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**AFRICA
EMPLOYMENT
TRENDS FORECAST
2024**



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Introduction

The workplace is a dynamic environment. Employers are constantly adapting to keep up to date with changes to employment laws and developing workplace trends, as well as demands and expectations of the workforce. As we get closer to the end of the year, we thought it an opportune time to reach out to our colleagues across the African continent for their forecasts for the workplace in 2024, both in terms of legislative developments and anticipated trends. This guide has been prepared with input from members of our Employment & Benefits Practices in all our Bowmans offices, and in collaboration with our alliance, relationship and other firms across the continent.

As can be seen from the country chapters, there are **significant amendments to labour laws** on the horizon in several jurisdictions, with revisions (or even complete overhauls) proposed to the main labour legislation in Angola, Morocco, Namibia and Zambia. In Uganda, the Employment (Amendment) Bill of 2022 has been sent to the President for his assent, and in Mozambique, the new labour law will come into force in February 2024. In other countries, including Ghana, Kenya and Mauritius, recent **amendments to tax and finance laws** have had implications for the employment relationship and may result in employers having to reconsider how they structure certain benefits offerings.

In Tanzania and Zambia, employers are having to familiarise themselves with data protection laws which have recently come into force, and in Ethiopia legislation is anticipated to be enacted in 2024. In these jurisdictions, like others on the continent, the **handling of employee data** will likely be one of the issues top of mind for employers going into the new year.

In terms of workplace trends, **remote working** is a common theme, as is the push for digitisation, with **artificial intelligence-powered technology** being increasingly explored, developed or adopted by employers in Africa to improve their human resources practices and processes.

Click on the flags in the map for the respective country chapters. Please reach out to any of the key contacts if you would like to discuss the contents of this guide in more detail.

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The contents of this publication are accurate as at August 2023 and are for reference purposes only. It is not a substitute for detailed legal advice.



Click on a country icon to view the forecast

Forecast for Angola



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Legislative developments

Employment law changes arising from the proposed revision of the General Labour Law, approved by Law no. 7/15 of 15 June 2015 (GLL)

On 25 May 2023, the Angolan Parliament approved the proposed revision of the GLL. Such revision will, in effect, result in completely new law. The revision was submitted to the Angolan President for final approval; however, at the time of writing, there have been no further developments. Notably, the Angolan President may reject the proposed revision or request further amendments, meaning that uncertainty remains regarding the exact content of the amendments.

To date, only the first draft of the revision proposal that was submitted to the Angolan Parliament for discussion and approval has been made publicly available. We are aware that Parliament introduced changes to the first draft, however the revised draft has not been released. If the revision to the GLL is approved by the President, the following notable changes may be introduced into employment law, based on the provisions of the first draft:

- **New rules on limited term contracts:** The GLL defines, broadly, the terms for limited term contracts, which vary between five years for large companies and up to ten years for micro, small and medium companies. In terms of the revisions, the new rule will be to conclude employment contracts for an unlimited period of time, and it will only be possible to use limited-term contracts when companies can justify this, with reference to the exhaustive list of reasons provided by law. It will be mandatory to reduce limited-term contracts to writing, and the reason for fixing the term of the contract will need to be expressly set out in the contract. If the limited-term contract is not in writing, it will be deemed to have been entered into for an unlimited term. The maximum duration of employment contracts will also vary between 6, 12, 36 and 60 months (in cases of opening of establishments or new activities). This is a contentious change, which is expected to be amended in the final version of the statute.
- **Elimination of the criteria for Micro, Small, Medium and Large Companies:** The GLL currently uses this criteria to define distinct rules for limited term employment contracts, differentiated remuneration standards in some legal allowances and differentiated compensation amounts in case of termination of the employment contract. The draft revision eliminates this criteria on the basis of very debatable equality arguments between economic agents.

- **Increased requirements for disciplinary dismissals requiring just cause and for dismissals based on objective reasons:** In the case of disciplinary procedures, the draft revision provides for two new sanctions – temporary downgrading and unpaid suspension. For dismissals based on objective reasons, a compulsory phase of information exchange and consultation with employees’ representative bodies will be introduced as well as greater administrative control of the processes by the labor authorities. The threshold for dismissals based on objective reasons to be considered collective will also be reduced from 20 workers to five workers. Both processes will become more regulated, increasing the risk to employers that dismissals will be found to be invalid, resulting in possible reinstatement of employees.

Further changes include:

- The provision for compensation for economic and moral damages, which may be imposed on an employer in every case of illegal or invalid termination;
- The introduction of new types of special employment contract including a ‘remote work contract’ and ‘commuting employment contract’ and the elimination of the ‘works’ or ‘task’ contract type;
- New rules on the status of working students;
- Greater regulation of personality rights in the employment relationship, namely freedom of expression and opinion, physical and moral integrity, the safeguarding of privacy and the protection of personal data;
- Regulation on remote surveillance equipment in the workplace;
- The introduction of flexible working hours, and recognition of the rights of workers with family responsibilities to opt for these working hours; and
- Substantial increase of parental leave after birth.

Anticipated workplace trends

Disruptions to the job market

As the revision to the GLL currently stands, the proposed amendments are not employer friendly, when compared to the current GLL. Assuming that Parliament has approved the initial draft of the revision with no major changes and if the President approves and promulgates the legislation in due course, we anticipate that there may be a disruption to the job market in 2024, as there will be reduced flexibility in hiring practices. We also foresee an exponential increase in employment litigation.

Forecast for Ethiopia



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Legislative developments

Transfer from provident fund to pension scheme

A new Pension Proclamation was enacted in 2022. This law dictates that all employees who were covered under the provident fund or any other scheme, be transferred to the pension contribution fund scheme. Prior to enactment of this legislation, an employee engaged in a private organisation and covered under a provident fund scheme (or any other scheme) had the right to choose to continue with the same or be transferred to the pension scheme. The new Pension Proclamation requires the migration of employees who were covered by provident funds (or other schemes) to the pension fund scheme.

Details regarding the implementation of the new Pension Proclamation were issued in 2023 in the form of a directive. The requirements set out in the Pension Proclamation and this directive are expected to be widely applied in 2024.

Minimum wage

Currently, there is no national minimum wage in Ethiopia. However, the Labor Proclamation No. 1156/2019 provides that a regulation of the Council of Ministers will be issued to determine the powers and responsibilities of a Wage Board which will periodically revise minimum wages based on studies which take into account the country's economic development, labor market and other considerations.

In August 2023, representatives of the Confederation of Ethiopian Trade Union (**CETU**) had a meeting with the Prime Minister of Ethiopia. Among the issues requested by CETU were reduction of employment income tax, implementation of minimum wage laws and better work conditions. As a result of the meeting, relevant ministries have been assigned to conduct studies and engage in discussions with the trade unions to come up with a proposal on the requested items including reduction of income tax and implementation of minimum wages. There is no clear timeline set by the ministries, however, the results of the studies and/or the draft legislation are expected to be unveiled by 2024.

Startup leave

Ethiopia is in the process of enacting a law that will govern start-ups and businesses that provide support to startups, such as incubation programs. The legislation is expected to promote innovation and job creation. Among the incentives provided in the draft startup proclamation is startup leave. An entrepreneur who is a shareholder of a startup can apply for and get startup leave for a period of a year from her/his employer. The leave is renewable up to two times.

The draft startup proclamation avails the employer a discretion to employ a replacement and the expenses of the employer will be covered by the Innovation Fund. The startup leave will be unpaid leave, but the employment relationship will be maintained. Furthermore, the entrepreneur will have the right to request the termination of the startup leave before the full duration of the leave.

The final content of the startup proclamation is yet to be confirmed. However, it is one of the pieces of legislation that is expected to be enacted by 2024.

Personal Data Protection Draft Proclamation

The personal data protection proclamation has been in the making for a few years now. The draft personal data protection proclamation is one of the pieces of legislation that is in the docket of the parliament to review and enact in 2024. If enacted, the legislation is expected to regulate the storage, disclosure and processing requirements of personal data of employees.

Anticipated workplace trends

Increased unions and collective bargaining

In 2023 local labour and social affairs offices have been actively engaged in mobilizing employees as well as collaborating with employers to improve working conditions. We expect such activities will continue in 2024 and potentially lead to unionisation by employees in industries that require a vast labour force.

In companies where trade unions have already been formed, several employers have received requests for collective bargaining. Consequently, collective bargaining negotiations are also on the horizon.

Forecast for Gabon



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Please note: this entry was written just before the military coup in Gabon, on 30 August 2023. As at the time of writing, there exists a great deal of uncertainty in Gabon, and there are multiple developments occurring daily. For instance, the president for the transition committee announced that the social security and health insurance funds would be placed under private management. Accordingly, the legislative developments and trends identified below may not materialise or accurately reflect the legal position in 2024.

Legislative developments

Adoption of implementing regulations for the Gabonese Labor Code

Following the enactment of the Labor Code on 19 November 2021, new implementing regulations may soon be adopted. These regulations will likely deal with several key issues, including the manpower regime, work permits for expatriate workers, and joint health and safety measures to be implemented by companies operating on the same site. In the meantime, regulations adopted under the previous version of the Labor Code continue to apply in practice.

Changes to Gabon's social security and health insurance regulations

Gabon's Social Security Code and Health Insurance Law were recently amended by Law no. 037/2023 and Law no. 036/2023 of 17 July 2023, respectively. Changes include the increase of the minimum retirement age from 55 to 60 years, amended eligibility and computation criteria for pensions, increase of maternity benefits, specific rules on medical evacuations abroad, as well as the enrolment of independent workers with the Social Security Fund (Caisse Nationale de Sécurité Sociale) and the National Health Insurance Fund (Caisse Nationale d'Assurance Maladie et de Garantie Sociale). The application of these rules, with the adoption of implementing regulations, is expected in 2024.

Anticipated workplace trends

Development of employee data privacy procedures

The National Commission for the Protection of Data Privacy (Commission Nationale pour la Protection des Données à Caractère Personnel (**CNPDCP**)) has recently issued several decisions relating to the processing of employment related data. Examples of such decisions include Deliberation no. 161/CNPDCP of 14 May 2023 on BGFIBANK GABON S.A.'s declaration on the management of client files, the medical monitoring of employees, the usage of video surveillance and transfer of client data to the Central African banking commission and to the archives of Afrique Consulting; and Deliberation no. 149/CNPDCP of 16 November 2022 authorizing the transfer of personal data of employees of Citibank Gabon S.A. to Sweden and Canada. It is likely that the CNPDCP will intensify the application of fines set forth in Law no. 001/2011 of 25 September 2011 relating to data privacy, as amended by Law no. 025/2023 of 9 July 2023. Companies have hence started strengthening their employee data privacy procedures, including guidelines for reporting to the CNPDCP and this trend is likely to continue in 2024.

Implementation of local content policies in the petroleum sector

Decree no. 00232/PR/MPGM defining the terms of implementation of local content objectives in the hydrocarbons sector was adopted on 9 September 2021 and contains several rules on the mandatory use of locally owned and managed companies for certain operations as well as requirements relating to the hiring and training of Gabonese workers. It is likely that the relevant authorities may initiate audits in the petroleum sector in 2024 to verify compliance of companies with these rules.

Issuance of labour reports

The new Labor Code requires employers with at least 11 employees to issue an annual labour report, notably including information on new recruitments, contract terminations within the company, salaries and social security contributions, the number and positions of expatriates within the company etc. This report should be approved by staff representatives and submitted to the relevant Labor authority. Audits in this area too are likely in 2024.

Forecast for Ghana



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Legislative developments

Changes arising from the Income Tax (Amendment) Act, 2023 (Amendment Act)

The Amendment Act, passed in April 2023, was fully implemented by the Ghana Revenue Authority (GRA) from June of 2023. The amendments:

- **Introduced an additional income tax band of 35%:** Before the passage of the Amendment Act, income was taxed at graduated progressive rates ranging from 0% for individuals earning GHS 365 and below to 30% for individuals earning GHS 20,000 and above. Income in Ghana is now taxed at 0% for individuals earning the current monthly minimum wage of GHS 402 and below, to 35% for individuals earning above GHS 50,000 per month.
- **Reviewed the upper limits for vehicle benefits given to employees:** Employees who enjoy vehicle or fuel-only benefits from employers are, from June 2023, obliged to pay 5% of their total cash emoluments, up to a maximum of GHS 625 per month, while those who enjoy both vehicles and fuel benefits pay 10% of their total emoluments, up to a maximum of GHS 1250 per month to the GRA. Employees who enjoy vehicles with drivers and fuel also pay 12.5% of their total cash emoluments, up to a maximum of GHS 1,500 per month.
- **Waived taxes on early withdrawal from Tier 3 provident funds and personal pension schemes:** This tax waiver is for an employee, who before the statutory retirement age, loses permanent employment, or for a self-employed person who withdraws from the personal savings account provided under the National Pensions Act, 2008.

We do not expect the introduction or waiver of any more income taxes going into 2024; however, we believe there may be an increase in the daily minimum wage, which is currently GHS 14.88, to reflect current economic conditions.

Anticipated workplace trends

Respecting the sanctity of employment contracts

Relying on some recent court decisions, we anticipate better human resources policy frameworks in workplaces in Ghana going into 2024, especially relating to modes of disciplinary actions against employees and termination of employment.

The Supreme Court of Ghana in the case of *Ghana Center for Democratic Development & Others v Attorney General*, recently held that while the 1992 Constitution of Ghana recognised the right of workers to leave,

the practice of using leave as a form of punishment to dismiss unwanted workers and public service officials from their positions was unconstitutional. The Supreme Court further directed that documents that provide the mode for disciplinary action against employees or severance of relationships between employers and employees in Ghana, like appointment letters, collective bargaining agreements, conditions of service, regulations and human resources policy framework manuals, must be the preferred reference documents to be followed in all cases which warrant termination of the employment relationship.

The Court of Appeal in the recent case of *Israel Agbeti v Stephen Amoah, Ericsson Ab Ghana Branch*, reiterated that an employer is legally entitled to terminate an employee's contract of employment whenever he wishes, provided that the employer gives notice to the employee or pays salary in lieu of that notice.

These decisions confirm that employers must comply with the terms of engagement of employees when it comes to terminating the employment relationship, to avoid claims of unfair termination. Termination provisions in employment contracts must specifically allow for an employee's exit without cause, but on notice, or payment of salary in lieu of notice.

Health, safety and environment (HSE) compliance

In 2023, the Environmental Protection Agency (EPA) of Ghana embarked on a nationwide inspection exercise as part of its measures to enforce strict adherence to environmental regulations in Ghana. These inspections resulted in the temporary closure of some non-compliant companies for environmental infractions, including pollution and the exposure of workers to heavy metals and acid. The EPA also ordered that workers of those companies be tested due to their exposure to heavy metals, at the expense of the non-compliant companies.

Going into 2024, we expect to see more inspection exercises by such regulatory bodies. Employers are therefore reminded to have environmental, health and safety policies in place and take the health and safety of the workplace and their employees more seriously. This will lower the risk of being sanctioned or having their operational permits revoked.

Forecast for Kenya



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Legislative developments

Employment law changes arising from the Finance Act, 2023 (Act)

Going into 2024, employers will need to relook at their employment contracts and benefits to employees to align with the provisions of the Act. For example:

- The Act has **introduced a housing levy** by inserting section 31B into the Employment Act. The employer is required to deduct a contribution of 1.5% of the employee's gross monthly salary from the employee's salary, match the employee's contribution and remit both contributions within nine working days after the end of the month in which the payments are due.
- The Act **introduces a new regime on taxation of Employment Share Ownership Plan benefits for employees of eligible startups**. This applies where an employee is offered company shares in lieu of cash emoluments by an eligible startup. For this purpose, an eligible startup is defined as a business incorporated in Kenya which has: an annual turnover of not more than KES 100 million, does not carry out management, professional or training business, has not been formed from the splitting or restructuring of an existing entity and has been in existence for less than five years.
- The Act has amended the Third Schedule to the Income Tax Act and effectively **changed the PAYE graduated scale**. The implication of the changes to the PAYE tax bands increases the income tax deducted from higher income earners.
- The Act has amended section 5 of the Income Tax Act to **include club entrance and subscription fees allowed against the employer's income as forming part of gains or profits**. The implication of this change is that employees will be taxed on any club entrance and subscription fees allowed against the employer's income.

Right to disconnect

The Employment (Amendment) Bill 2021 (**Bill**) seeks to amend the Employment Act, 2007 and introduce a new concept of an employee's 'right to disconnect'. It essentially provides that an employee is not obligated to respond if contacted outside of work hours. The Bill provides that an employee shall not be reprimanded, or face termination of employment or otherwise be subjected to similar actions for exercising their right to disconnect. However, if the employee chooses to respond, s/he shall be entitled to compensation for the additional time spent or for hours worked outside normal working hours. Should the Bill be passed, it will be necessary for employers to relook at employment contracts to ensure that they are not caught within this provision, or otherwise be prepared to adjust their policies to facilitate this new working dynamic.

Anticipated workplace trends

The 'Virtual Workspace'

We anticipate more employees being engaged in a 'virtual workspace' in 2024 and employers will need to consider the legal implications of such working arrangements, with reference to recent case law.

The Employment and Labour Relations Court (**ELRC**) has held that Meta Platforms Inc. and Meta Platforms Ireland Limited (collectively, **Meta**) can be sued in Kenya for alleged violation of employee rights. The determination was made in a ruling in **Kiana Monique Arendse & 182 Others v Meta Platforms, Inc. & 3 Others**. The decision was made in a ruling on the ground that they were foreign companies, and therefore, that the ELRC lacked the jurisdiction to hear and determine the petition. Meta also claimed it did not have any employment relationship with the petitioners since the petitioners were employees of Sama Source EPZ Limited (**Sama Source**) and were only engaged as Facebook content moderators by Meta through Sama Source.

The court held that Meta was responsible for providing and controlling a virtual workspace in which the petitioners worked. Therefore, the court held that privity of employment contract between Meta and the petitioners is not a requirement to prove in order to establish a violation of human rights and freedoms by a person who has authority over another.

This decision has huge implications on employers who contract employees to offer services in a virtual workspace. With virtual working gaining traction, employers will need to ensure that they abide by fair labour practices, even where the employees work virtually.

Forecast for Mauritius



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Legislative developments

Employment law changes arising from the Finance (Miscellaneous Provisions) Act 2023 (Finance Act)

Going into 2024, employers will need to relook at their employment contracts, policies and benefits to employees to align with the provisions of the Finance Act. The main provisions are:

- **Four-day work week:** The Finance Act has introduced the four-day work week for employees who opt for it. Under the four-day work week, employees will need to perform their normal weekly working hours (i.e. 45 hours or such lesser number of hours as contractually agreed) within four days, rather than distributing them across five or six days. The four-day work week can be requested either by the employer or the employee. The consent of the employee would be required if the request comes from the employer. If the request comes from the employee, the employer is required to grant the request, subject to its operational requirements. An employee who works according to a four-day work week is entitled to twice the basic rate for the first eight hours and three times the basic rate for every subsequent hour, worked on a public holiday.
- **Part-time worker:** A “part-time worker” now means a worker whose normal hours of work are less than the stipulated hours.
- **Flexitime:** Employers are now allowed to hire part-time workers based on flexible arrangements, with the number of hours to be determined through mutual agreement between the employer and the worker.
- **Computation of overtime:** Any authorised leave, whether paid or unpaid, as well as injury leave, will be considered as attendance for work and will be factored into the calculation of the additional hours worked for overtime purposes.
- **Notional calculation of hourly rate:** The mode of determining the basic hourly rate has been amended. A month’s work of a fulltime worker, which was previously determined in number of days, is now deemed to be 312 hours of work for a garde malade and 195 hours for any other worker. The basic wage or salary of a part-time worker will be computed proportionally based on the notional hourly rate of a full-time worker. This rate will then be augmented by a minimum of 10%, in contrast to the existing 5% increase.
- **Annual leave:** Workers who have not requested their annual leave, or whose request for leave has not been granted, can now opt in writing for their untaken leave to be accumulated instead of being paid a normal day’s wage for each day of leave.

- **Paternity leave:** The Workers’ Rights Act has been modified to incorporate a provision for paternity leave lasting for a duration of five days in situations where a worker and their spouse adopt a child who is younger than 12 months old. Another amendment stipulates that paternity leave will commence either from the birth date of the child or from the day the mother is discharged after giving birth in a hospital or other medical facility.
- **Childcare facilities:** Employers who employ more than 250 workers must provide childcare facilities in the form of a crèche on the workplace premises or within one kilometre from the workplace, free of charge to workers who have children older than three years old.
- **Portable Retirement Gratuity Fund:** Employers who make a monthly contribution to a private pension scheme equivalent to the amount that is required to be paid into the Portable Retirement Gratuity Fund (PRGF) are not required to contribute to the PRGF.

Anticipated workplace trends

Remote work and digitisation

The COVID-19 pandemic accelerated the adoption of remote work in Mauritius. We have seen remote working becoming more prevalent with more companies offering hybrid work models that allow employees to work from both the office and home, promoting a better work-life balance. The pandemic also highlighted the importance of employee health and wellbeing.

The push for digitalisation and technology adoption is expected to continue, with businesses in Mauritius investing in tools and systems that enable remote work, enhance customer experiences, and streamline operations.

Forecast for Morocco

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Legislative developments

Labor code reform and strike law

20 years after its promulgation, the government has opened a new chapter in the reform of the Labor Code. The announcement was made by the Minister for Economic Inclusion, Small Business, Employment and Skills. The launch of the reform of the Labor Code took place at the same time as discussions continued on the strike bill. In 2024, employees and employers will have to comply with the provisions of the new Labor Code, as well as those relating to the strike law, as soon as they are promulgated and published, which is scheduled for this year (2023).

Increase in SMIG/SMAG

On the eve of 1 May 2022, an agreement was signed by social partners, providing for new measures covering the period 2022 to 2024 (**Agreement**). Unanimously approved by the various parties, without exception, and primarily aimed at improving citizens' living standards, the Agreement provides for a package of measures to improve citizens' incomes, including a 5% increase in the minimum wage in the industrial, commercial and liberal professions sectors (SMIG) from September 2023, and a 10% revaluation in the agricultural sector (SMAG).

To this end, the legal minimum wage (SMIG) for an hour's work in the industrial, commercial and liberal professions sectors will rise from 15.55 Dirhams per hour to 16.29 Dirhams per hour from September 2023. Similarly, the legal minimum wage for a day's work in the agricultural sector (SMAG) will rise from 84.37 Dirhams per day to 88.58 Dirhams per day from September 2023.

Old-age pensions

The government has taken the necessary steps to ease the conditions for entitlement to old-age pensions. Currently, for a person to qualify for old age pension they must have worked a total of 3240 days (if run consecutively this would equate to 8.88 years). The new threshold would be significantly less at 1320 days (if run consecutively this would equate to 3.62 years). Further, insured persons who have reached retirement age but have fewer than 1320 days' declared, may recover their share of employer and employee contributions.

Income tax

Payment of income tax by employers, on behalf of employees, must comply with the provisions of the Finance Law of 2024. This applies, in particular, to taxable persons, exemptions, rates and scales, and specific rates.

Income tax exemption for indemnities

According to the General Tax Code of 2023, several indemnities (i.e. severance pay, voluntary redundancy pay, and any compensation for damages awarded in the event of dismissal), are exempt from income tax. This exemption applies only to the first 1,000,000.00 Dirhams of the total amount of the said indemnity. This limit may be modified by the Finance Law of 2024.

Anticipated workplace trends

Remote Working

The health crisis linked to COVID-19 enabled employers to test the effectiveness of remote working in Morocco. Initially adopted as a stop-gap solution to protect employees' health and ensure business continuity, this form of working has won over many managers. A large number of companies announced their intention to make it a permanent feature, despite the definitive lifting of all restrictions linked to the COVID-19 crisis. By 2024, remote working will increasingly be the preferred option.

Digitising Human Resources departments

Human resources departments face many challenges. Companies need to attract, nurture and retain talent, offer effective salary reviews, manage interview campaigns, anticipate departures, organize labour relations, etc. For each of these challenges companies can rely on specific human resources software, designed to save time and improve efficiencies. Going forward, we anticipate seeing more companies utilising technology to improve their HR processes.

Accelerating digital transformation

Substantial developments can also be expected in transformative technologies such as artificial intelligence (AI), the Internet of Things (IoT), virtual and augmented reality (VR/AR), and cloud computing. These transformational digital technologies work in concert, and their combination will lead to more efficient and streamlined processes. Many companies have embraced digital transformation with the aim of adding value to their business through digital products, services and experiences. This may pose challenges for companies who will need to bridge the skills gap that exists in these areas. Many companies will not only have to invest in these technologies, but also train their staff to work alongside intelligent machines. They will need to develop the very human skills that cannot currently be automated, such as creativity, critical thinking and interpersonal communication.

Forecast for Mozambique



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Legislative developments

Employment law changes arising from Law No. 13/2023, of 25 August of 2023 (new Labour Law)

A new Labor Law was recently enacted, revoking the Labor Law currently in force (Law No. 23/2007, of August 2007). The new Labor Law will come into force on 21 February 2024. It will bring about several relevant changes to employment relationships and new rules governing, among others, the following:

- **New work modalities** will be introduced including: (i) intermittent work; (ii) seasonal work; and (iii) telework.
- The period of **maternity leave** will be extended from 60 days to 90 days (which may start 20 days before the probable date of delivery) and **paternity leave** will be extended from one to seven days, which may be further extended to 60 days in the event of death or incapacity of the child's mother.
- **New employers' categories** will be introduced, including a (i) micro employer who employs up to 10 employees; (ii) small employer employing between 11 to 30 employees; (iii) medium employer employing between 31 to 100 employees and (iv) large employer employing more than 100 employees.
- **Fixed-term employment contracts** will only be permitted to be concluded for a period not exceeding two years and may be renewed twice. However, micro, small and medium-sized employers may freely enter fixed-term employment contracts in the first eight years of their activities.
- The possibility of **hiring foreign employees** will be subject to a new quota regime, with the percentage of foreign employees who may be hired ranging from 5% of all employees for large employers to 15% of all employees for micro employers.
- Employees subject to **abusive disciplinary proceedings** will be entitled to receive compensation and may be reinstated in the event of dismissal.
- Employees' minimum **vacation leave entitlement** will change to 12 days of vacation during the first year of permanent work and 30 days in subsequent years.
- The new Labour Law will provide for the **suspension of the employment relationship** in the event of *force majeure*, which means any act of nature which is unpredictable and independent of human will, such as catastrophes, earthquakes, epidemics and pandemics, floods, cyclones, or other occurrences that have or will foreseeably affect the normal activity of the company or establishment, or in the event of any unforeseeable fact, although avoidable, that will affect the normal activity of the company or establishment.

Anticipated workplace trends

Virtual working

The first legislative approach to teleworking in Mozambique came through Decree No. 12/2020, of 2 April 2020 (**Decree**), which was in force during the COVID-19 period. The scope of the Decree applied to urgent exceptional measures, which were necessary, adequate and proportionate to the situation to prevent the spread of COVID-19, safeguard human life, public health and ensure the functioning of services. After the Government recommended teleworking, many employers maintained this option even after the end of the state of emergency. Although the legislature has not included the regulation of telework in the new Labor Law, it may be regulated in special legislation. We expect remote work to be regulated during 2024.

Artificial Intelligence

Mozambique keeps pace with the Artificial Intelligence (AI) revolution. ChatGPT is a tool that has been gaining ground in Mozambique in 2023. We anticipate that more employers will be exploring, developing, or adopting AI-powered technology to improve their HR processes in 2024. However, there are challenges relating to the non-existence of any regulations on AI. Having said that, one must stress that employment duties, such as confidentiality and data protection issues, must be considered while employees are allowed to use AI.

Forecast for Nigeria



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Legislative developments

Implications for employers arising from the Business Facilitation (Miscellaneous Provisions) Act 2022 (BFA)

The BFA, which took effect on 8 February 2023, has several implications for employers in Nigeria. In particular:

- **Sections 40 and 41 amended the provisions of the Industrial Training Fund Act, Cap 19, Laws of the Federation of Nigeria, 2004 (ITF Act).** Previously, under section 6 of the ITF Act, every employer with five or more employees, or fewer than five employees but with a turnover of at least NGN 50,000,000 per annum, was required to contribute 1% of its total annual payroll to the Industrial Training Fund. However, the BFA has amended this provision, and the obligation to contribute 1% of a company's total annual payroll is now applicable to any employer with 25 or more employees and not operating within a free trade zone.
- **The BFA also amended the provisions of the National Housing Fund Act, Cap N45, Laws of the Federation of Nigeria, 2004 (NHF Act).** Section 4 of the NHF Act makes it compulsory for any Nigerian worker earning NGN 3,000 or more per annum in both the public and private sectors, to contribute 2.5% of their basic monthly salary to the National Housing Fund (Fund). An interest rate of 4% is also payable on the contribution to the Fund. However, section 45 of the BFA amends this obligation under the NHF Act and makes contributions mandatory for public sector employees, but optional for employees in the private sector. It provides that any employee earning the national minimum wage and above (currently NGN 30,000) in the private sector in Nigeria 'may' contribute 2.5% of their monthly income to the Fund. Also, an interest rate of 2% per annum, or as may be determined by the Federal Mortgage Bank of Nigeria, is payable on the contribution to the Fund.

Management of mental health

The National Mental Health Act 2021 (NMHA), which took effect on 28 December 2022, has created a dilemma for employers in Nigeria. Section 13(1) of the NMHA provides that individuals with mental health conditions are entitled to enjoy equal access to work

and employment opportunities and have the right to receive remuneration for any work done comparable to that paid to employees without such conditions. Section 13(3) further requires an employer to assist an employee to seek medical advice or treatment where an employee suffers from a mental health condition severe enough to affect the employee's work output. However, section 13(2) of the NMHA prohibits an employer from terminating the employment of an employee or otherwise depriving the employee of any benefit to which s/he is entitled merely on the grounds of a present or past mental health condition or while the employee is receiving treatment for the mental health condition. This section does not provide any qualifications for the continuous employment and payment of an employee suffering from mental health challenges, and it appears to tie the hands of employers in this regard. One would expect that after some time, an employee who has not recovered from such a mental health challenge may be legally terminated without any liability to the employer, given the commercial implication of having an employee who is incapable of rendering the services for which s/he is employed on the company's payroll. This issue is yet to be addressed in Nigerian courts and employers will need to continue to tread carefully in this regard in 2024.

Anticipated workplace trends

Extension of protections to all categories of employees

The principal legislation governing the employment of persons in Nigeria is the Labour Act, Cap L1, Laws of the Federation of Nigeria 2004 (Labour Act). The Labour Act, which commenced on 1 August 1971, only applies to the employment of persons who perform manual labour or clerical work and does not govern the employment of persons who perform administrative, executive, technical or professional functions. There are many provisions of the Labour Act that are outdated and there is a need to expand its scope of application to cover all cadres of employees. There are several legislative bills before the Nigerian National Assembly (the legislative arm of the Nigerian government) which are proposing amendments to the Labour Act and other labour and employment laws. Therefore, it is anticipated that these amendments will address the changing labour and employment landscape and encompass all categories of employees in its application.

Forecast for Namibia



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Legislative developments

Anticipated amendments to the Labour Act, 11 of 2007 (Labour Act)

Tripartite discussions remain ongoing regarding the contents of a new Labour Act, as a complete overhaul of the current Labour Act. Considering the bill has been a few years in the making, it is fair to say that progress is slow, and it is not expected that it will be before Parliament to be enacted before the second quarter of 2024. It is anticipated that most of the basic conditions of employment will remain, in substance, the same as in the current Labour Act. However, substantive changes are expected regarding organisational rights of trade unions and collective bargaining. Refinements are also anticipated to the dispute resolutions procedures at the Office of the Labour Commissioner, such as further limiting the right of external legal representation during conciliation and/or arbitration proceedings. It is expected that, once a final draft of the new Labour Act has been completed by the tripartite partners involved in the process, such draft will be made available to the public.

Implications for small business enterprises in terms of the Affirmative Action (Employment) Act, 1998 (Employment Act)

On 17 August 2022, the Minister gave notice that any employer who employs 10 or more employees will be regarded as a relevant employer for purposes of the Employment Act. The notice prescribes further that the number of employees must be calculated by adding the number of employees employed by the employer at the end of each of the preceding twelve months, divided by 12. As of September 2023, a vast number of small business enterprises will have to report in terms of the Employment Act. Harsh penalties for certain transgressions are prescribed by the Employment Act. Small business enterprises, which are often not geared toward compliance, will have to shift their focus to address these changes and will likely do so via outsourcing. Consequently, it is expected that the cost and risk of doing business in Namibia will increase for small enterprises.

Anticipated workplace trends

Digitalisation

As Namibia, along with the rest of the world, faces exponential technological change, we find ourselves at a pivotal moment in history. The future is already upon us, impacting industries and professions, shaping new paradigms, and challenging the very understanding of what it means to be employed. Automation threatens routine jobs, demanding a re-evaluation of career choices

and recruitment strategies. Employers may need to consider the long-term prospects of employees when recruiting or investing in personnel development. New jobs and skills that cannot be digitised will soon become valuable, and companies should start to define their future and align their strategies to remain relevant. The technological shift will change the working environment to become more socially isolated. Employees may become technologically dependent and begin to lack compassion, ethics, morals, and values. Employers should start now to seek means for human and technological cohabitation, which may include employment policies on the right to disconnect and technology ethics.

Employment opportunities in the energy sector

Namibia's emerging energy sector, including oil, gas, and green hydrogen, is poised for significant growth in the next five to 10 years. These developments represent transformative opportunities for the Namibian economy, but they also present unique challenges for employers. The exploration and utilisation of oil and gas resources, along with investments in green hydrogen technology, will likely lead to substantial economic growth. The expected capital influx and the creation of new industry clusters are expected to stimulate various sectors, generating increased revenue and employment opportunities. The energy developments will require a wide array of specialised skills, ranging from engineering and geosciences to legal and environmental expertise. Employers should anticipate a surge in demand for these skills, leading to potential labour shortages and competition amongst firms.

Increased measures to attract and retain talent

To attract and retain the necessary talent, employers will need to think creatively and strategically. This may include:

- **Competitive compensation packages:** Offering attractive salaries, benefits, and incentives aligned with international standards to appeal to both local and foreign professionals.
- **Training and development:** Investing in continuous education and training programs to foster the growth of local talent and to ensure that employees stay abreast of technological advancements.
- **Flexible work arrangements:** Adopting flexible work policies to cater to the diverse needs and expectations of a globalized workforce, which may include remote working, flexible hours, and comprehensive well-being programs.
- **Collaboration with educational institutions:** Forming partnerships with universities and vocational training centres to develop curricula that align with industry needs and provide a steady pipeline of qualified professionals.

Forecast for South Africa



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Legislative developments

Employment equity compliance

Amendments to the Employment Equity Act 55 of 1998 (**EEA**) have been passed into law and are anticipated to come into force by the end of 2023. Among other things, the amendments empower the Minister of Employment and Labour to identify national economic sectors and to determine numerical targets for demographic representivity in the workplaces of 'designated employers' in these sectors.

Draft regulations containing the proposed sector targets were published for public comment on 12 May 2023. The amendments, and particularly the draft regulations, have been the subject of much controversy. However, following a settlement agreement concluded between the South African Government and trade union, Solidarity in June 2023, the Department of Employment and Labour have indicated that final regulations will be published soon.

It remains to be seen, however, whether these draft regulations will bear legal scrutiny. Nevertheless, with the amendments expected to be in full force by 2024, employers, and particularly 'designated employers', will need to ensure that they take proactive steps to comply with the amended provisions of the EEA.

Incapacity management

Amendments to the Compensation for Occupational Injuries and Diseases Act 130 of 1993 have been passed into law and are to come into force on a date still to be fixed by the President. Among other things, the amendments envisage the introduction of facilities, services and benefits aimed at rehabilitating employees suffering from occupational injuries or diseases, to facilitate their return to their work or to reduce any disability. Draft regulations were published for public comment in June which place certain obligations on employers to facilitate access to rehabilitation. Once in effect, employers will likely need to adapt their existing incapacity policies and procedures to align with the amendments.

Remuneration disclosure

The long-awaited amendments to the Companies Act 71 of 2008 have been introduced in Parliament. Among other things, the Companies Amendment Bills, 2023 propose that public and state-owned companies be

required to prepare a remuneration report, consisting of a remuneration policy, an implementation report with details on the remuneration and benefits paid to directors and prescribed officers, as well as remuneration details of the highest and lowest paid employees, the average and median remuneration of all employees and an indication of the pay gap between the top 5% highest paid and bottom 5% lowest paid employees. We anticipate the amendments to make their way through the parliamentary process and be promulgated by mid-2024.

Anticipated workplace trends

Remote working and rise of 'Employer of Record' services

Over the past few years, and particularly in response to the COVID-19 pandemic, we have seen remote working become more prevalent (with workforces either working fully remotely or as part of a flexible/hybrid working model). As a product of this, we have also seen a rise in the use of 'Employers of Record' (**EORs**) by foreign companies seeking to engage local South African talent. EORs are local entities that act as intermediaries to facilitate employment relationships. In South Africa, most EORs would be classified as 'temporary employment services' (commonly referred to as 'labour brokers'). The use of such service providers is strictly regulated, particularly where the employees earn below the earnings threshold (currently ZAR 241,110.59 per annum). We expect that remote working and the use of EORs by foreign employers will continue in 2024.

'AI revolution'

With ChatGPT taking the world by storm in 2023, we anticipate that more and more employers will be exploring, developing or adopting AI-powered technology to improve their human resources processes in 2024. Examples of areas in which we expect to see development are recruitment, performance management and task distribution and employee monitoring. There are various employment law and data protection issues that will need to be borne in mind by employers as they navigate the 'AI revolution'.

Forecast for Tanzania

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Legislative developments

Handling of employee data

Going into 2024, employers will need to continue to relook at the way they deal with their employees' data to make sure that there is compliance with the Personal Data Protection Act, 2022 (**Act**). Although the Act was passed on 1 November 2022, it only came into operation on 13 June 2023 and employers are still grappling with its provisions, and the accompanying Regulations (namely, the Personal Data Collection and Processing Regulations and the Complaint Handling and Breach of Personal Data Regulations). The Act applies to any information an organization keeps on staff, customers, or account holders and will likely inform many elements of business operation, from recruitment, managing staff records, marketing or even the collection of CCTV footage.

We anticipate that, by 2024, many employees will be aware of their rights with regard to personal data and sensitive personal data as defined under section 3 of the Act. Violation of their rights may make employers liable to offences under sections 60, 61, 62 and 63 of the Act and we may start to see enforcement action by the Data Protection Commission.

Anticipated workplace trends

Accommodation of employees' religious beliefs/practices services

Following recent case law, we anticipate more awareness in the workplace of issues relating to employees' religious beliefs and practices and employers may need to reconsider the terms of their employment contracts to ensure that they reasonably accommodate such practices.

On 10 August 2023, the Court of Appeal of Tanzania delivered a judgment in the case of **National Microfinance Bank Plc v. Elizabeth Alfred Khairo**. In that case, the Respondent's contract of employment required her to work for six days in a week including Saturday. Her employment was terminated by the employer due to her consistent absenteeism on Saturdays on account of observing the Sabbath. The Court first interpreted section 19(1) and (2) of the Employment and Labour Relations Act [Cap. 366, R.E. 2019] (**ELRA**). It observed that the working hour provisions in the Respondent's employment contract (as well as the Appellant's circular requiring all branch employees across the country to work on Saturdays, and even Sundays, where applicable, subject to overtime payment where appropriate) were not contrary to these provisions (which stipulate that an employee may be permitted or required to work six days in any week).

However, the Court went further and considered Article 19(1) of the Constitution of the United Republic of Tanzania, [Cap. 2, R.E. 2019] (**Constitution**) which guarantees freedom of worship which includes freedom of conscience or faith as well as choice of matters of religion. With this in mind, the Court took judicial notice, pursuant to section 122 of the Evidence Act [Cap. 6, R.E. 2019], of the existence of the notorious tenets of the Seventh Day Adventists religion, which bars Adventist from partaking in any secular labour on Saturdays, save for emergency humanitarian work. It held that it was not clear why the Appellant, being aware of the Respondent's faith, did not arrange for a general leave enabling the Respondent to meet her spiritual commitments on every Saturday.

Although the provisions of the ELRA and the Constitution have been law for a long time now, not all employees and employers were aware of the position of law as interpreted by the highest court of the land. Based on the interpretation made by the Court, we anticipate more instances of employers being found in violation of the law, because if they do not accommodate their employees' faith, similar disputes are likely to arise.

Forecast for Uganda



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Legislative developments

Employment law changes arising from proposed amendments to the Employment Act, 2006

The Employment (Amendment) (No.2) Bill of 2022 (**Bill**) was passed by Parliament on 24 May 2023 and then sent to the President for his assent. If the Bill becomes law, it will introduce a raft of changes to employment relations in Uganda. Briefly, the Bill seeks to, among other things:

- Regulate the **labour export business** by providing for measures to mitigate the exploitation and abuse of workers who seek employment outside Uganda through recruitment agencies.
- Provide a statutory formula for the computation of **severance allowance**, that is, one month's salary for each year worked by an employee.
- Require all employers to avail facilities for **childcare and breastfeeding** for children of employees aged between three months and three years.
- Provide clarity on the **distinction between dismissal from employment and termination of a contract of service**. The terms are currently used interchangeably, and this has led to inconsistent application of the law by the courts.
- Regulate the **employment of migrant workers** employed within Uganda by imposing limitations on jobs which may not be offered to migrant workers. These jobs are to be Gazetted and no work permits shall be issued to migrant workers for these Gazetted jobs unless an exemption certificate is issued by the Minister for Gender, Labour and Social Development.

Regulation of human resources practitioners

Currently, there is no legal framework to regulate the human resource management function. This is set to change, as on 23 August 2023, Parliament granted leave for the introduction of a private member's bill. The Human Resource Managers' Professionals Bill 2023 (**HRMP Bill**) seeks to regulate the conduct of human resource management professionals in the country.

The draft HRMP Bill provides for the establishment of the Human Resource Management Institute, which is charged with establishing and enforcing professional standards and ethics for human resource managers; registering all eligible human resource managers and human resources management consulting firms; conducting professional examinations; and promoting and protecting the interests of these professionals. Professional members of the Institute will be required to have a bachelor's or postgraduate degree in human resource management or related qualifications.

Anticipated workplace trends

Remote working and employee assistance

Since the outbreak of COVID-19, remote working has gained acceptance in the workplace with many organisations allowing for a hybrid working model. The hybrid model has not only been credited with reduced expenses for many businesses, but it is now also used as a tool to improve employee quality of life, especially in countering commute related stress/challenges. We expect to see greater awareness of mental health challenges in the workplace and the increased adoption of employee assistance programs such as hybrid working in 2024.

Rise in 'Employer of record' services

We have seen a rise in the use of 'Employers of Record' (**EOR**) arrangements. An EOR is a third-party entity that assumes the role of legal employer and takes on all employer-related responsibilities on behalf of another company. An EOR allows companies to efficiently engage talent without the compliance risk of violating local employment laws. The EOR model has taken route in the oil and gas industry where several foreign companies have entered the market following the announcement of the Final Investment Decision for Uganda's oil and gas projects by the international oil companies. We expect this trend to continue in 2024.

Forecast for Zambia



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Legislative developments

Anticipated employment law reform

The Zambian Cabinet has approved the introduction of the Employment Code (Amendment) Bill 2023 to amend the Employment Code Act No. 3 of 2019 (**ECA**) in order to, among other things, revise provisions relating to terminal benefits, clarify the legal framework for employer-employee rights and obligations at the workplace and improve redundancy procedures for non-represented employees. We expect the amendments to clarify provisions that have posed practical challenges in the implementation of the ECA.

Social security

The National Pension Scheme Authority (Amendment) Act No. 1 of 2023 was enacted to provide for access to a pre-retirement lump sum benefit. The new legislation enables employees who have contributed to the National Pension Scheme Authority (**Scheme**) for at least five years and have either made at least 60 monthly contributions or attained the age of 45 years, to make a one-off withdrawal of 20% of the indexed monthly contributions and the accrued interest.

This legislative reform is a significant development in the Zambian social security system as it grants contributors more freedom and control over their pension funds early in their professional life. It is also relevant to the employment sector as it has emphasized the obligation of employers to deduct and remit their employees' contributions to the Scheme.

Minimum wage for vulnerable employees

The Government, through the Ministry of Labour and Social Security, revised upwards the minimum wages for domestic workers, shopkeepers and general workers by between 31% and 42% effective January 2023. This revision was done by way of amendment to the relevant statutory instruments. We anticipate another revision in 2024 due to the continuous rise of the cost of living in Zambia.

Data protection compliance

The enactment of the Data Protection Act 2021 (**DPA**) created potential obligations on employers in respect of collecting and processing their employees' personal and sensitive data before and during the course of employment. For instance, the DPA requires a person or entity that controls or processes personal data to register as a data controller with the office of the Data Protection Commissioner (**Commissioner**), carry out a data protection assessment and appoint a data protection officer. A number of these obligations hinge on the regulations and guidelines to be issued by the Commissioner, who was recently appointed in June 2023. We anticipate that the said appointment will trigger the obligations under the DPA. It is therefore cardinal for employers to familiarise themselves with the obligations in the DPA and comply.

Anticipated workplace trends

Rise in Artificial Intelligence

2023 has seen a significant rise in the world of Artificial Intelligence (**AI**) powered technology such as ChatGPT. We anticipate that employers will be looking to explore and adopt AI-powered technology in their systems in order to improve efficiency, reduce costs and operate competitively. Employers should, however, consider the privacy and data protection issues that may arise.

Hybrid working model

The COVID-19 pandemic resulted in the introduction of remote working. While this was purely a response to the pandemic and a way to adapt to the dire situation at the time, employers realised it works and as such, three years post the pandemic, remote working continues to flourish in various organisations. We anticipate a continuation of the hybrid/flexible working model in 2024.

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Our Presence in Africa

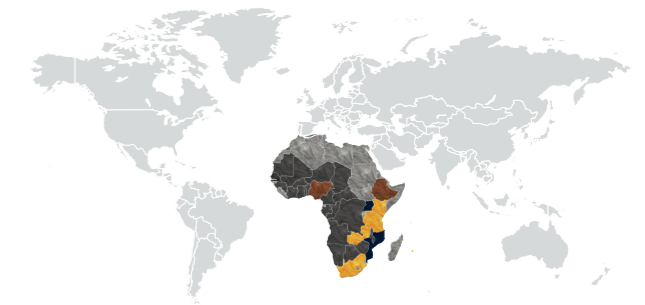
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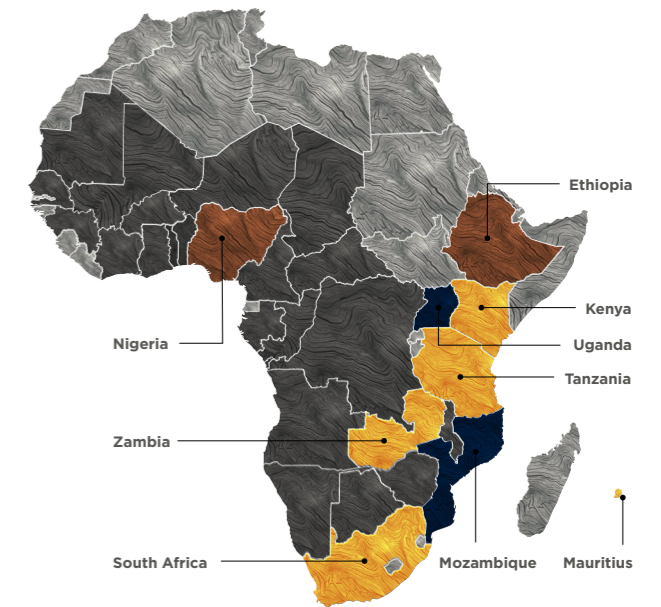
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