



National Action Plans on Business and Human Rights

Recommendations from The Global Business Initiative on Human Rights

20th June 2015

The Global Business Initiative on Human Rights (GBI), representing 18 leading multi-national enterprises from diverse industries and geographies, encourages States to fulfil their duty to protect human rights consistent with the United Nations Guiding Principles on Business and Human Rights (UNGPs). This duty sits alongside the need for all companies in all geographies to meet their corporate responsibility to respect human rights – a responsibility that GBI Members embrace and promote with peers around the world.

The development of National Action Plans (NAPs) by all States can create momentum towards the full realisation of State human rights obligations that are re-affirmed in the UNGPs. State leadership is critical to achieving tangible and positive results for individuals and communities affected by economic and business activity. Further, States' respecting, protecting, promoting and fulfilling human rights is part of creating an enabling environment for responsible investment and business today and for the long term.

GBI recommends that each National Action Plan focus on:

1. Reinforcing the concept of shared but differentiated responsibilities between States and business affirmed in the 'Protect, Respect, Remedy' Framework of the UNGPs.
2. Building the State's ability to know and show how the State itself addresses human rights and business at home and abroad using the full range of relevant policy instruments available to it, including in the context of its economic and commercial activities.
3. Strengthening internal capacity and coherence across relevant government agencies.
4. Increasing collaboration between States to address entrenched business and human rights challenges and the governance gaps that underpin them.
5. Linking the business and human rights agenda with sustainable development in ways that reinforce good governance.
6. Applying credible methodologies and fostering convergence in how States scope, develop and implement NAPs.
7. Using business as a strategic partner alongside other stakeholders.

- 1. Reinforcing the concept of shared but differentiated responsibilities between States and business affirmed in the 'Protect, Respect, Remedy' Framework of the UNGPs.** GBI Member companies recognise that all companies need to meet their responsibility to respect human rights. However, cumulative progress cannot be made if States focus solely on actions aimed at shaping business conduct in line with the business responsibility to respect. Even measures to ensure that companies commit to respect human rights, carry out human rights due diligence and establish effective grievance mechanisms will not address the governance gaps that underpin most business and human rights challenges. NAPs are an opportunity for States to focus on identifying and ensuring they fulfil their primary role to protect all human rights, initially but not solely in the context of business and human rights issues in their own territory.

- 2. Building the State's ability to know and show how the State itself addresses human rights and business using the full range of relevant policy instruments available to it, including in the context of its economic and commercial activities.** As noted by the former UN Special Representative of the Secretary-General for Business and Human Rights (SRSG) '...the repertoire of policy instruments available to states to improve the human rights performance of firms is far greater than most states currently employ.' [Para. 79, 2008 Report of the SRSG to the Human Rights Council]. Consistent with this, NAPs should identify, and direct attention to, the full range of State policies, laws and activities (including monitoring and enforcement). This will include, among others, the State's domestic and international aid, trade and investment policies; labour and environmental policies and laws; corporate law; procedural law; procurement, licensing and development co-operation activities; plus the activities of state-owned enterprises. Additionally, this will include the positions and actions of the State in the context of participation in multi-lateral institutions and fora.

- 3. Strengthening internal capacity and coherence across relevant government agencies.** Importantly, the UNGPs recognise that the state duty to protect requires policy coherence across all departments, ministries and at all administrative levels of government that touch directly or indirectly on business conduct at home and abroad. The formulation of NAPs should involve all parts of government that have roles and responsibilities in fulfilling the State's duty to protect human rights, including its obligation to provide access to remedy. States also need to ensure that relevant government agencies have the necessary budgets and capacity to implement actions related to responsible business. States should implement awareness raising and training about the UNGPs and responsible business for both national and local government officials in all relevant functions (including staff posted overseas). States should embrace the task of developing, collating and communicating human rights risk information to inform the human rights due diligence of their own business community. Such information could benefit from being centrally managed and disseminated widely across government (including to embassies) to ensure consistent guidance from diverse parts of government. Widespread knowledge and internal coherence across government will avoid inconsistencies and uncertainties – both of which are unhelpful for business entities and individuals.

- 4. Increasing collaboration between States to address entrenched business and human rights challenges and the governance gaps that underpin them.** NAPs should be used to activate home and host State partnerships, and multi-lateral institutions around shared business and human rights issues and goals. This can provide a helpful framework for all actors to work together to apply all three pillars of the UNGPs in targeted and effective ways. In this context 'all actors' should include the involvement of companies of all sizes, ownership structures and in all geographies – not only a subset of the business community involved in the issue. Considering the dilemmas and challenges that companies often face, GBI believes that specific attention should be given to: i) situations of severe human rights abuses where governments face the biggest implementation challenges (including

conflict and post-conflict contexts); ii) domestic contexts making it difficult for companies to meet their responsibility to respect in ways that fully address risks to people (for example, when national law is at odds with international norms); and iii) initiatives that deal with corporate responsibilities in global value chains (including supply chains).

5. Linking the business and human rights agenda with sustainable development in ways that reinforce good governance. The centrality of private enterprise in the pursuit of sustainable development, and the importance of sustainable development in achieving long-term business success, are now well established. With this in mind, discussions to develop NAPs should address two things in particular: First, the importance of States protecting and companies respecting human rights in the economic sphere for achieving sustainable development; and second, ensuring that when companies are called upon to contribute to the achievement of development targets and human rights – for example, via the delivery of infrastructure, public services or goods – this should not undermine the State’s role or capacity to fulfil human rights.

6. Applying credible methodologies and fostering convergence in how States scope, develop and implement NAPs. In developing NAPs, States should adopt credible and systematic methodologies. The definitions, spirit and intent of corporate respect for human rights, including human rights due diligence, as outlined in the ‘respect pillar’ of the UNGPs could inform government approaches to NAPs. State activities could include adopting processes to identify policy gaps, assess government institutions’ adverse human rights impacts, set priorities, engage stakeholders, and establish and apply leverage. NAP development should not be a one-off exercise but an on-going process. Approaches, tools and lessons from the business community’s experience implementing the respect pillar can inform this work, especially where the State is an economic actor. Further, it will be helpful for companies operating globally if States align approaches to meeting their State duty to protect consistent with the UNGPs. Each government is organised differently, but economies of scale could be reached through a collaborative approach, just as business benefits from peer learning. It is critical that States aim for rapid convergence of approaches across States in all regions of the world. It will be unnecessarily burdensome for businesses operating in the global economy if States take inconsistent approaches.

7. Using business as a strategic partner alongside other stakeholders. GBI recognises and supports States’ engagement with all stakeholders when developing NAPs. Business – alongside trade unions and NGOs – should be seen as a key partner. States should work closely with the business community, such as national affiliates of the International Organisation of Employers and the International Chamber of Commerce, UN Global Compact local networks, World Business Council for Sustainable Development national business councils, and industry initiatives. This approach should be extended during implementation to leverage business know-how across all sectors and in the small and medium sized enterprise (SME) community. It is important to engage businesses early on issues such as human rights due diligence and reporting requirements, as well as remediation approaches that may be proposed under NAPs. Further, the development of new expectations or regulations should be built on results from the piloting of proposed rules, research to build an evidence-based, multi-stakeholder dialogue, and sufficient government expertise and capacity to oversee implementation.

Finally, there is a need to maintain efforts to mainstream human rights awareness and dialogue in all government institutions and society at large, including beyond the business and human rights agenda. All individuals and institutions must be part of the realisation of human rights. Now is the time to deepen and scale implementation efforts that make a difference.

The Global Business Initiative on Human Rights' (GBI) vision is that all leading corporations, in all parts of the world, respect the dignity and rights of the individuals and communities that they impact and interact with. GBI advances human rights in a business context around the world through cross-industry peer learning, outreach and capacity building and by informing policy. GBI is led by 18 corporations with combined revenues of more than 1.5 trillion USD (2014), approximately 1.75 million employees, operating in diverse industries and in more than 190 countries, and with hundreds of thousands of direct suppliers, customers and business partners.

A list of GBI Members can be found here – www.global-business-initiative.org/members

This Statement has been drafted by the GBI Secretariat in consultation with GBI Members. It does not necessarily represent the views of individual members companies.

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