Laying the groundwork for the formulation of the National Action Plan for UNGPs in Bangladesh

Community Development Association (CDA)

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Background

The UN Human Rights Council endorsed the UN Guiding Principles on Business and Human Rights (UNGPs), a set of guidelines to operationalize the UN “Protect, Respect and Remedy” Framework, in 2011.

Developed by the Special Representative of the Secretary-General John Ruggie, these Guiding Principles provide the first global standard for preventing and addressing the risk of adverse impacts on human rights caused by business activities. It provides the internationally accepted framework for enhancing standards and practice regarding business and human rights.

In 2008, the United Nations endorsed the “Protect, Respect and Remedy Framework” for business and human rights, which recognizes unequivocally that States have the duty under international human rights law to protect everyone within their territory and jurisdiction against human rights abuses committed by business enterprises.

This duty means that States must have effective laws and regulations to prevent and address business-related human rights abuses and ensure access to effective remedy for those whose rights have been abused (ANGOC et al., 2018).

1 This document was prepared to provide an overview and relevance of the UN Guiding Principles on Business and Human Rights (UNGPs) in the context of Bangladesh and its status and interventions towards its National Action Plan. This initiative is undertaken as part of the regional commitment based initiative “Defending Land Rights and Human Rights Defenders” coordinated by the Asian NGO Coalition for Agrarian Reform and Rural Development (ANGOC) and partners from Bangladesh, Cambodia, India, Indonesia, Nepal and the Philippines.
Each of the three pillars of UNGPs - protect, respect and remedy - defines concrete, actionable steps for governments and companies to meet their respective responsibilities to prevent human rights abuses in company operations and provide remedies for such abuses.

In 2014, the United Nations Human Rights Council (UNHRC) issued a call to all Member States to formulate a National Action Plan (NAP) to help implement UNGPs in their respective national contexts (Haque, 2020). Soon after, the UNGPs were endorsed by States in the Human Rights Council. The United Nations Working Group started to call upon governments to start the process to develop NAPs as a means to implement the UNGPs (UNWG, 2016).

What is the role or value of a NAP or why is an NAP important to implement Business and Human Rights?

The UN Working Group on Business and Human Rights says the NAPs and the process of coming up with them can provide for: i) greater coordination and coherence within government on the range of public policy areas that relate to business and human rights; ii) an inclusive process to identify national priorities and concrete policy measures and action; iii) transparency and predictability for interested domestic and international stakeholders; iv) a process of continuous monitoring, measuring and evaluation of implementation; v) a platform for ongoing multi-stakeholder dialogue; and, vi) a flexible yet common format that facilitates international cooperation, coordination, and exchanges of good practices and lessons learned (UNWG, 2016).

Bangladesh is yet to formulate its National Action Plan on UNGPs (NAP for UNGPs). It is urgent that an NAP for Bangladesh is formulated. The steps being taken to come up with one thus needs to be reviewed.

**Objectives**

This report aims to:

- explore the status of UNGPs in Bangladesh focusing on the engagement of State agencies and CSOs towards formulation of National Action Plan; and,
- identify the interventions of CSOs for popularizing UNGPs in Bangladesh.
**Methodology**

Mainly qualitative data were sought and used for this report. Data and information were collected from primary and secondary sources. Informal interviews were also conducted with key stakeholders and experts on business and human rights.

We intended to organize consultation and validation workshops to assess how the NAP is being formulated in Bangladesh and the current status. Unfortunately, due to the COVID-19 pandemic, data gathering was undertaken through online rather than face-to-face activities.

**Status of UNGPs in Bangladesh**

*Main agencies responsible for formulating and implementing NAP*

Three major acts -- popularizing the issue, conducting a National Baseline Assessment (NBA), and formulating a National Action Plan (NAP) -- are needed to implement UNGPs in Bangladesh (Haque, 2019).

The Cabinet is the country’s highest collective decision-making body and is led by the Prime Minister. Various Cabinet Committees and Secretaries’ Committees make decisions on various issues. NAP formulation needs Cabinet approval. Two ministries -- the Ministry of Commerce and the Ministry of Industries - can take the initiative to formulate NAP.

The Ministry of Law and Parliament Affairs and National Human Rights Commission (NHRC) along with other stakeholders can provide legal and technical support in this regard.

The UNGPs are not a legally binding instrument to be made by the UN. Bangladesh, like other UN member-States, only endorsed it in 2011. Bangladesh has many laws and policies related to business and human rights (BHR) but no laws and policies are specifically related to UNGPs (Haque, 2019).

Some agencies execute State duty to protect human rights abuses by business operations while some others (judiciary) are involved in remedial process following their human rights violations. Some State agencies themselves are doing business, forming limited companies in Bangladesh (Haque, 2019).
Various stakeholders can work as actors in the implementation process of UNGPs in Bangladesh as stated in the diagram below.

The diagram shows that many State agencies/institutions/committees are responsible for formulating the NAP and the implementation of UNGPs in Bangladesh as the stakeholders. Over 100 State agencies, including the Prime Minister Office and at least 25 ministries, are responsible for its implementation, though most of the State agencies are still unaware of the issue.

Only the NHRC has engaged in some activities although it can request the government bodies concerned to take steps/action in this regard. Unfortunately, as it stands now, the NHRC is a tiger without teeth.

Thousands of business organizations, trade bodies and trade unions, civil society organizations, multilateral and bilateral development partners and agencies, mass media institutions, academe, research institutions, and researchers are also key stakeholders in the formulation of the NAP and its implementation and compliance with the UNGPs.

**Progress of the UNGPs and formulation of the NAP as of December 2020**

A non-State actor, the United Nations Development Programme (UNDP), conducted a National Baseline Assessment (NBA) on UNGPs under its regional project (Haque, 2019). The assessment focused on two components: i) stakeholder mapping and their engagements, and ii) state of judicial and non-judicial mechanisms for remedy.
Draft reports on the two assessment studies had been prepared but updates are yet to be provided.

**Opportunities for CSO interventions on UNGPs and formulation of its NAP**

Bangladesh has a vibrant NGO sector which has achieved some success in health care, income generating activities and promotion of human rights. CSOs can be engaged to popularize UNGPs on a massive scale to ensure good business and human rights practices in the country. CSOs can participate in the NAP formulation process, or can give opinions, but the final decisions will be made by the State agencies.

**CSO interventions towards UNGPs and formulation of its NAP**

**2018 Interventions**

A small scale project on UNGPs was implemented in Bangladesh by Community Development Association (CDA) and other NES members in 2018 with financial and technical assistance from ILC and ANGOC.

A discussion meeting and three consultation workshops were organized in 2018 with the participation of NHRC and CSOs to raise awareness on BHR issues and make an advocacy plan to formulate NAP. The 2018 initiative engaged NHRC and other stakeholders.

CSOs, including NES members, gained technical knowledge on BHR issues. NHRC and CSOs signed the *Bangkok Declaration on Land Rights as Human Rights*. Two policy reports — UNGP-BHR: A Policy Brief Toward Bangladesh National Action Plan and Bangladesh Land Monitoring Report 2018 — were published. These reports were also disseminated among the stakeholders.

Under the same initiative, a scorecard was developed by ANGOC and Land Watch Asia to assess Responsible Agricultural Investment (RAI) in Bangladesh.

**Interventions in 2020**

Awareness raising activities on UNGPs were resumed in 2020 with the financial and technical assistance from ILC and ANGOC. The goal was to popularize the UNGPs and promote initiatives for the formulation of the NAP.
Unfortunately, meetings and discussions in 2020 had to be conducted online due to the COVID-19 pandemic. Focus group discussion meetings with NES members and ANGOC team were organized.

Data on the country situation and land conflicts (including case studies) were recorded. The status of UNGPs in the country was reviewed to prepare this report.

**CSO recommendations on the NAP for UNGPs**

Mainstreaming of the UNGPs and the implementation of the National Action Plan in Bangladesh require the following: a) recognition of UNGPs by NHRC and other government and human rights bodies; b) formulation of the national action plan; c) publication of annual State reports; and, d) monitoring of UNGPs involving State, private and civil society organizations.

The NHRC should assist the government in formulating the NAP, conduct advocacy and awareness building campaign with CSOs; and monitor business agreements, laws, and polices relating to business and human rights.

The government and civil society organizations should work towards the following:

- coordination among CSOs and international agencies working on the National Baseline Assessment and National Action Plan towards UNGPs;
- engagement with other concerned State agencies, along with the National Human Rights Commission;
- policy advocacy at the international level to make UNGPs a legally binding instrument for countries like Bangladesh;
- a strong commitment from political parties to implement UNGPs;
- formation of a national committee on the NAP formulation, with the representation of NGOs, NHRC and other stakeholders;
- solidarity to protect land rights defenders; and,
- translation of UNGPs into Bangla and publication of communication materials and books to help stakeholders internalize and popularize the guidelines in the country.
Plan of CSOs towards the continuation of engagement related to BHR in 2021

Stakeholders, including the government bodies, CSOs, businesses, are still unaware of the technical and implementing mechanisms of UNGPs and its National Action Plan in Bangladesh.

CSOs suggested organizing more dialogues, seminars, consultations as well as policy advocacy and mass media campaign along with publishing communication materials like posters, leaflets, books and booklets, in Bangla.

CSOs likewise proposed the following activities, processes and outputs to promote the implementation of the UNGPs in the country:

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<tr>
<th>Major activities</th>
<th>Process</th>
<th>Outputs</th>
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<tr>
<td>Awareness building</td>
<td>◦ Dialogue ◦ Seminar, Consultation ◦ Discussions ◦ References</td>
<td>◦ Consensus among the NHRC, CSOs, Media</td>
</tr>
<tr>
<td>Discussion Workshop</td>
<td>◦ Orientation ◦ Information/Material distribution ◦ Participatory discussion ◦ Linking with SDG, ESCR, CEDAW ◦ Review of existing domestic policies/law</td>
<td>◦ Unity ◦ Clear understanding ◦ Updated information ◦ Increased capacity ◦ Increased knowledge ◦ Internalization</td>
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<tr>
<td>Networking and Policy Advocacy</td>
<td>◦ Negotiation ◦ Continuous information sharing ◦ Meeting ◦ Press conference ◦ Dialogue</td>
<td>◦ Publication of statement ◦ Connection with the sources and influence ◦ Awareness on specific rights and solidarity ◦ Engagement plan ◦ Draft policy paper ◦ Formulation of Watchdog/ Monitoring Group ◦ Relationship-building at Regional and International level</td>
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<td>Training and Capacity Development</td>
<td>◦ Participatory ◦ Bottom up ◦ Workshop ◦ Using IEC materials/Case studies (UNGP, Other International instruments and tools) ◦ Action research</td>
<td>◦ Internalization ◦ Capacity to identify conflict issues ◦ Skills for negotiations and advocacy ◦ Awareness on specific information and the conflicting issues happening countrywide ◦ Preparation of respective action plans</td>
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<tr>
<td>Research and studies/Fact Findings</td>
<td>◾ Survey and Interview ◾ FGD/PRA/Scorecard ◾ Literature Review ◾ Data Analysis ◾ Case Studies ◾ Seminar</td>
<td>◾ Knowledge and guiding materials ◾ Advocacy tools ◾ Realistic/rational policy documents ◾ Increased engagement of research institutions including statistical agencies of the Government</td>
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<td>Strategic Communication Campaign</td>
<td>◾ Use of mass media, folk media, online media and social media ◾ Rally ◾ TVCs, Ads ◾ Human Chain ◾ Street meeting, Street drama ◾ Signature collection ◾ Distribution of IEC materials ◾ Public hearing ◾ Press release/conference/briefing, talk show, documentary films, column write-up ◾ Cultural events with the facts</td>
<td>◾ Sensitization ◾ Popularization ◾ Culture of Human Rights ◾ Responsiveness and Cohesion among State, policy makers and business enterprises ◾ Democratization and Land Governance ◾ Harmonization and respect</td>
</tr>
<tr>
<td>Monitoring Land Conflict Legal Aid Services</td>
<td>◾ Visit HR conflict/abuse/violation area ◾ Fact finding ◾ Checking of secondary sources ◾ Situation analysis and validation ◾ Review and Follow-up</td>
<td>◾ Prepared Monitoring Report/Periodical report ◾ Media Campaign ◾ Negotiation, Advocacy and Lobby for remedy ◾ Documentation (facts, photo, audio-video, news clippings, articles) ◾ Investigation by NHRC ◾ Strengthened rule of law</td>
</tr>
<tr>
<td>Annual Report Preparation</td>
<td>◾ Collection of facts by CSOs ◾ Collection of all program documents by each CSO ◾ Collection of monitoring reports and documents by each CSO ◾ Sharing with stakeholders an NHRC</td>
<td>◾ Publication ◾ Accountability increase of State and Business Enterprises ◾ Lobby and Advocacy with national and regional State bodies with updated policy papers</td>
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Community Development Association (CDA) produced this report based on primary and secondary sources. CDA is grateful to all of the organizations and individuals for their contribution in preparing this study.

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List of acronyms

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<th>Acronym</th>
<th>Full form</th>
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<tr>
<td>ANGOC</td>
<td>Asian NGO Coalition for Agrarian Reform and Rural Development</td>
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<td>BHR</td>
<td>Business and Human Rights</td>
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<td>CDA</td>
<td>Community Development Association</td>
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<td>CSO</td>
<td>Civil Society Organization</td>
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<td>ILC</td>
<td>International Land Coalition</td>
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<td>NAP</td>
<td>National Action Plan</td>
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<td>NES</td>
<td>National Engagement Strategy</td>
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<td>NHRC</td>
<td>National Human Rights Commission</td>
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<td>NBA</td>
<td>National Baseline Assessment</td>
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<td>UNDP</td>
<td>United Nations Development Programme</td>
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<td>UNHRC</td>
<td>United Nations Human Rights Council</td>
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<td>UNGPs</td>
<td>United Nations Guiding Principles on Business and Human Rights</td>
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<td>UN WG</td>
<td>UN Working Group on BHR</td>
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Disclaimer

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Citation


References

ANGOC et al., (2018). Towards a Philippine National Action Plan for the UN Guiding Principles on Business and Human Rights: Policy Brief. [Prepared by Asian NGO for Agrarian Reform and Rural Development (ANGOC) and Xavier Science Foundation (XSF) with the assistance of the European Union, Consortium for Agrarian Reform (KPA), and International Land Coalition (ILC).]