

## **HUMAN RIGHTS DISASTERS, CORPORATE ACCOUNTABILITY AND THE STATE: AN EMERGING ECONOMY CASE**

### **1. Introduction**

This paper stems from a concern for corporate accountability and human rights. Since the adoption of the UN guiding principles on human rights, this issue has begun to be explicitly linked with the conceptualisation of corporate social responsibility (CSR) activities. This was recognised by McPhail and McKernan (2011), who, in their editorial for a special issue of *Critical Perspectives on Accounting* on human rights accounting, described the recognition of abuses of human rights by businesses as a “significant development in the global discourse on corporate accountability” (McPhail and McKernan, 2011, p.734). Following the special issue, there has been some interest amongst accounting researchers in exploring corporate disclosures and examining human rights items reported in CSR reports. What has been relatively ignored in this emerging research is the responses of (both multinational and other) corporations and the state to human rights disasters in businesses. Thus, McPhail and McKernan’s (2011) observations about corporate accountability and links between human rights abuses and business need further empirical and theoretical development. This paper fills this gap.

Previous studies have highlighted that a nexus between the state and businesses perpetuates human rights violations by corporations (Sikka, 2011; Lauwo and Otusanya, 2014). For instance, Sikka (2011) has explored how multinational companies constrain the state’s ability to protect human rights by imposing stabilisation clauses on host countries. Similarly, Lauwo and Otusanya (2014) have demonstrated how the Tanzanian state was unable to raise and address human rights issues caused potentially by multinational mining companies. This debate needs to be extended to the state’s role in protecting human rights, not only in

multinational companies but in businesses in general. Questions need to be raised about how the state responds in protecting the safety and security of workers, as well as safeguarding working conditions and the rights of workers and the wider public which are often breached or unrecognised by businesses (Gallhofer *et al.*, 2011). This becomes even more important when the state lacks resources and political will, as is often the case in poorer countries. Thus, this paper investigates the state-business nexus in responses to human rights violations. In particular, the paper explores two important corporate human rights elements affecting workers in Bangladeshi readymade garments (RMG) factories: working conditions and trade union rights.

RMG factories in Bangladesh have suffered a number of disasters in recent years, the latest being the Rana Plaza disaster, the worst industrial accident since the Bhopal disaster in India in 1984 (The Economist, 2013). A UN report laid the blame on the Bangladeshi government for its failure to address human rights disasters caused by RMG factories in Bangladesh, citing the state's lack of political will, technical capacity and resources (Labowitz and Baumann-Pauly, 2014). The government of Bangladesh, together with the owners of RMG factories, were accused of "criminal negligence", due mainly to their inability to make these factories accountable or to ensure basic workers' rights (Gomes, 2013; Kernaghan, 2012). Serious questions have also been raised about recurring safety issues in the Bangladeshi RMG sector in the context of broader human rights issues pertaining to global supply chains<sup>1</sup> (The Economist, 2013).

Bangladesh has ratified the UN guiding principles (UN, 2011) that make it obligatory for the government to uphold specific human rights in business enterprises. Unfortunately, however, protection of human rights does not feature in the Bangladeshi government's list of priorities (DW, 2014). Like many other poorer countries, socio-political conditions in Bangladesh are often characterised by a lack of governance and accountability and an appalling human rights

record (HRW, 2014). Bitter political rivalry and distrust between the two major political parties (similar to a family feud) has led to the establishment of a dysfunctional democracy, allowing the state to become increasingly autocratic. Consequently, governments have engaged in harsh crackdowns on political opponents, as well as on civil society and the media (HRW, 2014). This has raised serious doubts about the state's willingness and ability to meet its obligations to protect human rights in business. Thus, this paper explores two research issues: the response of the state-business nexus to human rights violations and its implications for the efficacy of the UN guidelines.

The theoretical perspective of this paper draws on the work of Stanley Cohen, a sociologist who studied the criminal activities of states. An important part of Cohen's (1993, 2001) work involves examining the discourse of official denial used by states involved in human rights abuses. Cohen provides a comprehensive typology of such strategies of denial. Using Cohen's framework allows us to demonstrate how the state-business nexus is critical in the formation of a wider culture of denial in a society in which many human rights violations remain unacknowledged or ignored. In such a "state of denial", effective implementation of the UN guiding principles on human rights in the RMG sector will be questionable. Drawing on Black's (2008) work, Cohen's typologies of denial will be further elaborated from the positions of the legitimacy and accountability of the state, and of non-state actors such as trade associations.

The remainder of this paper is organised as follows. Section 2 presents a literature review of accounting and human rights in the context of the evolution of human rights in business. The theoretical framework is discussed in Section 3, while Section 4 provides a description of the research methods. In Section 5, the political and economic conditions of Bangladesh, and the background of RMG and its international context are briefly presented, as well as human rights disasters in the RMG sector and responses of the state and business. Section 6 presents

theoretical iterations drawing on Cohen's typologies of denial and Black's (2008) work on legitimacy and accountability relationships, and Section 7 draws conclusions.

## **2. Human Rights and Accounting Research**

The issue of human rights violations in business entities has been emerging on the international governance agenda for some time. During the 1970s, the UN attempted to establish mandatory international laws governing the activities of multinational companies. However, this initiative was blocked by several member states. Since then, "soft law" initiatives have been undertaken by multilateral agencies (e.g. OECD and ILO). Accounting research on human rights is also a relatively new area of study, although it appears in many guises in the accounting literature (Cooper *et al.*, 2011). For instance, Gray and Gray (2011) suggest that reporting practices regarding employee-related issues were extant as early as the 1940s.

Human rights issues have taken a new turn since the formal endorsement of the guiding principles on human rights in businesses following John Ruggie's (2008) "protect, respect, remedy" framework (UN, 2011). The emergence of UN guiding principles on human rights was justified mainly on the grounds of multinational companies' (MNCs) variable responses to human rights and the weak bargaining power of the state, especially in poorer countries (Gray and Gray, 2011). The UN's attempts to protect human rights in business through national legal systems and other initiatives largely failed, leading to what Ruggie describes as "global governance gaps and governance failures" (Whelan *et al.*, 2009). This necessitated the establishment of a different kind of institutional framework within which the issue of business and human rights could be addressed (Gray and Gray, 2011). Emphasis on this alternative framework led to the development in 1999 of a UN Global Compact, requiring companies to align their strategies with universal principles on human rights, labour rights, anticorruption and other societal goals. All 12,000 signatories were required to report

regularly on their progress towards compliance with the compact, failing which their names would be removed from the list of signatories. Ruggie's (2007) report on International Standards of Responsibility and Accountability for Corporate Acts was followed by his key (2008) publication, which set the basis for the UN's guiding principles on business and human rights (UN, 2011).

The first guiding principle relates to the state's duty to protect human rights, which includes obligations to take appropriate steps to prevent, investigate and punish businesses that abuse human rights. The state has a responsibility to ensure that other laws and policies governing the creation and ongoing operation of business enterprises, such as corporate law, do not constrain but enable business respect for human rights. In addition, states are required to provide effective guidance to business enterprises on how to respect human rights throughout their operations and to encourage business enterprises to communicate how they address their human rights impact. The guiding principles also require states to set clear expectations that all business enterprises operating in their territory should respect human rights throughout their operations.

This new emphasis on the state's role in protecting human rights in businesses has led the emerging discipline of human rights accounting research to examine the role of both corporations and states in safeguarding human rights (Hazelton, 2013). Some studies have argued that corporations are liable for their human rights performance. Gallhofer *et al.* (2011) note that, although human rights have traditionally been viewed almost exclusively as the state's duty towards its citizens (Ratner, 2001), there have always been concerns regarding the power of businesses, especially MNCs, as non-state actors. Consequently, there have been calls for accounting scholars to explore the human rights obligations of MNCs (Sikka, 2011). Cooper *et al.* (2011) used an industrial disaster in Glasgow to set out the case for a radically different form of accounting to enable concerns regarding human rights violations to be taken

“seriously” (Cooper *et al.*, 2011, p.738). Islam and McPhail (2011) have explored the extent to which multinational garment retailers use human rights discourses in their corporate responsibility disclosures.

Some accounting research has considered access to certain information as a human right. From this perspective, the availability of information regarding the social and environmental performance of an entity is considered to be a right, based on the premise that without such information it would be difficult to realise other rights (Elkington, 1999). Hazelton (2013) explores this particular dimension to analyse corporate water-related disclosures, concluding that, although corporate water disclosures may not necessarily form part of sustainability reports, there is scope to make such disclosures through public databases and product labelling. This is consistent with Cooper *et al.*'s (2011) argument that reporting on corporate human rights issues may require a radically different format.

One interesting aspect of human rights accounting research thus far is acknowledgement of states' inability and/or unwillingness to stop human rights abuses, especially those committed by MNCs (Lauwo and Otusanya, 2014; Frankental, 2011). Using the case of the mining industry in Tanzania, Lauwo and Otusanya (2014) demonstrate how the state was unable to raise and address human rights issues arguably caused by multinational mining companies. Frankental (2011) points out that states may sometimes find it difficult to strengthen domestic social, environmental and human rights standards for fear of challenge by foreign investors. This is particularly prevalent in poorer countries, where lack of institutional capacity to enforce national standards makes it difficult to take action against MNCs on human rights violations. Similarly, Gallhofer *et al.* (2011) acknowledge that some states are reluctant to regulate corporate human rights conduct due to the cost of such actions and potential foreign policy repercussions. It is also argued that different states may face different demands from corporations. However, this debate needs to be extended to the state's role in protecting

human rights, not only in MNCs but in business in general, including local corporations. It is also interesting to observe how the state and businesses respond to and legitimise their positions on human rights disasters in order to shield themselves from wider stakeholders such as multilateral agencies (e.g. the UN) and the public at large.

The UN guiding principles are supposed to make governments more accountable for protecting human rights in businesses. Nevertheless, states' willingness and/or ability are crucial. Previous studies, predominantly in the areas of law and criminology, indicate that many states have themselves been culpable of human rights abuses. In most cases, states have adopted a discourse of denial to reject accusations of human rights abuses (Cohen, 1993). If a state denies human rights abuses committed against its own citizens, it is difficult to see how it can be proactive against human rights abuses in businesses operating in its territory, raising serious questions about the efficacy of the UN's (2011) guiding principles. The next section will elaborate on Cohen's work from the perspective of the legitimacy and accountability of states and corporations.

### **3. Theorising denial, legitimacy and accountability**

Although the term "denial" is relatively uncommon in the accounting and management literature, it is frequently used in the fields of psychiatry and criminology. The notion of denial originated in Freud's work<sup>2</sup> and was later extended to social science disciplines (Freud, 1936; Lapanche and Pontalis, 1973; Baumeister *et al.*, 1998). In his seminal work, Cohen (1993) used Freud's typology of defensive mechanisms to investigate government responses to allegations of human rights violations.

Cohen (1993, 2001) suggests that denial may be private/personal, official or cultural.<sup>3</sup> Cohen's (2001) work focuses especially on the discourse of "official" denial. He argues that very few states disregard outside pressures regarding their atrocities. In order to appease various multilateral agencies, such as the UN, the World Bank and the International

Monetary Fund, most states actively react to cases of human rights violation in three ways: with classic official denial, by attacking the critic, and through partial acknowledgement of the action.

There are three variants of classic official denial: literal (nothing happened), interpretive (what happened is really something else), and implicatory (what happened is justifiable). According to Cohen, “literal denial” is only possible in authoritarian and repressive regimes totally devoid of any public accountability, where the government’s control over the media makes any counter-claim impossible. “Interpretive denial” may involve governments legally challenging whether a particular course of action is in violation of, for example, internationally accepted norms on human rights. An important version of interpretive denial is denial of responsibility. Here, the state might actually acknowledge that something wrong has happened, but will apply a discourse to establish that responsibility for that action lies with other groups, the usual suspects being militants and vague “third forces” (Cohen, 2001, p.109). As part of an “implicatory denial” strategy, a government may claim that particular human rights violations are isolated events and do not reflect the overall condition of the country. Appeal to a higher moral authority is another variant of implicatory denial, which may also involve “condemnation of the condemners”, questioning the moral authority of the critics.

The second form of active reaction is adoption of a counter-offensive strategy. Here, all allegations are refuted as lies, propaganda and ideological prejudice. Counter-offensive techniques against international bodies, for example human rights activist groups, range from identifying errors in reports prepared by the condemners, to questioning their source of financing or their political bias. Internal critics may be branded as treacherous, unpatriotic or irresponsible.



The third form of active reaction is partial acknowledgement. According to Cohen (2001), this strategy is adopted either as a result of a change in political regime, or when the evidence is too embarrassing to be able to deny it. Partial acknowledgement involves use of a discourse claiming that the events were either isolated or happened during a previous political regime. In both cases, assurances are provided that such incidents will not recur in future.

The discourse of official denial needs to be understood in the context of the legitimacy and accountability relationships of the states or organisations making official denials. This will help explain why and how such organisations and states continue to survive or are seen to be legitimate, even in light of serious human rights violations. We draw on Black's (2008) work on the construction of legitimacy and accountability relationships, according to which three elements are central to understanding the dynamics of legitimacy and accountability: the role of the institutional environment; the dialectical nature of accountability relationships; and the communicative structures through which accountability occurs and legitimacy is constructed.

It is important to observe how the state or organisations engage with the discourse of official denial and maintain their legitimacy. Black (2008) observes that regulators (whether state or non-state actors) may attempt to create and manipulate the perceptions of wider stakeholders. This attempt at manipulation is a communicative activity of rendering account, which might have transformative effects on the organisation, but the official denial – whatever form it takes – is critical to its legitimacy and the continuity and scope of rendering accountability to wider stakeholders. Denial of responsibility deploying various denial strategies, a form of communicative structure, may be seen as an attempt to present narratives of past actions – a form of accountability. The form or shape in which accountability occurs is contingent on the types of legitimacy claims that state or non-state actors seek to establish.

Black (2008) articulates three forms of legitimacy claim. First, legitimacy may be pragmatically based, where individuals or social groups perceive that the organisation will

pursue their interests directly or indirectly. Second, it may be normative/morally based: the individual or social group perceives the goals and/or procedures of the organisation to be morally appropriate. Finally, legitimacy may be cognitively based, when the organisation is accepted as necessary or inevitable (Black, 2008, p.144; Zucker, 1987; Suchman, 1995). In the case of a human rights violation in a Bangladeshi garments factory, the state or non-state actors' rationale for official denial is better understood if we examine how the legitimacy of these organisations is constructed, and the role of accountability. Although legitimacy does not depend on an accountability relationship, it is argued that accountability frameworks are contingent on the kinds of legitimacy claims that organisations or states are motivated to make, which in turn are bounded by the institutional environment. For instance, cognitive legitimacy is so deeply rooted as inevitable that it does not undergo further assessment; hence, the accountability framework is often absent. This resonates with family-led states such as Bangladesh, where two families have an apparent birthright to power. Family relationships are sufficient, and no further justification is needed to exercise power (Uddin and Choudhury, 2008). Nevertheless, pragmatic and moral legitimacy claims entail further evaluation by stakeholders.

Black (2008) sees accountability as one form of constructing and presenting a narrative of past events or actions. This narrative may well be false and may only serve its own interests. Accountability relationships may thus simply be strategic devices used by organisations to manipulate perceptions of their activities and performance in order to enhance the organisation's legitimacy (Black, 2008, p.151). Official denial may be seen as a strategic device to enhance the legitimacy and accountability relationships of state or non-state actors. This will be further examined in the context of human rights violations in RMG factories in Bangladesh.

#### **4. Research methods**

It has always been difficult to conduct human rights inquiries in politically unstable countries. A substantial amount of information lies behind closed doors and in confidential files, not easily accessible by researchers (Ashraf and Uddin, forthcoming). Many such states are accused of engaging in human rights abuses themselves (Cohen, 1993). Nevertheless, serendipitous invitations to attend a series of multi-stakeholder advisory consultation (MAC) meetings with key agents on human rights issues in the RMG sector provided us with the opportunity to begin this project. These meetings were organised jointly by a Europe-based human rights institute and a US-based NGO to raise awareness of the UN global compact on human rights.<sup>4</sup> In addition to attending these meetings, our data collection also involved interviews with key agents and documentary analysis.

Since the main focus of our study was to understand state-business responses to human rights disasters such as Rana Plaza, meetings with key agents were crucial. The first MAC meeting took place in Dhaka, Bangladesh on 12 May 2013, soon after the Rana Plaza collapse. Forty-eight people from diverse backgrounds participated in the meeting, including RMG owners, representatives of trade unions and industry associations, foreign buyers, NGOs and civil society organisations, international government agencies, and the government of Bangladesh (Appendix 1, Panel A lists the organisations represented at the meeting). The main purpose of the meeting was to engage in a day-long discussion regarding the presence and impact of human rights issues in the RMG sector in Bangladesh. During the first MAC discussion, the groups, seated at six tables, were provided with the corporate human rights policies ratified by the Bangladeshi Government. These included: investment and procurement practices; non-discrimination; freedom of association and collective bargaining; abolition of child labour; prevention of forced and compulsory labour; complaints and grievance practices; security practices (health and safety); and indigenous rights. At the end of the day-long session, each

group was asked to rank the human rights priorities for the RMG sector. Appendix 2 presents the human rights priorities identified by each group of diverse participants.

Two sets of human rights policies were identified as top priorities by the participants: the presence of collective bargaining agents (trade unions); and working conditions, including forced and compulsory labour, complaints and grievance procedures, and occupational health and safety. These two human rights issues were explored further at a second MAC meeting held in Dhaka on 5 March 2014. This time, 42 participants from Bangladeshi businesses, government agencies, trade unions and civil society organisations came together to identify concrete actions relating to the two high-priority human rights issues. Whereas the participants in the first MAC meeting were mostly field-level managers and mid-level executives, those representing the various organisations at the second MAC meeting were senior policy makers (Appendix 1, Panel B lists the participants). Pseudo-names have been used for the RMG owners participating in the meeting, at their request. As for the second meeting, participants were again seated at six tables. One of the authors was actively involved in facilitating dialogues at different tables, and all tables allowed their dialogues to be recorded with a digital tape recorder. The first author was also engaged in formal and informal discussions with the participants between the sessions. Given the sensitivity of human rights issues, such access to important stakeholders in the RMG sector is unique, and was a rich source of information for this study.

Comments made in group discussions during the MAC meetings were supplemented by follow-up interviews. Eleven interviews were conducted with key participants in the second MAC meeting. These interviewees included representatives of labour unions and employers, council members of the Bangladesh Garment Manufacturing and Exporters Association (BGMEA) and Bangladesh Knitwear Manufacturers and Exporters Association (BKMEA), policy makers, and human rights activists (Appendix, Panel B indicates participants who

were interviewed). These interviews lasted for about 20 to 30 minutes, and were conducted mainly to clarify issues raised during the MAC meetings and/or to elicit additional comments on the subject. Subsequent to the meetings and interviews, the first draft of this paper was circulated to the participants and organisers of the MAC meetings, as a result of which the authors were asked to remove some observations and quotations on issues such as use of child labour and gender discrimination that were considered to be too sensitive.

Citation of observations and interviews in the paper is based on the principle of theoretical sampling (Mason, 2002). According to this principle, we chose interviews and commentaries from key agents which provide theoretical insights. In line with our theoretical aims, we were interested in understanding responses to two human rights issues with which the RMG sector has been grappling since the Rana Plaza disaster. In addition to the formal interviews, we also had opportunities for informal discussions during meetings with participants. These formal interviews and informal discussions helped us to understand the participants' thinking, attitudes and constraints, and were corroborated and complemented by reports prepared by national and international agencies, newspapers and TV channels. The Rana Plaza incident received considerable coverage in both international and national print and electronic media in Bangladesh. Search engines provided important links to relevant news reports covered by international media agencies such as CNN, BBC, Deutsche Welle, Reuters, Huffington Post and The Guardian. Newspaper search engines for local media also provided key information regarding human rights issues pertaining to the RMG sector. Another important source of information on human rights issues in Bangladesh was institutional reports produced by national and international human rights and civil society organisations, such as Transparency International (TI) and its Bangladesh chapter, Transparency International Bangladesh (TIB), Human Rights Watch (HRW), Asian Human Rights Commission (AHRC) and Freedom

House. We also reviewed historical political-economic literature to understand the institutional context of the state and the RMG sector.

The next stage was analysis of the field data collected from the three sources: MAC meetings, interviews and documentary evidence. Two strands of analysis led firstly to uncovering institutional conditions, and secondly to understanding the strategic responses of the state and businesses. Drawing on Black (2008), we sought to understand institutional conditions affecting the state, the RMG sector nationally and internationally, and human rights disasters. This was useful to gain an understanding of the state's position on denials of human rights abuses in general and in the RMG sector in particular. We focused our analysis on the narratives of the state and trade associations such as BGMEA in relation to human rights disasters. Various forms of denial, legitimacy claims and accountability forms were identified in these narratives. The results of our analysis are presented below.

#### **5. Institutional field: Bangladesh, RMG and human rights**

Bangladesh is a densely populated country in South Asia. In recent years, the country has made significant strides towards economic development, propelled by the strong performance of its RMG industry, and remittances sent by expatriate Bangladeshis. Nevertheless, the country has a fragile democracy. A dysfunctional political system, family politics and a lack of transparency and accountability are often identified as the greatest threats to Bangladesh's economic development (Knox, 2009). In 2013, a survey conducted by TIB revealed that politicians, police and judiciary were perceived to be the most corrupt sectors in the country (The Daily Star, 2013). Unsurprisingly, the country has a poor record on human rights. According to HRW, the human rights situation in Bangladesh has worsened further as the government has narrowed the political and civil society space, shielded abusive security forces from accountability, and ignored calls to reform laws and procedures for trials of war

crimes and mutinies (HRW, 2013). In 2014, Bangladesh ranked 115th out of 167 countries in terms of press freedom (Freedom House, 2014).

The political climate in Bangladesh has further contributed to the worsening of human rights conditions. Apart from a period of military rule between 1983 and 1990, two family-led political parties have controlled state power since Bangladeshi independence in 1971. The founders of both parties are linked with the Bangladeshi war of independence and claim to have played major roles in leading the war. These war hero claims have contributed to creating cognitive legitimacy amongst their supporters for ruling the country. Sons and daughters are the legitimate heirs to political party leadership. Both political parties are now led by family members of the founders and claim to have majority support in the country. Losing elections is unacceptable, and the other party is often blamed for electoral malpractice. This has led to political violence, personification of state bodies, capture of the judicial process and the creation of a support base in the civil service and military. Only family members and wealthy supporters of the families can be nominated and elected to public office. Unsurprisingly, business owners side strategically with the political families (Zaman, 2011). As a consequence, a new generation of Bangladeshi businessmen-politicians has emerged: 57 per cent of current members of parliament are businessmen (The Daily Star, 2011). Political patronage has become almost a necessary condition for operating a successful business. This has even affected the leadership contests of trade associations, which are publicly associated with the two political parties. Black (2008) argues that bodies may link themselves to other institutions to develop moral and cognitive legitimacy. Alignment with the ruling party is perhaps driven by such ambitions. Thus, the state depends on businesses, not only because of economic incentives such as investment and employment (Gallhofer *et al.*, 2011), but also because of businessmen's influence over state politics (Uddin and Choudhury, 2008).

The above political and economic conditions in Bangladesh set the legitimacy and accountability context for human rights abuses in the RMG sector. This also needs to be understood in the context of key players on the international scene. From a modest beginning in 1985, the country has now emerged as the second largest global exporter of garment products, due mainly to the availability of cheap labour in the country. Bangladeshi textile employees are amongst the lowest paid in the world, making the country a lucrative outsourcing destination for many large, global manufacturers of RMG. One essential attribute of the Bangladeshi RMG industry is its reliance on a system of “indirect sourcing”, also referred to as the “hub and spoke” model (Labowitz and Baumann-Pauly, 2014), under which orders received by a manufacturer from a buyer are subcontracted to numerous other factories. This model has two implications. Firstly, the subcontracting chain leads to the margin received by each manufacturer becoming incrementally smaller. This creates further pressure to lower the cost of production, which undermines wages and working conditions, investments in technology and training, and improvements in productivity and quality (Labowitz and Baumann-Pauly, 2014). Secondly, a supply chain consisting of a series of subcontractors is very difficult to monitor, by either government or buyers. The Rana Plaza collapse does not seem to have had any impact on the popularity of the “hub and spoke” model often chosen by international buyers (Labowitz and Baumann-Pauly, 2014).

The subcontracting model has made monitoring of human rights in RMG factories difficult and further compounded by unauthorised subcontracting licences issued by BGMEA (Labowitz and Baumann-Pauly, 2014). Such practices make it difficult for third-party compliance auditors, employed by some retailers and brands with strong policies against subcontracting, to detect the presence of subcontractors. Recent, high-profile incidents relating to working conditions have given rise to serious questions regarding the ability and willingness of BGMEA and the government to ensure the human rights of workers in this



sector. The next section briefly presents descriptive accounts of human rights disasters in the RMG sector, and the responses of the state and businesses.

#### *Human rights disasters in RMG*

On 24 April 2013, an eight-storey building collapsed in a suburb of the capital city of Bangladesh. The building, named Rana Plaza, housed a number of RMG factories employing around 5,000 workers. In this catastrophic accident, at least 1,080 workers died and 2,500 workers were severely injured. The day before the building collapse, a TV channel recorded footage showing cracks in the Rana Plaza building. The shops and a bank operating on the lower floors of the building were immediately closed. RMG workers were forced to enter the building to work, even though the management (RMG owners) were fully aware that the building had cracks and that other offices were closed. The probe report claimed that they were seeking to meet the deadlines set by buyers. Although the Rana Plaza disaster may have been the most publicised event, it is certainly not the only one, as RMG factories have been susceptible to incidences of workplace safety. On 24 November 2012, a deadly fire broke out in Tazreen Fashions, an RMG unit producing apparel for leading manufacturers such as Walmart and C&A. At least 112 people were confirmed dead in the fire, and at least 200 were injured, making it the deadliest factory fire in the nation's history (The New York Times, 2012b). Prior to Tazreen, 29 workers had died in the Hameem factory fire in 2010.

The government has been accused of criminal negligence with regard to the Tazreen fire, having turned a blind eye to the illegal erection of additional floors in the building (Kernaghan, 2012). In the case of Rana Plaza, various government authorities not only failed to inspect and monitor its illegal establishment, but the government also failed to act even after the cracks in the building had been broadcast by local media the day before the collapse (Gomes, 2013). After the Rana Plaza incident, the Bangladesh government came under pressure from international agencies such as the ILO, HRW and Western countries, including

the United States and the European Union. Furthermore, global manufacturers who, in response to severe media criticism, promised to review their decision to use Bangladesh as a supply chain, have continued their operations in the country. This is predominantly due to Bangladesh's ability to provide the cheapest quote for RMG products.

#### **6. State's "denial" strategy and human rights disasters**

Before examining the official denial of responsibility for the above human rights disasters, it is important to set the context by elaborating on the Bangladeshi state's general response to allegations such as lack of transparency and accountability, and corruption. Bangladesh has consistently been ranked as one of the top ten countries in the world corruption index prepared by TI. TIB prepares reports and publicises the findings of TI to highlight particular sectors or ministries. It is quite common to see ministers, concerned individuals or state ministries lashing out against these reports and comments, often using an implicative or counter-offensive strategy:

*We outright reject the report as it is false, baseless, confusing and politically motivated to malign the government as well as the country abroad ... we hope that the TIB will withdraw its report immediately* (Local Government and Rural Development Minister, BDNews24.com, 2006).

Adopting a typical "condemning the condemner" (Cohen, 1993) technique or an implicative denial strategy, the above minister also deliberately questioned the moral standing of the chairperson of TIB:

*He himself a corrupt person – how does he find out the corruption of others? Such a person like [the TIB chairperson] has no moral right to brand the country as a corrupt one ... he simply wanted to tarnish the image of the government and the*

*country as well* (Local Government and Rural Development Minister, BDNews24.com, 2006).

In 2012, the World Bank cancelled a US \$1.2 billion credit to Bangladesh to build a bridge over the river Padma following allegations of rampant corruption involving a number of senior ministers of the Bangladeshi government. The Prime Minister's reaction was to adopt a counter-offensive strategy, questioning the political motive of the World Bank:

*They want us to beg. They want us to continue as guinea pigs* (Prime Minister of Bangladesh, The Guardian, 2012).

TIB labelled the Prime Minister's reaction a "denial syndrome" (TIB, 2012). The finance minister of Bangladesh also called the integrity department of the World Bank, which initiated the corruption charges, a "highly inefficient body that should not exist" (The Financial Express, 2013b). Such discourse of denial is consistent with Cohen's depiction of a counter-offensive strategy in which, in the case of an undeniable allegation, efforts are made to discredit the international source (Cohen, 2001, p.113). The government's tendency to apply a discourse of denial to human rights issues was highlighted in the country report of the AHRC (2013).

As Cohen has pointed out, the state may adopt various strategies of denial. A counter-offensive strategy tends to be chosen by the state when strong material evidence is absent or is not widely seen by the public, or when the attacker has a weak power base. In the face of the above allegations, the Bangladesh government found it much easier to attack TIB by suggesting that the allegations were lies, propaganda and ideologically driven.

However, a different strategy has been adopted in the case of serious human rights disasters, when, given the evidence, the government was unable to adopt a "counter attack strategy" so employed another variant of official denial – "interpretive denial". Immediately after the

Tazreen fire incident, the Prime Minister referred to it as “an act of sabotage” (Reuters, 2012). Also, after the Rana Plaza incident, a senior minister in the cabinet attempted to blame the opposition party for the building collapse:

*The fundamentalist BNP [the party in opposition] had called the shutdown. I was told some hired supporters went there and shook the gates ... and the pillars. This might be the reason behind the collapse ... When part of a building caves in, it affects the whole. This might have happened* (The Huffington Post, 2013).

The above quotations resonate with a classic interpretive denial strategy. It was almost impossible for the state to offer a literal denial, given the material evidence and the presence of national and international media. Despite having to acknowledge that something wrong had happened, it was more effective for the government to try to neutralise the impact of the event by denying responsibility and blaming somebody else. As Cohen (2001, p.108) puts it: “Yes, something bad happened, but don’t blame us. Responsibility lies with shadowy army groups, vigilantes, rogue psychopaths, proxy armies, vague third forces ... or ‘unknown elements’.”

The government’s persistent strategy of using interpretive denial has allowed the regulatory body, BGMEA to adopt a similar strategy. After the Tazreen fire, BGMEA followed the lead of the government in blaming unknown “conspirators”:

*By analysing the evidence, considering the accounts of interviews of the eyewitnesses we have got indications that the fire was planned. The whole incident should be probed further and the conspirators should be brought to justice* (BGMEA President, [The Independent, 2013])

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Similar statements had been used by BGMEA in response to prior allegations of human rights violations. For example, when 29 workers died in the Hameem factory fire in 2010,

Hameem's owner, also then president of the Federation of Bangladesh Chamber of Commerce and Industries (FBCCI), a forum for business owners, claimed that the fire was a result of "sabotage" (Gomes, 2013). After the Rana Plaza collapse, the US government suspended its generalised system of preference (GSP) facility, which allows duty-free access of some products from specific countries to the US market. BGMEA blamed local civil society groups and labour unions for tarnishing the image of the country, and threatened legal action against them on charges of sedition – a classic case of implicatory denial. BGMEA took a counter offensive strategy, blaming others for being "treacherous, unpatriotic, or irresponsible" (Cohen, 2001).

The various denial strategies adopted by the state and trade associations such as BGMEA can be understood from the perspectives of legitimacy and accountability relationships. Black (2008) argues that the construction of accountability is contingent on the types of legitimacy required by state and non-state actors. Despite winning a disputed election in 2013, the ruling party of Bangladesh seems to have cognitive legitimacy, claiming to be the only party of war heroes – a claim apparently accepted by a large section of society. Pressure to be accountable to the general population is significantly lower given this apparent cognitive legitimacy. Nevertheless, moral legitimacy must still be maintained by the government. "Denial of responsibility" contributes to maintaining the moral legitimacy that the state seems to seek. Identifying the World Bank and other international agencies/countries as imperial monsters is a calculative denial strategy taken by successive governments on many occasions (The Guardian, 2012; BDNews24.com, 2006). Black (2008) argues that accountability is one form of constructing and presenting a narrative of past events or actions: denial of responsibility not only allows the state to create a narrative to suppress anti-narratives, but also enhances its moral legitimacy. Similarly, denial of responsibility by trade associations such as BGMEA is closely connected with pragmatic legitimacy, as such organisations are bound to protect

RMG owners' interests, being accountable to their members. Drawing on political connections with the state, BGMEA even sought moral legitimacy in adopting "interpretive denial" strategies. Similar legitimacy claims will also be seen in the following two human rights issues discussed below.

*Human rights issues: Collective bargaining and working conditions*

Drawing on the MAC events, interviews and documentary evidence, this paper addresses two specific human rights issues: the presence of collective bargaining agents (trade unions); and working conditions, including forced and compulsory labour, complaints and grievance procedures, and occupational health and safety.

*Collective bargaining*

The presence of trade unions has been a contentious issue for the RMG sector in Bangladesh. Historically, RMG owners have been reluctant to allow the formation of trade unions. The Bangladesh Independent Garments Workers Union, founded in 1995, was refused registration as a national union, mainly due to objections raised by owners of RMG industries (ILO, 1995). According to national legislation, the owners' permission was required for the establishment of a trade union in an enterprise belonging to the RMG sector. RMG owners had long exercised this discretion, not only by disallowing the formation of trade unions, but also by thwarting any attempt to form a trade union through severe repression, dismissal, and assault by hooligans hired by RMG owners. HRW lobbied successive prime ministers of Bangladesh to stop harassment of trade union organisers in the RMG sector.

Repression of trade unions has often resulted in the disappearance or even death of their leaders. For instance, in a letter to the current prime minister, HRW cited one union leader who was detained by national security intelligence as he was trying to negotiate a national minimum wage for workers in the garment sector. He was later found dead. In a letter dated 11 April 2012, HRW urged the government to "immediately launch a comprehensive and

impartial investigation of the disappearance, torture, and murder of [the union leader], and publicly report the findings” (HRW, 2012). In an interview with CNN, the Prime Minister expressed surprise and commented:

*Which union does he belong to? What is the name of the union, do you know that? Nobody knew that he was a labour leader. He was killed somehow ... it was our police that recovered his dead body* (Bangladesh Prime Minister, Interview with CNN, 2013).

Given international pressure on the government following the Rana Plaza disaster, collective bargaining was allowed to be established without the permission of the owners (Sohel, 2013), with the exception of RMG units operating in special economic zones. However, a survey conducted by HRW in 2014 found that, in many garment factories, owners still continued to threaten workers who wanted to form or join trade unions (The Daily Star, 2014a). On 24 April 2014, on the first anniversary of the Rana Plaza collapse, the chairman of the United States Senate Foreign Relations Committee expressed his concerns over BGMEA’s role in the suppression of trade union activities in the RMG sector in Bangladesh:

*Many factory owners in Bangladesh have suppressed the formation of unions in their factories by firing union leaders and, according to reports, some factory managers have been involved in vicious attacks on union organizers. The industry association for Bangladesh’s garment factory owners, the BGMEA, continues to represent the old guard of factory owners and has been reluctant to take any action against its members who engage in anti-union activity. The government of Bangladesh, while making progress in the registration of new unions, still lacks the institutional capacity and political will to protect them* (Sharon, 2014).

In his response to this statement, the BGMEA president denied the allegations, claiming that a record number of trade unions had been formed after the Rana Plaza incident and that more would be established in the coming years (The Bangladesh Today, April 26, 2014). However, during the MAC meeting, a representative from an organisation for workers' rights voiced her concern over the formation of a "record number of trade unions" in recent months. This suggests that RMG owners are actively involved in creating pro-owner trade unions, mainly to combat workers' resistance:

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*In 2012, there were just 10 trade unions, and yet, now [in 2013/14] the number has risen to more than 100. Why this sudden rise? We hear that workers are being paid in some RMG units to join "pro-owner" trade unions – you can clearly understand how effective these trade unions are going to be in protecting workers' rights. In other RMG units, workers are being threatened not to join trade unions, unless these are pro-owner unions – this is just a mockery of the entire process (MAC participant 21: Project manager, Uttaran, a social development organisation).*

This was supported by Brad Adams, executive director of HRW's Asia chapter, who, in a recent interview, blamed the state-business nexus for the state's failure to protect human rights abuses in the RMG sector in Bangladesh:

*There are also serious labour problems [in Bangladesh]. For instance, workers are being attacked for trying to form associations to protect their rights. These attacks are perpetrated by garment manufacturers and are supported by government officials. Many members of the government own factories and there is a lot of political pressure on the people who are trying to organize trade unions (DW, 2014).*

The discourse used by the Bangladesh government was much more serious, and resembled a counter-offensive strategy of denial. Defending BGMEA's stance on trade unions, a senior



government minister questioned the moral standing of the US government with regard to trade unions:

*Even though there has been no trade union in the US so far, they are forcing us to allow trade unions in Bangladesh (Dhaka Tribune, 2014c).*

State politics influence trade unionism in Bangladesh (Uddin and Hopper, 2001). This influence is drawn mainly from the political affiliations of trade union leaders (Belal and Owen, 2007). In the MAC events, the problem of politicisation of trade unions was posited as the major reason for the RMG sector's reluctance to allow trade unions in the factory:

*Trade unions to me is fine. You have to let people speak. However, they should be able to speak for workers' rights, rather than acting as a party leader of the Awami League and the BNP [the two major political parties in Bangladesh]. Most members of parliament own a garments factory, and would want to use their employees as potential vote banks for national elections. How can you avoid political influence then? (MAC participant 26: Managing director and owner of an RMG unit)*

Another respondent said: "Workers go for political vandalism, not trade unionism" (MAC participant 22: Managing director and owner of an RMG unit).

To avoid the formation of trade unions, RMG owners often form a participation committee, as reflected during debates in the meeting. The president of the Garments Workers Union, a high-profile female activist with years of experience working in RMG factories in Bangladesh, observed:

*Trade unions are always seen as threats by the owners. The government also keeps silent about this issue as they do not want to harm the politician-businessmen. Also, we need trade union leaders who would speak out for the workers, rather than being*

*puppets of the owners* (MAC participant 07: President, Somnilito Garment Sromik Federation, the apex body for RMG workers' unions).

Although some participants in the MAC event supported the idea of allowing trade unions in the RMG sector, many seemed content with the current position of the government and the BGMEA, despite being informed of the repression of unionists. Key stakeholders seem to believe that the trade association, BGMEA, continues to block the formation of trade unions in the RMG sector, even though this is now considered illegal. The common counter-allegations made by BGMEA and RMG owners are that trade unions are not true representatives of workers or are highly politicised. From the legitimacy point of view, BGMEA is clearly protecting its members' interests and constructing narratives against collective bargaining for its members. The state's narratives favour RMG owners, branding the USA's actions as imperial activity. The state's legitimacy is not under threat cognitively or normatively/morally, given that, for various historical reasons, mainstream narratives of trade union activity are negative (Uddin and Hopper, 2001). The state's silence or support for RMG owners on trade union issues can be further understood in light of the culture of the politician-businessman emerging in Bangladesh. This gives owners far more material advantages over their competitors, including evading human rights regulations that are supposed to be protected by the state.

#### *Working conditions*

Long working hours, low wages, poor workers' rights, gender discrimination and very unsafe workplaces in the RMG sector have been reported by many commentators and researchers (Kumar, 2006). Accidents such as the Rana Plaza disaster were simply waiting to happen. On the day of the collapse, as many of the workers were worried about the safety of the building, some managers threatened to withhold a month's pay from those who refused to come to work (The Huffington Post, 2013). Recruitment policies are highly informal, with no formal

contracts (Bansari, 2010), which enabled the managers of RMG factories within the Rana Plaza to threaten the workers with pay cuts. Violation of international labour standards and codes of conduct is common in RMG units (Dasgupta, 2002). The remainder of this section discusses these issues in relation to the UN principles.

Workplace safety became a critical concern after the Rana Plaza disaster. The Bangladeshi government, RMG owners and BGMEA all faced public outcry. The Rana Plaza collapse was inextricably linked with questions about the state's ability and willingness to protect workers. The building itself had been illegally erected in the first place, on land grabbed from its previous owners, and additional floors had then been added without proper planning permission. The local authority was unable or unwilling to act, as media reports clearly indicated that the owner was a senior joint convenor of the ruling party. However, immediately after the collapse, the government denied any political connection with the owner.

The Rana Plaza disaster perhaps raised questions about the state's moral legitimacy. Drawing on various literatures on legitimacy, Black (2008) associates four types of claim with moral/normative legitimacy: constitutional, justice, functional and democratic claims. The magnitude of these human disasters haunted the state still further when the media reported that the owner of the building was a ruling party member. Immediate and literal denial was necessary for the government to manipulate the narratives around these issues. Constitutional and justice claims were necessary for the state to maintain moral legitimacy. One action taken by the state was the immediate arrest of the building and factory owners. Nevertheless, narratives were maintained to blame others or vested parties for causing the incidents – a form of interpretive denial.

Under pressure from global retailers, the ILO and wider stakeholders, in 2013 a national tripartite plan on fire safety was agreed between the government of Bangladesh, RMG

owners and workers. The ILO acted as a catalyst and aided the formulation of this plan. Key activities identified in the plan included the assessment of the structural integrity and fire safety of RMG factory buildings and a strengthening of labour inspection in RMG factories. Implementation of these regulations is more challenging than formulation of the rules. As we have argued, the state's willingness to protect workers is questionable, to say the least, reflected in their denial strategy, and in the legitimacy and accountability conditions of the family-led governments. A recent report published by ACCORD (an independent fire inspection and building safety body) shows that 1,289 factories out of 1,677 have been inspected. Most need corrective action and the owners are behind schedule in taking these actions. ACCORD's most recently quarterly report, published in November 2015, commented: "ACCORD remains concerned about the delays in remediation in many inspected factories. More than a thousand factories are behind schedule with remediation" (p.1).

The national tripartite plan did not address other working conditions, such as long working hours and low wages. There had been considerable workers' resistance around these issues a few months after the Rana Plaza incident. In November 2013, following a four-day shutdown of hundreds of factories by strikes and a series of violent confrontations involving tens of thousands of people, Bangladeshi RMG workers eventually forced the owners to agree to a 77 per cent rise in the minimum wage. Nevertheless, despite the rise, the minimum wage rate remains the lowest in the world. However, it was pointed out that the salary increment was given mostly as part of the bonus structure, and the basic hourly wage of the workers had only been increased by 15 per cent. This means that the pay rise will have limited impact on overtime payments to workers (based on hourly rates), which constitute the largest component of workers' take-home pay. Thus, concerns around long working hours and low

wages remain strong among workers and trade unions. This has been reflected in small-scale eruptions of violent demonstrations and lock-downs in RMG factories.

In general, BGMEA has refused pay rises to workers, claiming that such wage increases would make Bangladesh less competitive in international RMG markets (Ethirajan, 2012).

Worker's representatives have fiercely contradicted the claims and commented:

*If your owner ditches a few of his BMWs and reduces the number of holidays he goes to, I'm sure he can well afford a pay rise without harming market competitiveness*  
(MAC participant 29: General Secretary, Union for Garments Workers).

RMG owners and BGMEA believe, as reflected in the meeting, that wages are reasonably fair. When asked whether it was possible to live decently on the wage structure being offered to RMG workers, a manager of an apparel company replied:

*In Bangladesh, women who possess no skill come to Dhaka from the villages, as they hear about the employment opportunities in the garment sector. After they hang around near the gates of some garments factories for a couple of weeks, they usually get a job through an informal contract. You tell me, what wages can we offer to this unskilled worker? Shouldn't she be happy that she has at least found a job?* (MAC participant 14: Manager of an RMG unit)

Unsurprisingly, both the government and BGMEA have pursued a consistent discourse of denial (literal denial) in response to allegations regarding the working conditions of RMG workers. In line with the denial of responsibility strategy, BGMEA has typically accused "vested quarters" (counter-offensive strategies) of creating anarchy in the RMG sector. The BGMEA president issued the following statement:

*Many factories in Ashulia, Savar and Gazipur remained closed today (Tuesday) and a vested group is instigating the workers for creating unrest* (The Financial Express, 2013a).

In a recent statement, the BGMEA president also accused national and international NGOs and labour organisations of conspiring to destroy the RMG sector in Bangladesh (Dhaka Tribune, 2014a). This is similar to the government's stance on agitations by RMG sector workers on the issue of working conditions. In a statement, the special assistant to the Prime Minister threatened that "anyone spreading propagandas against the country's garment sector" would be "brought to book" (Dhaka Tribune, 2014a). A senior government minister also questioned the political bias of the US government in its decision to stop market access facilities to Bangladesh on the grounds of its failure to ensure proper working conditions for RMG workers (Dhaka Tribune, 2014b).

The state's unwillingness to engage with issues around working conditions, offering literal official denial and not strictly enforcing regulations, might be better understood from the perspective of legitimacy and accountability relationships. The ruling party saw these workers' disturbances as threats, not only to moral and pragmatic legitimacy but perhaps even to cognitive legitimacy. The state would be seen as a failed state if it were unable to control a mob (workers' resistance). Thus, counter-offensive narratives were essential (i.e. bringing criminals to book). This strong negative influence of the state on working conditions in the RMG sector strengthened BGMEA and its members' positions on the issues. This was reflected in the MAC meetings, as observed by the first author.

The above discussions on working conditions and collective bargaining have indicated the shared position held by the state and business. The Bangladesh government's indifferent attitude towards trade unions in the RMG sector, its heavy-handed response to workers'

resistance and its denial of responsibility for human rights abuses do not bode well for the implementation of the UN principles. The government's approach to human rights issues in general was best summarised in a comment by a member of Bangladesh's high-profile Human Rights Commission, indicating the overall accountability and transparency of the country:

*As I was coming to this event, I heard that this morning a convicted criminal was pardoned by the President due to his political affiliation. It is frustrating to work in such an environment – it is very difficult to accept unacceptable behaviour from those in the government – there does not seem to be any mechanism to hold the politicians accountable for violation of human rights (MAC participant 09: Commissioner, Human Rights Commission, Bangladesh).*

Interestingly, the UN (2011) proposes a more proactive role for national human rights institutions in the proper implementation of the guiding principles. However, the above comment from a person who actually sits on the board of the Human Rights Commission in Bangladesh indicates the apparent helplessness of the body, and casts serious doubts on its role in implementing the UN (2011) principles in Bangladesh. At the end of the second MAC meeting, the overall atmosphere of the room was of helplessness and despair. It appeared that there was consensus in the room that the socio-political environment in Bangladesh acts as a major impediment to effective implementation of the UN (2011) guiding principles. When asked to comment on possible solutions, the President of the RMG Workers' Union urged more intervention from multilateral agencies:

*Do you think companies such as Primark and Walmart have agreed to pay compensation to the Rana Plaza victims for nothing? They were actually forced to pay, either by their governments, or by influential stakeholder groups. Unfortunately,*

*in Bangladesh, this will not happen. Here, the government is business, and the business is government [referring to the state-business nexus]. However, I urge the members of the donor agencies present in this room to put pressure on the government so that workers' rights can be ensured. They will listen to you only. This is the sad reality of Bangladesh* (MAC participant 07: President, Somnilito Garment Sromik Federation, the apex body for RMG workers' unions).

Most participants in the MAC meetings, including government representatives (professional bureaucrats, rather than politicians) agreed with this statement! However, participants from various donor agencies present in the meeting refused to comment on this issue, perhaps to avoid political and diplomatic hazards. It is clear from the above comments that the state is unwilling to make real changes in the sector. Marginal changes have been made only to satisfy international stakeholders' seasonal pressures. Pressure from Western retailers to make cheaper products with tight deadlines continues. Enforcement of regulations remains far-fetched in the context of family-led state politics (Uddin and Choudhury, 2008).

## **7. Concluding remarks**

This paper has explored the state-business nexus in responses to human rights disasters in Bangladesh and its implications for the efficacy of the UN guiding principles. The paper has drawn on Cohen's notion of denial and Black's legitimacy and accountability relationships of state and non-state actors to understand the responses of the state and businesses to human rights disasters.

The paper makes a number of empirical and theoretical claims. First, there is clear evidence of the state-business nexus perpetuating human rights disasters, in line with the existing but scant literature (Sikka, 2011). Previous studies have focused only on multinational companies and states' apparent inability to put a stop to potential human rights abuses. In line with



studies in law and criminology, we report that the state itself is allegedly involved in human rights abuses. As we have demonstrated, this nature of the state creates the necessary conditions for businesses to disregard human rights in businesses, including RMG. Our study also shows that the Bangladeshi state, ruled by family-led political parties, is more inclined to protect businesses that cause human rights disasters, rather than to ensure human rights in businesses.

Second, the paper finds that the institutional field sets the background for continued human rights abuses in the RMG sector. Economic conditions in Bangladesh contribute to this, perpetuated by Western businesses' insatiable desire for cheaper products. Relying on cheaper labour, the RMG sector is responsible for bringing precious foreign currency into the country, resulting in extra protection being provided by the state. This gives almost free licence to exploit and abuse human rights in the sector, as some interviewees and participants argued. Political conditions also enable RMG owners to continue to violate safety and security in the workplace and maintain inhumane working conditions. Being close to the family-led political parties proves beneficial, resulting in lax controls and weak enforcement of existing human rights regulations.

Third, the paper argues that the UN guiding principles are inadequate. Following the high-profile Rana Plaza collapse, a number of major global garments retailers were under intense media scrutiny for their failure to ensure human rights for workers in supply chains located in poorer countries. The US, EU and donor agencies working in Bangladesh appear to have taken action to ensure that adequate steps were taken to address human rights concerns. Subsequently, changes were made in some aspects, including several provisions on workplace safety, and acknowledgement of freedom of association as a workers' right in the RMG sector. Interestingly, even these marginal changes do not apply to RMG in export processing zones. Overall, the changes have been insufficient and have fallen short of

international labour standards (ILO, 2013). We have found that the government has been very slow to inspect workplace safety. The dim view taken by the government of workers' claims for fair wages and better working conditions is alarming. Trade unionism faces completely different operational challenges. RMG owners apply tactics such as creating a puppet trade union, harassing workers who join the trade union and constructing narratives of politicisation of trade unionism. The inadequacy of the UN guidelines can be further understood in light of our theoretical claims.

Theoretically, the paper provides explanations of how the state-business nexus responds to human rights disasters. The fundamental position of this network is "denial of responsibility" for human rights violations in the RMG sector. This rhetoric of denial has consistently been applied by the highest level of the state, including the Prime Minister, and ministers have often adopted a counter-offensive strategy to vilify internal and external critics of human rights issues. The persistent use of such rhetoric by politicians and the state has allowed trade associations such as BGMEA to adopt similar denial strategies in responding to important human rights violations.

The denial strategies adopted have ranged from "literal denial" to "interpretive denial" to "counter-offensive strategies" (attacking the critique) and "implicatory denial", depending on the circumstances and issues in question. Denying responsibility has material advantage for both the state and trade associations. The state seeks to protect the image of the RMG sector so that it can continue to reap economic benefits. Yet, how do state or non-state actors continue to deny responsibility in the context of catastrophic human rights disasters? This needs to be understood in terms of the legitimacy and accountability relationships that these bodies seek to construct (Black, 2008). We have argued in this paper that the ruling party of the Bangladeshi government has deployed official denial as a strategic device to enhance legitimacy and accountability relationships. A counter-offensive strategy in response to any

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disaster (human rights or otherwise) is critical for establishing moral legitimacy and maintaining the cognitive legitimacy that the ruling party seems to enjoy among the wider population. We found that constructing narratives using various denial strategies – implicating vested quarters or international conspiracy – is a form of accountability mechanism successfully employed by both the Bangladeshi government and BGMEA in responding to human rights disasters.

The apparently successful deployment of denial strategies has serious implications for implementation of the UN guiding principles. Denial of, or constructing narratives against, the responsibility of both key players – the state and business – is a major stumbling block to bringing about any changes or conforming to existing regulations. We found that there have been allegations that the Bangladeshi state has committed human rights abuses against its own citizens, so it is unsurprising that it is not proactive against human rights abuses in businesses. Key participants' exasperated comments indicated that, as long as the state is unable to acknowledge that issues such as working conditions and collective bargaining are fundamental human rights, the UN guiding principles will have little impact. Complex state politics – family, kinship and wealthy supporters – will continue to shape the state's ability to influence the human rights practices of business. The regulatory framework, albeit far from the international labour standard, will remain symbolic and inadequate, as just another regulatory framework imposed on poorer countries (Siddiqui, 2010). Recent studies have suggested empowering trade unions (Belal and Owen, 2007) and greater activism by civil societies as potential remedies (Belal, 2015). We remain pessimistic. Fundamental changes in local politics and international economics appear to be necessary to bring about the real changes badly needed in human rights practices in businesses.

Finally, this paper calls for further research in a number of areas. First, further exploration is necessary of important human rights issues in business, such as child labour and gender

discrimination, which are often attributed to the supply chain companies of large multinationals. Second, the social auditing employed by multinational companies to check on subcontracting factories needs intensive study. For instance, factories in Rana Plaza were given the green light in relation to workplace safety just before the collapse. Third, further intensive research is critical to scrutinise compliance with human rights guidelines, not only in the RMG sector but also in other supply chain companies, especially in politically unstable countries (Ashraf and Uddin, 2015).

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## End notes

<sup>1</sup> The six garment factories in Rana Plaza were all operating under treacherous working conditions to meet export deadlines set by global apparel giants.

<sup>2</sup> Freud originally distinguished between "repression", which applies to defences against internal instinctual demands, and "denial" (or what he called "disavowal"), which applies to defences against the claims of external reality.



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<sup>3</sup> “Official denial” is collective, and sometimes highly organised. Cohen (1993) observes that, in some cases, such denials are actively supported and sustained by significant state resources. In totalitarian societies, the extreme form of such collective denial may involve a complete rewriting of history. In such cases, denial is not an individual or personal matter. Rather, it is embedded in the ideological disguise of the state. The third form of denial, cultural denial, is not individualistic, and is not necessarily complemented by state mechanisms. Under this form, the entire society moves into a collective mode of denial, in which different types of atrocities and human rights violations are known, but never openly acknowledged. Although such denials may sometimes be initiated by the state, these are sustained by the cultural norms of the society.

<sup>4</sup> For the sake of anonymity, the names of the organisers of this event are not disclosed in this paper.