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The Potential of National Action Plans to Implement Human Rights Norms: An Early Assessment with Respect to the UN Guiding Principles on Business and Human Rights

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Abstract

Building on the academic literature on state compliance with international norms, and focusing specifically on the business and human rights agenda, this article offers the first systematic analysis of the numerous roles that National Action Plans (NAPs) can play in fostering deep implementation of human rights norms. The article argues that this potential can be fully exploited only if the production of NAPs follows eight criteria. The process of NAP development should: (1) be based on a comprehensive baseline study/gap analysis; (2) include all relevant state agencies; (3) allow effective multi-stakeholder participation; and (4) continuously monitor implementation. In terms of content, NAPs should: (5) express firm commitment to implement the UN Guiding Principles on Business and Human Rights; (6) conform as much as possible to the structure and substance of this UN document; (7) offer unambiguous commitments and clear deadlines for future action; and (8) envisage capacity-building initiatives. While numerous governments have embarked on the process of developing NAPs to implement the UN Guiding Principles, drafting processes differ with respect to the form of cooperation among state administrations, the level of consultation with external stake-holders and the extent of engagement with independent experts. The content varies as well: some NAPs are forward-looking, others are mainly descriptive; some offer clear commitments and deadlines, others include nothing but vague aspirations. The article assesses the most advanced NAPs on the basis of the above-mentioned eight criteria.

Keywords: business; compliance; Guiding Principles; human rights; implementation; National Action Plan

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The institutions of international human rights law deserve our energetic support only to the extent they contribute meaningfully to protection of rights, or at least promise eventually to do so (Cassel 2001, 121)

1. Introduction

Over the past twenty years, businesses' impacts on human rights have generated increasing attention from state officials, corporate representatives, civil society and academics. If the foundations of international human rights law were laid down in a world in which States were the most powerful (and threatening) actors, pervasive processes of liberalization and astonishing innovations in communication have altered global rankings (Strange 1996). Today, 37 of the world's 100 largest economies are corporations: when comparing revenue to GDP, Sinopec-China Petroleum is bigger than Nigeria and Chile, Volkswagen Group is bigger than Greece and Pakistan (Transnational Institute 2014, 1). This reshuffle of global power has created multiple governance gaps between the sufferings of human rights victims and the reach of international norms, between the impacts of economic actors and the capacity of societies to manage their adverse consequences (Simons and Macklin 2014).

With the objective of narrowing these gaps, in 2011 the Human Rights Council (HRC) unanimously endorsed the United Nations Guiding Principles on Business and Human Rights (UNGPs) (Ruggie 2011). The UNGPs, which represent the final output of Professor John Ruggie's mandate as Special Representative of the Secretary-General (SRSG) on the issue of human rights and transnational corporations and other business enterprises, operationalise the UN "Protect, Respect and Remedy" Framework, a document adopted by the HRC in 2008 (Ruggie 2008). The two UN documents are based on a three-pronged structure: the State duty to protect against human rights abuses by business enterprises (pillar I), the corporate responsibility to respect human rights (pillar II) and the need for greater access by victims to effective remedy (Pillar III) (for an overview of Ruggie's mandate, see Ruggie 2013a, Aaronson and Higham 2013; for a critical assessment, see Deva and Bilchitz 2013).

The drafting processes of the Framework and the UNGPs, together with their espousal by numerous international organisations, such as the Organisation for Economic Co-operation and Development

(OECD) (OECD 2011, Chapter 4), offered renovated attention to States' failures in abiding by their duty to protect individuals within their jurisdiction from corporate abuses. In addition, even though "nothing in [the] Guiding Principles should be read as creating new international law obligations" (Ruggie 2011, 6), the UNGPs elaborate the practical implications of existing international law, and propose a series of advanced policy recommendations building on decades of legal interpretation by human rights treaty bodies.

As a consequence of heightened scrutiny and more precise requirements, actors as different as independent experts, international organisations, national parliaments and human rights NGOs advanced similar calls for governments to produce National Action Plans (NAPs) on business and human rights – that is, documents that recognise the normative validity of the UNGPs, assess their own performance in comparison with the newly-adopted framework and develop strategies for the full implementation of the UN documents. For instance, the UN Working Group on business and human rights (UNWG) – the body with the mandate, *inter alia*, to promote the effective and comprehensive dissemination and implementation of the UNGPs – called upon States to consider the adoption of NAPs since its very first report to the Human Rights Council in 2012 (UNWG 2012, §68). The European Commission and the Council of the European Union (EU) invited all EU Member States to develop national plans for the implementation of the UNGPs in 2011 and 2012 respectively (European Commission 2011; Council of the European Union 2012).

These pleas have not been ignored. At the time of writing, three countries – Denmark, the Netherlands and the United Kingdom – have adopted a NAP on business and human rights (Government of the United Kingdom 2013; Government of the Netherlands 2013; Government of Denmark 2014). Moreover, most of other EU Member States and a variety of non-Western countries are in the process of producing similar documents (Lambrinidis 2012; Howitt 2012; UNWG 2013b, §28; Guáqueta 2013a, 130). The number of countries engaged in NAP development is even likely to increase in the coming months, particularly as a result of increasing pressure from civil society (see, for instance the German case: CorA Network for Corporate Accountability and German Human Rights Forum 2013).

An interesting aspect of this diffusion process is that, notwithstanding *prima facie* similarities, NAPs present significant differences with each other. For instance, some are based on broad consultations with numerous stakeholders, others are drafted behind closed doors. Some include clear action points, others offers no more than a description of the *status quo*.

This article builds on the academic literature that studied State compliance with international norms (in particular, human rights norms) in order to distil eight criteria that can enhance the effectiveness of NAPs on business and human rights. The drafting process of these documents should (1) be based on a comprehensive baseline study/gap analysis, (2) include all relevant State agencies, (3) allow effective multi-stakeholder participation, and (4) envisage continuity, in particular through monitoring of implementation. As far as content is concerned, NAPs should (1) express firm commitment to implement the UN documents, (2) conform as much as possible to structure and substance of the UNGPs, (3) offer unambiguous commitments and clear deadlines for future action, (4) envisage capacity-building initiatives. The article also assesses existing NAPs on the basis of these criteria.

The article is structured as follows. Section 2 highlights the main findings of the academic literature on government compliance with human rights commitments, and distils the eight criteria that can augment the effectiveness of NAPs on business and human rights. Section 3 offers a snapshot of the diffusion of NAPs at the time of writing. Sections 4 and 5 assess the extent to which existing NAPs conform with the four process criteria and the four content criteria respectively. The conclusion summarises the main findings of the article and suggests potential avenues for future research on NAPs. The article is based on more than 30 semi-structured interviews with State officials and civil society representatives from all countries that have taken significant steps in the production of a NAP on business and human rights. While most of the interviews were conducted in person, some additional information was gathered through written exchanges. Furthermore, the authors draw on their personal experience from contributing to the NAP processes in Italy and in Switzerland.

2. From compliance theory to operational criteria: how can NAPs foster implementation of the UNGPs?

States have missed no opportunity to signal a renewed commitment to comply with their legal duty to protect against human rights abuses committed by corporations and enact the "smart mix" of measures recommended by the UNGPs. After the unanimous endorsement by the HRC, numerous international organizations, such as the African Union, the EU, the Organization of American States and the OECD, officially espoused the UN document.

While these events have been widely praised, it is important to recall that the human rights agenda is plagued by significant gaps between commitment and compliance (Hafner-Burton and Tsutsui 2005; Neumayer 2005; Hafner-Burton and Ron 2009). Formal acceptance of human rights norms "is often not the end, but the beginning of a prolonged struggle about their implementation" (Schmitz and Sikkink 2002, 529).

If this challenge easily explains the centrality of NAPs in the struggle against corporate-related human rights abuses, it also raises one fundamental question: Which features make these documents effective tools to transform commitment into compliance? To the knowledge of the authors, the academic literature on human rights has never suggested the criteria that governments should follow in the production of national implementation plans. However, several scholars have explored the conditions under which States are most likely to comply with human rights norms (for the latest addition, see Risse, Ropp, and Sikkink 2013). For instance, Krasner and Ikenberry highlighted the importance of coercion by powerful States (Krasner 1993), while Keck and Sikkink stressed the boomerang effect allowed by the existence of transnational advocacy network (Keck and Sikkink 1998).

These specific findings have little to say on how to create effective NAPs. The production of a government strategy does not coerce governments to take action, neither it create transnational links between domestic and international actors. However, research from other studies offers illuminating insights on what criteria NAPs should comply with in order to be as incisive as possible. The next sections introduce six micro-processes through which NAPs can be expected to foster the implementation of business and human rights norms. On the basis of these micro-processes, the sections also distil eight criteria that government should follow in the production of NAPs on business and human rights.

2.1. Increase precision and ownership of the norms

International Relations scholars have argued that certain qualities of international norms, like the degree of obligation and the degree of delegation, augment the likelihood of State compliance (Abbott et al. 2000). Human rights norms that are most universal in nature, such as those protecting innocent women and children, have been found to elicit swifter implementation (Keck and Sikkink 1998; Hawkins 2008). Two qualities take centre stage in the business and human rights field: precision and ownership.

Regarding precision, Chayes and Chayes argued that treaty violations often do not fall into the category of willful breaches of legal obligations. Rather, "ambiguity and indeterminacy of treaty language" can explain non-deliberate contraventions (Chayes and Chayes 1993, 188). Research on issues as different as the laws of war and arms control treaties confirm that the relative precision of international obligations improves prospects for compliance (Legro 1997; Morrow 2002). The generic nature of Ruggie's recommendations suggests that NAPs can facilitate their implementation by translating them into more precise commitments. *A first criterion for the production of incisive NAPs therefore relates to its content, and refers to the inclusion of unambiguous pledges and clear deadlines.*

Regarding ownership, Cassel described one of the most important ways in which government ratification of the Convention Against Torture (CAT) facilitate its implementation: "human rights groups can (and regularly do) say to governments, 'It is not we who say that torture is illegal and must be investigated and punished; it is you who so declare, as parties to the Convention Against Torture'" (Cassel 2001, 127). Simmons confirmed that "pre-commitment makes it harder for a government that has secured domestic ratification to plausibly deny the importance of rights protection in the local context" (Simmons 2009, 145). Ownership is particularly important for business and human rights norms because the UNGPs were neither negotiated nor ratified by States. This leads to a second criterion for the production of consequential NAPs: *NAPs should express a firm commitment to fully implement the UNGPs.*

2.2 Localize the norms, but maintain their integrity

Norms are continuously contested, and their meaning can change while diffusing. Krook and True suggested to view norms as "processes", "works-in-progress", rather than finished products, fixed things (Krook and True 2012, 104). Kersbergen and Verbeek argued that "norm implementation is not only a matter of internalization and compliance, but also of redefinition" (Van Kersbergen and Verbeek 2007, 217; see also Sandholtz 2008, 102).

The malleability of international norms holds both opportunities and risks. On the one hand, localization – that is, adaptation to the local level – facilitates implementation. Acharya showed that variation in international norms' acceptance, indicated by the changes which they produce in the goals and institutional apparatuses of public bodies, can be explained "by the differential ability of local agents to reconstruct the norms to ensure a better fit with prior local norms, and the potential of the localized norm to enhance the appeal of some of their prior beliefs and institutions" (Acharya 2004). Studies on the International Criminal Court and gender violence have confirmed the role of human rights activists in developing "domestically appropriate interpretations" of international treaties and translating global principles into the "local vernacular" (Schroeder and Tiemessen 2014; Merry 2006, 117).

On the other hand, malleability entails that international norms can mean radically different things when combined with pre-existing cultural and historical contexts (Wiener 2007; Wiener 2009). This situation opens up "the possibility, even the likelihood, of a conservative effort to delimit new understandings consistent with the interests of the dominant social and political power holders" (Simmons 2009, 143). The diffusion of international norms should therefore be perceived as "an ongoing negotiation process" (Elgström 2000, 459) in the course of which norm entrepreneurs continually have to work for the consolidation of the norm they propagate and the meaning that they attach to it and to defend it against norm challengers (Muller and Wunderlich 2013, 29). For instance, Phil Orchard showed that the domestic implementation of the Guiding Principles on Internal Displacement lagged because they have been object of reinterpretation, as governments significantly

narrowed the definition of internal displaced persons (IDPs) and their rights (Orchard 2014). Liese and McKeown traced how the prohibition of torture and ill-treatment became subject to discursive contestation after 9/11 (Liese 2009; McKeown 2009).

The risk of manipulation of the UNGPs is high. Business and human rights still is a fiercely contested field, where different actors have contrasting views on the legal obligations of States and the social responsibilities of corporations. While NAPs should therefore allow the "localization" of the UN document, the most important thing is that they safeguard their integrity. *NAPs should conform as much as possible to the structure and language of the UNGPs.*

2.3. Produce information on compliance gaps

Decoupling between human rights commitments and actual behaviour is more likely in the absence of information about State practices. For instance, evidence of strategic ratification of human rights treaties in the form of "social camouflage" is strong "only during the Cold War years, where the news media were under the governments' tight control" and information was "thin" (Simmons 2009, 112). Several scholars confirmed this argument by showing that one the most effective strategies of human rights NGOs is to discover and publicize information on human rights abuses (Franklin 2008; Hafner-Burton 2008; Murdie and Davis 2012).

"Naming and shaming" is not the only way in which data collection can foster human rights compliance. The production of information on implementation gaps is fundamental for governments which are willing to abide by human rights norms but have little knowledge on those issues that need prioritization. As will be shown in section 2.6, government may be unable, not only unwilling, to comply with their duty to protect human rights. Ignorance of pressing problems can play a role in this respect.

Information is particularly important in the business and human rights field, none the least because of its novelty. Almost no State still knows whether its laws, regulations and policies are full in line with the UNGPs. NAPs can play a fundamental role by triggering the collection of information on potential mismatches between the UN document and actual reality. *NAPs should be based on a comprehensive*

baseline study, that is, a gap analysis of the current normative and institutional situation of the country. Moreover, implementation of the commitments enshrined in the document should be adequately monitored.

2.4. Empower local pro-human rights actors

During the last fifteen years a consensus has emerged that human rights norms have the highest chances of full implementation when they affect domestic politics dynamics and empower local norm entrepreneurs (Risse, Ropp, and Sikkink 2013, 12–16). According to Risse-Kappen, "whether or not a norm is implemented domestically finally depends on whether a domestic pro-change coalition is sufficiently powerful politically to enact policy change" (Risse-Kappen 1995, 35). Lutz and Sikkink confirmed that human rights norms produce change when they "open up new pathways at the domestic level, and hence provide agency or power to actors not previously involved" (Lutz and Sikkink 2000, 658). Direct access to policy-makers is particularly important because it allows discourse, and thus socialization, to take place (Risse 2000; Johnston 2001). As a matter of fact, international human rights regimes are most effective in political democracies where domestic groups, be they nongovernmental organizations, protest movements or political parties, dispose of various access points to pressure their government into better respect for human rights (Keith 2002, 122; see also Hathaway 2002; Neumayer 2005).

Given the novelty of business and human rights issues, States rarely offer specific platforms for dialogue on corporate accountability. *NAPs can drive effective implementation of the UNGPs if baseline studies, draft documents and final versions are written and monitored through meaningful consultation with civil society.*

2.5. Limit the challenges of decentralized government

Implementation of international norms can suffer because of intra-government politics. The bureaucracy "is not monolithic … it will likely contain opponents of the treaty regime as well as

supporters. When there is an applicable rule in a treaty or otherwise, opposition ordinarily surfaces in the course of rule implementation" (Chayes and Chayes 1993, 179). Grugel and Peruzzotti confirm that "the state's level of commitment to specific human rights regimes is not uniform; while some agencies might be committed to an agenda of change, other state actors might be reluctant to change or, in some cases, might openly oppose it" (Grugel and Peruzzotti 2012, 181).

Coordination among different government actors is one of the most daunting challenges in the implementation of human rights, be it at the state level in federal countries (see, for instance, opposition against the abolition of the death penalty in the U.S.: Simmons 2009, 13) or with respect to specific units in the case of torture (Lutz and Sikkink 2000, 639). The consequence is that compliance with human rights norms is favoured by a certain degree of centralization of decision-making and implementation (Risse and Sikkink 2013, 283; see also Brysk 2013).

Administrative opposition can be particularly strong with respect to the business and human rights issues. To start with, in treaty-negotiation processes governments often consult different bureaucracies (for an example in the field of arms control, see Trimble 1988, 549), and this enhances the likeliness of administrative buy-in. However, this has not occurred in the case of the UNGPs. States have not negotiated the text. Second, the UN document explicitly requires action by a broad range of agencies, across both departments and levels of government. *This being the case, the process of NAP development should involve all relevant State-agencies.*

2.6. Build implementation capacities

Implementation of human rights norms is not always stalled because of lack of political will. Chayes and Chayes were the first to highlight that compliance with international law is often a management and not an enforcement problem. According to the two authors,

> the construction of an effective domestic regulatory apparatus is not a simple or mechanical task. It entails choices and requires scientific and technical judgment, bureaucratic capability, and fiscal resources. Even developed Western states have not been able to construct such systems with confidence that they will achieve the desired objective (Chayes and Chayes 1993, 194).

Several scholars have supported a this managerial perspective. Summarizing their research on compliance with international norms, VanDeveer and Dabelko argued that "it's about capacity stupid" (VanDeveer and Dabelko 2001; see also Urpelainen 2010). Deere reported that "the TRIPS implementation process provides strong evidence to support the argument that capacity-building can play a decisive role in inducing, promoting, and sustaining compliance with international law" (Deere 2008, 23).

Capacity deficiencies have been detected in the field of human rights too. For instance, Orchard found that Nepal has been unable to implement an IDP policy due to the chronic weakness of the post-conflict government (Orchard 2014). As a consequence, *NAPs should envisage explicit capacity-building initiatives.*

(Table 1 here)

3. NAPs on business and human rights: a snapshot

At the time of writing (September 2014), numerous countries, including the majority of EU Member States and a few African, Asian and South American States, have engaged in the development of NAPs on business and human rights. In order to provide an overview of the diffusion of these documents, five different phases can be distinguished: (1) planning; (2) consultation and mapping; (3) drafting; (4) political deliberation and re-drafting; (5) implementation. On the basis of these five phases, one can identify three groups of countries: first, second and third movers.

The group of first movers includes those countries whose governments have already published a NAP or are in the phase of political deliberation and re-drafting. As of September 2014, three governments have already released a NAP: the UK in September 2013, the Netherlands in December 2013 and Denmark in March 2014 (Government of the United Kingdom 2013; Government of the Netherlands 2013; Government of Denmark 2014). In Spain, the Office for Human Rights of the Ministry of Foreign Affairs produced three consecutive draft versions and announced that it will publish the final one in December 2014. Table 2 offers a general overview of these processes.

(Table 2 here)

The group of second movers include Colombia, Finland, France, Italy, Norway and Switzerland. These countries are either in the phase of consultation and mapping or in the phase of drafting. In the Finnish case, an inter-ministerial working group led by the Ministry of Employment and Economy released a background memo on the legal and policy framework with respect to business and human rights in December 2013, and held two rounds of hearings (including several in-person meetings) with external stakeholders in the first half of 2014. The inter-ministerial working group is expected to publish the Finnish NAP in October 2014. In France, after a request from the government, the *Commission Nationale Consultative des Droits de l'Homme* (CNCDH) – that is, the French National Human Rights Institution (NHRI) – recommended that the NAP should include certain action points in October 2013 (CNCDH 2013). Based on these recommendations, inter-ministerial work on the elaboration of the NAP started in early 2014. Multi-stakeholder consultations on a draft version of the NAP are expected to take place in Fall 2014. The Italian government released a document that lays the foundations for the adoption of fully-fledged National Action Plan in January 2014. This document was based on one of the most comprehensive gap analyses that are publicly available (de Felice, Cinelli, and Macchi 2013). However, consultations were limited to a few domestic stakeholders. In Norway, following requests from the multi-stakeholder reference group on CSR, the Norwegian Kompakt, the government commissioned an external expert to prepare a baseline study. A summary of his findings was published in December 2013 (Taylor 2013). The change of government in Fall 2013 slowed down the drafting process, which was expected to start in January 2014. The Swiss government is currently drafting its NAP, whose official release is expected in December 2014. The draft is based on an internal mapping study prepared by an interdepartmental working group and on a stakeholder interview process conducted by an external expert (swisspeace 2014). Earlier in the process, in an effort to learn from experiences from other countries, the Swiss authorities commissioned a study on NAP processes in other European countries (swisspeace 2013). In Colombia, the government has funded numerous capacity-building initiatives since the adoption of the UNGPs. In addition, on the basis of the insights gathered through a series of workshops with different

stakeholders, it is about to draft an extensive chapter on business and human rights to be included in the government's human rights public policy. Table 3 offers a general overview of the second movers.

(Table 3 here)

The group of third movers include those countries that have committed to develop a NAP, but are still in the planning phase. For instance, in Slovenia, the Human Rights Department of the Ministry of Foreign Affairs co-organised together with the Slovenian Chamber of Commerce a Business and Human Rights Forum in December 2013. The event was the occasion to examine the potential creation of a multi-stakeholder dialogue on the topic. The government is also preparing the terms of reference for a baseline study. Other EU Member States who are considering how to implement the UNGPs include Belgium and Ireland. The Greek and Portuguese governments plan to include reference to the UNGPs in their new CSR strategies, which are currently under development. The European Commission itself is about to write a stock-taking report on its own priorities to be adopted by the end of 2014.

NAPs on business and human rights are not an exclusive feature of the European continent. In Latin America, besides Colombia, the idea of developing a NAP is being considered by the Argentinean and the Peruvian governments. While there is no commitment from the Mexican government to work on a NAP at a federal level, a number of state-level human rights commissions have started discussion on the production of strategic documents on the activities of business enterprises. In Asia, a thematic study on CSR and Human Rights conducted by the Jakarta-based Human Rights Resource Centre outlined the need for NAPs in the Association of Southeast Asian Nations (ASEAN) (Human Rights Resource Centre 2013). Indonesia and India are the only countries that voiced interest to respond to this call. The national Ombudsman in Azerbaijan has also undertaken preliminary work to develop a NAP. On the African continent, NHRIs are more and more receptive to the issue of business and human rights. The International Corporate Accountability Roundtable (ICAR) and the Danish Institute for Human Rights (DIHR) report that a few of them, including those in Ghana, Mozambique, Nigeria and South Africa, are pushing for the inclusion of business activities in the generic NAPs on Human Rights (ICAR and DIHR 2013b).

4. Assessing the adoption process of NAPs

4.1. Development of a comprehensive baseline study

Baseline studies are expected to strengthen the effectiveness of NAPs by both providing information on commitment-compliance gaps and raising awareness of business and human rights issues across government agencies. Various actors have recommended that governments should produce a comprehensive gap analysis as a foundation for their NAP on business and human rights. In its 2013 report to the HRC, the UNWG suggested that such an examination should include "mapping and analysing current laws, regulations, policies and practices in the field of business and human rights; reviewing the current situation of business and human rights, focusing on all three pillars of the Guiding Principles … and identifying gaps in protection and in access to remedy" (UNWG 2013a, 21). According to the European Group of NHRIs, a baseline study should cover the full range of human rights, and result from a process that includes broad-based consultation with rights-holders and other stakeholders. Moreover, given that governments are interested parties, baseline studies should be carried out by independent external experts, such as academics or NHRI (European Group of NHRI 2012, 4). The NAP toolkit developed by DIHR and ICAR not only emphasized the important role of baseline studies, but also presented a detailed template for their production (ICAR and DIHR 2014).

So far, governments have barely lived up to these expectations. None of the three countries that have already published a NAP (Denmark, the Netherlands or the UK) conducted a baseline study. Nevertheless, the British and the Dutch governments committed to conduct gap analyses in the future. The UK NAP acknowledged the need to "continually re-assess whether the current mix [of measures] is right, what gaps there might be and what improvements we can make" (Government of the United Kingdom 2013, 8). The government also pledged to "review the degree to which State-owned, controlled or supported enterprises, and of State contracting and purchasing of goods and services, are executed with respect for human rights" (Government of the United Kingdom 2013, 11). The Dutch government promised to produce a thorough analysis of relevant laws and policy documents, including public procurement (Government of the Netherlands 2013, 5). Most importantly, the NAP includes a

commitment to task an independent committee to "investigate whether the obligations of Dutch companies in relation to CSR are adequately regulated in Dutch law, and in accordance with the UN Guiding Principles" (Government of the Netherlands 2013, 14).

Looking at second movers, a baseline study was conducted in France by the NHRI (CNCDH 2013) and in Italy, Norway and Switzerland by academics (de Felice, Cinelli, and Macchi 2013; Taylor 2013). The approaches of these documents are limited, at least in two ways. First, the analysis focuses exclusively on the role of the State and ignores the implementation of Pillar II by national companies – something which is crucial to define priorities of State intervention. Second, the documents are based on desk-based research and a limited number of interviews, mainly with State administration and national civil society, without any systematic outreach to potential victims.

In Colombia, Finland and the Netherlands, the absence of comprehensive baseline studies is partly compensated by internal mappings conducted by government officials (a similar exercise was conducted in Switzerland as well). While these endeavours play an important role for internal awareness-raising, they lack the impartiality and objectivity of the documents produced by external experts. Moreover, with the exception of Finland, these mapping studies have not been made publicly available. In Spain, no baseline study or internal mapping was produced.

4.2. Inclusion of all relevant government agencies under a clear leader

Joint development of NAPs by all relevant administrative branches helps avoid ministerial and bureaucratic resistance to the implementation of business and human rights norms. The UNWG specifically called upon governments to produce NAPs through inter-departmental working groups (UNWG 2013a, 20; see also ICAR and DIHR 2014, 41). Moreover, several actors have emphasized the importance to formally designate a leading agency (UNWG 2013, 20; European Group of NHRI 2012, 4; DIHR and ICAR 2014, 41).

This criterion is generally met by first and second movers. All governments have created interdepartmental working groups, and assigned a clear leadership role to one or two departments/units. The leading actors are often offices within the Ministry of Foreign Affairs (e.g.,

Human Rights Unit in the UK and in the Netherlands, Department for European and International Affairs in France, Directorate-General for Globalization in Italy). The Danish Business Authority in the Ministry for Business and Growth coordinated the process in Denmark. Two agencies from the Ministry of Foreign Affairs and the Ministry of the Economy respectively co-lead the process in Switzerland. The exception that confirms the rule is Spain: the Human Rights Office in the Ministry of Foreign Affairs is in charge of the process, and other Ministries have been involved only through several rounds of consultations and individual meetings.

Even when all relevant actors are involved in producing the NAP, the level of contribution by different agencies is often unequally distributed. The leading agency always carries the heaviest burden, not only in organizational matters but also in drafting output documents. This can be problematic. For instance, preliminary reactions to the NAP implementation process in the UK indicate a lack of commitment by those business-related departments that played a limited role during the drafting phase.

4.3. Effective engagement with relevant stakeholders

Inclusive processes can strengthen the effectiveness of NAPs by empowering norm entrepreneurs to influence policy-making. The UNWG has explicitly recommended States to engage with external stakeholders in the process of producing NAPs (UNWG 2013a, 21). Consultations should include small and large business enterprises, industrial groups, civil society organizations, trade unions, academia, and regional and international actors. Policy-makers should also devoted particular attention to ensure active participation by affected communities and rights-holders, especially those exposed to conditions of vulnerability, such as indigenous peoples, women and children (European Group of NHRI 2012, 4).

The analysis of the consultation processes before the adoption of NAPs on business and human rights requires making a distinction between a pre-draft and a post-draft phase. All first and second movers engaged with a number of external stakeholders before starting to write the NAP. In the Netherlands and Switzerland, the government commissioned external consultants to conduct in-depth interviews

with businesses, civil society and academia (for the Swiss study, see Graf et al. 2014). Other governments, such as the UK, Finland and Spain, organized a series of meetings with different stakeholder groups to gather inputs and identify potential common ground between contrasting perspectives. Norway and Denmark held consultations through their pre-existing multi-stakeholder CSR advisory bodies. Pre-writing consultations were more limited in Italy and France. The Italian interdepartmental working group invited only the UN Global Compact Network to participate in a couple of its meetings. The *avis* by the French CNCDH is mainly based on comments from academics.

As far as consultations in the post-draft phase are concerned, governments took different routes. Spain and Finland publicly released the draft versions of their NAPs and welcomed comments from all interested parties. Denmark and Italy circulated the draft document only to a selected list of stakeholders. Draft versions of the UK and Dutch NAPs were not accessible before their official publication. However, at least the UK informally sent draft outlines to a few stakeholders before finalization.

In all cases, pre- as well as post-drafting consultations were essentially limited to national interest groups, be they companies or civil society organizations. Direct engagement with rights-holders was almost completely absent. No government has attempted to reach directly relevant rights-holders, such as the workers of specific risky sectors within the national jurisdiction or local communities in foreign regions where national companies have large operations. It needs to be noted however that, to some extent, the voices of rights holders are represented by human rights NGOs. For example, the Italian Ministry of Foreign Affairs circulated the draft version of the NAP to Actionaid, Amnesty International Italia, Mani Tese, Re:Common and a few other civil society organisations.

Effective engagement with civil society requires not only involvement in consultations, but also predictability and transparency of the process. Several organizations have emphasized the importance of these aspects. According to ICAR and DIHR, the NAP process should be clearly outlined to non-governmental stakeholders, and documents should be publicly shared (ICAR and DIHR 2014, 47; see also European Group of NHRI 2012, 5).

With regards to predictability, most interdepartmental working groups attempted to outline the process in a clear and transparent manner. However, it was often difficult to stick to announced deadlines. Moreover, the further the process progressed, the more difficult it was for non-governmental stakeholders to know what the situation was. In the UK and the Netherlands, for instance, human rights NGOs complained that the publication of the plan was repeatedly postponed without transparent communication. NAPs processes also lacked transparency with respect to interdepartmental meetings and communications with stakeholders. In all countries, little (if any) information has been available on the internal debates within the interdepartmental working group and on the many bilateral meetings of working group members with different stakeholders. For instance, the UK government circulated the minutes of its meetings with business or civil society only under confidentiality requirements. Only a scant summary of the Dutch consultation report is publicly available.

The baseline studies offer a varied landscape. NGOs complained that the internal mapping studies produced in the Netherlands and Switzerland were not publicly available. Similarly, only a partial summary of the Norwegian baseline study was published in December 2013 (Taylor 2013). However, the independent gap analyses produced in Italy and France are accessible on the internet (de Felice, Cinelli, and Macchi 2013; CNCDH 2013). The golden example is offered by Finland, where both the government's mapping and the draft NAP are available to the general public.

4.4. Monitoring and continuity of the process

NAPs on business and human rights are most likely to produce long-lasting effects if they are understood as continuous processes based on recurrent monitoring, as opposed to one-time events. According to the European Group of NHRIs, governments should periodically report their progress in implementation (European Group of NHRI 2012, 5). Accountability Counsel suggested to establish an interdepartmental group with the responsibility to implement the NAP (Accountability Counsel 2013, 20). ICAR and DIRH recommended multi-stakeholder participation also in the implementation phase (ICAR and DIHR 2014, 49–55).

First movers vary significantly with respect to this criterion. The British government is crystal-clear that the NAP only represents the beginning of a journey: "[t]his paper marks the start of the UK's work on implementing the UN Guiding Principles" (Government of the United Kingdom 2013, 19). The government included an explicit pledge to develop an up-dated version of the NAP by the end of 2015, and the Foreign and Commonwealth Office (FCO) formally committed to include information about its progresses on business and human rights issues in its annual report on Human Rights and Democracy (ibid.). The most problematic aspect is that it is not clear how different departments and stakeholders will participate in the implementation process. The NAP does not fix clear responsibilities for the various branches of government, nor does it say anything on whether the steering committee is to be upheld to coordinate the implementation of the document. The Danish government commits to "continuously update Danish priorities with regard to the implementation of the UN Guiding Principles in alignment with the National Action Plan for CSR 2012-15" (Government of Denmark 2014, 22). However, the NAP does not include any provisions regarding reporting on progress. The Dutch NAP is even less specific than the Danish document. The government has not included any commitment to report on implementation. The document also remains largely silent on the way in which different branches of governments and non-governmental stakeholders will interact during the implementation process.

5. Assessing the content of NAPs

5.1. Firm commitment to implement the UN documents

Explicit recognition of the validity of Ruggie's recommendations would enhance States' responsiveness to business and human rights campaigns. All existing NAPs ensure strong support to the UN Framework and the UNGPs. However, no government has expressed a firm commitment to implement the UN documents as part of their State duty to protect human rights against abuses by business actors.

The British government acknowledged the existence of international legal obligations in the field of business and human rights: "the UK is subject to international human rights obligations under

customary international law and as a result of the international legal instruments we have signed and ratified" (Government of the United Kingdom 2013, 11). In addition, the NAP explicitly envisaged "further work to implement UK Government obligations to protect human rights within UK jurisdiction where business enterprises are involved" (Government of the United Kingdom 2013, 6). Yet, the UNGPs are never qualified as the authoritative interpretation of international law. Actually, the government took the opportunity to clarify that "human rights obligations generally apply only within a State's territory and/or jurisdiction. Accordingly, there is no general requirement for States to regulate the extraterritorial activities of business enterprises domiciled in their jurisdiction, although there are limited exceptions to this, for instance under treaty regimes". Regulating the overseas conduct of British business remains "a matter of policy in certain instances" (Government of the United Kingdom 2013, 8).

More problematically, the UK government has not justified the adoption of the NAP as the consequence of legal human rights obligations, but as the response to a request by business actors: "companies have told us that they need from the Government policy coherence and clear and consistent policy messaging. They need certainty about the Government's expectations of them on human rights, and expect support in meeting those expectations. This action plan aims to meet those needs" (Government of the United Kingdom 2013, 6). A first consequence is that UK policy-makers did not commit to ensure that UK companies respect human rights. Rather, they promised to "help" them "understand and manage human rights" (Government of the United Kingdom 2013, 5). A second consequence is that the NAP is permeated by the business case for human rights. Protecting vulnerable individuals is not the right thing to do, but something profitable for business enterprises: "the thread of safeguards running through society that are good for human rights - democratic freedoms, good governance, the rule of law, property rights, civil society – also create fertile conditions for private sector led growth. ... Responsible action by the private sector on human rights is good for business and communities; it helps create jobs, customers and a sense of fairness; it contributes to a market's sustainability and therefore its potential to generate long-term growth" (Government of the United Kingdom 2013, 4).

The other two NAPs present a similar situation. The Dutch government recognised that "putting the UN Guiding Principles into practice is an important priority for the Netherlands" (Government of the Netherlands 2013). In addition, it explicitly affirmed that it "expects companies operating abroad, in particular in countries where legislation or enforcement falls short, to pursue the same standards for CSR and human rights as they would in the Netherlands ... The government also holds them accountable for doing so (Government of the Netherlands 2013, 2). However, the commitment that opens the document is not stronger than the British one. The Netherlands only "encourages the business community to respect human rights" (Government of the Netherlands 2013, 1). The Danish Government follows the example of the Netherlands and sets out clear expectations to Danish companies that they must take responsibility to respect human rights when operating abroad, especially in developing countries where there can be an increased risk of having an adverse impact on human rights (Government of Denmark 2014, 11). Yet again, the State duty to protect is absent from the government's radar. The aim of the Danish Government is "to assist private and public businesses in turning the respect for human rights into reality wherever they operate ... the public sector must be a driving force by creating good framework conditions for CSR and thereby promote responsible growth" (Government of Denmark 2014, 6).

5.2. Conformity with structure and content of the UNGPs

In order to avoid that adaptation to local contexts jeopardizes core normative requirements, structure and content of NAPs on business and human rights should match structure and content of the UNGPs. Consistency between NAPs and UNGPs can take different forms. First of all, government should devote equal attention to Pillar I (precaution) and to the State-related part of Pillar III (remediation). As highlighted by Ruggie himself, each pillar of the UNGPs "is an essential component in an inter-related and dynamic system of preventative and remedial measures" (Ruggie 2011, §6). Alexandra Guaqueta, one of the five members of the UNWG, clarified that the three pillars are "designed to be implemented simultaneously and in an integrated manner. If one of these pillars is ignored the equation does not add up" (Guáqueta 2013b, 2).

The Dutch NAP discusses at length remedial issues such as extraterritorial jurisdiction, the corporate veil, legal aid and potential reform of the OECD National Contact Point. While the actions planned are minimal, the detailed analysis of the topic represents a positive step in terms of engagement with the full scope of the UNGPs. The position adopted by the Danish government is more problematic. The NAP is structured around the three pillars of the UNGPs, and includes a description of a few actions taken on remediation, in particular regarding the establishment of a Mediation and Complaints-Handling Institution for Responsible Business Conduct. However, the government is the first to acknowledge that the initiatives included in the document "are focused on preventing and mitigating adverse impacts on human rights by Danish companies at home and abroad" (Government of Denmark 2014, 9). This aspect is also completely missing from the British NAP. The UK acknowledges "its own provision of judicial remedy options as an important element in the remedy mix" (Government of the United Kingdom 2013, 17). Yet, the section on access to remedy focuses only on non-State based judicial mechanisms. Commentators argued that "the government commits to keeping the UK provision of remedies under review, but does not propose any change to existing judicial remedy options. Instead, it emphasises the need for businesses to develop compliant internal grievance processes and to extend their domestic UK practices to overseas operations" (Wood and Neely 2013). This is particularly problematic because, as highlighted by Professor McCorquodale, access to judicial remedy "is a requirement of the Guiding Principles, and yet is being reduced dramatically by recent government actions, such as the Legal Aid, Sentencing and Punishment of Offenders Act 2012 and its impact on legal fees" (McCorquodale 2013).

Secondly, NAPs should include "a review of measures and detailed recommendations as needed under each of the Guiding Principles". To reach this goal, it is "necessary for Member States to unpack the content of the UNGPs, one by one" (European Group of NHRI 2012, 5). The requirement is both formal and substantial: (1) the structure of NAPs should mirror the structure of the UN document; (2) NAPs should rigorously reflect the content of the UNGPs (in particular, take both voluntary and mandatory measures into adequate consideration).

The Danish NAP is the only one that includes an Annex offering a schematic overview of the Danish implementation of the UNGPs principle by principle. Neither the UK nor the Dutch NAP follows the

exact structure of the UN document. This is regrettable for at least two reasons. First, governments risk missing important parts of the UNGPs. Second, absence or manipulation of important issues is more difficult to detect.

These problems become evident if one looks at the content of the UK NAP. To begin with, the document fails in balancing the "smart mix" of voluntary and mandatory measures which is a defining feature of the UNGPs. According to Boyle, the approach of the UK government "is almost entirely one of encouragement and exhortation" (Boyle 2013). Tricia Feeney confirms that "the strategy consists of little more than repeating the tired formula of encouraging and providing incentives to business to act more responsibly" (Feeney 2013, 1). Second, the NAP ignores those parts of the UNGPs that are outside of the comfort zone of the leading agency. As highlighted by CORE, "the document focuses on actions that have been or are to be taken by the FCO, the department sponsoring the plan. It is important that this is built on with a more strategic, cross-departmental approach to business and human rights" (CORE 2013, 4). Third, the British plan tends to water down the State duty to protect with diluted wording. For instance, the UK government commits to "*support* access to effective remedy for victims of human rights abuse involving business enterprises within UK jurisdiction" (Government of the United Kingdom 2013, 6), when the UNGPs are clear that States are required to *ensure* effective remedy (see Ruggie 2011, UNGP 25).

The Dutch NAP better reflects the substance of the UNGPs. First, even if the focus remains on support and incentives, the document also considers mandatory measures. For instance, the government discusses the need for further legislation on transparency and reporting (Government of the Netherlands 2013, 9), and commits to mandate an independent committee to "investigate whether the obligations of Dutch companies in relation to CSR are adequately regulated in Dutch law, and in accordance with the UN Guiding Principles" (Government of the Netherlands 2013, 14). Second, the Dutch NAP covers a range of activities by different State agencies. The document highlights the role to be played by the Dutch government in international organisations, including the OECD, the EU and the World Bank (Government of the Netherlands 2013, 3, 5). In addition, the Netherlands commit to include the promotion of human rights during trade missions: "for the government, it is essential to

encourage ICSR during trade missions, and it has now become a permanent feature of them" (Government of the Netherlands 2013, 4).

Thirdly, OECD governments should not be lured in the temptation of discussing only external issues. As highlighted by a number of European NGOs, "NAPs should not only focus externally, but must also address impacts that corporate activities have on human rights inside the State's territorial jurisdiction" (ICAR and DIHR 2013a, 3). Examples of relevant domestic issues in developed countries include human trafficking and discrimination based on race, gender or disability in the labour market. An important requirement for NAPs is therefore to balance between the external and the internal dimension of the State duty to protect. All three NAPs are heavily skewed toward the external aspects of the business and human rights agenda. This can be partially justified by the fact that the most severe human rights impacts of British, Dutch and Danish companies take place outside of national jurisdictions. Nevertheless, the nearly complete neglect of domestic issues is problematic. In the UK, this has been heavily criticised because, "as the Morecambe Bay cockle pickers and phone hacking scandals show, serious abuses in the business context take place in the UK, including modern day slavery" (CORE 2013, 9). One can make similar points with respect to the other two countries. Just to mention one domestic case, in October 2013 the Netherlands Institute for Human Rights ruled that El Al agents exercised racial discrimination against dark-skinned passengers within the Dutch jurisdiction (Haaretz 2013).

5.3. Unambiguous commitments and clear deadlines for future action

Unambiguous commitments, precise indicators and realistic deadlines are fundamental to track and verify progress in implementation (on the challenges of producing business and human rights indicators, see de Felice 2015). The European Group of NHRI argued that NAPs "should include reasonably precise targets and objectives, that are achievable within reasonable time frames, to which easily understandable and verifiable performance indicators are attached, and with phased milestones for delivery, wherever appropriate" (European Group of NHRI 2012, 5). ICAR and DIHR explained that "the absence of explicit targets and timelines risk leading to divergent interpretations of the

commitments undertaken by the government and the expectations set on the companies. The result is lack of accountability for GPs implementation" (ICAR and DIHR 2013a, 3).

The UK NAP fails to meet these requirements. McAllister commented that the document "leaves a number of questions unanswered, including the detail of how things will be done and where efforts will be focused" (McAllister 2013).

Moreover, no measurable target, success criteria or timetable is set. As highlighted by Frankental, "[t]he government needs to ensure that the impact on human rights is fully reflected in tendering processes, and not merely an abstract consideration" (Frankental 2013). Lawyers from Clifford Chance made a similar comment with respect to State support to business activities: "the NAP outlines the government's plans in fairly general terms. For example, there is little detail on how the review of activities of State-owned, controlled and supported entities will be undertaken, or the timescale for the development of further recommendations in that respect" (Sheppard, Lindsay, and Crockett 2013). This is not an isolated problem of single sections of the UK NAP. CORE counted that "out of the twenty or so planned new actions, only two appear with a timetable for implementation" (CORE 2013, 5). The final comment by Gurney is telling: "the devil ... as always will be in the detail, or in some crucial areas, probably the lack of detail contained in the plan" (Gurney 2013).

The timeline of the Dutch and Danish documents is partially more meticulous. For instance, the Dutch government committed to consult with like-minded member states on shared priorities and commitments in Europe "in the run-up to the Dutch EU Presidency in 2016", and to provide "shortly" an inter-ministerial training course for civil servants whose work calls for knowledge of the UN Guiding Principles. In addition, an independent committee will investigate whether the obligations of Dutch companies in relation to CSR are adequately regulated in Dutch law "in 2014". However, other pledges in the Dutch and Danish NAPs remain much more vague and open-ended.

5.4. Capacity-building activities

In order to ensure full implementation of the UNGPs, governments should raise awareness of business and human rights issues, and enhance the capacity of both public agencies and private actors to

address them. While all three NAPs include specific action points dedicated to capacity-building, too little attention is dedicated to public bodies.

The UK government is committed "to ensuring that in UK Government procurement human rights related matters are reflected appropriately when purchasing goods, works and services" and "instructed its embassies and high commissions to support human rights defenders" (Government of the United Kingdom 2013, 9, 12). In addition, UK Export Finance will consider any negative final NCP statements a company has received in respect of its human rights record when considering a project for export credit (Government of the United Kingdom 2013, 10). However, diplomats and civil servants should not only be encouraged to take human rights into account, but also have a clear understanding of the UNGPs, and possess the resources to meaningfully integrate them into their everyday activities. There is nothing in the UK NAP to reassure the reader that this is the case.

The Dutch and Danish NAPs are more specific with regards to capacity building. For instance, the Netherlands reported that "the CSR passport, a booklet for embassy staff with information on the OECD Guidelines, human rights and due diligence, is currently being updated" (Government of the Netherlands 2013, 8). The Danish government affirmed that "the Government will invite municipalities and regions to jointly prepare guidelines for how public authorities can avoid having an adverse impact on international guidelines. The guidelines should be used to manage the challenges the public authorities are facing today when acting as a private company" (Government of Denmark 2014, 16). More should be done to ensure that public officials are not only willing but also capable to discharge their responsibilities under the State duty to protect.

6. Conclusion

According to the UNWG, State adoption of NAPs on business and human rights is "one key instrument in the global implementation of the UNGPs" (UNWG 2014; see also McAllister 2013). Notwithstanding the increasing influence of multinational corporations, States still are powerful actors vis-à-vis the greatest majority of businesses operating worldwide (as an example, see the recent arm wrestling between an energy behemoth like Areva and a poor country like Niger: Flynn and De Clercq

2014). Yet, no State can claim full compliance with its legal duty to protect against business-related human rights abuses within its jurisdiction. If the collapse of the Rana Plaza building highlighted the shortcomings of policies and regulations in a developing country like Bangladesh (BBC 2013), OECD member States are not exempt from problems either (for instance, see the concerns over lack of access to effective remedies in Germany: Human Rights Committee 2013).

Against this background, the first part of this article built on the academic literature on State compliance with international norms and offered a systemic overview of the numerous roles that NAPs can play in fostering full implementation of human rights norms (in particular, the UNGPs). In short, NAPs can strengthen the qualities of business and human rights requirements (in particular, their precision, as well as their ownership by governments), allow the adaptation of the UNGPs to specific contexts while maintaining the integrity of Ruggie's recommendations, provide information on potential mismatches between State obligations and State practices, limit the challenges of decentralized government, empower local pro-human rights actors, and ensure that public bodies have adequate knowledge and capacities.

Importantly, this potential will be exploited only if the production of NAPs follow eight criteria. The process of NAP development should (1) be based on a comprehensive baseline study/gap analysis, (2) include all relevant State agencies, (3) allow effective multi-stakeholder participation, and (4) continuously monitor implementation. In terms of content, NAPs should (5) express firm commitment to implement the UN documents, (6) conform as much as possible to structure and substance of the UNGPs, (7) offer unambiguous commitments and clear deadlines for future action, (8) envisage capacity-building initiatives.

The second part of the article concentrated on the ten governments whose drafting process is either concluded or more advanced, and assessed their experiences on the basis of the eight criteria listed above. The main implication for human rights practitioners is that there is large room for improvement. With respect to the adoption process, no country has yet conducted an independent and comprehensive analysis of the status quo. While all processes have benefitted from the inclusion of government and non-government stakeholders, many first and second movers (such as the UK, the

Netherlands and Italy) have been reluctant to release draft versions of the NAP for open consultations. Workload distribution among State agencies is often uneven, hampering ownership by several crucial actors. While the UK government has committed to regularly update its NAP, nothing in the documents developed by the Dutch and Danish governments indicates that they consider NAPs on business and human rights to be a continuous and ongoing undertaking.

As far as content is concerned, none of the three governments that have already released their NAP (Denmark, the Netherlands and the UK) recognises the normative validity of the UNGPs as the authoritative interpretation of the State duty to protect. The documents focus too heavily on preventive measures, and are largely silent on how to improve access to remedy. With the partial exception of the Dutch NAP, they avoid legally binding mechanisms, thus ignoring the "smart mix" of voluntary and mandatory instruments which characterizes the UNGPs. The three NAPs are generally laudable in terms of balancing the description of the status quo with the more prescriptive definition of future actions. Yet, all NAPs overlook domestic problems, lack a specific focus on the needs of the most vulnerable groups, and include too few unambiguous commitments with clear deadlines. Lastly, it is important to remind that the UNGPs are intended to reflect a minimum of government obligations. The NAPs published so far rather leave the impression that governments are treating the UNGPs as the ceiling, not the floor of human rights protection.

In conclusion, this article proposed the first ever systemic analysis of the roles that NAPs can play in narrowing the gap between State commitments and actual compliance with international norms. Moreover, the article presented a preliminary assessment of the diffusion of NAPs on business and human rights. The objective was to offer useful guidance for practitioners working on these documents. The article also paves the way for two potential avenues of future research with respect to the implementation and diffusion of international norms (in particular human rights). First, the article identified eight features that can enhance the effectiveness of NAPs. The novelty and paucity of NAPs on business and human rights precluded from testing the impact of these features in this study. However, in a few years' time an assessment of how these "criteria" have lead to effective or ineffective NAPs cold generate important lessons for the broader literature on norm diffusion and implementation. The second avenue of potential research looks at the mechanisms of NAPs diffusion

across countries and regions. Why are some countries first movers and others laggards? What is the role played by different actors (such as government agencies, international organizations, NHRIs, human rights NGOs, academics)? Ruggie suggested that second movers will imitate first movers: "the UK is the first government to announce such a comprehensive plan – and it sets the bar for the many others to come" (Ruggie 2013b; see also Roscoe 2013). Is this true? Research addressing these questions is invaluable for those practitioners advocating in favour of a global governance system that takes full advantage of the legal, political and economic powers of States and thus effectively protects individuals from corporate-related abuses.

Table 1 – 8 Criteria for National Action Plans on business and human rights

Process criteria	NAPs should be based on a comprehensive baseline study/gap analysis
	The production of NAPs should include all relevant State agencies
	Drafting and monitoring NAPs should ensure effective multi-stakeholder participation
	The commitments enshrined in NAPs should be adequately monitored
Content criteria	NAPs should express firm commitment to implement the UN documents
	NAPs should conform as much as possible to the structure and substance of the UNGPs
	NAPs should offer unambiguous commitments and clear deadlines for future action
	NAPs should envisage capacity-building initiatives

Table 2 – Overview of NAP processes: first movers

Country	Stage as of Feb 2014	(Expected) date of completion	Lead agency	Inter-ministerial cooperation	Multi-stakeholder participation	Baseline studies
United Kingdom	Implementation (phase 5)	Completed in September 2013	Human Rights and Democracy Department, Foreign Office	Broad interministerial working group	Series of workshops and meetings	No baseline study; internal mapping by state agencies
Netherlands	Implementation (phase 5)	Completed in December 2013	Department for Multilateral Organizations and Human Rights, Ministry of Foreign Affairs	Broad interministerial working group	Interview process by external expert; meetings	No baseline study; internal mapping by state agencies
Denmark	Implementation (phase 5)	Completed in March 2014	Danish Business Authority, Ministry of Business and Growth; Department for Business Development, Ministry of Foreign Affairs	Working Goup among Ministries of Business and Growth as well as foreign Affairs, regular consultations with other ministries	Regular consultation with multistakeholder CSR advisory body	No baseline study
Spain	Political deliberation and re-drafting (phase 4)	December 2014	Office for Human Rights, Ministry of Foreign Affairs	No interministerial working group, regular consultation with other ministries	Series of workshops and meetings; consultation of draft versions	No baseline study

Table 3 – Overview of NAP processes: second movers

Country	Stage as of Feb 2014	Expected date of completion	Lead agency	Interministerial cooperation	Multistakeholder inclusion	Baseline studies
Finland	Drafting (phase 3)	October 2014	Labor and Trade Department, Ministry of Employment and Economy	Broad interministerial working group	Written consultation of basic memo; meetings; consultation of draft version (planned)	No baseline study; mapping produced by state agencies and consulted with stakeholders
France	Drafting (phase 3)	Early 2015	Direction of European and International Affairs, Ministry of Foreign Affairs	Broad interministerial working group	Consultation of draft version (planned)	Baseline study focusing on pillars 1 and 3
Italy	Drafting (phase 3)	Late 2015	General-Directorate for Globalization, Ministry of Foreign Affairs	Broad interministerial working group	Meetings with UN Global Compact Networks; consultation of draft version	Baseline study focusing on legal issues and pillars 1 and 3
Norway	Drafting (phase 3)	No date communicated	Section for Human Rights and Democracy, Ministry of Foreign Affairs; Section for Economic and Commercial, Ministry of Foreign Affairs	Broad interministerial working group	Regular consultation with multistakeholder CSR advisory body	Baseline study focusing on pillars 1 and 3

Switzerland	Drafting (phase 3)	Early 2015	Human Security Department, Federal Department of Foreign Affairs; State Secretariat for Economic Affairs, Federal Department of Economic Affairs, Education and Research	Broad interministerial working group	Interview process by external expert; meetings	No baseline study; mapping produced by state agencies
Colombia	Mapping and consultation (phase 2)	No date communicated	Presidential Program on Human Rights and International Humanitarian Law	Broad interministerial working group	Series of workshops and meetings	No baseline study

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