

## Impact case study (REF3)

<b>Institution:</b> University of Exeter		
<b>Unit of Assessment:</b> UoA 18 Law		
<b>Title of case study:</b> Putting the United Nation's Guiding Principles into practice: National Action Plans on business and human rights		
<b>Period when the underpinning research was undertaken:</b> 2010 to 2017		
<b>Details of staff conducting the underpinning research from the submitting unit:</b>		
<b>Name(s):</b> Dr Michael Addo	<b>Role(s) (e.g. job title):</b> Senior Lecturer in Law	<b>Period(s) employed by submitting HEI:</b> 1991 to July 2017
<b>Period when the claimed impact occurred:</b> August 2013 to July 2017		
<b>Is this case study continued from a case study submitted in 2014?</b> No		
<b>1. Summary of the impact</b>		
<p>The landmark 2008 UN <i>Guiding Principles on Business and Human Rights</i> (UNGPR) sought to ensure businesses promote, rather than undermine, human rights on issues including child labour, privacy and modern slavery. But a practical policy tool was needed to put the principles into practice. Addo's research and membership of the United Nations Working Group on Business and Human Rights (UNWG) led to his proposal for National Action Plans (NAPs), subsequently adopted as policy by the UN Human Rights Council. NAPs have since been developed by twenty-four States, with a combined population of 1.1 billion. Thirty-two more NAPs are in development.</p> <p>Besides influencing the policy of an international organisation and multiple states, NAPs have triggered much-needed action on business and human rights: a) Public procurement policies to influence global supply chains and b) due diligence reporting by businesses, soon to become mandatory in Germany as a direct result of the NAP. These, and other NAP initiatives, have enhanced government and industry corporate social responsibility and improved human rights for millions of workers and communities around the world.</p>		
<b>2. Underpinning research</b>		
<p>Businesses can play a critical role in either promoting or undermining human rights, whether for individuals and groups of workers (on issues such as discrimination, privacy, child labour, modern slavery) or for communities (such as pollution or displacement in the face of extractive industries).</p> <p>The landmark 2008 <i>UN Guiding Principles on Business and Human Rights</i> (UNGPR) set out three pillars: states' duty to protect human rights, businesses' responsibilities to respect human rights, and access to effective remedies. Whilst the UNGPR are widely seen as a major advance for human rights, the principles are broad and not themselves binding on businesses. A practical mechanism was needed to make them bite.</p> <p>Working in the field of international human rights law, Addo's research had long focused on identifying effective governmental and supranational mechanisms to put human rights into practice. A range of publications [3.1, 3.2, 3.3] analysed the potential and limitations of existing international human rights supervisory bodies as a mechanism to develop national law and policy standards in relation to business and human rights. That "impressive academic experience working in the field of international human rights law" [5.1] was the basis for his selection as one of the five experts comprising the United Nations Working Group on Business and Human Rights (UNWG). The UNWG was set up by the UN Human Rights Council (UNHRC) in 2011 with a mandate to promote the implementation of the UNGPRs by member states. Addo</p>		

served as a UNWG member from inception in 2011 to 2018. He was Chair of the UNWG in 2014-15 and 2017.

Drawing on [3.1, 3.2, 3.3], Addo first proposed the idea of National Action Plans for business and human rights (NAPs) to the UNWG and then took the lead on their development (see section 4). Addo was able to ensure that NAPs reflected the priorities that he had championed in his research from 2010 onwards, especially:

- the application of human rights standards to achieve “tangible and effective outcomes” [3.2]
- the critical role of non-state actors in promoting human rights in an age of globalisation [3.3, 3.4], requiring a multi-stakeholder approach to NAPs
- the vital role of Small and Medium Enterprises (SMEs) in delivering human rights, especially in the global south [3.6]
- flexibility in implementing UNGPs to reflect cultural diversity, rather than simply reflecting the dominant western liberal tradition [3.2]
- ensuring people in conflict zones, and vulnerable groups, such as women and indigenous people, are central [3.4, 3.5]

Addo was also PI on two research grants from the Dutch and Swiss governments to produce two editions of the UNWG Guidance on how to develop NAPs, both editions formally endorsed by the UNHRC. Both grants involved convening workshops in four different continents of experts and practitioners, drawn from the private sector, governments, international institutions, NGOs and academia. The Swiss project included working with a ‘user group’ of 16 countries over a period of two years, as well as ongoing interaction with user group governments based on their requests. The Guidance sets out a recommended multi-stakeholder process [3.3, 3.4], as well as a non-exhaustive list of issues to consider and measures to take, consistent especially with the need to address population group-specific rights [3.2, 3.4, 3.5].

### 3. References to the research

3.1: **Addo, M. K.** (2010) *The Legal Nature of International Human Rights*. Leiden: Nijhoff  
*Available on request*

3.2: **Addo, M.K.** (2010) Practice of United Nations Treaty Bodies in the Reconciliation of Cultural Diversity with Universal Respect for Human Rights. *Human Rights Quarterly* 32(3):601-664.  
<https://doi.org/10.1353/hrq.2010.0012>

3.3: **Addo, M. K.** (2014) The reality of the United Nations Guiding Principles on Business and Human Rights. *Human Rights Law Review* 14(1):133-147 01 Mar 2014.  
<https://doi.org/10.1093/hrlr/ngt041>

3.4: **Addo, M. K. & Martin J.** (2015) The Evolving Business and Society Landscape: Can Human Rights Make a Difference? In Bravo KE, Martin J. *Business and Human Rights: Moving Forward, Looking Back*. Cambridge: Cambridge University Press 348-386.  
<https://doi.org/10.1017/CBO9781316155219.013>

3.5: **Addo, M. K.** (2015) The Mandate of the United Nations Working Group on Business and Human Rights. In Rivera H. C. (ed) *The Special Procedures of the Human Rights Council*. Cambridge: *Intersentia*, 85-102. <https://intersentia.com/en/the-special-procedures-of-the-human-rights-council.html>

3.6: **Addo, M. K.** (2017) Business and Human Rights and the Challenges for Small and Medium-sized Enterprises. In Rensmann T. (ed) *Small and Medium-Sized Enterprises in International Economic Law* Oxford: Oxford University Press.  
<https://oxford.universitypressscholarship.com/view/10.1093/acprof:oso/9780198795650.001.0001/acprof-9780198795650-chapter-13>

Addo's research to prepare the two editions of the UNWG Guidance was supported by two research grants:

- *United Nations Working Group on Business and Human Rights: Identifying Challenges, good practice and guidance for National Action Plans to implement the UN Guiding Principles in Business and Human Rights*. 1 September 2014 - 31 March 2015. Ministry of Foreign Affairs, Multinational Organisations and Human Rights Department, Government of the Netherlands \$186,636. Principal Investigator: Michael Addo (Exeter).
- *Guidance for National Action Plans (NAPs) to implement the UN Guiding Principles in Business and Human Rights*". Jan-Dec 2015. Government of Switzerland, \$91,000. Principal Investigator: Michael Addo (Exeter).

#### 4. Details of the impact

The Guiding Principles are soft law. They are not directly enforceable on governments or the millions of domestic or multinational businesses worldwide. As principles, they are also somewhat abstract. They do not set out exactly what businesses must do or how might they be persuaded, supported or mandated to act on human rights. Rather than relying on business goodwill, a practical mechanism for ensuring implementation of the UNGPs was needed.

**1. Addo's research led directly to NAPs as a policy instrument and shaped their process and content.** Addo was appointed to the UNWG in 2011 based on his research expertise on business and human rights [5.1]. The idea of a NAPs emerged directly from his research (see Sections 2,3). The first Chair of the UNWG confirms "Michael [Addo] was indeed the [UNWG] member responsible for the original idea of developing National Action Plans and guidance..." [5.3]

Addo then led on their development: "Michael was proactive in elaborating how the National Action Plans should be constructed, both in terms of process and content" [5.3]. This included primary authorship [5.3] of the UNWG's report to the UN General Assembly on NAPs in 2014 [5.2]. In that document, NAPs are defined as "plans drawn up by governments with relevant stakeholders to develop practical and actionable policy measures and goals to prevent and strengthen protection against human rights abuses by business enterprises" [5.2]. Addo also took the lead in developing the UNWG's Guidance [5.4], supported by his two research grants (section 3).

Both the report to the General Assembly [5.2] and Guidance for member states [5.4] reiterated key themes from Addo's research, including the need for an inclusive process [3.3, 3.4], attention to SMEs [3.6] and vulnerable groups [3.4, 3.5].

In 2014, following the UNWG paper on NAPs [5.2], UN Human Rights Council Resolution 26/22 recommended that member states started developing NAPs to implement the UNGP. Addo's research-inspired idea had become UNHRC policy. [5.4]

**2. NAPs have been adopted rapidly around the globe.** The policy change inspired and shaped by Addo's research was adopted quickly by member states, initially in Europe but spreading to Africa, Asia, the Americas and Australasia. To date, 24 States have adopted NAPs and NAPs are being developed in 32 more [5.5].



### 3. NAPS are making human rights a reality on the ground

Those twenty-three NAPs adopted globally have already resulted in multiple new policy instruments and initiatives for governments to encourage, support, and increasingly, to mandate businesses to act on human rights. “Of all the various initiatives and activities of the UN Working Group from 2012-2016, I believe Michael Addo’s push for National Action Plans and guidance for States was the most successful and impactful in terms of generating action on the [UNGP].” [5.3].

The two most impactful instruments so far have been:

**Public procurement.** Multiple countries, including the UK, France, Netherlands and Chile have included public procurement provisions in their NAPs [5.6]. The Danish NAP, for example, introduced a new requirement that all government building contracts include employee rights protection. Public procurement is estimated at about 15-20% of GDP globally. This concerted use of the purchasing power of governments therefore provides a very powerful lever to positively influence value or supply chain practice in relation to human rights for many millions of workers in both the developed north and the global south.

**Due diligence reporting [DDR].** NAPs have also been a primary vehicle to develop initiatives on due diligence, that is, ensuring that businesses identify and address adverse human rights impacts arising from their activities, including direct and indirect suppliers in the developing world. Multiple NAPs also address the additional support needs for SMEs, consistent with Addo’s findings [3.6]. The German NAP, for example, includes a help desk for SMEs, a certification mark and a prize for responsible supply chain management [5.10].

Many NAPs include voluntary encouragement of DDR, enhancing corporate, social responsibility. These have been influential. The large German car-maker Daimler, for example, developed a code to identify human rights risks in its supply chain, including those such as mica or cobalt for car batteries with known concerns about safety and/or child labour - “We actively create transparency in the supply chain, right down to the mine if necessary”. [5.8]. Daimler then work with suppliers to ensure compliance, or they are replaced [5.8].

Increasingly, NAPs are emphasising the need for mandatory measures. The German NAP [5.10] included a threat of legislation if under half of businesses with 500 or more employees had not

completed voluntary due diligence by 2020. Two surveys conducted as part of NAP monitoring showed insufficient progress. The German government will now introduce a Due Diligence Law to oblige companies to adhere to human rights standards in their global production chains, enforced by possible fines [5.9]. The upshot is that the fourth largest economy in the world will have a mandatory due diligence regime, with teeth, as a direct result of Addo's proposal for NAPs. That is putting principles into practice and ensuring greater protection for human rights for millions of workers and communities across the world, including the most vulnerable.

## 5. Sources to corroborate the impact

**5.1:** Report of the Consultative Group to the President of the Human Rights Council (evidence document 1) Sept 2011 – citing Addo's research as reason for appointment "Mr Addo has impressive academic experience working in the field of international human rights law. His areas of research include the responsibility of Transnational Corporations as well as cultural diversity in the practice of the Human Rights Council".

<https://web.archive.org/web/20201113105847/https://media.business-humanrights.org/media/documents/dfe0d68689a9657d5a646413ea224aee9260e71c.pdf>

**5.2:** The UN Working Group's report on NAPs to the UN General Assembly (A/69/263 2014) (copy on file)

**5.3:** Letter of Testimony – from the first Chair of the UN Working Group of Business and Human Rights, dated. 10<sup>th</sup> January 2020. The first chair is also the Director of the Human Rights and Business Department at the Danish Institute for Human Rights

**5.4:** Guidance on National Action Plans on Business and Human Rights. UN Working Group on Business and Human Rights. (2014 and 2016) (copy on file); Resolutions and decisions on business and human rights:

<https://www.ohchr.org/EN/Issues/Business/Pages/ResolutionsDecisions.aspx>

**5.5:** The list of National Action Plans and those in development (copy on file)

**5.6:** Report of the Working Group on the issue of human rights and transnational corporations and other business enterprises on the seventh Forum on Business and Human Rights, A/HRC/41/49 p9 (copy on file)

**5.7:** Country reports submitted to the 2016 UNWP Survey on National Action Plans on Business and Human Rights. Survey and country reports (copy on file)

**5.8:** Daimler press release on the Human Rights Respect System, 2<sup>nd</sup> May 2018.

<https://web.archive.org/web/20201218155823/https://media.daimler.com/marsMediaSite/en/instance/ko/Strong-for-human-rights--Daimler-goes-on-the-offensive-for-a-sustainable-raw-material-supply-chain.xhtml?oid=40324774>

**5.9:** Freshfields, Bruckhaus Deringer briefing on the German Due Diligence Act, July 15<sup>th</sup> 2020.

<https://web.archive.org/web/20201218155927/https://sustainability.freshfields.com/post/102gbky/germany-takes-a-step-closer-to-mandatory-human-rights-supply-chain-due-diligence>

**5.10:** German National Action Plan 2016-2020

<https://web.archive.org/web/20201218160021/https://globalnaps.org/country/germany/>