



National Action Plan on Business and Human Rights

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This article is based on **“Would cats bell themselves? The wait for the National Action Plan on Business and Human Rights”** which was published in The Down to Earth on 31/03/2021. It talks about the prospects of the National Action Plan on Business and Human Rights.

India endorsed the United Nations Guiding Principles (UNGP) on Business and Human Rights more than a decade ago. Accordingly, it has to evolve a National Action Plan on Business and Human Rights (NAP) detailing actions to ensure businesses do not violate human rights.

In this pursuit, the Indian government formally announced that it would develop a National Action Plan on Business and Human Rights in India at the Business and Human Rights Forum in Geneva in November 2018.

In February 2019, India published a draft NAP on Business and Human Rights, known as the ‘Zero Draft’, and also committed to publishing the final NAP in 2020. However, the final NAP is still not framed yet.

National Action Plan on Business and Human Rights & Its Need

- **Goal:** National Action Plan will provide an overview of India’s legal framework setting out the State’s duty to protect human rights, set the corporate responsibility to respect human rights, and access remedy against business-related human rights violations.
- **Inspiration:** The vision of India’s NAP stems from the Gandhian principle of trusteeship that defines that the purpose of business is to serve all stakeholders.
- **Need:** Experts claim that the Covid-19 pandemic is a litmus test for the concept of stakeholder capitalism.
 - The NAP becomes more relevant in the wake of Covid-19 in that the pandemic has exposed several systemic vulnerabilities in how businesses operate.
 - The International Labour Organization (ILO) estimates that, due to Covid-19, 400 million Indian workers are at risk of sinking even deeper into poverty.

- **International Commitment:** The UN Guiding Principles on Business and Human Rights (of which India is a signatory) envisages the Protect-Respect-Remedy principle while the role of the State is to ensure that all three pillars of the principle are working effectively in reality.

Further, the 2030 agenda for Sustainable Development Goals (SDG 8) focuses upon the realization of human rights in the business sector.

Cases of Business & Human Rights

Concurrence:

Several plants were shut down in the last two decades on charges of violating human rights and environmental rights:

- Coca Cola Co's plants in Plachimada (2004), Mehdiganj (2013), and Hapur (2016)
- Hindustan Unilever Ltd's (Mercury) factory in Kodaikanal (2001)
- Sterlite Copper plant in Thoothukudi (2018)

Divergence:

- There is a law that prevents companies from advertising tobacco near school premises. But tobacco giant ITC Ltd's notebooks, complete with its logo, are available right inside classrooms. Again, seemingly, there is nothing illegal about it.
- More than a million people die in India each year due to consuming tobacco. However, one of the investors of a tobacco company is Life Insurance Corp (LIC), owned by the Government of India.
- When children are glued to games like PUBG, the young ones and their parents are blamed.

But in a class suit in Canada, parents alleged: "companies hire psychologists, who dig into the human brain and they really made the efforts to make the game as addictive as possible".

Challenges in Implementation of NAP

- **Extreme Informalization:** India faces an issue of extreme informalisation, low-skilled and low-paying jobs, gender wage gap, the prevalence of child labor, and forced/ bonded labor.
Social protection, occupational health and safety, unionization, and collective bargaining remain a challenge in general but particularly for informal workers.
- **High Levels of Dispossession:** The dispossession of communities from their right to access and control over land, water, and other natural resources necessary for their lives and livelihoods, is also a critical issue that the NAP must address.

- **Lack of Grievance Redressal Mechanisms:** Access to remedy poses a major challenge in the effective implementation of NAP.

The lack of operational-level grievance mechanisms could be another stumbling block for the rights holders to access remedy mechanisms.

Way Forward

- **Strengthening CAG:** There is a need to encourage CAG to evolve auditing standards that seek to ensure human-rights compliance and extend the same to all public-private partnerships.

This should ensure respect for human rights in all cases of public procurement and of public investment.
- **Strengthening CEC:** The Central Election Commissions should be mandated to regulate corporate funding of political parties, including directing mandatory disclosures of donations as well as of any conflict of interests by both businesses and political parties.
- **Strengthening NHRC and SHRCs:** There is a need to expand the powers of the Human Rights Commissions to issue notices to businesses and to create business and human rights ombudsperson to monitor human rights situation in businesses.
- **Strengthening MSME:** India has a significantly large number of micro, small, and medium (MSME) enterprises. The success of India's NAP rests on the ability of the MSME sector to adopt it.

The government as well as large companies have a crucial role in building the capacity of the MSME sector through training, awareness, and providing incentives.
- **Synchronizing Education:** Business managers will see human rights only as a risk — not as intrinsic to the business. Thus, there is a need for a proactive attempt to make Business and Human Rights a core part of the management curriculum.

So that every business manager groomed should be a human rights defender.
- **Embedding Accountability:** The rising influence and dominance of technology on the future of work, privacy, and inequality is a growing area of concern in India.

The NAP should take steps to embed accountability of technology companies on human rights issues beginning with the rights of workers in the gig economy.

Conclusion

The NAP process is an opportunity for India to demonstrate leadership in achieving sustainable and inclusive growth and position itself as the world's largest sustainable and responsible economy. The NAP can serve as an important tool to guide Indian businesses to redefine their purpose and emerge out of this pandemic more humane.

Drishhti Mains Question

National action plan on business and human rights can serve as an important tool to guide Indian businesses to redefine their purpose and emerge out of this pandemic more humane. Comment.