

Policy Brief

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Centre for Policy Dialogue (CPD)

Institutionalisation of Human and Labour Rights in the RMG Sector under the UNGPs Framework*

How Could Employers and Management Be Better Involved?

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Highlights

- ➔ Overall progress of UNGPs in the RMG sector is still below the 'elementary' level. A set of factories are found to be lagging behind including small scale, non-member ones and those located in Chittagong and Narayangonj.
- ➔ Child labour, timely payment of wages, no/less workplace and sexual harassment, provision of maternity benefit and ensuring workplace safety are most important public disclosure issues, whereas lay-off and retrenchments and collective bargaining are the least disclosed.
- ➔ The practices of human and labour rights claimed by the employers do not align with the workers' expectations.
- ➔ UNGP reporting systems have to be strengthened at factory level in order to achieve a higher maturity scale in reporting.
- ➔ Factories which are lagging behind in terms of compliance require special attention regarding awareness raising, capacity building, institutional monitoring and enforcement mechanism, HR policy commitments, social dialogue, and grievance mechanism.

1. INTRODUCTION

The human and labour rights issues are of critical importance for the readymade garment (RMG) sector of Bangladesh. This is mainly because the sector alone provides the largest share of manufacturing employment of the country (40 per cent of total manufacturing employment) which is equivalent to over 2.8 million workers of which 53 per cent are female. Being a part of the global apparel value chain, employers of this sector are supposed to be well aware of human and labour rights issues and are supposed to ensure efficiency of the employment practices in day-to-day operation. Various types of anecdotal information on labour rights practices imply the gap between the understanding of the factory management and the extent of implementation of these labour rights practices in RMG enterprises. Also, there is clearly a gulf in terms of the perceptions concerning labour rights between workers and employers. In fact, the institutionalisation of human and labour rights practices are lagging far behind the international standards in the global apparel value chain operating in Bangladesh according to a CPD-CA study (Moazzem & Khan, 2021). The findings have been revealed in a study titled 'State of the UNGPs in the RMG Sector of Bangladesh'. The study has been undertaken by the Centre for Policy Dialogue (CPD) in collaboration with the Christian Aid (CA).

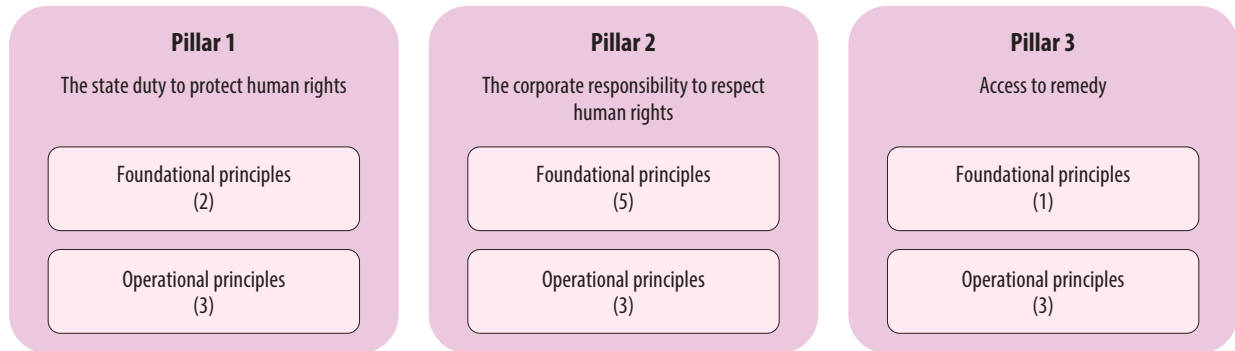
In this policy brief, the state of the United Nations Guiding Principles (UNGPs) in RMG factories has been discussed with specific focus on how the employers could take part in effective enforcement of human and labour rights practices under the UNGPs framework. The findings presented in the brief are based on a nationally representative survey on 603 enterprises and a sample survey on 600 workers of 200 enterprises in 2021.

2. HUMAN AND LABOUR RIGHTS PRACTICES UNDER THE FRAMEWORK OF UNGPs

The UNGPs is the global standard of human and labour rights for states and businesses. The UNGP refers to a set of 31 principles directed at states and companies that clarify their duties and responsibilities to

*This policy brief is based on the CPD-CA study titled "State of UNGPs in the RMG Sector of Bangladesh" authored by Dr Khondaker Golam Moazzem, Research Director, Centre for Policy Dialogue (CPD) and Mr Abdul Mahidud Khan, Lecturer, Department of Economics, Bangladesh University of Professionals (BUP).

Figure 1 Three Pillars of UNGPs



Source: Authors' Illustration based on UN (2011).

protect and respect human rights in the context of business activities and to ensure access to an effective remedy for individuals and groups affected by such activities. The UNGPs apply to all businesses and cover all human rights issues. The first pillar (Figure 1) of UNGPs, consisting of 10 principles, designate states' duty to protect human rights from inhumane business practices. The second pillar directs towards the businesses' respect for human rights issues. These 14 principles grossly detail the businesses' duty towards human rights issues, ranging from setting policy commitments to uphold human rights to remediation internally if some rights are violated. Finally, the third pillar dictates that states and firms must take appropriate and constructive remedies when human rights are violated.

The study measures the level of maturity of RMG enterprises in terms of adherence to UNGP practices. A total of eight components is considered for the assessment of UNGPs which include: (a) policy commitment; (b) governance and embedding; (c) prioritisation of risks and identification of salient human rights issues; (d) stakeholders' engagement; (e) assessment of human rights risks; (f) integration and mitigation measures; (g) tracking; and (h) remedy grievance mechanism. Based on Shift method (Erika & Michelle, 2019), the study applied UNGP adherence index to measure the level of maturity of RMG enterprises in implementing UNGPs in the factories.

3. PRACTICE OF HUMAN AND LABOUR RIGHTS IN RMG ENTERPRISES: LEVEL OF ADHERENCE TO THE UNGPs

In the CPD-CA study, 14 human and labour rights issues have been investigated. These issues include: (a) no use of child labour; (b)

no workplace harassment; (c) ensuring living wage; (d) providing maternity benefit; (e) having child care facility/benefits; (f) no sexual harassment; (g) opportunities for collective bargaining; (h) overtime benefit facilities; (i) no/limited use of juvenile workers; (j) ensuring gender equity; (k) maintaining financial transparency; (l) use of forced labour; (m) maintaining a proper mechanism for layoff and retrenchment; and (n) ensuring workplace safety.

The factory management of RMG enterprises asserted that the public statement on human and labour rights practices is closely aligned with the UNGPs—about 49 per cent claimed that the statement is fully aligned with the UNGPs. Almost all large and medium scale factories are publicly disclosing the issues (96 per cent), which is almost half in the case of small scale enterprises. The public disclosure is better in Bangladesh Garment Manufacturers and Exporters Association (BGMEA) member factories while the situation is poor in case of non-member factories (34 per cent). Almost all the surveyed factories use posters to publicly disclose labour and human rights issues. The posters are considered to be found inside the factories. Some other sources including web-based publication (38.8 per cent), the inclusion of human and labour rights related issues in the charter (25.9 per cent), mentioning issues in the annual report (23.2 per cent), and brochure (22.3 per cent) are also used.

Majority of the statements are written in both English and Bangla so that the workers understand it better. However, one major limitation found during the survey is that not all the 14 issues have been covered with equal importance. The following issues received major attention: no use of child labour (94.9 per cent),

timely payment of wages (88.2 per cent), no/less workplace and sexual harassment (82 per cent), provision of maternity benefit (75.2 per cent) and ensuring workplace safety (84.4 per cent) followed by limited use of juvenile workers (57.8 per cent), maintaining some degree of gender equity (53.8 per cent), no use of forced labour (53.1 per cent) and financial transparency (50.7 per cent). The least addressed public disclosure issues are related to lay-off and retrenchments (25.4 per cent) and collective bargaining (35.7 per cent).

Certification practices are more prominent in the factories under BGMEA and BKMEA (Bangladesh Knitwear Manufacturers and Exporters Association) membership since those factories possess more certificates than the non-member ones. The small scale factories (37 per cent) are the holder of the least number of certificates while large (98 per cent) and medium (89 per cent) factories hold a decent number of certificates. The codes of conduct (CoCs) of brands and buyers have a considerable role in ensuring good practices related to human and labour rights.

Workers who are at the recipients' end argued that employers' claim about practising human and labour rights issues (as mentioned above) is not necessarily aligned with their expectations. The basic facilities are not provided and followed as per requirement which include maintaining working hours, wages as per law, lunch facility, subsidised lunch/free afternoon snacks facility, space for daycare/childcare facility, free/subsidised daycare/childcare, breastfeeding zone, medical/doctor facility, fair price shop, school for worker's children, scholarship for children, maternity leave, maternity leave with salary and casual leave. It is important to consider the workers' perception while assessing the factories on human and labour rights practices.

4. PRACTICE OF UNGPs IN THE RMG ENTERPRISES: WHERE DOES IT STAND?

HR policy commitment: The HR policy commitments play a crucial role in implementing the UNGPs at the factory level. The human rights statement prepared by RMG enterprises should include all the global standards recognised by: (a) International Labour Organization's (ILO) Tripartite Declaration of Principles concerning Multinational Enterprises and Social Policy (MNE Declaration) (ILO, 2017); (b) the Organisation for Economic Co-operation and Development (OECD) Guidelines for Multinational Enterprises (OECD, 2011), and (c) the UN Guiding

Principles on Business and Human Rights (UNGPBHR). Even though a decent number of factories said that they align with the UNGP human rights standards, the definition of the public standard remains questionable as the factories consider posters inside the factories as public statements. The study found that over 60 per cent of BGMEA and BKMEA member factories publicly disclosed their statements, while 28 per cent and 38 per cent of them respectively have human rights related statements but only for their internal use. At the same time, more than 15 per cent of the non-member factories have no idea regarding public statement on human rights. A similar trend is followed in location-wise assessment as Dhaka and Gazipur are ahead of Chattogram and Narayanganj. No public statement on human rights was found in more than 10 per cent of the factories based in Dhaka, Narayanganj and Chattogram.

Governance and embeddedness: Human rights issues should be tackled and implemented inside the factory as part of a sound governance structure. However, a mixed scenario is observed at the factory level on several counts—(a) limited delegation of authority in maintaining compliance; (b) demonstrating limited or lack of importance to human rights issues as the lower-level administrative staff have little to no authority in handling those issues. In every large factory, there are administrative posts whose responsibility is to look into human rights matters. This is observed in 96 per cent of medium sized and 67 per cent of small-sized factories. Among the BGMEA member factories, 90 per cent claimed that they have responsible persons for dealing with human rights issues in the factory. The proportionate share is relatively less for the BKMEA factories (76 per cent). Factories without any membership have less of such responsible personnel (only 52 per cent). Table 1 shows whether all the factories have any documents describing the respective department/ person dealing with human rights issues, their rank or designation, the human rights issues they have covered, and have terms of references (ToRs) for those who are undertaking the human rights issues. A striking fact is—only a marginal share of factories (less than 10 per cent) practice public view of the posters delineating the persons and departments responsible for human and labour rights issues.

Stakeholder engagement: An essential aspect of UNGP is to work with the stakeholders affected by the negative externality of the company's activities or to work with the stakeholders who guide companies to lead towards better human rights practices

Table 1 Factories Use Posters Describing the Respective Departments/Persons Dealing with Human Rights Issues

Written form on	Yes, for public view	Yes, for private view	Yes, for both public and private view	No	Do not know	Total
Person/ department responsible for dealing with HR issues in factory	5.8	45.3	31.8	16.9	0.2	100
Rank/Designation of the persons responsible for human rights issues	7.4	40.5	33.3	18.8	0.0	100
HR issues covered by that person or unit or department	5.9	41.7	34.1	17.9	0.2	100
ToR of these people for undertaking human rights issues	6.4	44.2	27.5	19.4	2.5	100

Source: CPD-CA Survey, 2021.

and the standard level of public disclosure. It includes a method of engagement and frequency of engagement with different stakeholders as well as the criterion of selecting stakeholders. More than half of the surveyed factories claim that they conduct either conversations or regular meetings with various stakeholders to upgrade the quality of human rights in the factory. Sixty-three per cent factories of Dhaka and 72 per cent factories of Gazipur have a meeting with stakeholders, followed by Chattogram (50 per cent) and Narayanganj (41 per cent) that work with different stakeholders. A positive relationship is noticed between the size of the factories and the percentage of factories working with different stakeholders. The factories under the BGMEA and BKMEA seem to perform well even on this indicator—77 per cent of their member factories have regular engagement with stakeholders, where the figure for BGMEA is 71 per cent. Factories work with different public, private and international organisations and entities on human and labour rights issues. The highest level of engagement is observed with public agencies (67.8 per cent), followed by workers' organisations such as workers participatory committee (WPC) and workers welfare committee (WWC) (65 per cent) and anti-harassment committees (55.9 per cent). Moderate level of engagement is observed with international agencies including ILO, non-government organisations (NGOs), buyers, law enforcement agencies and trade unions. Relatively less engagement is observed with national and international workers' organisations.

Assessment of risks: As per the UNGPs, one factory should always find out the major human rights issues that the factory needs to address the most. But the survey found that no single factory could state the most salient human rights issues that the factory should solely

focus on. Rather they seem to work with all the issues at one hand. They mainly concentrate on the issues that the government emphasises and buyers seek before placing the order. There are a few reasons why the problem is not a priority issue—either the issue is not a problem anymore or buyers' inspection initiatives and public initiatives are not concerned with specific issues. The majority of factories stated the following issues as concerns or a concern: child labour, sexual harassment, workplace harassment, difficulty in paying living wage, ensuring workplace safety, and use of juvenile workers-related issues. Few issues get almost no priority in a considerable share of factories, including lay off, retrenchment, and collective bargaining. Childcare benefits are often less focused in the small scale factories. The prioritisation in terms of risks has been influenced by costs incurred for specific compliance or for avoiding workers' collective voice for their entitlements. Overall, the factories should follow a proper risk

Table 2 Types of Action Taken by Management in Case of Human Rights Violation

Types of Action Taken	Frequency	% (in case of 508)
Discourage them at the organisation level	108	21.26
Gradually reduced practices	158	31.10
Verbal warning	475	93.50
Rebuking	118	23.23
Salary/overtime/benefit/bonus cut	146	28.74
Degrading	54	10.63
Fired from work	88	17.32
Others (please specify)	0	0.00
Total	1147	

Source: CPD-CA Survey, 2021.

assessment mechanism to undertake mitigating measures on time.

Integration and mitigation measure: Human rights violations can be decreased by combining the mitigation measures and through practicing internal interrogation (if required). According to this survey (Table 2), 497 factories (82 per cent) have taken different actions against human rights violations such as workplace harassment, problems with overtime and sexual harassment. Out of these 497 factories, 32 per cent claim that they have these actions written in a statement open to the public. The following table represents the types of actions taken and their averages.

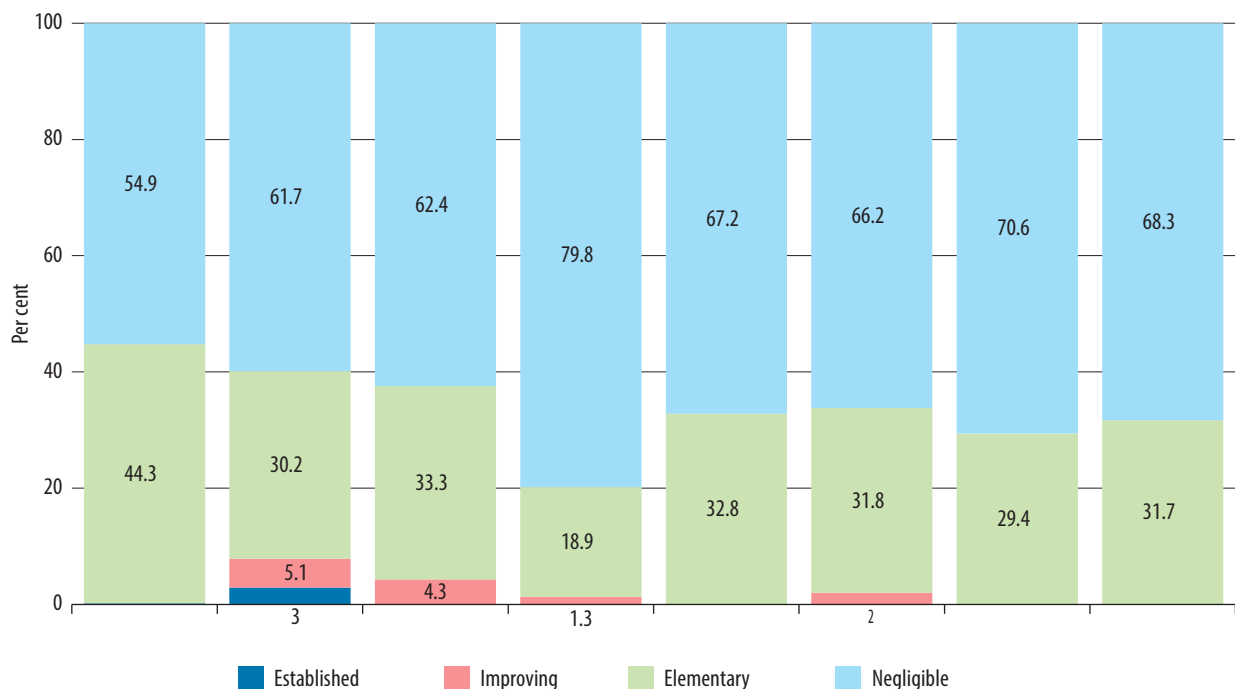
Tracking: Keeping track of the improvement of human rights issues is as important as improving those. This survey found that a little more than half of the factories (383) keep a record of their improvements on human rights in their factories. Moreover, 30 per cent of these factories said they had written forms for tracking their human rights records. According to this survey, 45 per cent of factories out of 383 claimed to update their human rights record yearly, 40 per cent claimed to do that every month, and 8 per cent claimed they update the records weekly.

Remedy and grievance mechanism: As the remedial process is the 3rd pillar of UNGP, every factory should maintain a remedial measure. Sixty-nine per cent of the surveyed factories (419) have a channel or mechanism for workers to raise complaints about any adverse human rights impact. 45 per cent of these 419 factories have complaints in written form to identify the perpetrator and how to reach them in case of any adverse human rights impact. Cross-cutting indicators of mature reporting consist of three factors: (a) willingness to share their challenges in their public disclosure as well as achievement, (b) having not only high-level statements but also a detailed example of how the company is improving in human rights and commitments with specific examples, and (c) forward focusing in the factory's reporting.

5. INSTITUTIONALISATION OF UNGPs: RECOMMENDATIONS FOR THE EMPLOYERS

The unclear concept of UNGP prevails among the factory owners or employers which resulted in the weak or no institutionalising of UNGP in the garments sector. As a whole, the process of institutionalisation of UNGPs is yet to be started in the RMG sector. Figure 2 below represents Bangladesh's overall progress in terms of UNGPs which is still below the elementary level.

Figure 2 Components of the Responsibility to Respect Human Rights According to Shifts Maturity Scale



Source: CPD-CA Study, 2021.

The starting point should be the strengthening of UNGP reporting systems at the factories. UNGP reporting is nothing but stating the factory's state on the issues of UNGP and publishing it in the public sphere, no great deal of administrative work is required at all as factories already do that for their internal use or audit by government agencies and buyers. Therefore, factories will get a clear idea of what they need to do to get a higher maturity scale in their reporting, consequently the steps they need to take to improve human rights in their respective domain with a standard followed by the UN. This will help factories to set goals and achieve those.

Factories that are lagging behind in terms of compliance—such as small scale, non-member ones and those located in Chittagong and Narayanganj—need special attention. Human and labour standards disparity among the factories are well observed based on size, membership and location. In most cases, the large scale enterprises are ahead of practising better human and labour rights issues compared to those that are medium and way above the small scale enterprises. Large-scale enterprises are more capable of investing in infrastructure, logistics, and human resources which are required to comply with the standards. Abiding by the national laws and rules and, more importantly, complying with brands/buyers CoC are some influencing factors to maintain better adherence for the large scale enterprises. Similarly, non-member factories are way behind in practising human and labour rights issues as well as factories located in Narayanganj and Chittagong districts/clusters.

Ensuring corporate practice in garment factories where factory management could exercise more authority in undertaking activities related to improving human and labour rights issues is a must. The RMG sector lacks corporatisation and representation of female voice in the factories as the factories are usually governed by single authority. The ones in the management responsibility should be more qualified academically and should have better understanding of the human resource-related training. The management needs to hire staff with specific responsibilities on industrial relations and human and labour issues.

Factories should mandatorily have their websites with all necessary information on human and labour rights practiced in the factories as part of their public disclosure. Public disclosure of factories is somewhat faulty.

Often factory management disclose human and workers' rights related information only to factory workers, government officials and buyers' representatives who visit factories occasionally. This is happened through showing related posters placed inside the factory premises. Not much effort has been made to publicize information via their websites; even those with the websites are not updated and information provided in the website is also inadequate.

An exclusive UNGP-oriented short-medium term training programme needs to be designed. The general manager (GM) and human resource managers and other position holders of the factory usually acquire some sort of trainings on UNGPs. These trainings should cover all issues related to UNGPs allocating importance to some of the key human and labour rights issues such as lay-offs/retrenchments, workers organisations/trade unions which are not often reflected in the training list. A training should be designed based on the UNGP curriculum, considering the existing good practices in the RMG industry and good global experiences. BGMEA and BKMEA could develop the curriculum with the technical support from the ILO and National Skills Development Authority (NSDA).

All issues related to UNGPs have to be included in the public disclosures of the factories. The human and labour rights issues are pressure-driven, hence handpicked. Based on some propriety areas, factories design their internal training programme for management professionals and workers. It is important to ensure that all issues related to UNGPs are included in the public disclosures of the factories. In this case, Department of Inspection for Factories and Establishments (DIFE) should make it mandatory for RMG factories to include all UNGP related issues, and their regular inspection should monitor the progress of UNGPs at the factory level.

BGMEA and BKMEA should arrange in-house training and capacity-building programmes for their member factories where management professionals and representatives of workers organisations such as WPCs/WWCs and safety committees could take part. Besides, factories could be encouraged to take certification of international standards and certification agencies on workers, workplace, pollution management, and environment-related issues. Brands/buyers and associations could extend technical support for factories to comply with various international standards and certifications.

The grievance mechanism needs to make worker-friendly, which will ensure workers' voice and ensure the factory's accountability. The lack of ease felt by the workers is the reason why workers don't feel comfortable reporting any complaints officially. The grievance mechanism needs to be more worker-friendly.

Brands and buyers would extend technical and financial support; similarly, international development banks could extend low-cost credit support for firms to invest in these issues. Majority of factory management claimed that practicing human and labour rights issues would ensure a higher level of orders and sustained orders through better connectivity with the brands/retailers/buyers. In the short run, one of the major concern of the factories is the immediate investment required for human resource development, creating logistic facilities and other institutional arrangements, especially for small scale factories.

Worker-related committees need to be made functional and effective to ensure workers' entitlements and rights in the

workplace. The interaction between the management and workers is not outcome-oriented rather more verbal without any visible step. Registration of trade unions should be encouraged in the RMG sector, and the process of registration process needs to be transparent and the accountability of registering authority needs to be ensured. Besides, WWC and WPCs need to be made functional and accountable to workers.

Factories can benefit from the existing expenditure or even less if the human and labour rights issues are improved in the factories. Apart from wage, few other things do matter to the workers which include extra childcare facilities, timely wage payment, and reduction of verbal abuse.

Gender mainstreaming should be prioritised in the factories as part of human and labour rights issues. In addition, the in-house training curriculum should be designed to highlight gender-related issues. In this connection, the gender representation and gender voice in the factory board need to be ensured to improve overall gender mainstreaming in the factory-level activities.

ACRONYMS

BGMEA	Bangladesh Garment Manufacturers and Exporters Association
BKMEA	Bangladesh Knitwear Manufacturers and Exporters Association
CA	Christian Aid
CoC	Code of Conduct
CPD	Centre for Policy Dialogue
DIFE	Department of Inspection for Factories and Establishments
GM	General Manager
NGO	Non-Government Organisation
NSDA	National Skills Development Authority
OECD	Organisation for Economic Co-operation and Development
RMG	Readymade Garment
ToR	Terms of Reference
UNGP	United Nations Guiding Principles
UNGPBHR	United Nation Guiding Principles on Business and Human Rights
WPC	Workers Participatory Committee
WWC	Workers Welfare Committee

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ABOUT THE STUDY

The study project titled "State of UNGPs in the RMG Sector of Bangladesh" is undertaken by the Centre for Policy Dialogue (CPD) in collaboration with Christian Aid (CA). The main objective of the project is to better understand the adherence to the UNGPs by the export-oriented RMG enterprises of Bangladesh for better policy and operational intervention to improve the compliance standard.



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