

**STATEMENT FOR THE SESSION ON “ROLE OF NHRIS IN
FACILITATING ACCESS TO REMEDY” TO BE HELD ON 27
NOVEMBER 2018 FROM 11.30 AM TO 1.00PM**

As we recall, on June 17th 2011, the United Nations Human Rights Council endorsed the Guiding Principles for Business and Human Rights developed by Professor John Ruggie, the UN Special Representative on Business and Human Rights appointed by then Secretary General Kofi Annan, **is a significant milestone in the history of Business and Human Rights**. The framework of GPs rest on the three pillars (i) state duty to protect human rights,(ii) corporate responsibility to respect human rights and (iii) access to effective remedies. The National Human Rights Institutions (**NHRIs**) **play an active role in relation to all the three pillars** through a variety of activities, involving monitoring and reporting on grievances, advising on legal reform, handling business-related complaints, outreach and engagement with business about human rights issues.

2. NHRC India has been working diligently to promote respect for human rights within the business fraternity by monitoring human rights abuses by the business sector. The main focus of NHRC, India on the issue of Business and Human Rights (BHR) is (1) **raising awareness and sensitizing** various stakeholders, including government, business organisations, academia and the civil society organisations, (2) **advocacy-**to build constant pressure and act as reminder of the state obligations towards the human rights issues, (3) being part of the **remediation process** through awarding compensation in deserving cases. The Commission, in pursuance of the above said objectives, organized three

Regional Conferences and a National Conference on Business and Human Rights in the last year. The Conferences were attended by senior officers from the Government of India as well as State Governments, State Human Rights Commissions, CEOs and other representatives of various business enterprises/industries/federations, PSUs and Civil Society Organizations working in the area of business and human rights.

3. The Commission has constituted **a new Core Group on Business, Environment and Human Rights** with the objectives to identify ways and means to promote dissemination and implementation of the United Nations Guiding Principles on Business and Human Rights and review the existing laws and regulations relevant to business, environment and human rights and to assist the Commission on recommending to the concerned Ministries on the effective implementation and/or need for revision of laws and regulations relevant to the issue. Besides, the Commission is **actively involved in the consultation process of nodal ministry** for corporate affairs (Union Ministry of Corporate Affairs) on the proposed, **revised National Guidelines on Social, Environmental and Economic Responsibilities of Business 2018**.

Access to remedy: NHRC Initiatives

4. The UNGP 27 on BHR highlights the State based non judicial mechanisms as an important complement to judicial remedies. UN Guiding Principle 27, titled “state-based non-judicial grievance mechanisms”, reads as follows:

“States should provide effective and appropriate non-judicial grievance mechanisms, alongside judicial mechanisms, as part of a comprehensive State-based system for the remedy of business-related human rights abuse.”

Among the state based non-judicial mechanisms, the National Human Rights Institutions play an important role. Their involvement in issues concerning human rights abuses by corporate entities predates the UN Guiding Principles on Business and Human Rights (UNGPs). **In keeping with this UN framework of ‘protect, respect, and remedy’, the NHRC, India is making sustained efforts in the arena of business and human rights.**

▪ **Rights of the workers-Bonded Labour/Child Labour**

5. In the Indian context, a large number of legislations are in place which seek to provide for protection of economic, social and cultural rights of the people especially, those in employment of business and industry. At the same time, it may be important to mention that most of these legislations are applicable to the organized sector, which covers not more than 20 per cent of the labour force. **Nearly 80 per cent of the labour is employed in the unorganized sector** to which principles of corporate responsibility to respect human rights are largely not enforceable. The National Human Rights Commission of India has been playing an important role as a forum to which the poor unorganized sector workers can approach for access to remedies. The Commission receives a substantial

number of complaints concerning **child labour and bonded/forced labour**. Further, the Commission arranges regular **training workshops** for officials, to educate them on the problems of forced labour, and has also set up a **special Bonded Labor Cell** to work on these issues. Over the last two and a half years, the **Commission has organized nearly 18 such bonded labour training and awareness workshops** for government officials at grassroots level, NGOs, academia, and research scholars. As a result of the Commission's efforts, there has been an **encouraging rise in awareness**, especially **among public servants** and other **stakeholders** on the **need to eliminate this menace** existing within the **business sector**.

▪ **Occupational Health Issues-Silicosis**

6. **Silicosis**, is a **lung disorder** caused by **inhalation, retention** and **pulmonary reaction** to crystalline silica, due to exposure during **mining, stone crushing**, and **quarrying** activities, which is very common in India. NHRC has been **closely monitoring** the **small-scale** business units that cause this **life-threatening disease**, and had organized a **Conference on Silicosis for Endemic States** to review the status of implementation of NHRC's recommendations with respect to **Silicosis** in the **endemic sates** of Gujarat, Jharkhand, Madhya Pradesh, Rajasthan, Karnataka and West Bengal.

7. The Commission also organized a **series of meetings with Experts on Silicosis** to give their concrete suggestions with regard to **preventive, remedial, compensatory** and **rehabilitative** measures to **alleviate** the

problems faced by those suffering from the disease. On the basis of the suggestions received, the **Commission formulated a comprehensive set of recommendations** to deal with the issue and also filed an **affidavit** in this regard in the **Supreme Court of India**.

8. In one such important case concerning the states of Gujarat and Madhya Pradesh, the Commission recommended payment of INR 3,00,000 each (**approx. 4,603 USD**) to **238 victims** as well as **directions for rehabilitation** of **304 workers** suffering from the disease. The Commission's intervention prompted the concerned State government to formulate a **scheme for the rehabilitation** of **workers** suffering due to Silicosis.

▪ **Displacement by Industrial Projects**

9. NHRC, India has also intervened in many of the industrial projects where the problems of people displaced by these projects seem to have not been taken seriously. The Commission has taken the following type of initiatives in such cases:

- It has asked the concerned State Governments to provide for proper rehabilitation of the displaced people;
- It has sought fair compensation or in the alternative, proper livelihoods to be arranged for those deprived of their traditional means of livelihood;
- Sought action against public servants where cases of arbitrary action against those protesting peacefully against these projects have been observed;

10. Hence, it may be observed that the NHRC, India has been actively working as a non-judicial mechanism (NJM) in addressing human rights issues relating to business operations. However, there is a felt need that State based NJMs are not a solution on their own, particularly as there are limits to what they can achieve in isolation. This builds the case for the business enterprises to assess whether their operations have been responsible for adverse human rights impact, through its human rights due diligence process or other means and engage actively in remediation.