

# ROLES OF CIVIL SOCIETY ORGANIZATIONS (CSOS) IN PREPARING NATIONAL ACTION PLAN (NAP) ON BUSINESS AND HUMAN RIGHTS IN NEPAL

In Collaboration With



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## Acronyms

<b>B+HR-NAP:</b>	Business and Human Rights National Action Plan
<b>CSOs:</b>	Civil Society Organizations
<b>FNCCI:</b>	Federation of Nepalese Chambers of Commerce and Industry
<b>MoLESS:</b>	Ministry of Labour, Employment, and Social Security
<b>NAP:</b>	National Action Plan
<b>NFN:</b>	NGO Federation of Nepal
<b>NHRC:</b>	National Human Rights Commission
<b>NHRI:</b>	National Human Rights Institutions
<b>SMEs:</b>	Small and Medium Enterprises
<b>UNDP:</b>	United Nation Development Program
<b>UNWG:</b>	United Nation UN Working Group
<b>UPR:</b>	Universal Periodic Review
<b>UNGPs:</b>	United Nation Guiding Principles on Business and Human Rights

# 1. Introduction

The introduction of business and human rights reflects a fundamental shift in the understanding of the relationship between corporations and society. Historically, the focus was primarily on economic growth and profit generation, often at the expense of human rights considerations. However, in recent decades, there has been a growing recognition of the significant impact that business activities can have on the enjoyment of human rights, both positively and negatively.

Business and human rights refer to the framework that seeks to ensure that business enterprises respect and promote human rights in their operations, products, and services. This framework is grounded in international human rights law and standards, including the Universal Declaration of Human Rights and the International Labour Organization's core conventions. It acknowledges the responsibilities of both states and businesses in upholding human rights, with the understanding that corporations have a responsibility to respect human rights throughout their operations, supply chains, and business relationships.

The introduction of business and human rights has led to the development of various initiatives and mechanisms aimed at promoting corporate responsibility and accountability. These include the UN Guiding Principles on Business and Human Rights, which provide a global standard for preventing and addressing adverse human rights impacts associated with business activities. Additionally, there has been a proliferation of corporate social responsibility initiatives, codes of conduct, and multi-stakeholder initiatives aimed at promoting responsible business practices.

In conclusion, the introduction of business and human rights represents a significant paradigm shift in the way we understand the role of corporations in society. It emphasizes the importance of integrating human rights considerations into business decision-making processes and underscores the shared responsibility of states, businesses, and other stakeholders in promoting respect for human rights in the corporate sector.

## **2. UN Guiding Principles on Business and Human Rights**

The UN Guiding Principles on Business and Human Rights (UNGPs) represent a landmark framework that sets out the roles and responsibilities of states and businesses in respecting and protecting human rights in the context of economic activities. Endorsed by the UN Human Rights Council in 2011, the UNGPs were developed by Professor John Ruggie, the UN Special Representative on Business and Human Rights, through extensive consultations with stakeholders worldwide.

The UNGPs are structured around three pillars: the state duty to protect human rights, the corporate responsibility to respect human rights, and the need for access to remedy for victims of human rights abuses.

Firstly, the UNGPs emphasize the primary obligation of states to protect against human rights abuses by business enterprises operating within their jurisdiction. This includes ensuring effective laws, regulations, and enforcement mechanisms to prevent human rights violations by businesses, as well as providing access to remedies for those adversely affected.

Secondly, the UNGPs outline the corporate responsibility to respect human rights, which entails that businesses should act with due diligence to avoid infringing on the human rights of others and address any adverse impacts that may arise from their operations. This responsibility extends throughout a company's entire value chain, including subsidiaries, suppliers, and business partners.

Lastly, the UNGPs underscore the importance of providing access to effective remedy for individuals and communities who have been harmed by business activities. This involves establishing accessible and effective grievance mechanisms, both judicial and non-judicial, to ensure that victims can seek redress and obtain justice for human rights violations.

Overall, the UNGPs provide a comprehensive framework for promoting corporate respect for human rights, fostering greater accountability, and advancing the protection of human rights in the context of business activities globally. They have become widely recognized as the authoritative standard for guiding the behavior of both states and businesses in the field of business and human rights.

### **3. National Action Plan (NAP) on Business and Human Rights**

National Action Plan (NAP) on Business and Human Rights serve as strategic frameworks adopted by governments to promote and safeguard human rights in the context of business activities within their jurisdictions. These NAP are developed with the aim of implementing the principles outlined in the UN Guiding Principles on Business and Human Rights (UNGPs) at the national level.

The introduction of NAP on Business and Human Rights marks a significant step towards enhancing the accountability of both states and businesses in upholding human rights standards. These plan typically outline a series of measures and initiatives to be undertaken by governments, businesses, civil society organizations, and other stakeholders to prevent, mitigate, and address human rights abuses linked to corporate activities.

NAP typically encompass several key components. Firstly, they identify and analyze human rights risks and impacts associated with business operations within the country. This involves conducting assessments of existing laws, regulations, and policies governing business conduct, as well as identifying gaps and areas for improvement.

Secondly, NAP set out a range of measures aimed at enhancing the protection of human rights in business operations. These may include legislative reforms, regulatory measures, capacity-building initiatives, and awareness-raising campaigns to promote responsible business conduct and ensure access to remedy for victims of human rights abuses.

Thirdly, NAP often include mechanisms for monitoring, reporting, and reviewing progress in the implementation of the plan. This involves establishing robust monitoring frameworks, engaging with stakeholders to solicit feedback, and periodically evaluating the effectiveness of the measures undertaken.

Overall, the introduction of NAP on Business and Human Rights reflects a growing recognition of the need for concerted efforts to address the human rights impacts of business activities. By adopting these plan, governments signal their commitment to upholding human rights standards and promoting responsible business conduct, thereby contributing to the realization of a more just and sustainable global economy.

## **4. National Action Plan on Business and Human Rights of Government of Nepal**

The launch of the National Action Plan on Business and Human Rights by the Nepal government marks a significant milestone in promoting responsible business practices and strengthening human rights standards in the country. This initiative forms a vital component of the government's overarching strategy to foster economic development while ensuring the protection of citizens' rights and the environment. Nepal's adoption of this strategic framework places it as the second country in South Asia and the 41st globally to embrace human rights principles in business operations. The five-year plan, set to conclude in 2028, underscores the government's long-term commitment to upholding human rights within the business sphere.

During the launching programme of the national action plan, Minister for Labour, Employment and Social Security emphasized that respecting human rights is not solely the responsibility of the government but also of the private sector. The officials highlighted the significant impact of businesses on the lives of individuals in Nepal, emphasizing the importance of ensuring that businesses uphold human rights across all their operations.

The development of the action plan is the culmination of a longstanding collaboration between the ministry and the UNDP in Nepal, with support from the governments of Japan and Norway. Aligned with national provisions and international human rights standards, such as the UN Guiding Principles on Business and Human Rights, the action plan outlines the expectations and obligations of both the government and businesses in Nepal to respect, protect, and fulfill human rights across various thematic areas.

Representatives from the Japanese embassy and UNDP stressed the importance of collaboration and coordination among stakeholders for the successful implementation of the action plan. They expressed optimism that the plan would enhance standards and practices regarding business and human rights, contributing to socially sustainable globalization.

The action plan aims to support companies in managing human rights risks within their operations and supply chains, aligning with global trends towards responsible business conduct. Its adoption by the Nepal government signals to investors that Nepal is committed to fostering an environment conducive to responsible business practices.

Initially identified as a key action under the national human rights action plan introduced in 2020, the government has established a task force to oversee the implementation of the action plan. This collaborative effort involved some level of

consultation and feedback collection from businesses, civil society organizations, international experts, and other stakeholders to ensure the plan's quality and effectiveness. Through this participatory approach, Nepal aims to promote responsible business practices and advance human rights protection in its business landscape.



## 5. Overview of Preparation of National Action Plan (NAP)

The Ministry of Labour, Employment, and Social Security (MoLESS) commenced the endeavor to formulate the B+HR-NAP (Business and Human Rights National Action Plan) in September 2020, intending to bring it to fruition within a two-year timeframe. However, the progression of the process encountered setbacks attributed to various factors, prominently including the disruption caused by the coronavirus pandemic.

In the initial stages, a small team was assembled by the Ministry of Labour, Employment, and Social Security in 2020 to spearhead the development efforts. However, it was noted that the composition of this team lacked inclusivity, potentially hindering a comprehensive representation of all relevant stakeholders.

UNDP Nepal has assumed a supportive role in facilitating the NAP process, contributing resources and expertise to advance the formulation and implementation of the plan.

Throughout the preparatory phase, a level of consultation was maintained with the Federation of Nepalese Chambers of Commerce and Industry (FNCCI), albeit at a moderate level, to gather insights and perspectives from the business community.

The engagement of the National Human Rights Commission (NHRC) in the NAP process was observed to be partial, indicating potential gaps in the integration of human rights perspectives in the formulation of the plan.

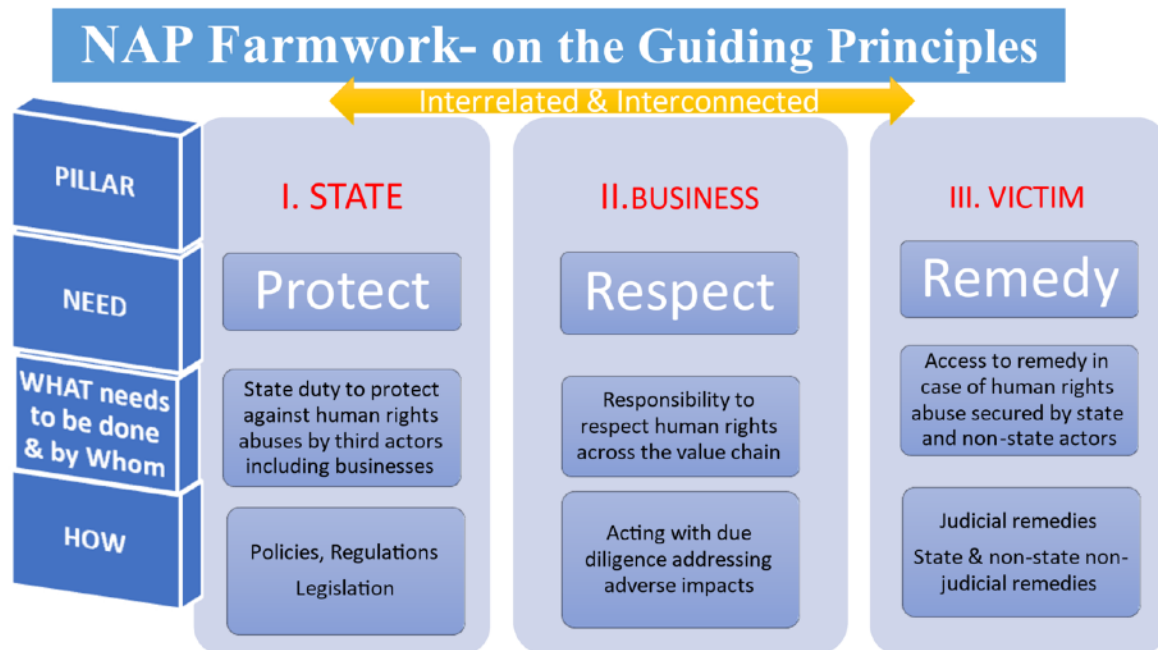
Inter-governmental agencies have shown a relatively lower level of awareness and engagement with the ongoing NAP process, suggesting the need for enhanced communication and collaboration to ensure alignment with broader national objectives and policies.

Despite the absence of a formal mechanism for direct engagement, Civil Society Organizations (CSOs) and Small and Medium Enterprises (SMEs) have actively participated in advocacy efforts through initiatives organized by the B+HR Network. These efforts have aimed to raise awareness and advocate for the inclusion of their perspectives in the NAP development process.

Furthermore, the B+HR Network, a multi-stakeholder holder platform on responsible business and business and human rights has actively advocated for their demands to be considered and has been integrated into the official process and international mechanisms, underscoring their commitment to ensuring the comprehensive implementation of the NAP. Additional information can be accessed through the provided link: <https://globalNAP.org/country/nepal/>.

## 6. NAP Framework Agreed by Government of Nepal

The framework for addressing business and human rights issues has been accepted by the Government of Nepal, signaling its commitment to promoting responsible business practices and protecting human rights within the country.



## **7. Reflection on Nepal's NAP Formulation**

### **A. Initiation of NAP**

During the initiation of the NAP, there was a lack of engagement from Civil Society Organizations (CSOs), National Human Rights Institutions (NHRIs), and individual Government entities. CSOs did not take the lead in providing initial support for the development of the NAP; instead, the Ministry of Labour, Employment, and Social Security initiated the process with the facilitation support of UNDP. Additionally, NHRIs and academic institutions refrained from participating in research activities, organizing multi-stakeholder dialogues, and undertaking other awareness-raising and capacity-building efforts. The absence of government initiatives and mechanisms further hindered CSO participation. Nonetheless, the B+HR Network played a pivotal role in organizing awareness and advocacy campaigns for CSOs and SMEs, while some business houses engaged in consultations facilitated by UNDP.

### **B. NAP Development Stage**

The Government's approach to formulating the NAP has been notably deficient in several critical aspects. Firstly, there has been a conspicuous absence of policy-oriented research to underpin the development of the NAP framework. This lack of foundational research hampers the effectiveness and comprehensiveness of the plan. Moreover, the absence of a baseline assessment further exacerbates this issue, as it inhibits the government's ability to accurately gauge progress and identify areas requiring intervention. Additionally, the government has failed to mandate the involvement of external experts, National Human Rights Institutions (NHRIs), or independent research institutions to conduct assessments and identify gaps in the NAP. This failure to leverage external expertise diminishes the plan's capacity to address complex challenges comprehensively. Furthermore, there has been a notable deficiency in formal processes to consult Civil Society Organizations (CSOs) during the preparation of the NAP. While informal consultations have been organized by UNDP, they have involved limited participation from CSOs. Although some businesses were included in these consultations, the overall lack of robust engagement with CSOs underscores a significant gap in the inclusivity and effectiveness of the NAP development process.

### **C. NAP Drafting Stage**

The consultation and revision of a draft version are essential steps before its publication and finalization, yet this critical process was overlooked in the development of the NAP. A broader consultation involving workers, including NGOs,

media representatives, and Small and Medium Enterprises (SMEs), should ideally occur prior to Cabinet endorsement, yet this crucial step was also omitted. It is imperative that the NAP is grounded in successful pre-existing laws and initiatives that have demonstrated their ability to implement the UN Guiding Principles effectively. However, the NAP drafting process failed to adhere to an inclusive approach that would have incorporated the perspectives of small-scale businesses, Civil Society Organizations (CSOs), and the informal sector. This oversight highlights a significant gap in the inclusivity and effectiveness of the NAP development process, potentially compromising its ability to address the diverse needs and realities of all stakeholders involved.

#### **D. Implementation Phase**

The National Action Plan (NAP) outlines the recommendations provided by the UN Working Group (UNWG) regarding the process and institutional setup for implementing and monitoring the NAP. It is crucial that the modalities of this process are clearly articulated in the NAP document, ensuring transparency and accountability. Additionally, the roles and responsibilities of multi-stakeholder entities involved in the implementation and monitoring should be clearly defined to avoid ambiguity and ensure effective collaboration. The overarching aim of Phase 4 is to ensure that the measures outlined within the respective NAP are effectively implemented within the designated timeframe. However, it is concerning that the NAP fails to explicitly mention processes for involving non-governmental stakeholders in monitoring and providing feedback. Non-governmental stakeholders play a vital role in ensuring accountability and transparency in the implementation process. Their perspectives, comments, and recommendations should be actively sought and incorporated into the NAP implementation framework to enhance its effectiveness and legitimacy. Unfortunately, the absence of provisions for such engagement in the NAP raises questions about its inclusivity and may hinder its ability to achieve its intended outcomes.

#### **E. Update of NAP**

This stage recognized as the Update Phase, elaborates on the continuous evaluation and refinement process for National Action Plan (NAP), emphasizing the imperative of addressing pertinent governance gaps in each iteration, integrating stakeholder feedback comprehensively, and taking into account the strides made in previous implementation periods. However, the noticeable omission of any reference to the Nepal NAP within the update is indeed conspicuous and merits attention.

## **8. CSOs Roles for effective NAP**

Efforts aimed at creating awareness and capacity-building initiatives play a pivotal role in fostering an environment conducive to promoting business and human rights, as well as advancing the objectives outlined in the National Action Plan (NAP). These initiatives target a diverse range of stakeholders, including rights-holders, state actors, and businesses, with the aim of enhancing their capacity to uphold and advocate for business and human rights principles. Civil Society Organizations (CSOs) serve as key intermediaries in this process, playing instrumental roles in various capacities. They facilitate the referral of complaints from rights-holders to appropriate remedy channels and act as vital connectors, linking rights-holders with essential service providers. Furthermore, CSOs extend support to rights-holders and victims of human rights abuses in accessing legal aid, thereby facilitating their access to justice mechanisms. Additionally, CSOs play a critical role in monitoring business practices to ensure compliance with human rights standards. This monitoring function is particularly evident in the Universal Periodic Review (UPR) process, where many CSOs actively contribute their insights and observations to state monitoring mechanisms. By engaging in these multifaceted activities, CSOs contribute significantly to the broader goal of promoting and protecting human rights within the business sphere, thus reinforcing the principles outlined in the NAP.

The involvement of Civil Society Organizations (CSOs) in promoting business and human rights encompasses several key activities. Firstly, CSOs play a crucial role in facilitating the organization of business assessments and due diligence processes, ensuring that businesses uphold human rights standards in their operations. Secondly, through collaboration with both government entities and businesses, CSOs leverage their technical expertise to provide support in developing human rights policies and safeguarding frameworks. This collaborative effort aims to foster a culture of respect for human rights within both public and private sectors. Furthermore, CSOs operate on national and international levels to establish platforms that amplify civil society voices on business and human rights issues. These platforms serve as arenas for sharing expertise, experiences, and networks among various CSOs within the coalition, thereby strengthening collective advocacy efforts. Finally, CSOs engage in advocacy and policy dialogue initiatives aimed at influencing the development and enforcement of laws and regulations by governments to effectively implement National Action Plan (NAP) for business and human rights. Through these multifaceted endeavors, CSOs contribute significantly to promoting accountability, transparency, and respect for human rights in the business sector.

## 9. Effective Implementation of NAP: Way-Forward

Based on the provided statement, here are some recommendations for the effective formulation and implementation of a National Action Plan (NAP) for business and human rights:

- A. **Comprehensive Stakeholder Engagement:** Actively involve diverse stakeholders, including civil society organizations (CSOs), marginalized communities, businesses, and government agencies, throughout the NAP development and implementation processes. This ensures that a wide range of perspectives are considered and fosters buy-in from all relevant parties.
- B. **Transparency and Accountability Mechanisms:** Establish transparent processes for collecting, analyzing, and publishing stakeholder inputs to identify priorities for the NAP. Implement robust accountability mechanisms to track progress and ensure adherence to human rights principles by all stakeholders, including businesses and government agencies.
- C. **Baseline Assessment and Needs Analysis:** Conduct a thorough baseline assessment of Nepal's legislative and regulatory framework concerning business conduct, utilizing a neutral organization to provide an unbiased evaluation. Identify gaps and shortcomings in existing policies and regulations and prioritize addressing them in the NAP.
- D. **Accessibility to Remedies:** Ensure accessibility to mechanisms for redress, remedy, and accountability for communities adversely affected by business activities. This may include establishing legal aid services, ombudspersons, or other channels for affected individuals and communities to seek justice and restitution for harm caused by business operations.
- E. **Meaningful Participation:** Overcome barriers to meaningful participation of communities and key affected populations by creating regular dialogue and collaboration platforms. Facilitate ongoing engagement between stakeholders to address pressing issues and ensure that their voices are heard in decision-making processes.
- F. **Alignment with International Standards:** Align the NAP with international standards and frameworks such as the UN Guiding Principles on Business and Human Rights, the Sustainable Development Goals, and the Paris Agreement on Climate Change. Ensure that expectations for businesses to fulfill their responsibilities under these frameworks are clearly articulated in the NAP.

**G. Implementation, Monitoring, and Review:** Incorporate a comprehensive implementation plan, monitoring, review mechanisms, and reporting mechanisms into the NAP framework. Establish a regular progress review led by the government, in collaboration with inter-governmental working groups and multi-stakeholder steering committees, to evaluate and adjust NAP initiatives over time.

**H. Prioritize Marginalized Groups:** Prioritize addressing the impacts of business activities on marginalized groups in the NAP. Consider expanding the mandate of the Human Rights Commission to enhance oversight of business practices and ensure greater protection for vulnerable communities.

By implementing these recommendations, Nepal can effectively promote human rights protection and corporate accountability in its business landscape through the NAP.

## 10. References

**Survey** : Data collected with 45 CSOs, 12 SMEs, 7 Business houses and their Associations (Google forms were created and sent to the respondents with both closed and open-ended questions to selected institutions.

**Desk Review** : Organized review of data, reports, tools, or other resources developed by UNDP and Ministry of Labor, Employment and Social Security

**Multi-stakeholder interaction and meeting:** Organized 4 national consultations and one international consultation

**Collection secondary sources** : Review of reports, books and analysis of internet sources the review of data, reports, tools, or other resources developed by your organization (<https://globalNAP.org/country/Nepal/>)

**Organize Interview:** Organized 5 Key Informant Interviews (KII)

**Online open data sources**