



THE DANISH  
INSTITUTE FOR  
HUMAN RIGHTS

# AN OVERVIEW OF NATIONAL BASELINE ASSESSMENTS ON BUSINESS AND HUMAN RIGHTS

FEBRUARY 2023

## **AN OVERVIEW OF NATIONAL BASELINE ASSESSMENTS ON BUSINESS AND HUMAN RIGHTS**

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# CONTENTS

<b>1</b>	<b>INTRODUCTION</b>	<b>4</b>
<b>2</b>	<b>AN OVERVIEW OF NBAS</b>	<b>7</b>
<b>3</b>	<b>KEY CHALLENGES AND LESSONS LEARNED</b>	<b>15</b>
	3.1 THE TYPE OF ACTOR CONDUCTING THE NBA	15
	3.2 THE NATURE AND SCOPE OF THE UNGPS	16
	3.3 RESOURCES	17
	3.4 STAKEHOLDER AWARENESS OF THE UNGPS	18
	3.5 CONDUCTING AN NBA IN A CHANGING ENVIRONMENT	18
	3.6 MANAGING STAKEHOLDERS' EXPECTATIONS	19
	3.7 SUPPORTING NAP ACCOUNTABILITY THROUGH AN NBA	20

# 1 INTRODUCTION

This report is based on 30 national baseline assessments on business and human rights (NBAs) from 29 states, of which 25 are publicly available as of February 2023. Elements of this report are also based on interviews with key stakeholders (see Section 3 for more information).

The objective of this document is to provide an overview of NBAs conducted to date. In addition, it highlights key considerations and lessons learned relevant for actors planning to commission and/or conduct an NBA.

## **What is a National Baseline Assessment on Business and Human Rights?**

The Danish Institute for Human Rights and the International Corporate Accountability Roundtable published a Toolkit on National Action Plans on Business and Human Rights in 2017 (herein '[the DIHR/ ICAR Toolkit](#)') which notes that “an NBA on business and human rights has the primary objective of assessing the current level of implementation of the UNGPs in a given state. It brings together an analysis of the legal and policy gaps in UNGP implementation with an overview of the adverse human rights impacts of business to identify the most salient human rights issues in a given context. In this way, it serves to inform the formulation and prioritisation of actions in a NAP. Conducting an NBA is also an opportunity to build capacity on business and human rights topics among stakeholders involved in the research process, and to contribute to transparency and accountability in relation to the specific actions adopted in the NAP”.

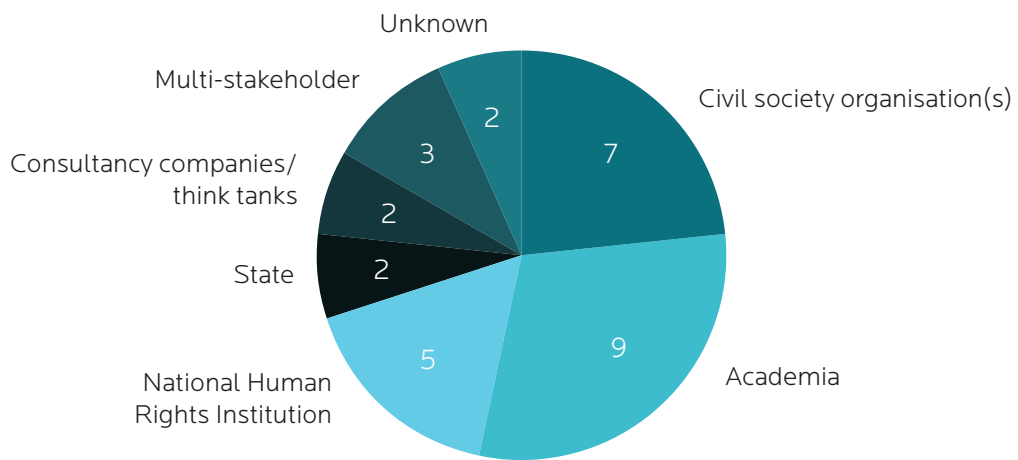
The UN Working Group on Business and Human Rights' 2016 [Guidance on National Action Plans on Business and Human Rights](#) and the DIHR/ ICAR Toolkit note that a national action plan on business and human rights (BHR NAP) should be informed by a national baseline assessment (NBA). In practice NBAs are often commissioned by the state to inform a NAP process but have also been conducted independently (see Section 2).

## **What tools exist to support the development of an NBA?**

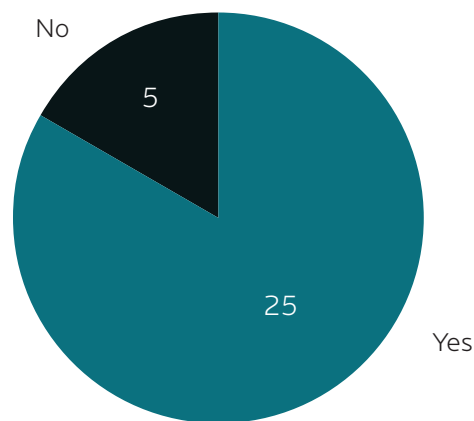
A number of tools exist to support the development of an NBA, including a [National Baseline Tool on Business and Human Rights](#), launched in January 2023, which allows users to create a 'snapshot' report on the current status of UNGP implementation in a country. This tool provides an update to the 2017 DIHR/ ICAR [National Baseline Assessment Template – Road-testing version](#) which was utilised in a number of NBA processes (see Section 2). There are also a range of tools and guidance on how to include specific sectors and rightsholder groups within NBAs, including:

- [Tech Sector National Baseline Assessment \(NBA\) Template](#)
- [NBA Template on Private Security Governance](#)
- [Extractives NBA Template](#)
- [Children's Rights](#)
- [Human Rights Defenders](#)

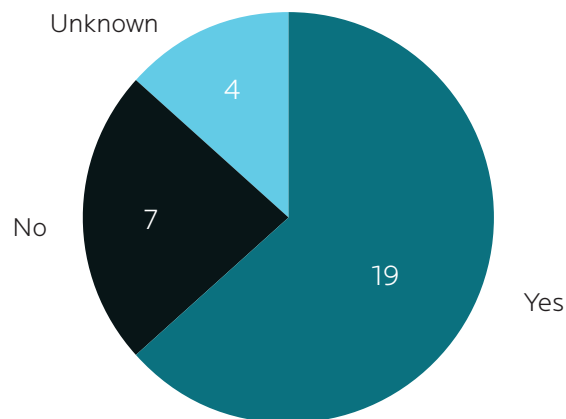
### ACTORS WHICH CONDUCTED THE 30 NBAS



### PUBLICLY AVAILABLE

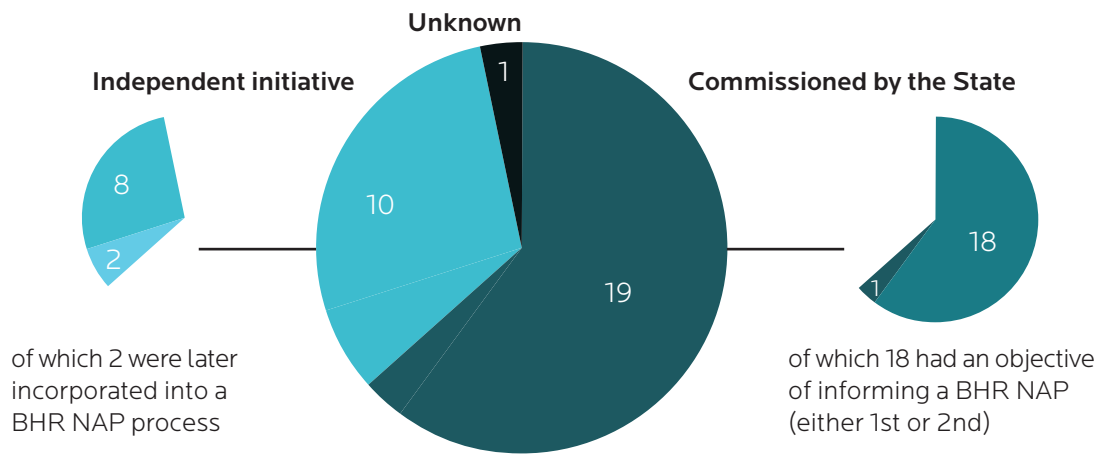


### INCLUDE RECOMMENDATIONS



\*The Argentinean NBA recognised priorities for action. The majority of the 23 studies comprising the Peru NBA contain conclusions. The Germany (1) and (2) NBA contain recommendations from stakeholders made during consultations.

### COMMISSIONED OR INDEPENDENT INITIATIVE?



## 2 AN OVERVIEW OF NBAS

This section provides general information and relevant links for all published NBAs. As of February 2023, 30 NBA have been conducted by 29 states (2 have been conducted in Germany).



### Argentina:

- Finalised in May/ June 2019 but not publicly available.
- Commissioned by the State to inform the development of an inaugural BHR NAP. A process to develop an inaugural BHR NAP followed but was discontinued due to a change of government.
- Conducted by the State (Human Rights Secretariat).
- Utilised the DIHR/ ICAR National Baseline Assessment Template (for Pillars I and III) and a survey developed with the national chapter of the World Business Council for Sustainable Development and the Global Compact based on the UNGPs (for Pillar II). Based on desktop research, specific contributions from state agencies, stakeholder workshops, and online consultations. Contains priorities for action.
- NB: As of February 2023, a new process has begun to develop a 2nd NBA to inform the development of an inaugural BHR NAP, which is being conducted by the National Human Rights Institution (Defensoría del Pueblo de la Nación).



### Belgium:

- Published in March 2021 and available [here](#). A standalone executive summary is available [here](#).
- Commissioned and funded by the State (the Belgian Federal Institute for Sustainable Development) to measure implementation of the inaugural BHR NAP, which was published in June 2017, and provide recommendations for a 2nd BHR NAP, which is under development as of February 2023.
- Conducted by academics from the research institutes of HIVA-KU Leuven and the Law and Development Research Group from the University of Antwerp.
- Utilised the DIHR/ ICAR National Baseline Assessment Template (for Pillars I and III) and the Corporate Human Rights Benchmark (CHRB) core indicators (for Pillar II). Based on desktop research, stakeholder interviews, consultations, and written feedback on drafts. Contains recommendations.



### Chile:

- Published in March 2016, officially launched in May 2016, and available [here](#).
- Developed as an independent initiative to support the development of an inaugural BHR NAP. The state used the NBA to inform the development of the inaugural BHR NAP, which was published in August 2017.
- Conducted by academics from the Human Rights Center of the University Diego Portales. Funded by the DIHR.



- Utilised the DIHR/ ICAR National Baseline Assessment Template. Based on desktop research and interviews with government actors.
- NB: The State commissioned an academic institution (Universidad Católica de Chile) to undertake a study to: i) evaluate the inaugural NAP, ii) evaluate and proposed a new stakeholder participation mechanism for the updated NAP, and iii) propose new themes on business and human rights for the updated NAP. This was published in November 2020, and a 2nd BHR NAP was published in March 2022.



#### **Czechia:**

- Finalised in November 2015 but not publicly available.
- Commissioned by the State to inform the inaugural BHR NAP, which was published in October 2017.
- Conducted by academics from the Center for Human Rights and Democratization, an independent academic institution, under the supervision of Hubert Smekal, associate professor at Masaryk University.



#### **Georgia:**

- Published in December 2017 and available [here](#).
- Commissioned by the State to inform the development of an inaugural BHR NAP. A National Action Plan on Human Rights, which includes the BHR NAP as a specific chapter, was published in 2018.
- Conducted by multiple stakeholders: an informal collation of the Human Rights Secretariat of the Government of Georgia, the Public Defender's Office and the NGO Civil Development Agency (CIDA) with financial and technical support from the DIHR.
- Utilised the DIHR/ ICAR National Baseline Assessment Template. Based on desktop research and stakeholder consultations. Contains recommendations.



#### **Germany (1st NBA):**

- Published in April 2015 and available [here](#).
- Commissioned by the State to inform the first BHR NAP, which was published in December 2016.
- Conducted by the National Human Rights Institution (the German Institute for Human Rights).
- Utilised the DIHR/ ICAR National Baseline Assessment Template. Based on desktop research and stakeholder feedback. Contains recommendations from stakeholders made through consultations.



#### **Germany (2nd NBA)**

- Published in August 2022 and available [here](#).
- Commissioned by the State (the Federal Foreign Office) to assess the implementation of the inaugural BHR NAP and develop proposals for the second BHR NAP, which is under development as of February 2023.
- Conducted by the National Human Rights Institution (the German Institute for Human Rights).



- Follows its own methodology which included desktop research and stakeholder consultations. Contains recommendations from stakeholders made through consultations.



#### **Ghana:**

- Published in July 2022 and available [here](#).
- Commissioned by the State to inform the development of an inaugural BHR NAP, which is under development as of February 2023. Funded by the DIHR.
- Conducted by multiple stakeholders: the Ghana Institute of Management and Public Administration (GIMPA), the Office of the Attorney-General and the Ministry of Justice, with technical support from the DIHR and OXFAM.
- Utilised the DIHR/ ICAR National Baseline Assessment Template. Based on desktop research, and interviews with, and written feedback from, key stakeholders. Contains recommendations.



#### **Guatemala:**

- Published in 2017 and available [here](#).
- Developed as an independent initiative to further UNGP implementation. An inaugural BHR NAP has not been developed in Guatemala as of February 2023.
- Conducted and funded by civil society organisations: La Unidad de Protección a Defensoras y Defensores de Derechos Humanos of Guatemala (UDEFEHUGUA) and ICAR.
- Utilised the DIHR/ ICAR National Baseline Assessment Template. Based on desktop research and stakeholder interviews.



#### **Ireland:**

- Published in March 2019 and available [here](#).
- Commissioned by the State (the Ministry of Foreign Affairs) to realise an action point in the inaugural BHR NAP, which was published in November 2017.
- Conducted by two consulting firms, ReganStein and Leading Edge Group.
- Utilised the DIHR/ ICAR National Baseline Assessment Template. Based on desktop research and submissions made by individuals and bodies during the first BHR NAP development process. Contains recommendations.



#### **Italy:**

- Published in 2013 and available [here](#).
- Commissioned by the State (the OECD NCP and Ministry of Economic Development) to inform the development of an inaugural BHR NAP, which was published in December 2016.
- Conducted by academics from the University of Scuola Superiore Sant'Anna.
- Follows its own methodology based on desktop research and stakeholder interviews. Contains recommendations.



### Japan:

- Published in December 2018 and available [here](#).
- Commissioned by the State to inform the development of an inaugural BHR NAP, which was published in October 2020.
- Conducted by the State.
- Follows its own methodology based on a desk review conducted by all relevant line ministries and agencies, and multi-stakeholder consultations. Contains recommendations.



### Kenya:

- Published in July 2017 and available [here](#).
- Commissioned by the State (Office of the Attorney General and Department of Justice) to inform the development of an inaugural BHR NAP, which was published in July 2019 and approved by the cabinet in April 2021. Funded by the DIHR.
- Conducted by the National Human Rights Institution (the Kenya National Commission on Human Rights).
- Utilised the DIHR/ ICAR National Baseline Assessment Template. Based on desktop research and stakeholder consultations. Contains recommendations.



### Luxembourg:

- Published in October 2019 and available [here](#).
- Commissioned by the State (the Ministry of Foreign Affairs) to assess the implementation of the inaugural BHR NAP, which was published in June 2018, and inform the 2nd BHR NAP which was published in January 2020.
- Conducted by an academic: Dr. Başak Bağlayan.
- Utilised the DIHR/ ICAR National Baseline Assessment Template. Based on desktop research, surveys, and stakeholder consultations. Contains recommendations.



### Mexico:

- Published in October 2016 and available [here](#).
- Developed as an independent initiative to support the development of a BHR NAP. A process to develop an inaugural BHR NAP followed but was discontinued after civil society organisations withdrew from the process.
- Conducted by civil society organisations through a focal group which included CODIGODH, CEMDA, Oxfam México, PRODESC, Tlachinollan, BHRRC, coordinated by PODER, with support from ICAR.
- Utilised the DIHR/ ICAR National Baseline Assessment Template. Based on desktop research and written feedback from key stakeholders.
- NB: A sectoral NBA on children's rights was undertaken by DLA Piper at the request of UNICEF in August 2016 and is available [here](#).



### **Mongolia:**

- Finalised in November 2020 but not publicly available.
- Commissioned by the State to inform the development of an inaugural BHR NAP. An inaugural BHR NAP has not been developed as of February 2023.



### **Myanmar:**

- Published in December 2017 and available [here](#).
- Developed as an independent initiative to further UNGP implementation. An inaugural BHR NAP has not been developed as of February 2023.
- Conducted and funded by civil society organisations: the ASEAN Network on Burma (ALTSEAN-Burma) and ICAR.
- Utilised the DIHR/ ICAR National Baseline Assessment Template. Based on desktop research and stakeholder consultations. Contains recommendations.



### **Norway:**

- Published in August 2013 and available [here](#).
- Commissioned by the State to inform the development of an inaugural BHR NAP, which was published in October 2015.
- Conducted by an academic from the FAFO Institute for Applied International Studies.
- Follows its own methodology, based on desktop research and interviews with key stakeholders.



### **Pakistan:**

- Finalised in July 2019 but not publicly available.
- Commissioned by the State (the Ministry of Human Rights) to inform the development of an inaugural BHR NAP, which was published in September 2021.
- Conducted by a think tank: the Research Society of International Law (RSIL).
- Utilised the DIHR/ ICAR National Baseline Assessment Template.



### **Peru:**

- Published in October 2021 and are available [here](#). The NBA is comprised of 22 studies on 23 thematic areas.
- Commissioned by the State (the Ministry of Justice and Human Rights) to inform the development of an inaugural BHR NAP, which was published in June 2021. The studies were conducted between August 2019 – January 2021. A broad range of actors supported the development of the 22 studies through financial and technical support, including ministries, international organisations, embassies, and universities.
- The 22 studies which comprise the NBA were conducted by multiple stakeholders. The Ministry of Justice and Human Rights conducted 5 studies, three Peruvian universities and one Mexican university conducted 15 studies, and two international agencies conducted 2 studies.
- The studies follow different methodologies. Many utilised the DIHR/ ICAR National Baseline Assessment Template. The studies were largely based on desktop research and 20 contain conclusions.



### Scotland:

- Published in 2016 and revised in 2018, it is available [here](#).
- Commissioned and funded by the State to inform the development of Scotland's second NAP on Human Rights, which has been under development since late 2017, but has not been published as of February 2023.
- Conducted by academics from the University of St Andrews and the University of Dundee.
- Utilised the DIHR/ ICAR National Baseline Assessment Template. Based on desktop research and stakeholder consultations. Contains recommendations.



### Serbia:

- Published in January 2016 and available [here](#).
- Developed as an independent initiative to further national debate on developing a NAP and the uptake of the UNGPs. An inaugural BHR NAP has not been developed as of February 2023.
- Conducted by a civil society organisation: the Belgrade Centre for Human Rights.
- Utilised the DIHR/ ICAR National Baseline Assessment Template. Based on desktop research and stakeholder interviews. Contains recommendations.



### South Africa:

- Published in April 2016 and available [here](#).
- Developed as an independent initiative to stimulate the development of a future NAP on BHR. An inaugural BHR NAP has not been developed as of February 2023.
- Conducted by academics from the Centre for Human Rights at the University of Pretoria with support from ICAR.
- Utilised the DIHR/ ICAR National Baseline Assessment Template. Based on desktop research.



### Tanzania:

- Published in November 2017 and available [here](#).
- Commissioned by the State to inform the development of an inaugural BHR NAP, which is under development as of February 2023. Funded by the US Department of State, Department of Democracy, Human Rights and Labour.
- Conducted by the National Human Rights Institution (the Tanzania Commission for Human Rights) with support from a civil society organisation (Business and Human Rights Tanzania).
- Utilised the DIHR/ ICAR National Baseline Assessment Template. Based on desktop research, interviews with key stakeholders, field missions, three consultation meetings with key stakeholders. Contains recommendations.



### **Thailand:**

- Published in March 2019 and available [here](#). The NBA is comprised of 2 cross-cutting working papers and 11 thematic assessments.
- Developed as an independent initiative to inform the development of an inaugural BHR NAP. The state later utilised the NBA to inform the development of the inaugural BHR, which was published in October 2019.
- Conducted and funded by a civil society organisation: the Manushya Foundation.
- Follows its own methodology based on desktop research and stakeholder consultations. Contains recommendations.



### **Uganda:**

- Published in August 2019 and available [here](#).
- Developed as an independent initiative to inform the inaugural BHR NAP, which was published in August 2021.
- Conducted and funded by a civil society organisation: the Initiative for Social and Economic Rights (ISER).
- Follows its own methodology based on desktop research. Contains recommendations.



### **Ukraine:**

- Published in 2019 and available [here](#).
- Commissioned by the State (Ministry of Justice) to inform the development of an inaugural BHR NAP. A BHR NAP was not subsequently developed, but a National Strategy which has a specific chapter on Business and Human Rights was adopted in March 2021.
- Conducted by academics from the Yaroslav Mudryi National Law University in cooperation with the Ukrainian Ministry of Justice based on financial and technical support from the DIHR.
- Utilised the DIHR/ ICAR National Baseline Assessment Template. Based on desktop research and written feedback received from key stakeholders. Information on Pillar II was gathered through a questionnaire circulated to businesses.



### **United States:**

- Published in 2015, Pillar I is available [here](#) (March 2015) and Pillar III (June 2015) is available [here](#).
- Developed as an independent initiative to inform the development of an inaugural BHR NAP. The state welcomed the work conducted by ICAR and other stakeholders. An inaugural BHR NAP was published in December 2016.
- Conducted and funded by a civil society organisation: the International Corporate Accountability Roundtable (ICAR).
- Utilised the DIHR/ ICAR National Baseline Assessment Template. Based on desktop research. Contains recommendations.



### **Vietnam:**

- Finalised in 2022 but not publicly available.
- Vietnam is developing a National Action Plan on Business and Human Rights as of February 2023.



### **Zambia:**

- Published in July 2016 and available [here](#). Supplemented with a Pillar II analysis in July 2021 which is available [here](#).
- Developed as independent initiatives to inform the development of an inaugural BHR NAP. An inaugural BHR NAP has not been developed as of February 2023.
- The original and the supplement were conducted by the National Human Rights Institution (the Zambian Human Rights Commission). Funded by the DIHR.
- The original and the supplement utilised the DIHR/ ICAR National Baseline Assessment Template. They were based on desktop research, interviews, and consultations with key stakeholders. Both contain recommendations.

### 3 KEY CHALLENGES AND LESSONS LEARNED

This section outlines key challenges and lessons learned when conducting an NBA. These are related to:

- 3.1 The type of actor conducting the NBA
- 3.2 The nature and scope of the UNGPs
- 3.3 Resources
- 3.4 Stakeholder awareness of the UNGPs
- 3.5 Conducting an NBA in a changing environment
- 3.6 Managing stakeholders' expectations
- 3.7 Supporting NAP accountability through an NBA

The information in this section is based on desk research and interviews with eight key stakeholders from seven different states who were responsible for the development of an NBA, or heavily engaged in an NBA process. These interviewees were selected based on geographical spread, the recent nature of NBA, the availability of information, and diversity of situations (e.g. the NBA in Argentina was followed by a process to develop a NAP which was not concluded, although the NBA was used to set priorities).

Interviewees <sup>1</sup>		
Country	Name	Organisation the interviewee represented at the time of involvement in the NBA process
<b>Argentina</b>	Denisse Cufre	Human Rights Secretariat of Argentina
<b>Belgium</b>	Liliana Lizarazo Rodriguez	Brussels School of Governance (Vrije Universiteit Brussel) and University of Antwerp
<b>Belgium</b>	Huib Huyse	Leuven University
<b>Georgia</b>	Niko Tatulashvili	Public Defender's Office
<b>Germany</b>	Melanie Wuendsch	German Institute for Human Rights
<b>Kenya</b>	Rose Wangui Kimotho	Independent consultant
<b>Peru</b>	Federico Chunga Fiestas	Ministry of Justice and Human Rights
<b>Thailand</b>	Emilie Pradichit	Manushya Foundation

#### 3.1 THE TYPE OF ACTOR CONDUCTING THE NBA

The type of actor conducting an NBA can have significant impacts on the NBA development process.

A number of NBAs have been conducted by multiple parties. In Peru, the NBA is composed of 22 studies covering 23 issues and rights-holders.<sup>2</sup> The 22 studies were



conducted by the Ministry of Justice and Human Rights (5), three Peruvian universities and one Mexican university (15) commissioned by the Ministry, and two international agencies (2). In Peru, the interviewee felt it was valuable to have state involvement in designing the methodologies of the NBA as the state was responsible for utilising the NBA to inform the subsequent BHR NAP.

The Peruvian interviewee highlighted that independent academic institutions were selected to conduct 15 of the 23 initial studies, which were provided to the multi-stakeholder roundtable for revision, to build trust among stakeholders as academic institutions are seen as independent actors by business and civil society. Thailand's NBA was conducted by an NGO which felt that its independence from the state allowed it to engage with grassroot organisations and stakeholder groups as they were able to trust an NGO more than the state.

The Peruvian interviewee noted that the Ministry of Justice and Human Rights which undertook 5 of the 22 studies requested and received information quickly and easily. Belgian interviewees noted challenges the challenges they faced as academics in receiving information from state bodies to inform the NBA.

Interviewees highlighted that in order to mitigate some of the challenges faced by actors conducting the NBA, the involvement of independent third-party actors was sought. In Argentina, independence was raised as a key consideration as the NBA was conducted by the Secretariat of Human Rights, a state body. The Secretariat sought and received support from the UN Global Compact, a trusted actor in the private sector, to encourage business engagement. Furthermore, the Secretariat sought and received support from UNICEF to encourage civil society engagement. The interviewee noted that the involvement of UNICEF helped to address some of the mistrust and fatigue CSOs have, as they are often consulted for high-level policy initiatives. In Peru, the interviewee noted that the Office of the High Commissioner of Human Rights (OHCHR), the Organisation for Economic Co-operation and Development (OECD), and the International Labour Organization (ILO), through the EU funded Responsible Business Conduct in Latin America and Caribbean project (RBCLAC), helped build trust and transparency in the process and mobilise CSOs, indigenous peoples and trade unions, which was crucial to ensure effective consultations with stakeholders. In addition, two of the 22 studies which form the NBA were conducted by the Office of the United Nations High Commissioner for Human Rights (OHCHR) and the Organisation for Economic Co-operation and Development (OECD). In contrast, in Thailand, the interviewee stated that the involvement of an international governmental organisation, the UNDP, was disruptive to an initially successful relationship between the Manushya Foundation and the Thai government, as the UNDP positioned themselves to coordinate efforts to develop the NAP at the expense of civil society.

### **3.2 THE NATURE AND SCOPE OF THE UNGPS**

There is a variety of scope and nature to the different principles within the UNGPs which causes a level of complexity when developing an NBA to address all of them. The Belgium NBA addressed all three pillars of the UNGPs utilising the DIHR/ ICAR methodology for Pillars I and III and utilising the [CHRB core indicators methodology](#) to address Pillar II. Belgian interviewees highlighted the importance of tackling

Pillar II in an NBA but highlighted the complexities in an NBA addressing principles which are different in nature (noting that Pillar II principles are more operational, for example). The Belgian interviewees further highlighted that two research teams implemented two different methodologies which were brought together within a single NBA. This resulted in challenges in ensuring coherency across the document and in formulating recommendations.

The Belgian interviewees highlighted a challenge in reporting findings in a user-friendly way due to the comprehensive nature of the UNGPs and complex constitutional reality of Belgium. As such, standalone executive summaries in local languages were developed in addition to the full report. This increased the potential reach and potential impact of the NBA, especially with policy makers.

An NBA is designed to assess the level of implementation of the UNGPs in a national context. Interviewees from Argentina and Belgium highlighted the complexity of conducting an NBA in a federal country, with different legal and regulatory frameworks and state bodies.

One interviewee noted that those conducting an NBA would ideally have in-depth expertise across the full UNGPs, but that this is often not feasible when the NBA is conducted by a small team. Actors conducting an NBA may be experts in the UNGPs broadly and/ or experts in certain specific areas (e.g. finance, trade, investment, public procurement), but not all of them. The interviewee noted that time was needed to get up to speed on new areas and raised the idea of bringing in other experts to assist with specific elements.

In Argentina, a second NBA is being conducted as of February 2023. The state has specifically asked that the NBA address the role of business during the dictatorship. While the tools and methodologies to support NBAs address the full scope of the UNGPs, and the UNGPs include a focus on conflict, there is a need for an increased focus on this topic in the second Argentinean NBA. It was therefore noted that tools and methodologies should be designed in a way that they can be adapted and tailored to the local context and needs.

### **3.3 RESOURCES**

All of the interviewees noted that they faced challenges with either time, capacity and/ or financial resources to conduct an in-depth NBA. In addition, the interviewees noted that effective stakeholder participation and consultations requires significant resources.

In Argentina, the interviewee noted that the NBA was conducted with limited resources and in a relatively short timeframe, which limited stakeholder engagement.

In Belgium, the interviewees highlighted that time, capacity and financial resources were major challenges in adopting a broad methodology to address all three UNGPs pillars in an in-depth manner. This challenge was seen sharply when covering the Pillar III due to its complexity.

In Peru, the interviewee noted that 4 embassies (which later rose to 7) and 3 international organisations (through the EU-funded RBCLAC project) committed financial support to undertake 17 of the 22 NBA studies, which helped inform the decision to undertake separate studies. The Ministry of Justice and Human Rights provided financial resources to conduct the remaining 5.

### **3.4 STAKEHOLDER AWARENESS OF THE UNGPS**

A number of interviewees highlighted that there was a low-level awareness of the UNGPs among stakeholders in their national context when they began conducting the NBA. Some interviewees noted that the time taken to raise awareness of the UNGPs among consulted stakeholders put pressure on actors conducting the NBA which was often not foreseen. Consequently, it was suggested to focus on increasing awareness at the start of the NBA process and allocating sufficient financial resources and time at the outset (and to include this within tender proposals when bidding to conduct an NBA).

In Thailand, the interviewee noted that there was a low level of awareness regarding the UNGPs among the government and the corporate sector, which limited the number of effective contributions received from the corporate sector. In Kenya, a limited level of understanding of the UNGPs and business and human rights more broadly among stakeholders, including the government and the corporate sector, made information gathering difficult.

In Peru, the interviewee noted that a training element was built into the initial stakeholder engagement process to increase knowledge on the UNGPs and ensure greater participation. 60 stakeholders initially engaged and approved the NBA methodology, which increased to 132 after the training concluded.

In Georgia, the interviewee highlighted that there was a lack of awareness and understanding of the UNGPs among stakeholders and that companies were much more familiar with, and interested in working with, the SDGs and CSR than the UNGPs. This created challenges in trying to conduct an NBA focused on the UNGPs.

In Germany, the interviewee highlighted that CSOs and corporate sector were knowledgeable on the UNGPs, which was an important factor in receiving effective and meaningful stakeholder input and ensuring the NBA was a collaborative process.

In Belgium, the interviewees noted that a positive outcome of the NBA process was an increased awareness of the UNGPs among stakeholders. One Belgium interviewee noted that the draft Pillar II assessments were shared with the businesses covered in the assessments and, through the national trade union confederations, trade unions active in the businesses covered. Although limited responses were received from trade unions, it helped facilitate awareness raising and build capacity.

### **3.5 CONDUCTING AN NBA IN A CHANGING ENVIRONMENT**

During the time it takes to conduct an NBA, a state may see political changes and/or legal and regulatory developments on business and human rights which impact on the ability to conduct the NBA.

In Argentina, an NBA was commissioned and conducted by the State to inform the development of an inaugural BHR NAP. A process to develop an inaugural BHR NAP followed but was discontinued due to a change of government. The NBA in Peru was also impacted by changes and instability in the political landscape. In Germany, the value of a supportive political environment and trust in the actor conducting the NBA in an independent manner by those who commissioned the NBA was emphasised by the interviewee.

In Germany, a second NBA was conducted in 2022, at a time of significant developments in the business and human rights landscape, both at the national and EU level. In this context, the [UNGPS 10+ A Roadmap for the Next Decade of Business and Human Rights](#) were included within the NBA and a recommendation was made that a second NAP be developed rather than relying solely on due diligence legal developments to advance the implementation of the UNGPs in Germany.

In Kenya there was a timeline overlap between the finalisation of the NBA and the beginning of the NAP development process, which made the finalisation process more challenging as attention was directed more towards the NAP development process.

### **3.6 MANAGING STAKEHOLDERS' EXPECTATIONS**

A number of interviewees highlighted the need to manage stakeholder expectations when conducting an NBA. It was noted that stakeholders which dedicate resources to engage with an NBA can become disillusioned if they do not see their input or opinion articulated within the final document and/ or recommendations. This can lead to a reticence from stakeholders to engage with a future NAP development process. Indeed, a challenge highlighted by the interviewees from Argentina and Kenya was a general fatigue among CSOs which were often consulted on different policy development processes without seeing tangible impacts on the ground.

The interviewee from Germany highlighted that the German NBA includes specific stakeholder recommendations supported by the National Human Rights Institution (the actor conducting the NBA) in a table. The interviewees from Belgium suggested placing greater efforts in finding consensus during stakeholder engagement activities, through rounds of negotiation, rather than solely gathering input and opinions. The interviewee from Georgia noted that finding consensus among consulted stakeholders can ensure the NBA is a practical document.

The interviewee from Thailand highlighted the importance of applying a bottom-up approach and of getting input from affected communities, grassroots and CSOs to reflect the reality on the ground and ensure they are at the centre of the national business and human rights response. For that purpose a Thai Business and Human Rights Network was created in 2017 to engage in and inform the NBA, and ultimately inform the NAP development process and hold the Thai government accountable on implementation.<sup>3</sup> However, the Kenyan interviewee highlighted that there is a risk in treating CSOs as voices of communities as they are not necessarily representative of communities or accountable to them. Thus, it was highlighted that a good practice is to adopt a more bottom-up approach to stakeholder engagement by holding consultations directly with community members, although this may require increased resources.

In Peru, the interviewee noted that the NBA served as a process to bring together different stakeholders. All decisions on the NBA adopted by consensus by a multi-stakeholder roundtable. The vast majority of proposals presented to the multi-stakeholder roundtable came from the Ministry of Justice and Human Rights, but in some cases they came from stakeholders themselves. The decision to undertake separate studies with the participation of universities (as approved in the formalized methodology through a vice-ministerial resolution in September 2019) was adopted by basic consensus without which the process would have broken down, but which ensured the participation and confidence of the parties to continue to the next stage.

The Peruvian interviewee further noted that the four central trade unions labour unions gathered to provide unified feedback for the NBA, which was the first time they had done this. In turn, these four trade unions came together with key CSOs and indigenous people's organisations in a 'civil society platform on business and human rights' initiative. Through this platform the organisations maximised their resources and presented their contributions to the NBA studies in a unified manner. The Peruvian interviewee highlighted that one of the key characteristics of the studies is that they express the different points of view of all the actors on the reasons gaps exist in the implementation of the UNGPs in Peru, as well as identified actions to solve them. Indeed, for complex issues, the NBA studies identify specific discrepancies that could not be overcome in the dialogue process.

### **3.7 SUPPORTING NAP ACCOUNTABILITY THROUGH AN NBA**

An NBA can serve as a 'baseline' to measure how successful a future NAP is at improving the implementation of the UNGPs in a national context. The Kenyan interviewee noted that the dissemination of the NBA can help ensure this.

The Peruvian interviewee noted that an NBA clearly grounded in evidence can be utilised as an accountable mechanism to measure the implementation of a future NAP. Furthermore, the result of a participative process in developing the NBA means there is increased stakeholder interest in holding the state accountable for the implementation of the subsequent NAP.

The German interviewee highlighted the importance of formulating the NBA and its recommendations in a manner which can help ensure accountability of a future NAP, which was achieved by listing the stakeholders' recommendations in a table.

However, as noted by the Thai interviewee, a BHR NAP which does not reflect the NBA and the actual situation on the ground can cause civil society to lose trust in the state and/or initiatives to implement the UNGPs, including BHR NAPs. The Thai interviewee further noted that the BHR NAP did not reflect the communities' demands captured in the NBA. The interviewee felt that this led to a 'weak voluntary' policy without a 'smart mix' of mandatory and voluntary measures needed to effectively foster business respect for human rights document and result in tangible improvements on the ground. The Thai BHR Network is now advocating for a mandatory human rights and environmental due diligence law, calling on the Thai government to #StopNAPping.

## ENDNOTES

- 1 Four of the interviewees worked at organisations which received technical and/or financial support from the DIHR in the development of their NBA (Argentina, Belgium, Georgia, Kenya).
- 2 For methodological reasons, it was decided that two topics (judicial mechanisms and extrajudicial reparation mechanisms) would be addressed in a single study.
- 3 The Thai Business and Human Rights Network (TBHRN) is an inclusive, intersectional network, including representatives focusing on the following issues: rights of migrant workers, labour rights (formal and informal workers), trade unions, indigenous peoples, stateless persons, community rights, land-related rights, environmental rights, people with disabilities, LGBTI individuals, sexual and reproductive health, drug users, people living with HIV, sex workers, women's rights, the protection of human rights defenders, the impact of Thai outbound investments and trade agreements.



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