



National Human Rights Commission, Bangladesh

Response of NHRC, Bangladesh on call for input by the Working Group on Business and Human Rights on the role of national human rights institutions in facilitating access to effective remedy for business-related human rights abuses.

Questions

I. The role and mandate of NHRIs in facilitating access to effective remedy for business-related human rights abuses

1. Does your NHRI have an explicit or implicit mandate to handle complaints concerning alleged business-related human rights abuses? If yes, what methods (e.g. mediation or conciliation) can be used to facilitate access to remedy for human rights abuses?

Yes, the National Human Rights Commission, Bangladesh (NHRCB) has the mandate under Section 12 of the National Human Rights Commission Act (NHRC) 2009 to handle complaints relating to allegation of human rights violation which of course include business activity. There is no doubt that there is a link between business activity and human rights in the global standard. With this, the Commission can inquire into a complaint concerning alleged business-related human rights abuses. The Commission while inquiring into the complaints relating to businesses may call for report or information from the Government or any authority of the Government or any other organization. Further, Section 14 of the NHRC Act 2009 also empowers the Commission to take steps to resolve it through mediation and arbitration.

2. What types of remedies can your NHRI offer to individuals or communities affected by business-related human rights abuses? Do you consider those remedies to be effective?

National Human Rights Commission, Bangladesh can offer a wide range of remedies to the individuals (victims) or his family as the Commission may consider appropriate. Pursuant to Section 19 of the NHRC Act 2009 if the Commission finds the complaint is true, after concluding the inquiry, it may recommend the government to initiate proceeding for prosecution or take such other legal action against the concerned person and at the same time shall recommend appropriate case or other legal proceedings. The Commission can also submit a petition before the High Court Division of the Supreme Court on behalf of the aggrieved person if the High Court Division is competent to pass order or give instruction under article 102 of the Constitution of the People's Republic of Bangladesh. The Commission may recommend the government or concerned authority to sanction such amount of temporary grant to the victim or his family as the Commission may consider appropriate. Section 19(4) stipulates that the Commission shall send the copy of the inquiry report with recommendations to the government or to the concerned authority and they shall within the period of three months from receiving the report, inform the Commission about the action taken or proposed to be taken which contradicts with the recommendations of the Commission, or the government fails or denies to take action according to the recommendations.

It is considered that the remedy provided in the NHRC Act 2009 are adequately if the recommendations are effectively implemented by the government. However, the lack of a provision for further steps by the Commission in case of non-compliance



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by the government of the recommendations of the Commission. An outcome with a non-compliance of the recommendation of the Commission might be seen as a complete zero outcome of the process. Therefore, this is an area which could be addressed properly for ensuring awarding effective remedy.

3. Does your NHRI have a mandate to investigate, conduct inquiry and adjudicate individual cases of alleged human rights abuses by businesses? If yes, please provide relevant statistics in relation to complaints received and adjudicated.

Yes. The National Human Rights Commission, Bangladesh (NHRCB) per Section 12 of the NHRC Act 2009 can inquire into alleged human rights abuses by businesses.

4. Does your NHRI give any special attention to facilitate access to your complaint mechanisms by vulnerable or marginalised groups? If yes, what measures have been taken in this regard?

The Commission has a hotline number 16108, e-mail, online through NHRCB website: <http://nhrc.org.bd/>, by post, in person complaint lodging system at present. The Commission has operationalized a digital complaint management system which provides the complainants to get updates about the complaints with a remote access and the complaints being managed digitally. NHRCB always pay special attention to marginalised groups. NHRCB has different thematic committees on vulnerable or marginalised groups.

5. What gender-sensitive and gender-responsive measures your NHRI take in dealing with cases of alleged business-related human rights abuses?

The Commission is in the process of having a rule for the complaint handling under the NHRC Act 2009.

6. What other measures does your NHRI undertake to facilitate access to remedy indirectly for business-related human rights abuses (e.g. raising awareness about rights and remedial mechanisms, providing legal assistance, building capacity of communities or businesses, assessing effectiveness of other grievance mechanisms, and recommending reform of the national legal system to strengthen access to remedy)?

The National Human Rights Commission, Bangladesh (NHRCB) has a dedicated thematic committee on Business and Human Rights. These committees consist of civil society organizations, human rights activist, state institutions, academician, development agencies, intergovernmental agencies and are chaired by commissioners, allowing space to own and promote work carried out by these committees. The committee on business and human rights has had several policy dialogues with the State and businesses and among other things is working on reforming labour laws, raising awareness among business communities and regular monitoring of factories and industries. It has several small interventions in the past in business and human rights NHRCB has organized in collaboration with UNDP, National Dialogue & Consultation on the UN Guiding Principles on Business & Human Rights in February and June and 2 regional consultations in Sylhet and Chattogram in July 2019. Workshop and consultations provided an orientation of the UN Guiding Principles on Business & Human Rights: Protect, Respect, Remedy Framework and adoption of the national action plan transforming the guideline, the discussion includes the business-related human rights violations, the local context.



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7. How does your NHRI collaborate with other judicial or non-judicial remedial mechanisms (e.g. courts, labour tribunals, National Contact Points, and operational level grievance mechanisms) in dealing with complaints concerning business-related human rights abuses?

Business and human rights is a new area of intervention for the National Human Rights Commission, Bangladesh, it is in the process of expanding its collaborate with other judicial or non-judicial remedial mechanisms (e.g. courts, labour tribunals, National Contact Points, and operational level grievance mechanisms).

NHRCB has been able to engage itself with the dimension of business and human rights and is taking a lead on implementation of the UN Guiding Principles (UNGPs) on Business and Human Rights in Bangladesh. NHRCB aims to engage itself with the business and human rights issues and to increase State and business compliance with international human rights standards. To achieve this NHRCB is working with the stakeholders to translate the spirit of UNGPs through awareness raising, dialogues and consultations, advocacy, peer learning, and capacity development including with the judicial or non-judicial remedial mechanisms (e.g. courts, labour tribunals, National Contact Points, and operational level grievance mechanisms). NHRCB is optimistic that the UNGPs will be implemented in Bangladesh by the development of National Action Plans on Business human rights through an inclusive process engaging the relevant multi-stakeholders.

8. Can your NHRI deal with alleged business-related human rights abuses with a transnational or cross-border dimension (e.g. through informal visits and exchange of information or a cooperation arrangement with counterparts in other States)?

The National Human Rights Commission, Bangladesh has been able to intervene in the past beyond boundaries where there is an allegation of human rights violation. However, the founding Act of NHRC determines its jurisdiction. In this globalisation era businesses involves transitional or cross-border dimension. The global supply chain has an impact on businesses worldwide. Therefore, the NHRCB sees itself dealing with alleged business-related abuses with transnational or cross-boarder dimension having peers (NHRIs) in the cross-borders.

These questions are designed to facilitate focused feedback. Please feel free to respond to all or selected questions as necessary.



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9. Is your NHRI involved in any initiatives to stimulate effective multi-stakeholder grievance mechanisms to strengthen access to remedy for business-related human rights abuses?

Since the National Human Rights Commission, Bangladesh has recently been engaged with the stakeholders, we have only been able to engage in awareness sessions with them. However, it is very much in the plan the NHRCB will be involved in discussions to stimulate effective multi-stakeholder grievance mechanism to strengthen access to remedy for business-related human rights abuses. This will be duly planned as part of the initiative of NHRCB for translating UN Guiding Principles on business and human rights of which a pillar is 'remedy'.

10. Where a National Action Plan on Business and Human Rights exists (or is under development), does it provide for a role for NHRIs in relation to access to remedy in case of business-related human rights abuses?

The National Human Rights Commission, Bangladesh is collaborating with UNDP for the implementation of UN Guiding Principles on Business & Human Rights: Protect, Respect, Remedy Framework in Bangladesh. The initiative aims for adoption of the National Action Plan transforming the guideline, the discussion includes the business-related human rights violations, the local context. Moreover, NHRCB is mandated to handle complaints relating to any human rights violations therefore a mechanism in the National Action Plan with the role of NHRCB in relation to access to remedy in case of business-related human rights abuse will add extensive value to the role of NHRCB.

II. Challenges and limitations faced by NHRIs in facilitating access to effective remedy for business-related human rights abuses

1. What are the most critical challenges and limitations (e.g., legal, practical, or financial) that your NHRI has experienced in facilitating access to effective remedy in business-related human rights abuses? How could these challenges or limitations be overcome?

A major challenge is lack of awareness about the business-related human rights violence or abuse. Therefore, the number of complains relation to business related received by NHRCB is not higher in number. However, in the founding Act, NHRC Act 2009 it has provided certain interim remedy as well as provision for inquiry and recommendation. If the legislation is amended and NHRCB is empowered more with an authority to impose remedy by was of imposing fines and awarding compensation to the victim, it will overcome the existing limitations.

2. What additional challenges has your NHRI faced in dealing with complaints with a transnational dimension (e.g., exploitation of migrant workers, or cross-border environmental pollution)?

It is a challenge for the NHRCB to engage with the transnational dimension e.g. exploitation of migrat workers. Because it is not within the mandate of any NHRI to to go beyond boundaries and make any other State accountable for any human rights violation. However, NHRIs could have a co-operation among themselves to address transnational or



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cross-boarder issues. It is a disappointment that there is no mechanism in place even among the NHRIs of the sending and destination countries. Most of the receiving countries of Bangladeshi migrant workers are not a party to CMW. NHRIs could be a channel to address transnational dimension or even cross-border environmental pollution etc.

3. How has your NHRI dealt with complaints involving multiple victims?

N/A

4. What has been the experience of your NHRI in dealing with complaints concerning parent and subsidiary companies or the supply chain of a company?

N/A

III. Good practices, innovations and recommendations to strengthen the role of NHRIs in facilitating access to effective remedy for business-related human rights abuses

1. Can you share any good practice examples in which your NHRI was able to facilitate, directly or indirectly, effective remedies for business-related human rights abuses?

NHRCB has been able to handle complaints relating to employment, migrant workers. It has done inquiry, hearing, mediation, and made recommendations to the relevant authority to remediate the issue.

2. Are there good practice examples of your NHRI supporting the work of civil society and human rights defenders (including women human rights defenders) working to secure access to effective remedy for business-related human rights abuses?

NHRCB has been very effective in engaging with the civil society organizations (CSOs) and human rights defenders in capacity building, provided a platform for policy advocacy, human rights reporting. NHRCB has also formulated a Guideline for the Promotion and Protection of the Rights of the Human Rights Defenders. Business and human rights is a new area of engagement for NHRCB and we believe that NHRCB will be able to support CSOs and HRDs to secure access effective remedy for business-related human rights abuse.

3. Can you identify any innovative steps taken by your NHRI in overcoming various challenges and limitations faced in dealing with complaints concerning business-related human rights abuses?

The National Human Rights Commission, Bangladesh is committed for the promotion and protection of human rights in the country. It has been able to engage itself for recommending the government for legislative and policy changes. The Commission played a role as a catalyst for engaging with the reporting to international human rights instruments. Similarly, it has been able to engage with the government for overcoming challenges and limitations faced in dealing with the complaints concerning business-related human rights abuses.



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NHRCB has been providing a broader interpretation of the founding law to expand its ambit.

4. What measures should be taken to strengthen the mandate, role and capacity of NHRIs in facilitating access to remedy for business-related human rights abuses?

Firstly, until the NHRC Act 2009 amended, a wider interpretation should be continued to be made to overcome the limitation of the mandate or role of NHRCB.

Simultaneously, NHRCB should continue with the advocacy for the amendment of the NHRC Act 2009 for widening its mandate and role, in particular for facilitating effective remedy for business-related rights abuses.

5. How could NHRIs collaborate with regional and international human rights monitoring mechanisms (including the Universal Periodic Review) to facilitate access to remedy for business-related human rights abuses?

Engaging with the regional and international human rights monitoring mechanisms including the Universal Periodic Review to facilitate access to remedy for business-related human rights abuses is a strong platform. It will provide NHRIs to involve those human rights monitoring bodies to effectively recommend the States how to engage the NHRIs in facilitating access to remedy for business-related human rights abuses. The sharing of best practices, monitoring mechanisms and joint programmes may benefit NHRIs.
