasingly require suppliers in Africa, including Zimbabwe's mining sector, to comply with mHREDD standards. This emerging compliance gap, between global expectations and domestic regulatory frameworks, inevitably places pressure on courts and legal practitioners to interpret constitutional rights, environmental statutes, and administrative law principles in ways that align local practice with evolving international norms.

Simultaneously, ESG (Environmental, Social, and Governance) standards are reshaping investor behaviour and redefining the meaning of responsible investment. Frameworks such as the IFC Performance Standards and the UN Principles for Responsible Investment (PRI) increasingly influence access to capital, project financing, and reputational risk management. For Zimbabwe, alignment with ESG principles offers an opportunity to enhance investment attractiveness while safeguarding community and environmental rights. Yet, in the absence of strong regulatory enforcement and credible administrative oversight, ESG commitments often remain aspirational or selectively applied. Communities affected by mining, energy, and infrastructure projects are therefore compelled to rely on litigation to test the legality of permits, challenge procedural failures, and enforce constitutional guarantees, reinforcing courts as central arenas for mediating development, rights, and accountability.

These dynamics are further intensified by the global just energy transition**,** which has elevated demand for transition minerals such as lithium while reproducing long-standing patterns of extraction-related harm. As Zimbabwe positions itself as a strategic supplier in the low-carbon economy, the risks of displacement, environmental harm, and exclusion of local communities are magnified. The business and human rights framework, anchored in the UN Guiding Principles, OECD Guidelines, and emerging due diligence laws, offers a normative bridge between climate action and social justice. However, where domestic governance systems remain politically constrained and non-judicial remedies are weak, litigation becomes not only reactive but structurally necessary. Collectively, Zimbabwe's

development ambitions under NDS2 and Vision 2030, coupled with tightening global sustainability standards and the pressures of the energy transition, demonstrate a clear and ongoing demand for legal interventions to ensure that economic transformation proceeds in a manner that is lawful, rights-based, and environmentally sustainable.

7. A CALL TO ACTION FOR POLICYMAKERS AND PARTNERS

The foregoing analysis illustrates that Zimbabwe stands at a critical stage in its development trajectory, where achieving a balance between economic growth and environmental protection has become imperative. The agriculture, energy, extractives, and infrastructure sectors, while central to the country's development agenda, continue to pose significant challenges related to environmental degradation, community displacement, and weak regulatory enforcement. Zimbabwe's Constitution, regional commitments, and international frameworks collectively impose a clear duty on the State to safeguard the environment and the rights of its citizens. However, in practice, these obligations have often been undermined by systemic shortcomings within environmental governance, including inadequate oversight, poor institutional coordination, and insufficient enforcement and implementation of existing laws.

As such, litigation has become an integral mechanism for holding both state and private actors accountable in the face of widespread development-induced environmental violations. The discussion above outlines the scope of environmental violations and systemic shortcomings in environmental conservation in Zimbabwe that have necessitated these legal interventions. Primarily, ZLHR's case analysis above demonstrates how litigation has been employed to ensure protection of the environment, immediate relief for affected communities, and to safeguard the environment for present and future generations.

While litigation has played an essential role in securing environmental justice, it is imperative that Zimbabwe prioritise preventive and proactive measures that reduce reliance on courts as the primary means of accountability. Litigation is often costly and time-consuming, allowing environmental damage to persist while cases are ongoing. Moreover, some legal remedies may be disproportionate to the harm caused and may be unable to reverse the long-term impacts on the environment. As such, achieving sustainable development requires that environmental rights be fully integrated into governance, policymaking, and investment decisions at every level.

Considering the foregoing analysis, ZLHR puts forward the following recommendations to:

1. The Government of Zimbabwe

- Fully observe and implement the United Nations Guiding Principles on Business and Human Rights, to ensure that business activities, particularly in the extractive sector, respect human rights and environmental standards.

- Promote conservation and ensure ecologically sustainable development and use of natural resources, balancing economic growth with the protection of the environment and for the benefit of present and future generations.

- Guarantee adequate funding and institutional support for the EMA to enable it to perform its regulatory and oversight functions effectively.

- Reassess Sino-Zimbabwean relations, especially within the extractive industry, to promote transparency, accountability, and sustainable mining practices that safeguard the environment and affected communities in Zimbabwe.

- Clarify and strengthen the respective roles and responsibilities of entities tasked with environmental management to enhance coordination and accountability.

- Review and amend the EM Act to address existing legal gaps and ambiguities, ensuring clarity in environmental governance and alignment with regional and international standards.

2. The Ministry of Environment, Climate and Wildlife

- Discharge your mandate to protect, promote, and enforce environmental and human rights by continuously monitoring and investigating the conduct of transnational corporations in Zimbabwe, ensuring that environmental and human rights violations are identified and addressed without delay.

- Undertake a capacity-building programme for all relevant government institutions on business and human rights, supported by clear standards, benchmarks, and compliance tools to guide their operations and decision-making.

- Take a proactive role in public education and awareness, empowering communities to understand and assert their environmental rights.

- Review and strengthen the EM Act and related legislation to address legal gaps, clarify institutional responsibilities, and align Zimbabwe's environmental framework with regional and international standards.

- Strengthen oversight of extractive and development projects, ensuring that EIAs are independently reviewed, transparently approved, and publicly accessible before project commencement.

- Take proactive measures to protect Environmental Human Rights Defenders (EHRDs) by initiating policy and legislative reforms that guarantee their safety and affirm their critical role in promoting environmental justice in Zimbabwe.

3. The Environmental Management Agency

- Comply with its constitutional obligations of protecting everyone's environmental rights by implementing concrete measures that are aimed at preventing pollution and environmental degradation.

- Strengthen compliance monitoring and enforcement in the agriculture, extractive and construction sectors to curb unlawful activities, including operations proceeding without valid EIAs.

- Enhance public access to environmental information, including the publication of environmental impact assessment reports, environmental audits, and penalties imposed on non-compliant entities, to promote transparency and accountability in environmental management.

- Conduct regular and independent inspections of high-risk mining and development projects across Zimbabwe and impose appropriate sanctions on both public and private entities responsible for environmental degradation in the country.

- Develop a responsive public complaints and redress mechanism that enables affected communities to report environmental damage and secure interim relief, preventing unchecked degradation during protracted legal proceedings.

- Advocate for and contribute to the review of the EM Act to close legal loopholes, clarify mandates, and align Zimbabwe's environmental governance with regional and international standards.

4. The Ministry of Local Government, Public Works and National Housing

- Refrain from parcelling out ecologically sensitive land, including wetlands and river catchment areas, for residential or commercial development to adhere to constitutional and environmental obligations.

- Conduct regular audits to identify and rectify illegal or irregular land allocations made under the guise of local government authority, ensuring full compliance with environmental and planning laws to remedy the illegal parcelling out of land in Zimbabwe.

5. Civil Society Organisations

- Strengthen community-based advocacy and awareness on environmental rights, empowering affected communities to actively participate in decision-making processes related to their environment and natural resource management.

- Establish national and regional solidarity networks to protect EHRDs facing reprisals for their work in promoting sustainable environmental practices, and further advocate for the enactment of legislation that explicitly safeguards their rights and security.

8. CONCLUSION

This publication has demonstrated that the UN Guiding Principles on Business and Human Rights provide a critical and timely framework for interrogating the human rights impacts of business activity in Zimbabwe, particularly in the extractives, infrastructure, and energy sectors that sit at the heart of the country's development agenda. As Zimbabwe pursues economic growth under Vision 2030 and NDS2, the increasing scale of investment in natural resource extraction and large-scale development projects has intensified risks of environmental harm, land dispossession, and community displacement. The analysis shows that while elements of the domestic legal framework, most notably the EM Act, reflect aspects of the UNGPs, significant gaps remain in the regulation of corporate conduct, access to information, meaningful participation, and the availability of effective non-judicial remedies.

The persistent failure to conduct human rights and environmental due diligence, coupled with weak regulatory oversight and limited accountability of both private and state-owned enterprises, has left affected communities with few practical avenues for redress. In this context, litigation has emerged not as a last resort but often as the only viable mechanism for communities to assert their rights, halt harmful projects, or compel compliance with constitutional, statutory, and international human rights standards. The growing body of public interest litigation in Zimbabwe underscores the continuing demand for legal intervention to operationalise the State duty to protect, the corporate responsibility to respect, and the right to an effective remedy as articulated in the UNGPs.

Ultimately, embedding the UNGPs within Zimbabwe's development trajectory is not an abstract normative exercise, but a concrete governance imperative. Aligning national laws, regulatory institutions, and corporate practices with the UNGPs—alongside emerging global standards on mandatory human rights and environmental due diligence and sustainability reporting—offers an opportunity to balance investment, environmental protection, and human dignity. Without such alignment, development risks deepening inequality and conflict. With it, Zimbabwe can chart a path toward accountable, rights-based, and sustainable development in which economic progress is matched by justice, transparency, and respect for the rights of affected communities.

Addendum-Mapping ZLHR Litigation: Application of the UNGPs in Practice (2015–2025)

ZLHR has applied litigation strategically to give effect to the Protect–Respect–Remedy framework in Zimbabwe's development context. By holding state institutions accountable, confronting corporate misconduct, and securing judicial and negotiated remedies, ZLHR has advanced environmental justice, protected vulnerable communities, and reinforced the relevance of business and human rights standards in domestic courts.

Below is a clear, policy-facing case-to-UNGP pillar mapping table based on the Zimbabwe litigation you have referenced. It is designed to be easily readable by partners and policymakers, while remaining conceptually aligned with the UN Guiding Principles on Business and Human Rights (UNGPs).

Case	Business Activity / Sector	Key Human Rights Issues	Primary UNGP Pillar Engaged	How the Case Advances the UNGPs
Borrowdale Ratepayers and Residents Association & Harare Wetlands Trust v City of Harare & Others	Urban real estate development	Environmental rights; right to participation; sustainable land use	**Pillar I – State Duty to Protect**	Challenged unlawful approvals and regulatory failures; reinforced the State's obligation to regulate private development and protect wetlands through EIAs and planning controls.
COSMO Trust v City of Harare & Others	Property development in protected wetlands	Right to a healthy environment; intergenerational equity	**Pillar I – State Duty to Protect**	Compelled state agencies to enforce environmental laws and uphold constitutional environmental rights against private developers.
Peza Trust v Zimbabwe Parks & Wildlife Management Authority & Others	Mining in protected areas	Biodiversity protection; environmental rights	**Pillar I – State Duty to Protect**	Exposed failure of state authorities to prevent unlawful mining and protect conservation areas.
Masvingo United Residents and Ratepayers Alliance v City of Masvingo & EMA	Waste management and municipal services	Environmental health; right to dignity	**Pillar I – State Duty to Protect**	Addressed state neglect in regulating waste disposal and enforcing environmental standards.
United Mutare Residents and Ratepayers Trust v City of Mutare & Freestone Mines (Pvt) Ltd	Quarry mining	Community participation; environmental protection; cultural rights	**Pillar I & II – State Duty and Corporate Responsibility**	Challenged both municipal decision-making and corporate conduct for failure to consult, assess impacts, and ensure environmental safeguards.
Jacob Kanyandura & Others v Zim Win Mining (Pvt) Ltd	Gold mining	Land rights; environmental degradation	**Pillar II – Corporate Responsibility to Respect**	Confronted mining operations conducted without lawful authorization and environmental safeguards.
Claremont and Worringham Residents Association v Marigold Syndicate	Mining	Environmental harm; community safety	**Pillar II – Corporate Responsibility to Respect**	Asserted that private actors must comply with licensing, EIA, and safety obligations.
Mukomberanwa Charigwati v Stanley & Emily Tsopotsa	Small-scale mining	Environmental rights; land degradation	**Pillar II – Corporate Responsibility to Respect**	Challenged environmentally harmful mining practices affecting local livelihoods.
Residents of Ingagula Township v EMA & Zimbabwe Power Company	Energy and power generation	Health rights; air quality; environmental justice	**Pillar II & III – Corporate Responsibility and Access to Remedy**	Sought disclosure, accountability, and remediation for industrial pollution affecting communities.

Case	Business Activity / Sector	Key Human Rights Issues	Primary UNGP Pillar Engaged	How the Case Advances the UNGPs
Peter Maneswa & Others v Minister of Environment & Others	Mining regulation	Right to participation; environmental protection	**Pillar I & III – State Duty and Access to Remedy**	Used constitutional litigation to challenge regulatory approvals and secure judicial oversight.
Letios Karembera v Eureka Gold Mine, EMA & Others	Gold mining	Right to safe water; public health; environmental protection	**Pillar II & III – Corporate Responsibility and Access to Remedy**	Leveraged court processes to compel corporate remediation, transparency, and emergency response following cyanide pollution.
Chisumbanje Ethanol Project (Green Fuel)	Large-scale agriculture and biofuels	Forced relocation; livelihoods; environmental harm	**Pillar I & III – State Duty and Access to Remedy**	Highlighted state-enabled development-induced displacement and the need for remedies for affected communities.
Lake Chivero Cyanobacteria Intervention	Municipal sewage and water management	Wildlife protection; environmental integrity	**Pillar I – State Duty to Protect**	Used administrative law to press state agencies to enforce pollution controls and environmental standards.
Mind Masuko & Others v Rio Zim Mine	Mining	Environmental harm; access to justice	**Pillar III – Access to Remedy**	Demonstrated procedural and evidentiary barriers faced by communities seeking redress.