

Policy Brief

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Highlights

- The monitoring and inspection led by different state agencies cover a number of human and labour rights issues. However, the process is not adhering to the criteria set by UNGPs, including policy commitment, prioritisation of risks, stakeholder engagement, integration and mitigation measures, and tracking.
- Amid the pandemic, non-compliance related incidents have increased in the RMG factories; on the flip side, visits by public authorities declined significantly due to the movement restrictions of people.
- Government has yet to ratify a number of important, core and technical conventions that are related to human and labour rights issues including minimum age, anti-violence and harassment in the workplace, and prevention of major industrial accidents.
- Factory-related inspection, and monitoring information and data need to be made public through respective public organisations' websites and through officials responsible for inspection.

Institutionalisation of Labour Rights Practices in the RMG Sector under UNGP Framework*

Are Public Agencies Playing Their Due Role?

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1. INTRODUCTION

The state has a major role to play in ensuring human and labour rights in workplace through three specific types of activities—(a) adopting necessary policies, laws and rules, (b) monitoring the appropriate enforcement of those laws and rules in workplaces, and (c) implementing remedial measures against deviation of human and labour right practices. United Nations Guiding Principles on Business and Human Rights (UNGPs) are the global standard for states and businesses, which recognise the responsibilities of the states and businesses to protect, respect and remedy the humans and their rights within their bounds. The practice of human and labour rights under the UNGPs framework in the readymade garment (RMG) sector is of critical importance since it is the largest labour-intensive manufacturing sector of the country. As part of maintaining compliances with global apparel value chain, the businesses have been practising relevant activities over the past decades. Tapping the scopes for these practices, the question is whether or not the practices are adhered to the UNGPs; and if not, how the state agencies can help the RMG enterprises in strengthening UNGPs in this sector. In this regard, state agencies' perception on human and labour rights and practices need to be broadened and specified under the framework of UNGPs. 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).

This policy brief will discuss the conceptual issues related to state's role in implementing UNGPs in businesses, review the current state of human and labour rights practices under the UNGP framework in the RMG sector, analyse the role of the government agencies in enforcing UNGPs, and put forward a set of recommendations, based on the analysis, to ensure effective engagement of government agencies in enforcing the UNGPs.

2. ROLE OF STATE IN ENFORCING HUMAN AND LABOUR RIGHTS PRACTICES IN BUSINESSES UNDER UNGPs

The UNGPs comprise three basic pillars which include: **(a) Pillar 1:** The state duty to protect human rights; **(b) Pillar 2:** The corporate responsibility to respect human rights; and

*The brief is based on a study titled "State of the 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).

(c) Pillar 3: Access to remedy (OHCHR, 2011). The state agencies are responsible for implementing activities mainly under pillar 1 and pillar 3. Under the first pillar on ‘the state duty to protect human rights’, the two foundational principles are—

- (a) States must protect against human rights abuse within their territory and/or jurisdiction by third parties, including business enterprises. This protection requires taking appropriate steps to prevent, investigate, punish and redress such abuse through effective policies, legislation, regulations and adjudication; and
- (b) States should set out the expectation clearly that all business enterprises domiciled in their territory and/or jurisdiction respect human rights throughout their operations.

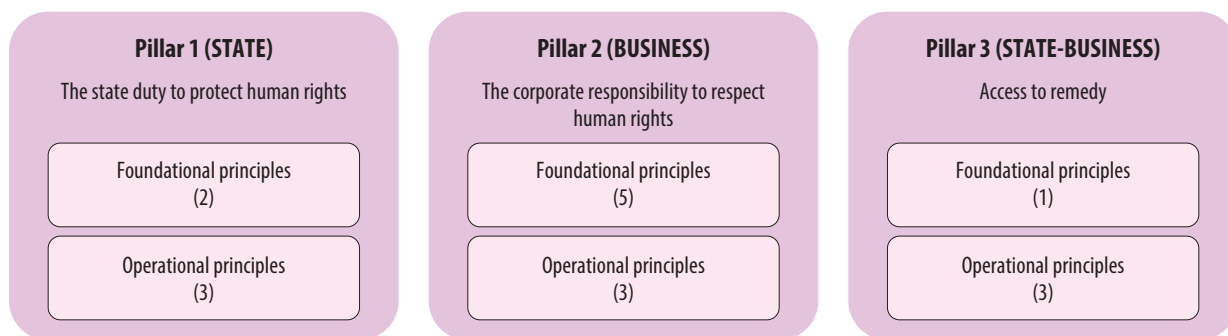
These foundational principles are attained through a few operational principles which include: (a) general state regulatory and policy functions; (b) the state-business nexus; and (c) ensuring policy coherence.

Under the third pillar—‘access to remedy’—the foundational principle mentioned that, as part of their duty to protect against business-related human rights abuse, the state must take appropriate steps to ensure, through judicial, administrative, legislative or other appropriate means, that when such abuses occur within their territory and/or jurisdiction, those affected have access to an effective remedy. In order to achieve this, the operational principles should focus on state-based judicial mechanisms, state-based non-judicial grievance mechanisms and non-state-based grievance mechanisms.

The level of adherence of human and labour rights practices to UNGPs is examined through eight components.

- i. **Policy commitment:** Business has the responsibility for respecting human rights, and they need to pledge to fulfil this commitment.
- ii. **Governance and embedding:** Business must nominate key personnel responsible for the company's human rights issues.
- iii. **Prioritisation of risks and identification of the salient human rights issues:** The company must disclose the salient human rights issues involved with its business activities. Also, they should reveal how these issues were prioritised and if there is any particular focus on geography. Also, other problems which are not salient should be reported.
- iv. **Stakeholder engagement:** After the company recognises its most salient human rights issues, it should show how it engages with pertinent stakeholders and why. How stakeholders influenced the company's understanding of each issue and how these issues are discussed and managed should be maintained in the report.
- v. **Assessing human rights risks:** Companies need to provide information on how they assess their impact on human rights issues, if there is any procedure in place with comprehensive examples of how they work in practice.
- vi. **Integration and mitigation measures:** In this reporting framework, companies should show how the findings from previous points have affected the

Figure 1 Three Pillars of UNGPs



Source: Authors' illustration based on OHCHR (2011).

companies' decision making, i.e. how companies are trying to mitigate those issues. They must report their actions with a general description and insightful examples of mitigation with proper reasoning and how stakeholders are engaged with the outcome.

- vii. **Tracking:** Companies must track their progress in human rights issues and provide detailed data and narratives on the company's progress in endorsing human rights. Also, companies need to show how they are using this data to improve their actions.
- viii. **Remedy and grievance mechanisms:** Companies need to give information on the means of receiving complaints if human rights are violated. Moreover, how those concerns are addressed and what measures are taken to stop those issues should be reported.

The government agencies under pillar 1 and pillar 3 could ensure that businesses take necessary measures in order to make their factories adhere to the UNGPs.

3. REVIEW OF THE CURRENT STATE OF HUMAN AND LABOUR RIGHTS PRACTICES IN RMG ENTERPRISES UNDER UNGPs FRAMEWORK

Policy commitment: The majority of factories have an official position for tackling key human rights issues. About 81.6 per cent of surveyed factories maintained public statements covering at least some of the human rights issues. The public statements are disclosed in different forms. Most of the factories use posters inside the factory as the primary medium for informing workers about labour rights and practice issues. The issues highlighted in public disclosure include no use of child labour (94.9 per cent), payment of living wages (88.2 per cent), workplace and sexual harassment (82 per cent), provision of maternity benefit (75.2 per cent) and workplace safety (84.4 per cent). Some of the issues are less highlighted in public disclosure, such as the limited use of juvenile workers, gender equity, no use of forced labour and financial transparency. The least addressed public disclosure issues are lay-off and retrenchments of workers and scope of collective bargaining.

Governance and embeddedness: About 80 per cent enterprises said that they have either a person or department to embed human rights within the factory's day-to-day activities. These persons are at the managerial level—managers, assistant managers or below. A mixed scenario is observed in terms of

delegation of authority in maintaining governance-related compliance through factory management. The highest priority is given to issues such as child labour, sexual harassment, workplace safety and decent wages.

Risks prioritisation: No factory can say which is the most important or salient risk priority in terms of human and labour rights in the factory. Rather they give importance to all issues at hand. The issues they consider essential are mainly induced from what public agencies look for and what buyers inspect in their factories. They do not seem very much concerned with other issues.

Stakeholder engagement: Of the companies, a significant number needs to work with the stakeholders who are adversely affected by company's activities, or to work with stakeholders who guide companies to better human rights practices. About 60 per cent of the factories claimed that they have either conversations or regular meetings with different stakeholders to improve human rights in the factory. The highest level of engagement is observed with public agencies such as Department of Inspection of factory and Establishment (DIFE), Department of Labour (DoL) and Fire Service and Civil Defence (FSCD) (67.8 per cent), followed by workers' organisations such as workers participatory committees (WPCs) and workers welfare committees (WWCs) (65 per cent) and anti-harassment committees (55.9 per cent). Modest level of engagement is observed with international agencies including International Labour Organization (ILO), non-government organisations (NGOs), buyers, law enforcement agencies and trade unions. Relatively less engagement is observed with national and international workers' organisations.

Assessing human risks: Factories should have a proper risk assessment to make sure they can assess the impact of their activities on human rights and take measures for their mitigation. About 82 per cent said, they followed a methodology to identify how factories can threaten human rights. Out of these factories, only 37 per cent claimed that they have this document written for public view. This fulfils the basic maturity level on this issue.

Integration and mitigation measures: About 82 per cent factories claimed that they have taken various actions against violation of different human rights issues such as workplace harassment, problems with overtime work and sexual harassment. As part of mitigation measures, verbal warning is the

main method followed by factories (93.5 per cent). However, given the severe harassment faced by workers, such verbal warning may be considered relatively weak as a punitive measure.

Tracking: Companies should track their progress on human and labour rights practices over time. This is appreciated with the changes in the definition and scope of human rights so that companies can understand which avenue to work on. About 64 per cent factories keep a record of their improvements on human rights in their factories.

Remedy and grievance mechanism: Companies must have effective remedy and grievance mechanisms in place so that affected persons can get proper remedies. About 69 per cent factories have maintained channels or mechanisms for workers to raise complaints and concerns with regard to any adverse human rights impact. Out of these, 45 per cent have this in written form about who this person is and how to reach them in case of any adverse impact on human rights.

Workers' perception on human rights practices in RMG enterprises: Workers working in the surveyed factories perceived that basic facilities for workers have yet to be made available across the board. These facilities include maintaining working hours, wages as per law, space for day-care/childcare facility, free/subsidised day-care/childcare, breastfeeding zone, medical/doctor facility, maternity leave with salary and casual leave. Different kinds of workplace-related harassment are still a major concern, though sexual harassment has reduced in RMG factories. About 74 per cent of workers recalled that they had seen posters inside or outside the factory that had some sort of statement on human rights. Out of those factories, 88 per cent workers said that they had read the poster displaying contents on some human rights issues. Almost all workers mentioned that child labour is not a major issue of concern for the factories. Majority of workers indicated that their factories have WPCs/WWCs. At the same time, it is important to note that more than one-third of total workers indicated that their factories do not have any worker-related committees. About 33.8 per cent of workers indicated that factories have anti-harassment committees. However, these worker-related committees do not maintain their regular activities. In terms of in-house training on different human and labour rights issues, the majority of workers who received training mentioned that, training is mainly provided on child labour, workplace harassment and workplace safety issues. Majority of workers claimed that grievance mechanism in

the workplace is not unknown to them (89.6 per cent). However, very few workers used the mechanism—only 12.7 per cent of the workers claimed using the grievance system.

Overall state of UNGPs in the RMG sector: The above discussion on eight indicators portrayed that Bangladesh's overall progress in terms of UNGPs is still below the 'elementary level' which is at a 'negligible' level. State agencies need to play proactive role in case of the adoption of required laws, rules and regulations facilitating the enforcement of labour right practices in workplaces and supporting the process of undertaking remedial measures.

4. STATE OF PROGRESS IN FORMULATING POLICES, LAWS, RULES AND REGULATIONS RELATED TO HUMAN AND LABOUR RIGHTS

UNGPs have been designed considering a number of global policies and guidelines applicable for businesses. These include the Organisation for Economic Co-operation and Development (OECD) guidelines (OECD, 2011), ILO Tripartite Declaration of Principles concerning Multinational Enterprises and Social Policy (ILO, 2017). In order to adhere to the UNGPs, Bangladesh's national laws and rules are expected to accommodate most of the above-mentioned international polices and guidelines. The major policies, laws and rules related to human and labour rights which are applicable in the RMG sector include Bangladesh Labour Act 2018, Bangladesh Labour Rules 2015, and the export processing zone (EPZ) Act 2019. These acts cover most of the human and labour rights issues applicable for businesses in the workplace—the 14 core issues discussed earlier are covered under these laws, rules and acts. These fourteen issues include: (a) no use of child labour; (b) no workplace harassment; (c) ensuring living wage; (d) providing maternity benefit; (e) having childcare 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 lay-off and retrenchment; and (n) ensuring workplace safety. However, there are weaknesses in terms of laws and rules related to these issues.

A huge challenge prevails involving domestic legal foundations, which are lagging much behind the global standards. Before that, the status of ratification of ILO conventions needs to be discussed. Bangladesh has ratified 35 ILO conventions but the

fundamental convention on Minimum Wage Fixing (No. 131) has not been ratified yet. In addition, other two priority conventions have not been ratified; employment Policy Convention (No. 122) and Labour Inspection (Agriculture) Convention (No. 129). Bangladesh has ratified the ILO Hours of Work Convention (No. 1) and ILO Weekly Rest (No. 106) Convention which introduced a maximum standard working time of 48 hours per week and 8 hours per day as an international standard.

Along with the ratification of various conventions and treaties, the national laws and rules need to be modified in a number of areas in order to make them compatible with the ILO conventions and other international standards. These include reduction of minimum requirement of workers for forming basic trade unions, trade union practices in EPZ factories, workers' compensation in case of accidental injury, providing maternity and healthcare benefits, and eradicating violence and harassment. The prevailing punitive measures under various laws and rules are very low which discourage businesses to make necessary investment for the improvement in case of human and labour rights practices in factories. Lack of proper dissemination of human and labour right practices among businesses through government offices is another challenge for enforcing human and labour rights in workplaces.

Different public institutions are responsible for monitoring and inspecting factories in ensuring compliance of human and labour rights issues as per national laws and rules. These institutions include Ministry of Labour and Employment (MoLE), DIFE, DoL, FSCD, Rajdhani Unnayan Kartripakkha (RAJUK), Water Supply and Sewerage Authority (WASA), Power Development Board (PDB), Rural Electrification Board (REB), Titas Gas, National Board of Revenue (NBR) and local government offices. These public offices often face constraints while monitoring and doing

inspection properly due to the lack of adequate human resources and logistic facilities as discussed below.

5. PERFORMANCE OF PUBLIC MONITORING AGENCIES IN MAINTAINING HUMAN AND LABOUR RIGHTS IN RMG ENTERPRISES

Monitoring and inspection of HR issues by public agencies:

Several public institutions are responsible to inspect the RMG factories on a regular basis. During 2019 and 2020, factories were inspected by different agencies including DIFE, DoL, FSCD, RAJUK, WASA, PDB, TITAS, NBR, Department of Environment (DoE), local authorities, and others. Due to the COVID-19 pandemic, the total number of inspections has reduced by 10.2 per cent during 2020 compared to that in 2019. Table 1 presents the level of inspection of RMG factories by public authorities. During a normal year of operation in 2019, DIFE conducted the highest number of inspections (79.3 per cent of total factories), followed by FSCD (64.7 per cent), DoL (42.6 per cent), DoE (23.2 per cent) and NBR (18.9 per cent). The number of inspection is lower in case of RAJUK (3.8 per cent), PDB/REB (11.8 per cent) and WASA (4.8 per cent). Local authorities such as City Corporation, municipalities and Poursava have visited 19.9 per cent of factories in 2019. The frequency of inspection depends on the mandate of public agencies in visiting factories. Being responsible on labour related issues, DIFE inspectors made the highest number of inspections.

During the pandemic period in 2020, public inspection has declined due to restrictions of the movement of people, closure of factories, and inspectors' health concerns. Inspection was reduced most in case of DOE and DoL, followed by DIFE. Reduction of the visit was lower in case of FSCD and local authorities. Factory visit for some agencies such as PDB/REB rather increased—about 26.8 per cent rise in inspection by these agencies was observed during

Table 1 Public Authority Inspected Sample Factories in 2019 (Size-Wise)

(per cent)

Size of the factory	DIFE	DoL	FSCD	RAJUK	WASA	PDB/REB	Titas/other gas comp.	NBR	DoE	Local authorities	Others	Not inspected
Large, (N= 46)	93.5	63.0	78.3	2.2	6.5	26.1	15.2	23.9	36.9	28.3	2.2	0.0
Medium, (N= 231)	90.5	50.7	68.4	4.8	6.1	13.9	10.8	25.1	31.6	27.3	2.6	2.6
Small (N= 326)	69.3	34.1	60.1	3.4	3.7	8.3	2.8	13.8	15.3	13.5	0.9	15.0
Total, (N= 603)	79.3	42.6	64.7	3.8	4.8	11.8	6.8	18.9	23.2	19.9	1.7	9.1

Source: CPD-CA Survey, 2021.

the pandemic year. Even though the factories have also experienced a higher number of incidents of non-compliance during the pandemic period in 2020, factory visits by DIFE inspectors have declined.

Follow-up measures taken by public agencies after inspection: After inspecting RMG factories, public inspecting agencies may lodge complaint or instruct corrective measures to the inspected factories. The interviewed RMG factory owners acknowledged receiving such complaints from the public agencies—about 24 per cent factories acknowledged that public agencies had some kind of complaints against them. Out of those factories, 27 per cent of them confirmed that these agencies took disciplinary measures—all reported factories mentioned that they had addressed those issues either completely or partially. Small factories received a higher percentage of complaints followed by large and medium factories (30 per cent, 21 per cent and 13 per cent respectively). The higher percentage of complaints against small factories are understandable given their struggle to maintain minimum level of physical and social compliances.

Among different industrial zones, Dhaka- and Gazipur-based factories have comparatively fewer complaints (Figure 2). The complaints are rather high against factories located in Narayanganj and Chattogram—more than half of the factories

located in Narayanganj disclosed that public inspection agencies had complaints against them.

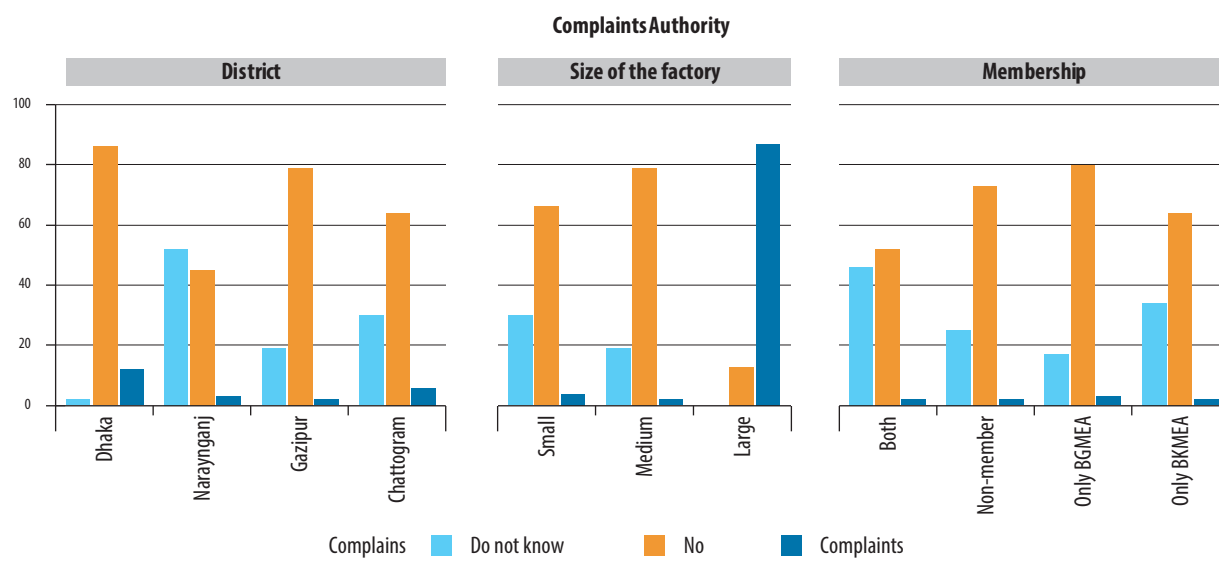
Tracking practices and lesson for public agencies: Despite having complaints by the public inspection agencies, regular tracking of human and labour rights issues by factories is not evident within a large section of factories. The factories should improve keeping track records of the progress of human and labour rights issues. The documentation of the progress is often found less important among the factories. The local authorities are also found to be less interested in inspecting the tracking practices. Table 2 represents the frequency of surveyed factories having written documents to update the database on time. About 10 per cent factories claimed to track the human labour rights

Table 2 Factories with Written Documents to Update the Database Timely

Records on human rights update	Frequency
Every day	9 (2.3%)
Every week	32 (8.4%)
Every month	154 (40%)
Every year	173 (45%)
Do not know	15 (3.9%)
Total	383 (100%)

Source: CPD-CA Study, 2021.

Figure 2 Complaints by Public Authority based on Location/Size/Membership



Source: CPD-CA study, 2021.

practices every week while large section of factories track those once in a year (45 per cent). Public agencies should encourage factories to maintain track records on a regular basis.

Remedy and grievance mechanism: Companies must follow effective remedy and grievance mechanisms to fight against violation of human and labour rights related irregularities in factories. That should be monitored by the public authorities to ensure that the affected persons get proper remedies through judicial, administrative, legislative or other appropriate means. About 69 per cent of the factories have a channel or mechanism for workers where the workers can raise complaints and issues of concern regarding any adverse human rights impact. About 45 per cent of factories have this in written form that who this person is and how to reach them in case of any adverse human rights impact. In majority of cases, workers are not interested to lodge formal complaint through legal and judicial procedure. Often the processes are found to be cumbersome, time consuming and costlier. Workers complain about having risks of harassment if they lodge complaints against management for human and labour rights violation in workplaces.

6. INSTITUTIONALISATION OF UNGPs IN THE RMG SECTOR: WHAT NEEDS TO BE DONE BY THE STATE?

The state of human and labour rights practices in the RMG sector under the UNGP framework is rather weak. This is not only due to insufficient knowledge among employers and employees on human and labour rights practices under UNGP framework, it is also due to the weaknesses of public agencies in enforcing laws properly. A number of suggestions for better institutional practices of public agencies can be put forward in this regard.

Ratification of ILO conventions is necessary for ensuring human and labour rights. Bangladesh has ratified important ILO core and technical conventions related to human and labour rights. However, a number of related ILO core and technical conventions need to be ratified. These conventions include Convention on Minimum Age (No. 138), Convention on Anti-Violence and Harassment in Workplace (No. 190), Conventions on Prevention of Major Industrial Accidents (No. 174), etc. The government has, on principle, agreed to ratify the minimum age convention; its process of ratification should be completed soon. The government should give political signal to ratify other ILO conventions immediately. The respective

ministries would take preparation accordingly. The civil society organisations (CSOs) working on labour and human rights issues should take necessary awareness-raising and policy-influencing measures to expedite the process of ratification. Private sector should take a forward-looking perspective in facilitating ratification of related conventions. Ratification of such international accords would significantly improve the domestic environment of human and labour rights practices in the RMG sector.

Better enforcement of law needs to be ensured. In Bangladesh, law enforcement is often found to be weak. In case of the labour laws, acts and rules, it is even weaker. The government has to be strict enough to make sure that the factories and the employers are following the laws. Bangladesh Labour Act 2018 does not fully align with the UNGPs, but some of the aspects do match with the international standard. Even in the latter case, those rules are not completely implemented in the factories. State should take necessary measures to make sure that the labour laws are followed and amended if needed.

Exclusive UNGP-oriented short to medium term training programmes need to be designed by the public authorities. This will require designing the curriculum taking into account the existing good practices in the RMG industry and good global experiences. Bangladesh Garment Manufacturers and Exporters Association (BGMEA) and Bangladesh Knitwear Manufacturers and Exporters Association (BKMEA) could do the designing of the curriculum with the technical support of the ILO and National Skills Development Authority (NSDA). These programmes could be offered by public and private academic/training institutes. Minimum academic qualifications and professional training could be made mandatory for different mid-and senior management positions in the RMG factories. Such conditionality will help improve the quality of human resources in the RMG sector.

All UNGP related issues should be mandatory for RMG factories and the progress should be monitored by DIFE. It is important to ensure that all issues related to UNGPs are included in the public disclosures of the factories. Factories could be encouraged to take certification of international standards and certification agencies on workers, workplace, pollution management, and environment-related issues. Brands/buyers, as well as associations, could extend technical support for factories to comply with different international standards and

certifications. Non-member factories need to comply with UNGPs and special initiatives should be undertaken through DIFE/DoL and Remediation Coordination Cell (RCC) and FSCD.

Monitoring and inspection made by public authorities need to be transparent and effective. As it is observed, small scale factories, non-member factories and factories located in Naraynganj are less inspected, and a high number of complaints

come from them. Lack of magistracy authority of the inspectors sometimes weakens their position in ensuring factory level compliances. Hence, public monitoring and inspection authorities need to provide magistracy authority (even at a limited scale) to better monitor and better inspect the factories. At the same time, all types of factory-related inspection and monitoring information and data, including the official responsible for inspection, need to be made public through respective organisations' websites.

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ACRONYMS

BGMEA	Bangladesh Garment Manufacturers and Exporters Association	NSDA	National Skills Development Authority
BKMEA	Bangladesh Knitwear Manufacturers and Exporters Association	NGO	Non-Government Organisation
CA	Christian Aid	OECD	Organisation for Economic Co-operation and Development
CPD	Centre for Policy Dialogue	PDB	Power Development Board
CSO	Civil Society Organisation	RAJUK	Rajdhani Unnayan Karttripakkha
DIFE	Department of Inspection of Factory and Establishment	RMG	Readymade Garment
DoL	Department of Labour	RCC	Remediation Coordination Cell
DoE	Department of Environment	REB	Rural Electrification Board
EPZ	Export Processing Zone	UNGP	United Nations Guiding Principles on Business and Human Rights
FSCD	Fire Service and Civil Defence	WASA	Water Supply and Sewerage Authority
ILO	International Labour Organization	WPC	Workers Participatory Committee
MoLE	Ministry of Labour and Employment	WWC	Workers Welfare Committee
NBR	National Board of Revenue		

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