

Assessment of the National Action Plan (NAP) on Business and Human Rights of NORWAY



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INTERNATIONAL CORPORATE
ACCOUNTABILITY ROUNDTABLE



In October 2015, the Norwegian government launched a National Action Plan (NAP) on business and human rights. In response, the International Corporate Accountability Roundtable (ICAR) and the European Coalition for Corporate Justice (ECCJ) conducted a structured assessment of the Norwegian NAP, using the NAPs Checklist developed and published by ICAR and the Danish Institute for Human Rights (DIHR).¹ The NAPs Checklist lays out a set of twenty-five criteria that address both the content of NAPs and the process for developing them.

This assessment is part of a larger effort by ICAR to assess all existing NAPs on business and human rights. In November 2014, ICAR and ECCJ published its first version of a joint report *Assessments of Existing National Action Plans (NAPs) on Business and Human Rights*,² which systematically assessed the published NAPs from the United Kingdom, the Netherlands, Denmark, and Finland. In November 2015, ICAR and ECCJ published an update of this report including the assessments of the Lithuanian and Swedish NAPs. This report was updated a further time in August 2017, in conjunction with both ECCJ and Dejusticia, to include assessments of the Colombian, Norwegian, United States, United Kingdom (second iteration), Italian, and Swiss NAPs.

ASSESSMENT SUMMARY: NORWAY NATIONAL ACTION PLAN

Introduction

The Norwegian government announced its intention to create a National Action Plan (NAP) on business and human rights at the 2012 UN Forum on Business and Human Rights. The NAP was officially launched by the Minister of Foreign Affairs, Børge Brende, in October 2015.

The Norwegian NAP is based on the government white paper, *Opportunities for All: Human Rights in Norway's Foreign Policy and Development Cooperation*, which commits the government to creating a NAP, and presents twenty-four measures* relating to the State's duties according to the UN Guiding Principles on Business and Human Rights (UNGPs) under Pillar I (State duty to protect) and Pillar III (access to remedy) that the Norwegian government intends to enact. The NAP also highlights five expectations that the Norwegian government has of all companies.

This summary outlines key trends in terms of process and content, as identified through the attached assessment of the Norwegian NAP. It is hoped that other States that are considering, beginning, or are in the process of creating a NAP will use this assessment to inform their own processes.

Process

The steps taken by the Norwegian government during the drafting process demonstrated strong commitment to the NAP. As a first positive step, the government made clear that the Ministry of Foreign Affairs was responsible for the drafting process. Another positive aspect of the NAP process was the creation of a National Baseline Assessment (NBA), an often-overlooked step in NAPs processes, which the Norwegian government contracted with a senior research at the Fafo Research Foundation to conduct. Additionally, the government created an interdepartmental group of ministries for formal and information consultations on the NAP. However, it is unclear which ministries were involved and to what extent.

The Norwegian government also showed its commitment to the NAP process by holding several series of individual- and multi-stakeholder consultations with business, civil society, and indigenous peoples' representatives. The Ministry of Foreign Affairs also sought input from a range of government ministries and institutions.

* The measures in the Norwegian NAP are not numbered; however, for ease of reference, the authors of this assessment have assigned each bullet point within the shaded "measures" boxes of the NAP a number in ascending order from 1-24. The "government expectations" box on p. 30 of the NAP has not been included in this assignation.

One negative aspect of the NAP process was that the Norwegian government did not facilitate direct participation of disempowered or at risk stakeholders, nor was any stakeholder steering group or advisory committee created. The NAP process could also have been improved by increased transparency around the timeline, resources, and drafting process, and by conducting and publishing a stakeholder mapping.

Content

There are a number of positive aspects in relation to the content of the NAP. First, the NAP contains a high-level statement of commitment to the UNGPs, and the majority of the NAP content is organized around the three Pillars of the UNGPs. The NAP also does a good job in recognizing the role of international and regional organizations and standards and encourages both the State and business to use those organizations and standards to push for greater respect for human rights.

Another positive aspect of the NAP is that it addresses thematic and sector-specific human rights issues in its planned future measures. Future commitments are made in a number of areas such as trade, conflict areas, corruption, security concerns, indigenous rights, responsible investment, extractives, and public procurement. Furthermore, while the majority of the NAP content focuses on human rights harms abroad, there are a number of legislative and policy measures that have impacts of domestic concern. Finally, the NAP commits to the creation of an interministerial working group to ensure coordinated implementation of the NAP; however, this commitment could be much stronger with a framework for reporting on implementation of the NAP measures.

One negative aspect of the NAP is that it heavily emphasizes the promotion of corporate social responsibility (CSR), over a stronger focus on ensuring the State upholds its own international duties to protect human rights and provide effective remedy. Furthermore, the NAP mainly focuses on promoting CSR and protecting human rights abroad, thus inadequately addressing the full scope of the State's jurisdiction as it is skewed towards external concerns. The NAP also fails to address issues regarding negative human rights impacts arising within the context of business supply chains.

Another criticism of the NAP is that the majority of the established measures lack specificity, measurable targets, criteria for success, and a fixed timeline. Most of the measures commit the government to vague activities such as "improving," "strengthening," "expecting" or "continuing" certain broad activities. In general, vague monitoring and implementation

commitments and lack of reporting requirements are also a major shortcoming of the NAP. Additionally, the majority of the planned measures of the NAP do not identify the government agency responsible for monitoring and enforcement. Ultimately, this limits the effectiveness of the NAP as it prevents ownership of the measures contained within it and makes it difficult to identify whom to hold to account for failure to implement the plan.

**ASSESSMENT OF THE NORWEGIAN
NATIONAL ACTION PLAN ON BUSINESS AND HUMAN RIGHTS**

1. GOVERNANCE AND RESOURCES	COMMENTS
Leadership and Ownership of NAP Process	
1.1. Commitment to the NAP process.	<p>The Norwegian government was an early champion for the implementation of the UNGPs. In 2012, at the UN Forum on Business and Human Rights, the Secretary General of the Norwegian Ministry of Foreign Affairs stressed, “all parts of government have a duty to implement the Guiding Principles.”³ At this time, the government also announced its creation of an interdepartmental group to promote the implementation of the UNGPs in Norway.⁴</p> <p>The Norwegian government committed to drafting a NAP as early as 2013 and the plan was officially launched by the Minister of Foreign Affairs, Børge Brende in October 2015.⁵</p> <p>The commissioning of a national baseline assessment (NBA) on the State duty to protect human rights as a basis for the Norwegian NAP is a positive indication of the government’s commitment to a comprehensive NAP process that involves structured evidence gathering to inform the content of the NAP.⁶</p> <p>The creation of an interdepartmental group to guide the NAP process is another positive indication of this commitment.⁷ That being said, vague monitoring and implementation commitments (to be discussed in section six of this assessment) and lack of reporting requirements demonstrates a weakness in the overall commitment to the NAP process, as failure to require reporting and revision of</p>

	<p>the plan will necessarily impact its effectiveness.</p> <p>Additionally, the Norwegian NAP's emphasis and focus on the language and practice of CSR, which undermines the appearance of Norway's commitment to a comprehensive NAP on business and human rights that takes into account the State's own obligations to protect against corporate human rights abuse and provide remedy for such abuses when they occur.</p>
1.2. Ensure responsibility for the NAP process is clearly established and communicated.	<p>The Ministry of Foreign Affairs was responsible for the NAP process.⁸ The Norwegian government also contracted an independent researcher to conduct a mapping and gap analysis of the State duty to protect.⁹</p>
1.3. Ensure an inclusive approach across all areas of government.	<p>In recognition that "human rights and business are to a certain extent relevant for virtually all Ministries," the Norwegian government established an interdepartmental group for "formal and informal consultations on the NAP."¹⁰</p> <p>While the Norwegian government maintains that all "relevant" ministries were involved to "varying degrees" in the NAP process, other than the Ministry of Trade, Industry, and Fishery and the Ministry of Finance, it is unclear which ministries were involved.¹¹ The NAP states that the measures developed in the plan were "developed through broad-based cross-sectoral cooperation in the public administration."¹² However, the extent of this cooperation remains unknown.</p>
1.4. Devise and publish terms of reference and a timeline for the NAP process.	<p>Neither terms of reference nor a timeline for the NAP process was published.</p>

Adequate Resourcing	
1.5. Determine an appropriate budget for the NAP process.	There is no information publicly available on the level of funding provided for the NAP process.

2. STAKEHOLDER PARTICIPATION	COMMENTS
Effective Participation by All Relevant Stakeholders	
2.1. Conduct and publish a stakeholder mapping.	No information on any stakeholder mapping was published.
2.2. Develop and publish a clear plan and timeline for stakeholder participation.	No plan or timeline for stakeholder participation is publicly available. However, the Norwegian government held “several series of consultations, both multi-stakeholder and separate meetings with business, civil society and indigenous peoples’ representatives.” ¹³ The government has also stated it will continue to engage with “all key stakeholders” on the implementation of the NAP. ¹⁴
2.3. Provide adequate information and capacity-building where needed.	It does not appear that the government provided information and engaged in capacity-building during the NAP process.
2.4. Facilitate participation by disempowered or at-risk stakeholders.	The Norwegian government held “several series of consultations,” both multistakeholder and individual with multiple interested parties, including indigenous peoples’ representatives. ¹⁵ However, it is unclear if the government facilitated the participation of other disempowered or at-risk stakeholders.
2.5. Consider establishing a stakeholder steering group or advisory committee.	No stakeholder steering group or advisory committee was created, only a governmental, interdepartmental steering committee. Whether the government considered creating such a group is unknown.

3. NATIONAL BASELINE ASSESSMENT (NBA)	COMMENTS
The NBA as the Foundation for the NAP	
3.1. Undertake a NBA as the first step in the NAP process.	<p>The Norwegian government commissioned Mark Taylor, Senior Researcher at the Fafo Research Foundation to conduct an NBA. The final product, a mapping and gap analysis on the State’s duty to protect maps the principal relationships between state agencies and business (e.g. regulation, investment, procurement, policy guidance) in Norway that govern aspects of human rights and business and analyzes the difference (the “gaps”) between State practice and the UNGPs relevant to State action (GPs 1-10; 25-28).¹⁶</p> <p>The analysis was conducted as a preliminary step in the creation of the NAP; “the purpose of the study is to create a basis for further work in the formulation of a national action plan.”¹⁷</p>
3.2. Allocate the task of developing the NBA to an appropriate body.	The mapping and gap analysis was developed by Mark Taylor in his professional capacity. He is a senior researcher at the Fafo Research Foundation.
3.3. Fully involve stakeholders in the development of the NBA.	In early 2013, a NAP was requested by a working group of Kompakt, the Norwegian multi-stakeholder advisory body concerning CSR issues. The government commissioned a mapping and gap analysis later that year. The mapping and gap analysis was based in part on interviews and email correspondence with various ministries, government institutions, and non-governmental organizations (NGOs). Government actors consulted include “the Ministry of Labour, the Ministry of Children, Equality and Social Inclusion, the Ministry of Government Administration, Reform and Church Affairs, the Ministry of Industry and Trade, and the Ministry of Foreign Affairs.” ¹⁸ NGOs consulted include “Amnesty International Norway, Fellesforbundet (a trade union), Forum for Environment and Development, the Norwegian Peace

3. NATIONAL BASELINE ASSESSMENT (NBA)	COMMENTS
	Association, LO (the principle trade union federation) and NHO (the principle association of employers).” ¹⁹
3.4. Publish and disseminate the NBA.	The mapping and gap analysis was made publicly available.

4. SCOPE, CONTENT, AND PRIORITIES	COMMENTS
Scope of NAPs	
4.1. A NAP should address the full scope of the UNGPs.	<p>The NAP is organized into four chapters: a preliminary chapter on global developments and CSR followed by three chapters, dedicated to a Pillar of the UNGPs. Each respective “pillar chapter” provides the text to all relevant Guiding Principles within that Pillar. For example, the chapter on the State duty to protect provides the text of the first ten Guiding Principles, and so on.</p> <p>The chapter on Pillar I contains the majority of planned measures (twenty-one out of twenty-four measures).²⁰ A little more than half off these planned State actions relate either to promoting CSR or advocating for the implementation of the UNGPs and other business and human rights frameworks abroad. The remaining planned measures relate to State commitments to maintain or improve regulations or policies that work towards the State duty to protect human rights.</p> <p>In the chapter relating to Pillar II, the NAP establishes the Norwegian</p>

4. SCOPE, CONTENT, AND PRIORITIES	COMMENTS
	<p>governments expectations for companies in relation to human rights, including an expectation that companies will “follow the rules and regulations of the country where the company operates,” and “exercise due diligence and assess the risks of human rights abuses in their areas of operation.”²¹</p> <p>Under Pillar III, the NAP broadly addresses judicial remedies and non-judicial remedies. In relation to judicial remedies, the NAP states that Norway has “an effective judicial system,” but provides no evidence to support that or articulates efforts to strengthen the system.²² It also commits to cooperate internationally to ensure victims of corporate-related human rights abuse have access to effective remedy and support work at both the UN and EU level to strengthen national level judicial remedies.²³ In discussing non-judicial grievance mechanisms, the NAP simply restates the expectations established in the UNGPs.²⁴</p> <p>As a whole, the NAP focuses largely on the business responsibility to respect human rights, specifically on voluntary measures, guidance, and support to companies. As such, the NAP is largely lacking in regulatory measures and initiatives.</p> <p>In terms of substantive content, the following four sub-criteria provide insight into the Norwegian NAP’s coverage of the full scope of the UNGPs without conducting an extensive analysis of the NAP’s fulfillment of each UNGP. These four sub-criteria are: (1) positive or negative incentives for business to conduct due diligence, (2) disclosure of due diligence activities, (3) measures which</p>

4. SCOPE, CONTENT, AND PRIORITIES	COMMENTS
	<p>require due diligence as the compliance with a legal rule, and (4) the regulatory mix (i.e. a combination of voluntary and mandatory measures that the State uses to encourage business to respect human rights.)²⁵ These sub-criteria are not an exhaustive list, but have been supported by other researchers and advocacy groups as indicative of a NAP's adequacy in terms of substantive content:</p> <p>(1) <u>Positive and Negative Incentives for Due Diligence</u></p> <p>Although the NAP establishes that the Norwegian government expects all companies to “exercise due diligence and assess the risk of human rights abuses in their area of operation,” there are no new specific positive or negative incentives laid out in the NAP's planned measures to influence corporations to conduct human rights due diligence.</p> <p>The only planned measure that could be seen as relating to due diligence is the eleventh measure, which commits the government to “expect companies that are to receive financial support or services to respect human rights.”²⁶ This measure appears to relate to the Norwegian government's recognition that “the [S]tate is responsible for exercising due diligence when it provides significant economic support or other types of benefits to the business sector.”²⁷ This refers to the State's obligation to exercise due diligence when funding projects. Read together with the case study box on “Due Diligence by GIEK, Export Credit Norway, and Innovation Norway,”²⁸ it could be inferred that failure for a company to respect human rights (which can be related to a lack of</p>

4. SCOPE, CONTENT, AND PRIORITIES	COMMENTS
	<p>due diligence controls) will result in difficulty obtaining financing or disqualification from State-run financing bodies.</p> <p>(2) <u>Disclosure of Due Diligence Activities</u></p> <p>There is no reference to requiring specific disclosure of due diligence activities within any of the planned measures.</p> <p>In its discussion of existing relevant legislation, the NAP references the Norwegian Accounting Act, which has, since 2013, required “large enterprises...to submit reports on CSR.”²⁹ According to the NAP, the provision within the Act that stipulates “that enterprises must take account of human rights is considered to be in line with the Guiding Principles concerning the independent responsibility of enterprises to ensure that they respect human rights.”³⁰ This reporting could therefore include disclosure of due diligence activities.</p> <p>In discussing Pillar II, and specifically Guiding Principle 21 on human rights reporting, the NAP supports reporting in a qualified manner, stating “it is the company itself that decides how to communicate and report on [the human rights impacts of their operations] in the light of its situation and target groups.”³¹ The NAP does go on to support the use of international reporting frameworks and independent auditing.³² In doing so, it highlights three leading international reporting standards—the UNGPs Reporting Framework, the UN Global Compact, and the Global Reporting Initiative (GRI)—and offers</p>

4. SCOPE, CONTENT, AND PRIORITIES	COMMENTS
	<p>Norwegian authorities as sources of advice on the most appropriate reporting framework.³³ The NAP also recognizes the importance of publishing reports in an accessible language for the individuals in countries where the company operates.³⁴</p> <p>Additionally, the NAP states that the Norwegian government expects companies to apply both the “comply or explain” and materiality principles in relation to disclosure.³⁵ The “comply or explain” principle in the NAP holds that all companies should “familiarize themselves with the Guiding Principles and assess the extent to which they are applicable.”³⁶ In cases where the principles are found not to apply, the company should publish a report stating why the UNGPs are not relevant to its activities.³⁷ The materiality principle “concerns the fact that companies both address and report on matters that are key to that business’s impacts on people, society, climate and environment.”³⁸ However, these expectations are not translated into requirements.</p> <p>(3) <u>Measures Requiring Due Diligence as the Basis for Compliance with a Legal Rule</u></p> <p>There are no planned measures within the NAP that would require due diligence as part of compliance with a legal rule. However, the Accounting Act is mentioned as an example of an existing Norwegian law designed to motivate good corporate behavior and business respect for human rights.</p>

4. SCOPE, CONTENT, AND PRIORITIES	COMMENTS
	<p>(4) <u>Regulatory Mix</u></p> <p>The first page of the NAP states “Norway already has sound legislation for safeguarding human rights.”³⁹ While it goes on to say that “Norway already has in place sound legislation that applies to business,” it recognizes that “it may be necessary to consider amending certain acts in the light of the Guiding Principles and other international developments.”⁴⁰ In response to this, the first measure of future action commits the government to appoint an interministerial working group where “each relevant ministry will continue to be responsible for assessing the need for legislative amendments and other measures in its area of expertise” in relation to “international decisions affecting human rights and CSR.”⁴¹</p> <p>That being said, the regulatory mix is unsatisfactory because, while the NAP clearly references existing national legislation protecting human rights, in terms of planned future measures, its main focus is on promoting CSR activities and knowledge and greater implementation of business and human rights frameworks domestically and internationally. It effectively postpones the possibility of the creation or amendment of legislation and/or regulations to a later date as ministries from the to-be-created interministerial working group see fit.</p>
<p>4.2. A NAP should address the full scope of the State’s jurisdiction.</p>	<p>The Norwegian NAP is heavily focused on promoting CSR and protecting human rights abroad. It specifically states under section 1.4 ‘Purpose of the action plan’ that the “Government wishes to provide strong support based on Norwegian values, to Norwegian companies abroad...”⁴² As such, the NAP does not</p>

4. SCOPE, CONTENT, AND PRIORITIES	COMMENTS
	<p>adequately address the full scope of the State’s jurisdiction as it is heavily skewed towards external concerns.</p> <p>Despite this focus on the impact of Norwegian companies abroad, the NAP does commit to a number of legislative and policy measures that address domestic impacts and would apply to domestic companies. For example, the third measure commits the government to evaluate amendments to the Norwegian Minerals Act.⁴³ Similarly, the ninth measure relates to the management of the Norwegian Government Pension Fund, and commits the Ministry of Finance to following-up on the extent to which portfolio managers can consider human rights issues and impacts in their decision-making.⁴⁴</p> <p>Apart from the information provided about access to Norwegian courts for harms that occurred abroad (discussed in the following paragraph), there is no explicit mention of extraterritorial jurisdiction. The NAP notes that if a legal case against a Norwegian company dealing with human rights abuses that occurred in a host country is brought before a Norwegian court, it must “satisfy the requirement in the Dispute Act that the facts of the case ‘have a sufficiently strong connection to Norway.’”⁴⁵ The NAP then provides a vague explanation of the components of this determination and other conditions that must be met in these circumstances.⁴⁶</p>

4. SCOPE, CONTENT, AND PRIORITIES	COMMENTS
<p>4.3. A NAP should address international and regional organizations and standards.</p>	<p>The Norwegian NAP discusses international and regional organizations and standards and how both the Norwegian government and business should use those organizations and standards to push for greater respect for human rights in general, and for further implementation of the UNGPs.</p> <p>The NAP explicitly mentions international organizations and standards in five measures. For example, measure six commits the government to improve the competence of public bodies that offer CSR guidance on the OECD Guidelines; measure eighteen calls on the government to work for the global implementation of these Guidelines; and measure twenty-one commits the government to “seek to ensure that the reporting frameworks set out in the [UNGP] are incorporated into the United Nations Global Compact and the Global Reporting Initiative.⁴⁷ Moreover, in relation to access to remedy, measure twenty-three commits the Norwegian government to supporting the work of the Office of the High Commission for Human Rights in strengthening national judicial systems, and measure twenty-four commits the government to participating in the Council of Europe process to implement Pillar III at national level.⁴⁸</p> <p>Outside of the specific measures of the NAP, in relation to the State duty to protect, the NAP discusses the government’s obligations under the EU directive on non-financial reporting and international obligations relating to indigenous peoples, including ILO Convention 169.⁴⁹ It also discusses the OECD National Contact Point (NCP) process and activities in Norway.⁵⁰</p>

4. SCOPE, CONTENT, AND PRIORITIES	COMMENTS
	<p>Additionally, in relation to global developments and CSR, the NAP mentions that the UNGPs are being incorporated into the OECD Guidelines for Multinational Enterprises, the UN Global Compact, ISO 26000, the Equator Principles, and the International Finance Corporation Performance Standards.⁵¹ The NAP also highlights the Voluntary Principles on Security and Human Rights and the International Code of Conduct for Private Security Providers as “useful guidelines for private business enterprises.”⁵² In relation to Chapter 3 on the corporate responsibility to respect human rights, the NAP details a number of international reporting standards, including the UN Guiding Principles (UNGPs) Reporting Framework, the UN Global Compact, and the Global Reporting Initiative.⁵³</p>
<p>4.4. A NAP should address thematic and sector-specific human rights issues.</p>	<p>The NAP does address thematic and sector-specific human rights issues in its planned future measures. It touches on issues relating to trade,⁵⁴ conflict areas,⁵⁵ corruption,⁵⁶ security concerns,⁵⁷ indigenous rights,⁵⁸ responsible investment,⁵⁹ extractives,⁶⁰ and public procurement.⁶¹</p> <p>For example, two planned measures specifically address the extractives sector: the second measure commits the government to “reviewed the country-by-country reporting regulations for the extractive industry” and the third measure commits the Ministry of Trade, Industry, and Fisheries to “evaluate the amendments to the Minerals Act proposed by the Sami Rights Commission.”⁶² The third measure also touches on indigenous rights issues.⁶³</p> <p>Similarly, in relation to security and corruption, the seventh measure commits</p>

4. SCOPE, CONTENT, AND PRIORITIES	COMMENTS
	<p>Innovation Norway and Norway’s consular missions to “strengthen guidance and dialogue with companies on . . . security and corruption;” while the fourteenth measure commits the Ministry of Foreign Affairs to “strengthen dialogue with the business sector through the missions abroad on the risks associated with human rights violations, security concerns and corruption in conflict areas.”⁶⁴</p>
Content of NAPs	
<p>4.5. The NAP should include a statement of commitment to the UNGPs.</p>	<p>The Norwegian NAP includes multiple statements indicating a strong commitment to the UNGPs. A large portion of the introductory paragraphs, including the section on “Global developments and CSR” discusses the importance and eminence of the UNGPs.⁶⁵ The NAP states that it is “intended to enable the business sector to follow the UN Guiding Principles, and [as such] the plan outlines specific measures to achieve this aim.”⁶⁶</p> <p>Furthermore, a number of the planned actions in the NAP make specific mention of the UNGPs. For example, the NAP includes specific measures to “improve the level of competence on the UN Guiding Principles...among the public bodies that offer guidance on CSR”; “work for the global implementation of the UN Guiding Principles...”; and “seek to ensure that the reporting framework set out in the UN Guiding Principles is incorporated into the United Nations Global Compact and the Global Reporting Initiative.”⁶⁷</p>
<p>4.6. A NAP should comprise action points that are specific, measurable, achievable, relevant, and time-specific.</p>	<p>Out of the twenty-four measures included in the NAP, only two have a specific timeline. The second measure states that the government will “review the country-by-country reporting regulations for the extractive industry and forestry</p>

4. SCOPE, CONTENT, AND PRIORITIES	COMMENTS
	<p>in 2016-2017.”⁶⁸ However, this timeline is already established in existing legislation; the reporting regulations, which entered into force in 2014 and mandates that they are to be reviewed after three years.⁶⁹ The ninth measure states that the Ministry of Finance will report “in its spring white paper” on Norges Bank’s response to whether “it can draw up an expectations document on human rights, and which areas of human rights it would consider including.”⁷⁰ The remaining twenty-two measures planned contain no reference to when the government plans on beginning or completing the commitments.</p> <p>The majority of measures lack specificity, measurable targets, and criteria for success. Out of the twenty-four measures, only four relate specifically to discreet actions: Measure one commits the government to “appoint an interministerial working group”; measures two and three commit the government to review or evaluate discreet pieces of legislation; and measure nine commits the Ministry of Foreign Affairs to report on Norges Bank’s ability to draw up a human rights expectations document.⁷¹</p> <p>The remaining twenty measures are overly broad or vague, revealing a major weakness of the NAP as a whole. A majority of the measures commit the government to vague activities, such as “improving,” “strengthening,” “expecting” or “continuing” certain broad activities. For example, measure seven commits the government to “strengthening guidance and dialogue with companies on human rights, business ethics, security and corruption in especially demanding markets;” measure thirteen commits the government to “continue the efforts to develop measure to promote respect for international</p>

4. SCOPE, CONTENT, AND PRIORITIES	COMMENTS
	<p>human rights in public contracts;” and measure six commits the government to “improving the level of competence on the UN Guiding Principles and the OECD Guidelines among the public bodies that offer guidance on CSR.”⁷² This type of broad language makes the exact extent, nature, and progress of the government’s commitment unclear. Measures such as these could be strengthened by specifying what type of steps or discreet actions the government will take to achieve these commitments. For example, in relation to improving the level of competence of public bodies offering guidance on the UNGPs, the measures would be strengthened by including what steps government will take to increase this competence, such as trainings, collaboration with CSOs or other governments, or the creation of educational materials.</p>
Priorities for NAPS	
<p>4.7. A NAP should prioritize for action the most serious business-related human rights abuses.</p>	<p>The NAP does not appear to expressly prioritize any human rights abuses above others. While human rights abuses linked to security and corruption in conflict areas was the most mentioned issue throughout the proposed measures (discussed in three of the twenty-four measures), this does not necessarily show its prioritization⁷³</p>
<p>4.8. In line with the HRBA, the NAP should focus on the most vulnerable and excluded groups.</p>	<p>The NAP does not appear to focus on the most vulnerable and excluded groups. It does, however, mention the prevalence of conflict between “commercial activity and indigenous peoples’ rights.”⁷⁴ The NAP also mentions the special role of the State in protecting against human rights abuses in conflict areas; however, this flows from the NAPs discussion of Guiding Principle 7 as part of its review of all UNGPs, not from a special focus on the needs of the vulnerable.⁷⁵</p>

5. TRANSPARENCY	COMMENTS
Full Transparency with All Stakeholders	
5.1. The NBA and any other significant analyses and submissions informing the NAP should be published.	The mapping and gap analysis was made publicly available. No summaries of the consultations conducted by the Norwegian government were made public.

6. ACCOUNTABILITY AND FOLLOW-UP	COMMENTS
Holding Duty-Bearers Accountable for Implementation	
6.1. NAPs should identify who is responsible for implementation of individual action points and overall follow-up.	<p>The majority of the planned measures of the NAP do not identify the responsible government agency involved. Only one of these seven measures specifically states the responsible party within the text of the measure itself; measure nine specifically states that the Ministry of Finance will report on human rights expectations of Norges Bank.⁷⁶ Following an analysis of the NAP content, the responsible party for implementation can be assumed in an additional six measures, however, no attempt to provide clarity was made. The content of the text of the NAP help the reader deduce the responsible government entity for implementation of six additional measures.⁷⁷</p> <p>The provision on follow-up to the NAP, to be discussed in detail in section 6.2, is assigned to the members of the to-be-created interministerial working group.⁷⁸ It is unclear from the provisions of the NAP which ministries will be included in</p>

6. ACCOUNTABILITY AND FOLLOW-UP	COMMENTS
	this working group and which specific components of the NAP they will cover.
<p>6.2. NAPs should lay out a framework for monitoring of and reporting on implementation.</p>	<p>The NAP commits to the creation of an interministerial working group to, among other things, “ensure coordinated implementation” of the NAP.⁷⁹ According to this measure “each relevant ministry will continue to be responsible for assessing the need for legislative amendments and other measures in its area of expertise.”⁸⁰ However, the NAP does not lay out a framework for reporting on implementation of measures or contain a commitment to update the document or draft a revised NAP in the future.</p>

ENDNOTES

- ¹ DANISH INSTITUTE FOR HUMAN RIGHTS & INTERNATIONAL CORPORATE ACCOUNTABILITY ROUNDTABLE, NATIONAL ACTION PLANS ON BUSINESS AND HUMAN RIGHTS: A TOOLKIT FOR THE DEVELOPMENT, IMPLEMENTATION, AND REVIEW OF STATE COMMITMENTS ON BUSINESS AND HUMAN RIGHTS (2014) [*hereinafter* NAPS TOOLKIT].
- ² INTERNATIONAL CORPORATE ACCOUNTABILITY ROUNDTABLE & EUROPEAN COALITION FOR CORPORATE JUSTICE, ASSESSMENTS OF EXISTING NATIONAL ACTION PLANS (NAPS) ON BUSINESS AND HUMAN RIGHTS, NOVEMBER 2015 UPDATE (2015).
- ³ Remarks by Mrs. Bente Angell-Hansen, Secretary General of the Norwegian Ministry of Foreign Affairs, Forum on Business and Human Rights (Geneva, Apr. 12, 2012), available at <https://business-humanrights.org/en/doc-forum-on-business-and-human-rights-introductory-remarks-by-mrs-bente-angell-hansen-secretary-general-of-the-norwegian-ministry-of-foreign-affairs-geneva-41212>.
- ⁴ *Id.*
- ⁵ *National Action Plan on Business and Human Rights*, GOVERNMENT OF NORWAY (Oct. 12, 2015), https://www.regjeringen.no/en/aktuelt/business_hr/id2457726/.
- ⁶ See, Mark B. Taylor, *A Mapping and Gap Analysis: The State's Duty to Protect*, FAFO AIS (2013) [*hereinafter* Mapping and Gap Analysis].
- ⁷ *Norway*, Business and Human Rights Resource Centre: Action Platforms (last visited Dec. 2, 2016), <https://business-humanrights.org/en/norway> [*hereinafter* BHRRRC Norway].
- ⁸ NORWEGIAN MINISTRY OF FOREIGN AFFAIRS, BUSINESS AND HUMAN RIGHTS: NATIONAL ACTION PLAN FOR THE IMPLEMENTATION OF THE UN GUIDING PRINCIPLES 5 (2015)(English Version)[*hereinafter* Norwegian NAP].
- ⁹ See Mapping and Gap Analysis, *supra* note 4.
- ¹⁰ BHRRRC Norway, *supra* note 6.
- ¹¹ *Id.*
- ¹² Norwegian NAP, *supra* note 7 at 5.
- ¹³ BHRRRC Norway, *supra* note 6.
- ¹⁴ *Id.*
- ¹⁵ *Id.*
- ¹⁶ See, Mapping and Gap Analysis, *supra* note 4.
- ¹⁷ *Id.* at 4.
- ¹⁸ Mapping and Gap Analysis, *supra* note 4 at 4.
- ¹⁹ *Id.*
- ²⁰ Measures are numbered in consecutive order. Only action points which appear in shaded boxes entitled “Measures” are included; this means that the government expectations of corporations on page 30 of the NAP is not included.
- ²¹ Norwegian NAP, *supra* note 7 at 30.
- ²² *Id.* at 40.
- ²³ *Id.*
- ²⁴ *Id.* at 41-2.
- ²⁵ These sub-criteria are laid out in Kristin Jesnes, Statens plikt til å beskytte menneskerettighetene: En analyse av nasjonale handlingsplaner for oppfølging av FNs veiledende prinsipper for menneskerettigheter og næringsliv. (The State Duty to Protect: An Analysis of National Action Plans on Business and Human Rights). Fafo-notat 2014:15 (2014), available at <http://www.fafo.no/pub/rapp/10199/index.html> (currently only available in Norwegian).
- ²⁶ Norwegian NAP, *supra* note 7 at 24.
- ²⁷ *Id.* at 23.
- ²⁸ *Id.* at 24.
- ²⁹ *Id.* at 19.
- ³⁰ *Id.*
- ³¹ *Id.* at 35.
- ³² *Id.*
- ³³ *Id.*

³⁴ *Id.*

³⁵ *Id.* at 30.

³⁶ *Id.*

³⁷ *Id.*

³⁸ NORWEGIAN MINISTRY OF TRADE, INDUSTRY AND FISHERIES, DIVERSE AND VALUE-CREATING OWNERSHIP (2013-2014) Meld. St. 27, available at <https://www.regjeringen.no/contentassets/899ac257df2648d788942b78c6d59787/en-gb/pdfs/stm201320140027000engpdfs.pdf>.

³⁹ Norwegian NAP, *supra* note 7 at 8.

⁴⁰ *Id.* at 18.

⁴¹ *Id.* at 18, 20.

⁴² *Id.* at 14.

⁴³ *Id.* at 20.

⁴⁴ *Id.* at 23.

⁴⁵ *Id.* at 40.

⁴⁶ *Id.*

⁴⁷ *Id.* at 21, 27.

⁴⁸ *Id.* at 40.

⁴⁹ *Id.* at 19.

⁵⁰ *Id.* at 20.

⁵¹ *Id.* at 12.

⁵² *Id.* at 26.

⁵³ *Id.* at 35.

⁵⁴ *Id.* at 27, 24.

⁵⁵ *Id.* at 26.

⁵⁶ *Id.* at 26, 21.

⁵⁷ *Id.*

⁵⁸ *Id.* at 20.

⁵⁹ *Id.* at 23.

⁶⁰ *Id.* at 20.

⁶¹ *Id.* at 25.

⁶² *Id.* at 20.

⁶³ *Id.*

⁶⁴ *Id.* at 26, 21.

⁶⁵ *See, e.g. id.* at 12-4.

⁶⁶ *Id.* at 5.

⁶⁷ *Id.* at 21-27.

⁶⁸ *Id.* at 20.

⁶⁹ *Id.*

⁷⁰ *Id.* at 23.

⁷¹ *Id.* at 20, 23.

⁷² *Id.* at 21, 25.

⁷³ The seventh, fourteenth, and fifteenth measures discuss security and corruption in conflict areas. Norwegian NAP, *supra* note 7 at 21, 28.

⁷⁴ *Id.* at 19.

⁷⁵ *Id.* at 25.

⁷⁶ *Id.* at 23.

⁷⁷ These measures are measure three, seven, thirteen, fourteen, fifteen, and sixteen. *Id.* at 20-1, 25-7.

⁷⁸ *Id.* at 18.

⁷⁹ *Id.* at 20.

⁸⁰ *Id.*