**Submission made by**

 **National Human Rights Commission, Bangladesh**

**On**

**Integrity of Businesses and its nexus to Human Rights**

**Introduction – National Human Rights Commission, Bangladesh**

The National Human Rights Commission (NHRC) of Bangladesh was reconstituted in 2009 under the National Human Rights Commission Act No 56 of 2009. As a custodian for human rights in Bangladesh, it is committed to promote and protect human rights, including dignity, worth and freedom of every human being, as enshrined in the Constitution of the People’s Republic of Bangladesh and International Human Rights Conventions and Treaties to which Bangladesh is a signatory. The Commission serves as a mechanism for the enrichment of the realization of human rights.

The founding act mandates the Commission to conduct inquiries either suo-moto or on a petition, inspect prisons and places of detention, review laws and make recommendations to the Government, review factors inhibiting the safeguards of human rights, to research and study instruments on human rights, to examine draft bills, advise governments on international human rights instruments, promote and raise public awareness on human rights, coordinate efforts of non- governmental organizations and provide legal assistance to aggrieved parties to vindicate their rights before competent forums.

NHRC has launched thematic committees linked with the communities and public at large. The Committees consist of civil society organizations, human rights activists, state institutions, academicians, development agencies and intergovernmental agencies. Fourteen such platforms cover key thematic areas and priority areas. Business and human rights is a priority area having its dedicated thematic committee.

**Linking human rights with Business Integrity**

Every human interaction is built on the premise of integrity. In other words, ‘reputation’. It is a strong force. People like to engage with entities with a reputation. Businesses are no exception. To fulfill our day to day needs (water, food, transportation, clothing) we interact with at least 6-7 companies[[1]](#footnote-1)daily. Thus, the rational of the topic is well grounded. It is timely, opportune and much needed in the current context.

To provide a proper response to the call for inputs by OHCHR, requires an in-depth research and comprehensive stake holder consultations. In the absence of such the content below is indicative. This said the Commission welcomes any future opportunity to work towards seeking evidence-based answers to complex problems concerning integrity and business and its links to human rights.

Several areas of human rights are closely linked with business integrity

* Quality of consumer goods and products - not all business adhere to standards as outlined in the consumer protection laws. Low quality good and products have direct impact on the health and well being of people.
* Allocation of land for business purposes - the less affluent and the less empowered including women , indigenous peoples are often disproportionally affected. Land grabbing is a common phenomenon practiced by businesses and often landowners particularly from indigent and indigenous communities surrender to business avoiding any litigation which they are unable to afford.
* Corruption incentivized by businesses – trade and business licensing processes in most countries have loopholes. Licensing biases and flawed scoring being most common. And businesses incentivize these malpractices resulting in loss of national revenue negatively impacting on national development projects aimed at reducing poverty, increasing health care and education facilities
* Corruption perpetuates inequalities – According to Transparency International almost a fifth of executives surveyed by Ernst & Young claimed to have lost business to a competitor who paid bribes[[2]](#footnote-2). Such practices create a culture of normalizing corruption, having a trickledown effect, disproportionately impacting on vulnerable and marginalized groups.

Given below are extracts from reports including from the print media. They intend to provide the local background and context of the issue.

Case example 1

Rajdhani Unnayan Kartripakkha (RAJUK) is the major body responsible for development, planning, controlling and monitoring the development of the city of Dhaka. It was established as a statutory government organization in 1956 as Dacca Improvement Trust (DIT) by Town Improvement Act, 1953. Violation of building codes has become a major concern in recent years and according to a survey carried out by RAJUK 75% of the total building surveyed, had deviations. Some of these deviations have led to catastrophic occurrences, such as collapse of Rana Plaza in 2013, fire in Tazreen Fashion factory in 2012, collapse of Spectrum building in 2005 and fire in FR Tower in March 2019 etc.

Case example 2

A study titled ‘Governance Challenges and Way-out’ [[3]](#footnote-3) found that a significant number of foreign nationals by-pass all the procedures despite laws indicating that every foreign national, appointed to work in any commercial, industrial, multi-national companies, or in a nonprofit organization(NGO), must have prior permission. However, most employers bring in foreign nationals on ‘Tourist’ (T) visa or ‘Visa on Arrival’ (VOA) and cultivating illegal and corrupt practices as it helps them employ competent foreign workers with a relatively lower remuneration package. This practice is a double-edged sword. In one hand it undermines the rights to proper renumeration of the expatiate worker and on the other hand it hampers the Bangladesh employment market reducing opportunity of employment to Bangladeshi workforce.

Case example – 3

Bangladesh is a source country for migrants. In 2019 USD 15 Billion in foreign revenue was earned by migrant workers. Thus, Bangladesh has a dedicated minister and multiple laws addressing concerns of the migrant workers and the agencies recruiting them. Most recruitments of migrant workers are conducted through private recruitment agents. By law the licensed recruiting agencies are subjected to supervision and monitoring of the state agencies through the licensing system. As per the study done by Commission ( 2013), only a few well- established recruiting agents have direct contact with the foreign employers concerned while the other agents are working as de facto sub agents of the established recruiting agents. Most of the medium sized and small recruiting agents are not able to arrange work permits on their own. They purchase work permits at a higher cost, either from private individuals or from agents of employers who come to Dhaka to sell work permits. Many of these recruiting agents do not practice ethical business; they are heavily focused on profit. Which often results in migrant workers being subjected to serious hazards including death.

**Way forward**

The Agenda 2030 for Sustainable Development provides an excellent platform to take collective action. Goals 8, 16 and 17 are particularly relevant in this area and will need to be integrated in a manner, it can address corruption perpetuated by businesses which has a direct or indirect impact on human rights. Pivotal to this tri -SDG merger is Goal 17 as it reaffirms the importance of global partnerships, and particularly the central role of the business sector in advancing sustainable development.

The common linkage between United Nations Guiding Principles and Integrity principles is human rights. Thus, if the UNGPs apply to all business - everywhere then ideally the principles of integrity too should be applied to all businesses -everywhere. This said, not many States will be ready to buy this argument as the competition to attract investors among States are intense. A pragmatic way of going about this advocacy will be to follow a step by step approach. Perhaps start with businesses delivering services of public nature – i.e education, health and transportation. All these services have a direct liaison with civilians thus have a heavier burden of protecting human rights. This said businesses that receive direct state patronage in terms of investment support or export credit should be within the fold of laws and regulation of anti-corruption policies and be required to fully comply with international and national standards of anti – corruption.

Several countries are in the process of adopting national action plans on BHR. Which can be used as a platform and a tool to coordinate with business towards their compliance on anti-corruption standards. The national action plans are broad and are home grown which allows certain degree of flexibility. Including anti-corruption standards in the action plan will help in better coordination and save businesses of the trouble of engaging with multiple forums.

Success of every national action plan depends on its anchor agency and how it is driven. Thus, a dynamic leadership is vital. However, there should be no fixed formula to decide on the anchor agency. Each country is unique and therefore should be allowed to devise its own formula. In Bangladesh the Commission is currently taking the lead to devise the national action plan. Given that BHR is a new topic in Bangladesh it requires an agency who can raise awareness on BHR and then engage relevant ministries and other stake holders. In our opinion the Commission is best place to do this.

At present the commission has a close working relationship with the anti-corruption commission of Bangladesh. Mutual referrals are common and are effectively followed up. The Commission received 32 complaints in 2019 and 22 complaints in 2018 related to corruption, which has been referred to the Anti-corruption Commission. Going forward the commission will be inviting the Anti- Corruption commission to be part of the working group tasked to develop national action plan on BHR. It will also use the National Integrity Strategy (NIS) 2012, (see annexure 1) which identifies clear entry points for engagement and goals for State and non-State institutions as a benchmark during the formulation of the NAP for BHR.

Using the national action plan – BHR as a common platform has other benefits. Once such benefit is the multi stake holder interest it has created on ground. Civil society Organizations, academia, businesses, UN entities are already linked via this platform. Thus, to add the dimension of anti – corruption will not be difficult. CSOs will and have to play a vital role. They should be well position to play the role as a sounding board and be empowered to monitor and independently express their views.

Monitoring is yet another dimension which is vital in this equation. Robust monitoring agents will have to be linked to the platform who will be responsible to implement guidelines on UNGP and anti – corruption. The human rights defenders can play a vital role if they are given safeguards and are protected against any reprisals. Building on the human rights defender’s declaration (1992) and the Marrakech declaration (2018) the Commission has drafted a set of guidelines (see annexure 2) for protection of HRDs. These guidelines are tailor made to the local context and compliance with international standards.

International financial institutions (IFIs) can play a vital role in promoting and helping states to enforcing both UNGPs and the anti-corruption guidelines. IFIs should be bound by international guidelines and in addition should maintain internal quality assurance measures including a screening process to check integrity levels and past records of business seeking financial services from IFIs.

**Conclusion**

States as the primary duty bearers are responsible to protect, promote and fulfill human rights. will have to own and champion this cause. Business should be held accountable irrespective of their size or place of operation. Citizens should be empowered to hold the Sate as well as the businesses accountable as it is their right as claimholders and consumers. Human rights entities and organizations can play a catalytic role. A common platform which bridge all these dimensions including UNGPs, anti-corruption guidelines and SDGs will be the way forward. This said common commitment, sincerity and meaningful effort is needed from the State and business and all other stake holders to make this effort a success.

1. [↑](#footnote-ref-1)
2. https://www.transparency.org/topic/detail/private\_sector [↑](#footnote-ref-2)
3. [https://www.ti-bangladesh.org/beta3/images/2020/report/Expatriate- employment/Expatriate\_Employment\_Full\_Report.pdf](https://www.ti-bangladesh.org/beta3/images/2020/report/Expatriate-%20mployment/Expatriate_Employment_Full_Report.pdf) [↑](#footnote-ref-3)