

# Taking the first steps in the right direction:

## Summary Report on CSO Intervention on UNGPs in Nepal

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### Background

In 2008, the United Nations endorsed the “Protect, Respect, and Remedy Framework” that laid down the principle that States have the duty under international human rights law to protect everyone within their territory and/or jurisdiction from human rights abuses committed by business enterprises.

At the same time, the Framework stipulated that business enterprises must respect human rights wherever they operate and whatever their size or industry and that individuals and communities have the fundamental right to seek remedies when their rights are adversely impacted by business activities, such as by going to the courts.

On 16 June 2011, the UN Human Rights Council endorsed the UN Guiding Principles on Business and Human Rights (UNGPs), guidelines that operationalize the UN Framework and further define the key duties and responsibilities of States and business enterprises regarding business-related human rights abuses.

The Working Group on Business and Human Rights (UNWG) was mandated by the UNHRC to promote the effective and comprehensive implementation of the UNGPs. To help fulfill that mandate, the UNWG noted in its 2016 Guidance on Business and Human Rights that National Action Plans (NAPs) can be an important means to promote the implementation of the UNGPs.

## *Objective of this report*

This report was thus prepared to inform the public about the status of the NAP for UNGPs in Nepal and the contribution to as well as participation of CSOs in its formulation. Specifically, this report was formulated to:

- give an update on the status of the UNGPs in Nepal and the role of the NHRC;
- document the progress on the NAP for UNGPs and how CSOs have been lobbying or pushing for their advocacies in the plan's formulation; and,
- make the government and other concerned stakeholders more aware of the importance of the UNGPs in Nepal.

## *How this report was prepared*

This report is the result of two formal interviews and several informal discussions between CSRC and the point person on BHR of the NHRC.

The concept of UNGPs is not widely known by stakeholders in Nepal such as government officials and even CSOs and NGOs. Fortunately, representatives of the NHRC are familiar with the agenda and know their roles and responsibilities.

Aside from the interviews and the discussions, this report also made reference to the UNGPs and synthesized relevant secondary data.

## *Scope and limitations*

Due to the COVID-19 pandemic, the writer could not personally meet with authorities who could shed more light on the status of the NAP preparation. But even then crucial information was secured through phone conversations with point persons and concerned stakeholders.

This report also made heavy use of secondary data and is mostly guided by qualitative tools and techniques of data collection.

## **Status of UNGPs in the country**

Nepal is just starting to formulate its NAP for UNGPs.

According to the office of the Prime Minister, the Nepalese government has been discussing the concept of business and human rights with the country's enterprises, as well as CSOs and development organizations.

NHRC has been organizing since 2018 workshops, seminars, and webinars to acquaint the government ministries, NGOs, and business enterprises with the framework as well as the working guidelines.

According to the focal person for BHR, the NHRC has also been consulting with the media at the local and provincial levels to engage them in spreading the messages of BHR and the roles of stakeholders in the formulation of the NAP that will institutionalize the UNGPs in Nepal.

So far, five such consultations have been undertaken.

Also, the NHRC is constantly collaborating with CSOs and government agencies to advocate the passage of the NAP for UNGPs in Nepal.

### ***Main agencies responsible for formulating and implementing the National Action Plan (NAP) for UNGPs***

The Constitution of Nepal has declared NHRC one of the country's constitutional bodies.

It is a free, independent and autonomous body tasked to investigate possible human rights violations and recommend appropriate sanctions against violators.

It is also tasked to recommend to the government the ratification of international treaties. As such, it has recommended to the Nepalese government the formulation of the NAP for the further promotion and protection of human rights.

As a member-State of the United Nations and a State party of several international human rights treaties, the Government of Nepal sends its representatives to various forums such as the Universal Periodic Review, UN General Assembly, and the UN Forum on Business and Human Rights.

Representing Nepal during the UN Forum on BHR in Geneva, Switzerland on 27 November 2019 is Koshal Chandra Subedi, Joint Secretary at the Office of the Prime Minister and Council of Ministers.

Mr. Subedi said then that the Government of Nepal was committed to implementing the UNGPs.

Nepal is also preparing to adopt the 5th National Human Rights Action Plan that recognizes the importance of the UNGPs and encourages enterprises to mainstream UNGPs in all their activities.

According to Mr. Subedi, the government is committed to continuing to better institutionalize the business and human rights agenda in the country.

### *Progress of the UNGPs and the formulation of its NAP*

The devastating COVID-19 pandemic has prevented Nepal from making any significant progress in the formulation of the NAP that will operationalize the UNGPs.

Because of containment measures to prevent the spread of COVID-19, work toward crafting the NAP was limited to initial consultations with the NHRC team on formulating the NAP.

Before COVID-19 hit the world hard in 2020, CSRC and other CSOs were able to organize consultations, workshops and seminars on BHR.

The point person for BHR of NHRC said it has at least started the process of consulting with concerned stakeholders.

Dipendra Singh said: "We are raising awareness on the importance of BHR for the concerned stakeholders through different workshops, and seminars. The businesspersons who were not interested in participating for the NAP formulation process at the beginning are now inspired us for the formulation of NAP. They realize the importance of NAP for business sectors as well."

NHRC, for example, organized a regional conference on Business and Human Rights in Pokhara, capital city of Gandaki province, in February 2017 with the goal of spreading the message on the importance of upholding BHR to concerned stakeholders.

Similarly, NHRC organized two regional consultation webinars on BHR in January 2020 to collect recommendations from stakeholders in Butwal and Nepalganj, regional business hubs of Lumbini Province.

## **Opportunities for CSO interventions on BHR and formulation of NAP for UNGPs**

Nepal's NHRC has fortunately always considered CSOs among the important stakeholders that it knows it has to engage with to formulate the NAP for UNGPs.

It has always been open to collaborate with CSOs to organize dialogues, discussions, and other consultations. CSOs can thus take advantage of this openness by working jointly with the NHRC to draw up recommendations on what will go into the NAP.

Since NHRC has limited financial and human resources, CSOs can fill the gap and help the NHRC conduct national and provincial workshops so that more sectors will be made aware of the UNGPs and the impact on citizens, corporations as well as the government.

As it is now, many of those in the corporate world are not aware of the UNGPs and the State's obligation to uphold and defend citizens' human rights if these are violated by businesses.

Since Nepal is a State party of ILO 169, which provides for the promotion of human rights of every citizen regardless of caste or gender, the government is responsible for formulating the NAP as soon as possible and the CSOs can help the government fulfill that mandate.

### ***CSO interventions towards the popularization of BHR and the formulation of the NAP***

Some CSOs had already collaborated with NHRC to organize workshops, and seminars relating to the UNGPs.

A multi-stakeholder dialogue on business and human rights, for instance, was conducted on 20 August 2018. The discussion held in Kathmandu was jointly organized by CSRC, NHRC and Lawyers Association for Human Rights of Nepalese Indigenous Peoples (LAHURNIP).

The dialogue was conducted to delve into human rights violations committed by the business sector across the country.

Representatives of the government, private sector, national human rights institutions, funding agencies, diplomatic missions and victims of development projects attended the key dialogue.

CSRC presented papers during the dialogue to inform the stakeholders of the meaning, basic tenets, and importance of BHR.

CSRC also partnered with the NHRC to conduct a webinar on Business and Human Rights and roles of stakeholders in the formulation of the NAP. The webinar held on 23 December 2020 was attended by senior level government stakeholders including the joint secretary from the Office of Prime Minister and Municipal Council (OPMMC), Ministry of Land Management Cooperatives and Poverty Alleviation (MoLMCPA), National Planning Commission (NPC) and the Sub-Secretary of Ministry of Industry, Commerce and Supply (MoICS).

### ***Rationale/purpose of interventions***

It has been 10 years since the UNGPs were endorsed by the UN Human Rights Council and yet knowledge on these guidelines and the duties and responsibilities of the government and business enterprises to check against business-related human rights abuses remains low.

This is why it is important that more business enterprises, workers and other stakeholders be made aware of the importance of the UNGPs to better engage the government in the formulation of the NAP.

CSOs can play a key role in providing inputs to the draft NAP to be formulated by the government in consultation with relevant stakeholders such as the private sector.

### ***Description of outputs and emerging outcomes of key activities***

According to Dipendra Singh, the focal person of NHRC on BHR, the NAP for UNGPs formulation process is yet to start in Nepal. The Government of Nepal has established a monitoring unit for BHR at the Ministry of Law and Justice. The United Nations Development Programme (UNDP) has been supporting to

the government to implement the program from that unit. He said, "The government has now internalized that it is the government's duty to formulate NAP to fulfil the duty of international obligation."

## Recommendations of CSOs on NAP for UNGPs

CSOs have recommended that the government protect and respect the rights of the landless and informal settlers. They are more vulnerable to rights violations because of the development projects of both government and the private sector.

Some of the CSOs' recommendations to government in relation to the UNGPs are:

- The government should start discussions with concerned stakeholders on the formulation of the NAP that will operationalize the UNGPs;
- The landless, informal settlers and pro-poor communities need to be consulted prior to setting the development agenda. Their concerns should be addressed through the NAP for UNGPs;
- A separate unit should be established in the Office of Prime Minister and Council of Minister to monitor business and human rights;
- As many business enterprises are not aware of the importance of NAP for UNGPs, a dialogue should be organized to make more of them aware of its importance;
- The NHRC should prepare an annual progress report on NAP for UNGPs and disseminate the findings to the concerned stakeholders; and,
- CSOs need to organize a joint campaign and advocacy for NAP formulation of UNGPs. Separate roles and responsibilities should be delegated to like-minded organizations working in human rights sector.

### *Response to the recommendations of CSOs*

The government and other stakeholders provided their own updates, insights into and recommendations on the formulation of the NAP during the webinar on Business and Human Rights (BHR) organized by CSRC on 23 December 2020. These include:

## Government

- The government is in regular consultation with business enterprises, CSOs and development partners to begin the process of formulating the NAP for UNGPs in Nepal;
- It has established a separate unit on BHR at the office of Ministry of Law, Justice and Parliamentary Affairs. This unit prepares the agenda for the formulation of NAP for UNGPs based on consultations with concerned stakeholders; and,
- The Ministry of Laws, Justice and Parliamentary Affairs has helped organize provincial and local level dialogues organized by NHRC.

## NHRC

- NHRC organized regional level workshops in 2020 that were participated in by media, business enterprises, CSOs and province and local level government authorities to inform them about the importance of NAP for UNGPs in Nepal;
- NHRC has partnered with CSOs and other development organizations for the advocacy for the NAP formulation for UNGPs in Nepal; and,
- NHRC will submit through its annual report the recommendations to the Government of Nepal to initiate the formulation of NAP in Nepal.

## Plan of CSOs towards the continuation of engagement related to BHR

The plan on UNGPs is as follows:

- Meeting with NHRC to discuss on the progresses of BHR;
- Support to NHRC to publish progress report on BHR;
- Multi-stakeholder dialogue on UNGPs; and,
- Preparation of policy brief and submit to the Office of Prime Minister and Council of Ministers. ■



<b>List of acronyms</b>	
ANGOC	Asian NGO Coalition for Agrarian Reform and Rural Development
BHR	Business and Human Rights
CSOs	civil society organizations
CSRC	Community Self Reliance Centre
ILO	International Labour Organization
NAP	National Action Plan
NHRC	National Human Rights Commission
UN	United Nations
UNGPs	United Nations Guiding Principles on Business and Human Rights
UNHRC	United Nations Human Rights Council
UNWG	United Nations Working Group on Business and Human Rights

## Acknowledgment

This report summarizes the major highlights of the status of the UN Guiding Principles on Business and Human Rights (UNGPs) in Nepal.

The information presented in this report is the outcome of the following: a) webinar on Business and Human Rights organized by the Community Self Reliance Centre (CSRC) together with National Human Rights Commission (NHRC), and b) review of various reports such as annual reports of NHRC, Constitution, laws, and policies. The suggestions, recommendations, and status of the formulation of the National Action Plan for UNGPs in Nepal presented by the senior government officials during the webinar were analyzed and presented as well as in this report.

In this regard, this paper is the outcome of the collaborative efforts of the government and its agencies, NHRC, UN agencies and civil society organizations.

CSRC would like to thank NHRC Secretary Bed Prasad Bhattarai, NHRC focal person on BHR Dipendra Singh and other NHRC representatives for providing relevant documents and information related to UNGPs.

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We would like to express our gratitude to the Ministry of Land Management, Cooperatives and Poverty Alleviation (MoLMCPA), National Planning Commission, (NPC), Ministry of Industry, Commerce and Supply (MoICS) for sharing their thoughts on the NAP formulation for UNGPs in Nepal.

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