

# SCALING UP UNDP'S PROGRAMMATIC ENGAGEMENT ON BUSINESS AND HUMAN RIGHTS

## CONCEPT NOTE

### BACKGROUND

The **United Nations Guiding Principles on Business and Human Rights (UNGPs)**, adopted by the UN Human Rights Council in 2011, are the most authoritative guidelines on how to "prevent and address human rights abuses in business operations."<sup>1</sup> They present a '**protect, respect, and remedy**' framework to address human rights risks in the context of business operations. Under Pillar 1 of this framework, the State has the primary legal responsibility to **protect** the human rights of its citizens. Pillar 2 requires businesses to **respect** human rights by "avoid[ing] infringing on the human rights of others" and "address[ing] adverse human rights impacts with which they are involved."<sup>2</sup> Finally, Pillar 3 requires states to ensure, through judicial, ADMINISTRATIVE or other appropriate means, that rights holders have access to effective **remedy** when human rights abuses occur. These remedies can be judicial or non-judicial and can be administered by independent bodies, such as National Human Rights Institutions (NHRIs).

### UNDP'S ONGOING ENGAGEMENT IN HUMAN RIGHTS

UNDP has supported over 100 countries in promoting and protecting human rights and working to support member states meet their human rights obligations and populations / groups claim their rights whilst strengthening accountability, non-discrimination and participation at country level. A key element of this is strengthening national human rights systems where UNDP works with critical actors at national level to support mainstreaming of human rights including parliaments, NHRIs and civil society and the business sector. UNDP also has a policy of engagement with the UN human rights mechanisms and processes, including the various special procedures of the Human Rights Council working to support practical action and close the technical cooperation gap at country level utilizing UNDP's vast geographic presence, partnerships and integrator role in the UN system.

As part of its overall strategy of support on human rights, UNDP has been working increasingly in the area of **Business and Human Rights (B+HR)** and seeks to scale up this workstream to be part of its integrated global offer on human rights in line with key partners. UNDP's work on B+HR contributes to Sustainable Development Goals (SDGs) including: Elimination of Poverty (SDG 1); Gender Equality and Empowerment (SDG 5); Decent Work and Economic Growth (SDG 8); Reducing Inequalities (SDG 10); Climate Action (SDG 13); Peace, Justice and Strong Institutions (SDG 16); and the Revitalization of the Global Partnerships for Sustainable Development (SDG 17). UNDP's B+HR work provides inputs and aligns programming with other corporate priorities, in particular:

1. It promotes access to justice for vulnerable groups, and contributes to the broader promotion and protection of human rights.

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<sup>1</sup> The UN Working Group on Business and Human Rights, 'The UN Guiding Principles on Business and Human Rights: An Introduction', [https://www.ohchr.org/Documents/Issues/Business/Intro\\_Guiding\\_PrinciplesBusinessHR.pdf](https://www.ohchr.org/Documents/Issues/Business/Intro_Guiding_PrinciplesBusinessHR.pdf).

<sup>2</sup> Ibid, principle 11.

2. It addresses and prevents human rights abuses by corporations that can spark or exacerbate conflicts, while building on their potential to build and sustain peace.
3. It supports the strengthening of key actors in national human rights systems, such as NHRIs, to better address human rights abuses by corporations which UNDP has supported through its strategic partnership with the Global Alliance for NHRIs and the Office of the High Commissioner for Human Rights (OHCHR).
4. It works with corporations to include environmental and climate change impact considerations when carrying out their human rights due diligence.
5. It considers women's human rights a priority area, contributing to UNDP's work on promoting gender equality and women's empowerment.



*In Southeast Asia UNDP outreaches to local communities and supports their access to grievance mechanisms.*

## BUSINESS AND HUMAN RIGHTS WORK IN ASIA (B+HR ASIA)

The largest part of UNDP's Business and Human Rights work is currently being implemented through the **Business and Human Rights in Asia (B+HR Asia)** program, which has been operational since 2016. The program has established itself as the convener on Business and Human Rights discourse in Asia through its peer learning activities, including its annual regional B+HR forums for Asia.<sup>3</sup> Having started in six countries, it has attracted over 14 million USD in funding from the Government of Sweden and the EU Commission, and is currently implemented in 11 countries<sup>4</sup> with the following overarching objectives:

<sup>3</sup> There were 6,623 participants from 101 countries in the 2020 United Nations Virtual Forum on Responsible Business and Human Rights, including 3,841 women, as well as 1,205 representing businesses, 1,018 from the ranks of civil society, 696 academics, 388 from government, and 115 human rights defenders.

<sup>4</sup> These are Bangladesh, India, Indonesia, Malaysia, Sri Lanka, Thailand, Myanmar, Nepal, Pakistan, Viet Nam and Mongolia.

1. Supporting Governments in devising policies for Responsible Business based on the UNGPs (National Action Plans on Business and Human Rights (NAPs));
2. Advising corporations on how to assess and address human rights risks in their supply chains;
3. Strengthening access to justice and access to adequate remedies for victims of business-related human rights abuses by working with NHRIs, judiciaries and civil society organizations (CSOs);
4. Building peace by working with States, companies, and CSOs to eliminate human rights abuses that are often root causes of conflict and displacement.

B+HR Asia has achieved notable successes, including supporting the development of a NAP in Thailand (and incipient NAPs in countries such as India and Indonesia), helping mainstream human rights due diligence (HRDD) practices by corporations (including Unilever and Coca-Cola) in the region, supporting CSOs in obtaining remedies for victims of human rights violations by corporations, and developing a guide for Rapid Self-Assessment for Business during Covid-19 (now used by several businesses and watchdogs).<sup>5</sup>

## SCALING UP TO A GLOBAL APPROACH

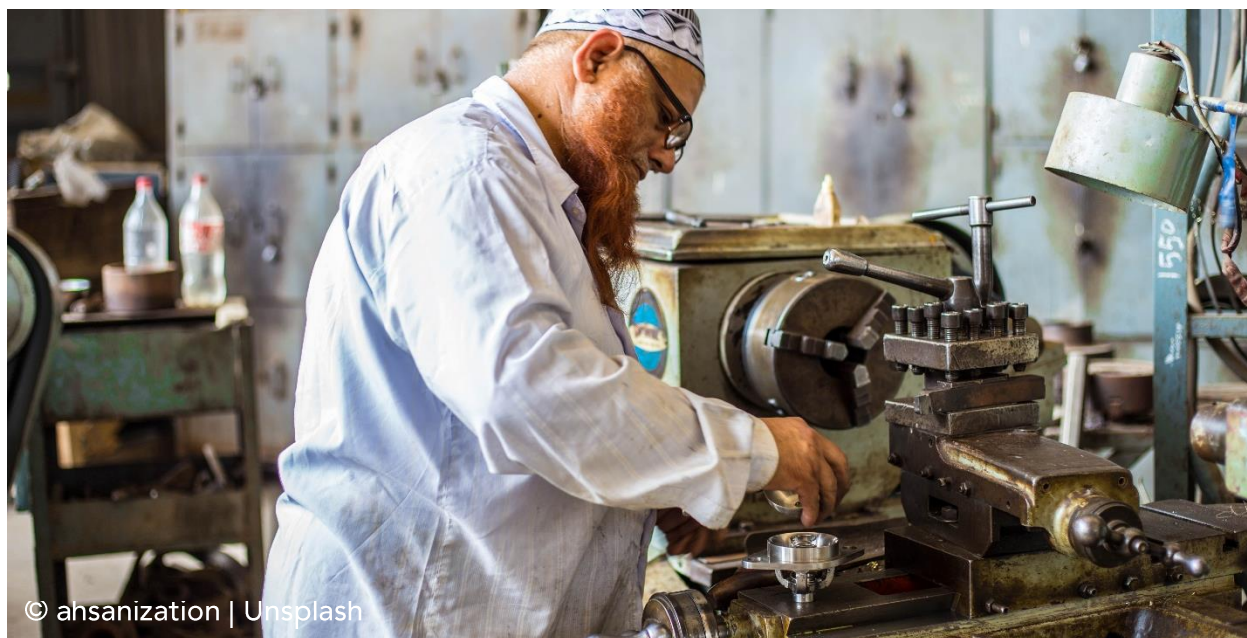
The last 12 months have witnessed accelerated interest in the field of B+HR. Key developments include:

- a) **The upcoming ten-year anniversary of the UNGPs**, which presents an opportunity to improve their implementation. These efforts will be led UN Working Group on Business and Human Rights (UNWG), the Special Procedure mechanism appointed by the Human Rights Council as the custodian with OHCHR of the UNGPs. It will partner with UNDP and other relevant players in developing a Roadmap to set priorities and determine roles for different global actors in support of the realization of UNGP from 2021 to 2030. This will respond to the UNSG's Call to Action to place human rights at the core of sustainable development, issued to governments and businesses alike, as well as calls for action to address climate change;
- b) **The launch of the EU Agenda for Action on Business and Human Rights (AfA)**, which highlights the desire of a group of EU member states to champion the B+HR Agenda within and outside the EU, along with the recent announcement by the EU Commissioner on Justice committing the EC to introducing rules on mandatory corporate environmental and human rights due diligence;<sup>6</sup> and
- c) **The onset of COVID-19 and the consequent disruption in the global economy and supply chains** has severely affected businesses (especially small and medium enterprises) and led to significant cost-cutting. This has resulted in unprecedented unemployment rates and increased health and safety risks for workers, opening up a dialogue on the responsibility of businesses in addressing the socio-economic impacts of the crisis, and in ensuring human rights of workers and affected communities are respected.

<sup>5</sup> 'Human Rights Due Diligence Covid-19: A Rapid Self-Assessment for Business', <https://www.undp.org/content/undp/en/home/librarypage/democratic-governance/human-rights-due-diligence-and-covid-19-rapid-self-assessment-for-business.html>.

<sup>6</sup> 'Webinar hosted by the Responsible Business Conduct Working Group', <https://vimeo.com/413525229>.





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 UNDP supports small and medium enterprises in assessing the impact of their operations on Human Rights.

**Accordingly, to address these needs and the heightened interest in B+HR, and building on the successful experiences in Asia, UNDP is now scaling up its business and human rights work globally through a centrally coordinated initiative.** Further resources from donors will be required to develop interventions taking into account specific challenges and opportunities of different regions, including: developing NAPs on B+HR with Governments, NHRIs and civil society, supporting corporations in meeting their obligations, ensuring victims have access to remedies, and supporting peer learning and the dissemination of lessons learned. These interventions will be implemented through with a view to the ever-evolving landscape for businesses in the wake of COVID-19.

UNDP is currently carrying out work to identify challenges and opportunities for scaling up B+HR work globally. In **Africa**, UNDP has produced a baseline assessment (BA) on B+HR, which presents an overview of a long list of 12 countries, including their level of political commitment to implementing the UNGPs, the level of development of their NHRIs and the key B+HR issues they are facing. UNDP will identify six pilot countries in which to roll out the B+HR programme in Africa. Adopting the model used in Asia, UNDP will promote African success stories through peer learning and an annual forum, with a view to eventually expanding the number of countries in which the Global Initiative is implemented.

Countries in **Eastern Europe and Central Asia** have also began to grapple with the issue of B+HR through government action plans (for instance, in Georgia)<sup>7</sup> and civil society initiatives (for instance, in Serbia).<sup>8</sup> In response, UNDP country offices across the region, most notably in Kyrgyzstan, Serbia, Turkey, Georgia and Ukraine have taken initial steps to tackle these issues and support B+HR processes in their countries. UNDP will continue to support these efforts by undertaking a BA and convening a regional Forum on Responsible Business and Human Rights in the fall of 2020 (in partnership with the UNWG).

<sup>7</sup> National Action Plans on Business and Human Rights, 'Georgia', <https://globalnaps.org/country/georgia/>.

<sup>8</sup> National Action Plans on Business and Human Rights, 'Serbia', <https://globalnaps.org/country/serbia/>.

Countries in the **Middle East and North Africa** have not, with the exception of Morocco,<sup>9</sup> undertaken processes to develop NAPs or to tackle B+HR systematically. In response to this state of affairs, in 2020 UNDP has started to develop B+HR initiatives in countries including Tunisia and Morocco, while its-regional centre in Amman will undertake preparatory work, including raising awareness of governments, businesses, and IGOs alike of the obligations that flow from UNGPs.

Two countries in **Latin America** (Chile and Colombia) have published their NAPs, while another four , including Argentina, are in the process of developing one.<sup>10</sup> Moreover, the Fourth Regional Consultation on Business and Human Rights in Latin America and the Caribbean was held in September 2019.<sup>11</sup> As this indicates, there is an increasing groundswell in the region to ensure responsible business conduct, which UNDP intends to harness in implementing B+HR programming in the region. It is focusing its attentions on promoting the UNGPs across the region, with a view to setting the stage for activities to be implemented in the course of the Global Initiative.

## UNDP'S COMPARATIVE ADVANTAGES IN SHAPING THE FUTURE OF RESPONSIBLE BUSINESS GLOBALLY

Today UNDP is recognized as the regional lead on B+HR in Asia. With a growing portfolio of interventions on B+HR elsewhere, it is uniquely positioned to accelerate the implementation of UNGPs globally, based on its following comparative advantages:

1. **Unmatched field presence and global policy network.** UNDP has 170 country offices around the world which apply a signature partnership approach. B+HR work is already being carried out in 11 of those offices in Asia, as well as in offices across the other regions. UNDP staff contribute to a global policy network, making it easier for country offices to harness lessons learned – a feature that is crucial to a global initiative such as this one.
2. **Strong partnership with the UNWG,** as shown by its longstanding cooperation with UNDP and the request of the Working Group for UNDP to join the core group of actors which will develop the Roadmap for the implementation of the “next decade” of UNGPs.
3. **Senior expertise already available.** The technical knowledge of the B+HR Asia team is complemented by global B+HR specialists, as well as regional rule of law and human rights advisors based in Istanbul, Panama, Amman and Addis Ababa.
4. **UNDP, due to its integrator role of the UNDS, is a trusted partner** of governments, civil society, NHRIs and the business sector in the field of business and human rights.

<sup>9</sup> National Action Plans on Business and Human Rights, ‘Morocco’, <https://globalnaps.org/country/morocco/>.

<sup>10</sup> National Action Plans on Business and Human Rights, <https://globalnaps.org>.

<sup>11</sup> OHCHR, ‘Fourth Regional Consultation on Business and Human Rights for Latin America and the Caribbean’, [https://www.ohchr.org/Documents/Issues/Business/Concept\\_note\\_LAC\\_regional\\_consultation\\_2019\\_EN.pdf](https://www.ohchr.org/Documents/Issues/Business/Concept_note_LAC_regional_consultation_2019_EN.pdf).



Women are disproportionately affected by Human Rights abuses by companies. In 2019 UNDP launched a guidance on the use of a gender lens when implementing the UNGPs.

## OUTCOMES AND OUTPUTS

This Global Initiative is an integral part of UNDP's Global Program on Rule of Law Security and Human Rights for Sustaining Peace. It pursues **one outcome and four outputs**:

**Outcome: Implementation of the UNGPs globally, supported through increased awareness, improved access to remedy, and assistance in the development and implementation of NAPs and other laws and policies on B+HR.**

1. **Output 1: Awareness raised, and knowledge and political will built, in order to further policy convergence and compliance with UNGPs.** Activities include:
  - (i) *Facilitating multi-stakeholder discussions on UNGPs, involving relevant policy makers, trade unions, NHRIs, CSOs, including indigenous peoples' organizations, and business groups, with a view to expanding the number of actors playing an active role in policy-making.*
  - (ii) *Conducting training seminars on the UNGPs and other standard-setting guidelines, such as the ILO Tripartite Declaration of Principles Concerning Multinational Enterprises, and the OECD Guidelines for Multinational Enterprises, to Government Officials, NHRIs, CSOs and businesses.*
  - (iii) *Designing and developing knowledge products that further policy convergence between UNGPs and other internationally recognized instruments.*
2. **Output 2: Skills and competencies of governments, NHRIs and civil society to draft and implement National Action Plans or other policy instruments reinforced.** Activities include:
  - (i) *Raising awareness and advocating with governments for the implementation of UNGPs; hosting peer-learning events on best practices on UNGP implementation.*



(ii) *Providing technical assistance to government ministries responsible for drafting and implementing NAPs.*

**3. Output 3: Access to remedy for victims of human rights violations by businesses strengthened.**

Activities include:

- (i) *Supporting partners, including civil society and NHRIs, to raise awareness and increase access to remedies for parties' subject to adverse human rights impacts.*
- (ii) *Conducting trainings with government and business representatives on human rights due diligence, grievance and justice mechanisms, and other elements of Pillar 2 and 3 of the UNGPs.*
- (iii) *Conducting trainings with NHRIs, judiciaries and the Business Sector on legal issues linked to the UNGPs, including transboundary jurisdictional challenges, among others.*

**4. Output 4: Corporate human rights due diligence practices expanded.** Activities (which will have a particular focus on tackling the impact of the COVID-19 pandemic) include:

- (i) *Providing training and peer-learning opportunities to corporations to strengthen their human rights due diligence processes.*
- (ii) *Developing and promoting knowledge products to bolster corporate remediation of their adverse human rights impacts.*



## WORKING IN PARTNERSHIP WITH OTHER ACTORS

UNDP's work on Rule of Law and Human Rights is rooted in its integrator role of the UNDS. This has translated into joint work with OHCHR and GANHRI in the Tri Partite Partnership in support of NHRIs and in the Global Focal Point for Rule of Law scheme with UN DPO. In implementing a Global B+HR Initiative, UNDP will deepen its strong partnerships with, among others:

- The **UNWG**. This partnership will be strengthened through the joint work UNDP and UNWG have agreed to carry out from July 2020 to June 2021 to develop, along with other actors, a Roadmap

for the next decade of implementation of the UNGPs. The co-creation of such a Roadmap will constitute a natural basis for joint future work on its implementation.

- **OHCHR, ILO and other relevant IGOs.** UNDP has established a strong collaboration with OHCHR in promoting human rights globally. UNDP also formed strong partnerships with ILO, UNICEF, UNWOMEN and OECD in supporting the implementation of UNGPs, as exemplified by the joint regional forums on B+HR in Asia. UNDP and OHCHR have also collaborated in April 2020 on disseminating the aforementioned Rapid Self-Assessment for Business in the wake of COVID-19.
- **The European Union.** The EU has already set B+HR as one of its development cooperation and foreign policy priorities, as demonstrated by its funding of UNDP B+HR Asia and a Regional Project on BH+R in Latin America implemented by OECD and OHCHR.
- **Major development partners.** UNDP has an ongoing successful partnership with donors in implementing the ROLSHR program. As such, its team in New York and across the regions is well equipped to take forward the interest of development partners in working with UNDP in this area. This would also ensure that a B+HR Global Initiative, including the B+HR Asia program supported by the Governments of Sweden and EU, is synchronized with UNDP's existing human rights portfolio, including support to NHRIs and access to justice for marginalized groups.
- **Non-governmental actors.** UNDP will resume its cooperation with business associations dedicated to improving corporate accountability, such as the UN Global Compact, Amfori and the International Organization of Employers. UNDP will also continue its close collaboration with NHRIs, CSOs and research centers on B+HR, including the Danish Institute for Human Rights, the Business and Human Rights Resource Centre and the Raoul Wallenberg Institute for Human Rights and Humanitarian Law.