

Ethical Business Practice

IN NEPAL

Baseline Study Report July 2013



Business Ethics

Consumer Protection

Competition and Market Protection

Anti-Corruption

Tax and Financial Accountability

Labour

Environment

Acknowledgement

This report is the result of a survey carried out between February and June 2013 in Kathmandu by National Business Initiative (NBI) under the project titled "Business Ethics". The project is supported by the Deutsche Gesellschaft für Internationale Zusammenarbeit (GIZ) GmbH acting on behalf of the German Federal Ministry for Economic Cooperation and Development (BMZ). Consultations were held with various associations and individual business people to collect perceptions of business ethics and its current situation in Nepal.

The report was written by Sanjeeta Pant and Nitu Nepal with inputs, encouragement and guidance from Padma Jyoti, Surendra Bir Malakar, Saroj Pandey, Prakash Rimal and Victor Linden and contributions from Monish Bajracharya and Sarbani Kattel.

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About NBI

National Business Initiative (NBI), a non-political NGO, was founded by fourteen major Nepalese business associations in 2005 with the objective of strengthening the role and capacity of the Nepalese private sector to contribute to sustainable peace in Nepal.

NBI seeks to promote sustainable peace in Nepal through just socioeconomic growth. 'There can be no successful business in an unsuccessful society and there can be no successful society without successful business' is the mantra NBI holds on to. NBI currently consists of 27 member organizations. Through its members, NBI reaches across the country and builds on a network of entrepreneurs from varied social and geographical backgrounds reaching from micro-enterprises to corporate houses. NBI has four working areas: i. Peace Building and Conflict Mitigation ii. Sustainable Business Practices iii Enabling Business Environment and iv. Economic Opportunities and Inclusive Growth.

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Abbreviations and Acronyms

BMZ	German Federal Ministry for Economic Cooperation and Development
CSR	Corporate Social Responsibility
ENOC	Emirates National Oil Company
FNCCI	Federation of Nepalese Chambers of Commerce and Industries
GIZ	Deutsche Gesellschaft für Internationale Zusammenarbeit
GRI	Global Reporting Initiative
IFC	International Finance Corporation
JV	Joint Venture
MNC	Multi National Companies
NAFEA	Nepal Association of Foreign Employers' Agencies
NBI	National Business Initiative
NGO	Non-Governmental Organization
PEC	Pacto Etico Comercial
RBI	Responsible Business Initiative
SME	Small and Medium Enterprise
SPS	Stakeholder Perception Survey
UN	United Nations
WEF	World Economic Forum

Executive Summary

Ethical business practices have become a major component in business activity throughout the world. It is a prime element for business sustainability and development as it leads to long-term financial benefits through reduced cost of doing business, increased investors, as well as goodwill to society and the environment. The most basic ethical concerns have been codified as laws and regulations (code of conduct) that encourage businesses to conform to society's standards, values and sensitivity. At the minimum business communities are expected to obey the existing laws and regulations.

The current situation in Nepal is marked with many uncertainties, arising from political deadlock, corruption, unfriendly and unhealthy business environment, rigid and unclear policies, unseen/hidden problems and lack of rule of law. These have prompted, or contributed to, rise in unethical business practices. Such unethical practices have jeopardized the safety and rights of the common people and tarnished the image of the business community.

Rampant corruption, adulteration, cartels and syndicates and tax evasion, among others, often make the headline in the press and top radio and television news charts. In 2013, National Business Initiative (NBI) decided to map 'Business Ethics in Nepal'. On behalf of the German Federal Ministry for Economic Cooperation and Development (BMZ), the Deutsche Gesellschaft für Internationale Zusammenarbeit (GIZ) GmbH has supported NBI in undertaking this initial phase of the initiative. The vision is to promote ethical business in Nepal through proactive and collective actions of capable business community. To inform and guide the campaign, a baseline study was undertaken, basically to assess the situation of ethical business practices vis-à-vis Nepalese private sector and their existing challenges. For practical reasons, NBI decided to acknowledge all activities that would help advance business practices—from common de facto standards to legal compliance or beyond—as ethical business practices. Six components of business ethics were identified: (i) consumer protection; (ii) free competition and market protection; (iii) anti-corruption; (iv) tax and financial accountability; (v) labour; and (vi) the environment.

This publication is an outcome of the initial phase of this project, a comprehensive baseline study report produced through a brief policy review and extensive consultations with key business associations and their leading individual member companies. Various international practices relevant to the Nepalese context were reviewed at global, country and company levels. Commitments made by Nepal government in various international forums have also been listed. Selected corresponding domestic laws that are relevant for the promotion of business ethics were listed along with the responsible institutions. A detailed discussion of all international tools, Nepal's commitments and domestic legal framework are out of scope of this book. Apart from the review, this report concentrates on the initiatives led by the private sector in Nepal. While national policies provide a pretext under which businesses should be working, the focus on other private sector initiatives is mainly to draw attention to the role of the private sector in promoting ethical practices and showcasing existing practices and business ethics.

Findings from the consultations held with different associations revealed that they lack a structured approach to promote business ethics among their members. Associations are using various means, such as formulating and adopting codes of conduct, setting minimum criteria for membership, putting in place quality control units, adhering to international standards, where appropriate, and using certification as well as labels. However, these attempts are seldom accompanied by strong enforcement and monitoring mechanisms to encourage compliance or discourage violation of established rules. Moreover, some of the rules are only vaguely stated in the associations' by-laws while others do not refer to their code of conduct while going about their day-to-day business.

The report presents the opportunities and challenges of working on the issue of business ethics in Nepal with some recommendations on areas of intervention and possible way forward. It also portrays the level of knowledge of individual private companies about the basic concept of business ethics, adoption of code of conduct, challenges in implementing business ethics and interventions to promote ethical practices. It also ranks the priorities among the six pre-defined areas of business ethics. The study showed that despite significant level of knowledge of these issues, businesses are experiencing limited success in implementing the ethical practices, and have unanimous opinions on the need for national-level joint initiatives to drive this movement forward. It was found that businesses felt corruption and tax-related issues as the most challenging issues while trying to do business ethically. Despite significant attempts to improve, very little or only partial success has been achieved. The report recommends a two-pillared approach to working in partnership with business – sectoral associations and individual companies and close collaboration with relevant government, civil society organizations, and media for effective stage-setting for the campaign.

Introduction

According to the Stakeholder Perception Survey¹ (SPS) published by the International Finance Corporation (IFC) and National Business Initiative (NBI) in 2012, an overwhelmingly large number of respondents (88% labour representatives and 87% opinion-makers) view that Nepal's private sector has contributed to the overall development of the country, mainly by means of local development and providing/creating employment opportunities. The same survey also shows that only about 30% of the respondents, including those from the business community, perceived the private sector to be transparent, accountable and honest. The stakeholders regarded corruption and bribery issues as the priority areas where the private sector should engage in. This survey sums up the perceived role and image of Nepal's private sector. Whilst the private sector is recognized as an important actor shaping the country's future, its prospects are seen to be limited due to different reasons—some political and socioeconomic in nature, while others arise from the way businesses conduct themselves—that directly or indirectly affect the business environment in the country.

While shortcuts to doing business may not be uncommon in other parts of the world, in Nepal's case 'cutting the corners' appears to have become a rule rather than an exception. It is hardly surprising that the 2013 Global Competitiveness Index published by the World Economic Forum (WEF) ranks Nepal 125th out of 144 economies for ethical behaviour in firms (WEF, 2013²). Corruption, adulteration, cartels and syndicates, tax evasion and other unfair business practices often make the headline in Nepal's press, top radio and television news charts. There is a general perception that the private sector has been unable to move towards sustainable business practices due mainly to the absence of the rule of law and poor governance.

Unethical practices tend to increase when the economy is in a downturn and economic opportunities are constrained. The current situation in Nepal, characterized by political deadlock, lack of rule of law and accountability, high corruption levels, unhealthy business environment and rigid policies, are a breeding ground for unethical business practices. Similarly, tense labour relations are resulting from a paradox whereby high unemployment rate and lack of skilled labour exist at the same time; while business leaders often complain about the lack of skills, commitment, loyalty and work ethics of employees, many workers seem to regard the private sector as being exploitative. At present, private sector's reputation is not at its best in Nepal, but the good thing is the business community is becoming increasingly aware of the implications of such a perception. Given this scenario, the need to adopt and implement better business practices and engage the private sector in minimizing business malpractice becomes of paramount importance.

What does business ethics mean anyway? Business ethics encompasses a set of principles and standards that are acceptable in a business and guide the behaviour of stakeholders within a business ecosystem. The acceptability of these standards is determined by customers, competitors, government regulators, opinion-makers, the public as well as an individual's personal moral values and principles (Fritzsche D, 2012:30)³. While legal compliance is the minimum standard, business ethics includes a range of obligations towards different stakeholders which may not always be covered by law. Ensuring that businesses adhere to certain standards is crucial for sustainability of any business as it minimizes various risks. Ethical practices lead to long-term financial benefits by reducing the cost of doing business and help attract investments as well as retain qualified employees.

¹ IFC, 2013: Stakeholders Perception Survey.

² World Economic Forum, 2012-2013: *The Global Competitiveness Report*.

³ Fritzsche, David, 2012: *Business Ethics, A global and managerial perspective*. McGraw Hill.

So, what is the existing status of business ethics in Nepal? What are the different tools that are being adopted and what can we learn from international best practices? These are some of the guiding questions for this report.

Objectives

This report is part of a larger project on Business Ethics conducted by NBI with the overall aim of promoting sustainable business practices in Nepal. The key objectives of the study are to:

- (i) Showcase some international and national practices, including global, country-wise and company-level initiatives led by the business community;
- (ii) Understand the existing status of ethical business practices in Nepal. Explore the knowledge of Nepalese business community on business ethics, their challenges and point of intervention.

International Landscape

Various global and country-level initiatives have been taken to establish the agenda of business ethics in international arena. The initiatives presented here are just a few cases for reference and reflection to compare where Nepal stands in international landscape in this issue.

Global Initiatives

1. United Nations (UN) Global Compact is an open and voluntary corporate citizenship initiative engaging a wide spectrum of multi-stakeholder participants across the globe. The Compact asks companies to embrace, support and enact, within their sphere of influence, a set of core principles in the areas of human rights, labour standards, the environment and anti-corruption. The 10 Global Compact principles enjoy universal consensus, being derived from the Universal Declaration of Human Rights, the International Labour Organization's Declaration on Fundamental Principles and Rights at Work, the Rio Declaration on Environment and Development, and the United Nations Convention against Corruption.

Business participants in the UN Global Compact make a commitment to make the Global Compact's 10 principles part of their business strategies and their day-to-day operations. At the same time, companies are required to issue an annual Communication on Progress (CoP), a public disclosure to stakeholders—investors, consumers, civil society and governments—on progress made in implementing the 10 principles of the UN Global Compact, and in supporting broad UN development goals.

2. Global Reporting Initiative (GRI), a multi-stakeholder network-based organization, has pioneered and developed a comprehensive Sustainability Reporting Framework that is widely used around the world. The Framework enables all organizations to measure and report their economic, environmental, social and governance performance, which are the four key areas of sustainability.

Box 1. 10 UN Global Compact Principles**Human Rights**

- Principle 1** Businesses should support and respect the protection of internationally proclaimed human rights; and
- Principle 2** make sure that they are not complicit in human rights abuses.

Labour

- Principle 3** Businesses should uphold the freedom of association and the effective recognition of the right to collective bargaining;
- Principle 4** elimination of all forms of forced and compulsory labour;
- Principle 5** effective abolition of child labour; and
- Principle 6** elimination of discrimination in respect of employment and occupation.

Environment

- Principle 7** Businesses should support a precautionary approach to environmental challenges;
- Principle 8** undertake initiatives to promote greater environmental responsibility; and
- Principle 9** encourage the development and diffusion of environmentally-friendly technologies.

Anti-Corruption

- Principle 10** Businesses should work against corruption in all its forms, including extortion and bribery.

The Reporting Framework, which includes Reporting Guidelines, Sector Guidelines and other resources, enables greater organizational transparency about economic, environmental, social and governance performance. Transparency and accountability build stakeholders' trust in organizations and can lead to many other benefits. The GRI framework can be used to benchmark organizational performance with respect to laws, norms, codes, performance standards and voluntary initiatives; demonstrate organizational commitment to sustainable development; and compare organizational performance over time. Thousands of organizations, of all sizes and sectors, use GRI's Framework to understand and communicate their sustainability performance.

3. Business Principles for Countering Bribery is a multi-stakeholder initiative led by Transparency International in cooperation with Social Accountability International, involving companies, nongovernmental organizations and trade unions as a tool to assist enterprises, including small and medium enterprises (SMEs), to develop effective approaches to countering bribery in all of their activities. This provides a framework for companies to develop comprehensive anti-bribery programmes. The principles cover payments related to bribes, political contributions, charitable contributions and sponsorships, facilitation payments, gifts and hospitality expenses. The Business Principles represent a good practice model for corporate anti-bribery policies and programmes. They apply both to bribery of public officials and to private-to-private transactions.

Anti-corruption programmes can be an effective tool to identify and mitigate risks in order to avoid regulatory penalties. They help reduce misinterpretation by putting everything in black and white, which results in disciplined processes.

National Initiatives

Private sectors in different countries have recognized their role in promoting good business practices, and have worked collectively to promote the same. Most of these coalitions are formed to fight

corruption by encouraging transparency in business practices. Such collective efforts have resulted in the adoption of pacts or development of code of conduct by the private sector. Adopting such measures not only sends a positive message to all stakeholders but also helps build relationships among members of the private sector by providing space for healthy dialogue and knowledge sharing.

Collective action by the private sector is seen as an effective way to:

- increase the impact and credibility of individual actions;
- bring vulnerable individual players into an alliance of like-minded organizations;
- level the playing field between competitors;
- complement or strengthen weak local laws; and
- support SMEs to leverage influence and power to help fight business malpractice (World Bank, 2008)⁴.

Examples of such voluntary private sector initiatives in various countries include:

- Pacto Etico Comercial (PEC), Paraguay (see Box 2);
- A Code of Conduct for the Private Sector, Botswana;
- Responsible Business Initiative (RBI), Democratic Republic of Congo;
- National Integrity Pact, Kenya;
- Integrity Initiative, Philippines;
- Corporate Pact, Brazil;
- Ethics Institute, South Africa.

Box 2. Pacto Etico Comercial (PEC), Paraguay

Pacto Etico Comercial (PEC), a coalition against corruption formed in Paraguay, was founded in 2005 by the Paraguayan–American Chamber of Commerce and the Advertiser’s Chamber of Paraguay. It aims to gather most important private business representatives covering all sectors to promote business principles based upon fulfilment of current laws, ethics principles, quality management, honesty and transparency.

The Pact includes seven principles and actions:

1. Developing Basic Guidelines for business ethics
2. Raising awareness, permanently and inclusively
3. Providing training in business ethics
4. Developing a Business Ethics Manual and other training tools
5. Forming a coalition between the public sector, civil society and the private sector
6. Creating sustainable business ethics initiative, and
7. Developing mechanisms of evaluation and certification of ethical conduct in businesses

The Pact is enforced through:

- Certification process for members
- Random audits
- Training and workshops

Certified businesses are recognized nationally and internationally as being reliable through websites from PEC, AMCHAM, International consulates and others.

Since its initiation over 130 businesses have signed the Business Ethics Pact and almost 100 of those businesses have submitted internal financial records to prove their compliance with local laws and tax regulations. Several national and multi-national companies are members of the Pact. The PEC seal is becoming a branding tool in Paraguay with 100 additional businesses wanting to become members.

⁴ World Bank, 2008: *Fighting Corruption through Collective Action: A guide for business*. World Bank Group

Company-level Practices

At the company level, ethical business comes hand-in-hand with corporate governance or management system in place. Corporate governance is often seen as a tool used by big firms that have the resource and capacity to design different programmes to ensure transparency and accountability. Nonetheless, there are some good business practices which are being practised by all businesses, including small and medium enterprises. Some of these tools are highlighted in this section.

Adopting a **code of conduct** is a common practice among well-established businesses. This can also be a cost-effective way to ensure and promote ethical business practices for any business, irrespective of their size or scale or nature. The key to ensuring effectiveness constitutes is the kind of compliance mechanism designed and how it is enforced and monitored. A code of conduct reflects and communicates the values and principles of a business to its stakeholders, both within and outside a business. Besides touching upon issues related to, for example, child labour, wages, working hours, safety and disciplinary practices, a code of conduct can also provide guiding principles for corporate social responsibility (CSR). A well-developed code of conduct will minimize risks by spelling out legal obligations. It is a good communication tool to foster good relation and help build trust among different stakeholders.

General Electric's code of conduct⁵ was regarded as exemplary by the Ethisphere Institute for communicating the expected behaviour of its employees and agents in a less complex manner and having the ability to affect not only the perception but also the actions of those concerned. Many companies find that once the core values and code of conduct are clear, it will be helpful to choose '**compliance champions**' within the company and to **partner with other organizations** that share similar core values.

Besides a code of conduct, providing written documents about the **standards, processes and procedures** provides a clear direction to employees and business partners. Businesses also conduct timely **monitoring and evaluation of various policies and procedures** to make them effective. Emirates National Oil Company (ENOC), which was one of the companies receiving the 2012 Ethical Business Award from the Ethisphere Institute, conducted a Business Ethics Survey and invited suggestions from employees to measure the effectiveness of ethical monitoring and reporting process as well as evaluating the level of employee understanding and practice of the Code in their day-to-day business activities.

Similarly, **reporting and audits** are also necessary to make sure policies are being complied by employees and business partners. Other control mechanisms include clear written designation of authority and accountability for various issues, clear lines of reporting, and effective accounting and financial reporting procedures which accurately reflect the company's transactions, dealings and asset disposition (Mundi, L. 2011)⁶.

Businesses apply a range of procedures to ensure compliance to set policies. For instance, many companies have **Ethics Team** with designated staff or department to deal with ethical compliance issues. They also encourage employees to '**speak up**' or '**whistle blow**' regarding any misconduct while ensuring confidentiality and anonymity. **Hotlines** are often set up to provide an easy way to raise questions regarding ethical issues in the workplace.

⁵ General Electrics Code of Conduct: <http://m1.ethisphere.org.s3.amazonaws.com/code-of-conduct/ge-the-spirit-and-the-letter.pdf>. (Accessed on July 2nd 2013)

⁶ Mundi, L. 2011: Best Practices in Preventing Fraud and Corruption in a Global Business.

National Landscape: Nepal Context

Policies and Institutions

This part of the report will map international conventions relevant to ethical business practices that have been signed or ratified by the government of Nepal, corresponding government policies and the related institutions. (See table 1) The policies are categorized based on issues relating to: (i) consumer protection; (ii) competition and market protection; (iii) anti-corruption; (iv) tax and financial accountability; (v) labour; and (vi) the environment. These issue areas are seen as being relevant to businesses irrespective of the industry or sector, and they cover most, if not all, malpractice that commonly surface when discussing business ethics.

While a thorough study of all conventions and policies is out of the scope of the report, we will focus on the overarching policies that cover the above components. The purpose of presenting these legal instruments is to educate as well as to emphasize existing legal frameworks, which should be the starting point to guide any business ethics practice.

Table 1. International conventions relevant to ethical business practices signed or ratified by GoN, corresponding government policies and related institutions

Issues	International Instruments	Corresponding Policy	Related Institutions
Consumer Protection	United Nations Guidelines for Consumer Protection (1999)	Consumer Protection Act 2054 (1997)* Essential Commodities Act Standard Measurement and Weight Act 2025 (1968) Nepal Standards (Certification Mark) Act 2037 (1980) Black-marketing and Some Other Social Offences and Punishment Act 2032 (1975)	Ministry of Commerce and Supplies Consumer Protection Council Various consumer forums Nepal Council of Standards Department of Quality and Metrology
Free Competition and Market Protection	UN's Set of Principles and Rules on Competition (2000) WIPO's Paris Convention for the Protection of Industrial Property (1979) WTO's Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS) (1996) South Asia Free Trade Area Agreement (2006) South Asian Free Trade Area (2004)	Competition Promotion and Market Protection Act 2063 (2006) Patent, Design and Trademark Act 2022 (1965)	Ministry of Industry Competition Promotion and Market Protection Board The Commercial Bench of the prescribed court Department of Industry

Anti-Corruption	UN Convention against Corruption (2000)	Prevention of Corruption Act 2059 (2002) Money Laundering Prevention Act 2063 (2008) Public Procurement Act 2063 (2007)	CIAA National Vigilance Centre Department of Revenue Investigation Department for Crime Investigation Nepal Investigation Department Financial Information Unit Asset laundering Prevention Department
Tax and Financial Accountability		Income Tax Act 2002 Value Added Tax 2052 (1996) Audit Act 1991 Chartered Accountants Act 1997	Ministry of Finance Department of Inland Revenue Office of the Auditor General Accounting Standard Board Auditing Standard Board Institute of Chartered Accountants of Nepal
Labour	ILO's Declaration on Fundamental Principles and Rights at Work (1998) Forced Labour Convention (1930) Right to Organise and Collective Bargaining Convention (1949) Equal Remuneration Convention (1951) Abolition of Forced Labour Convention (1957) Discrimination (Employment and Occupation) Convention (1958) Minimum Wage Fixing Convention (1970) Minimum Age Convention (1973) Tripartite Consultation (International Labour Standards) Convention (1976) Worst Forms of Child Labour Convention 1999	Labour Act 1992 Trade Union Act 1992 Bonus Act 1974 Foreign Employment Act 1985 Social Security Act	Ministry of Labour and Employment Department of Labour Department of Foreign Office Foreign Employment Promotion Board Professional and Skill Development Centre Various trade unions
Environment	Convention on International Trade in Endangered Species of Wild Fauna and Flora	Protection of Environment Act 2053 (1997) Nepal Mines Act National Parks and Wildlife Conservation Act Nepal Electricity Authority Act 2041	Environment Protection Council

* Sector-wise policies also outline provisions to ensure consumer protection, such as the Food Act, Drug Act, etc. However, this report will not get into sectoral policies.

Business ethics is a relatively new concept in Nepal and a hard one to discuss, given the plethora of issues underlying the business environment. Nonetheless, Nepal's legal framework, to promote certain ethical business practices, is not something new. Nepal has not been far behind in adopting international practices either, at least on paper. In fact, Nepal is often regarded as being progressive (in terms of the developing country standards) when it comes to adopting international standards and developing corresponding national policies. For instance, Nepal had signed (December 2003) and ratified (March 2011) the UN Convention Against Corruption even before the neighbouring India, which signed the Convention two years after Nepal, in December 2005, and ratified it in May 2011.

Although a number of policies as well as institutions are in place to cover a wide range of business ethics issues, the enforcement of these policies is far from being effective due to lack of coordinated actions. Despite the legal framework, there is general apathy among businesses that malpractice will persist given the lack of rule of law, severe corruption and weak governance. Quoting the former FNCCI president Mr. Ravi Bhakta Shrestha, who also led the anti-corruption project in 2002, Manandhar (2009)⁷ writes about bribes and how they have become a matter of compulsion rather than a matter of choice for businesses in Nepal.

Association-level Initiatives

Business associations provide an appropriate space where business ethics can be discussed and practical interventions can be taken. The good news is that efforts have been made in the past and some are being made at present to bring these issues to the forefront to be dealt by the Nepalese private sector. The spearhead of such initiative is the Federation of Nepalese Chambers of Commerce and Industry (FNCCI) (see Box 3), which is the umbrella body of the Nepalese private sector and brings together businesses as well as industries operating in the country.

Box 3. FNCCI's Anti-Corruption Project

Recognizing the need for private sector initiative to combat widespread corruption in the country, FNCCI's Corporate Ethics Forum (CEF) initiated an Anti-Corruption project in 2002. The overall objective of the project was to tackle corruption in Nepal by targeting the supply side of the transaction—the private sector.

The project aimed at:

- Having an effective FNCCI anti-corruption programme;
- Enforcing a code of conduct for the business community;
- Coordinating anti-corruption initiative involving other stakeholders; and
- Raising public awareness regarding corruption.

The output of the FNCCI-led initiative include:

- Adoption of a code of conduct in all district Chamber offices;
- Set up of a Complaint Handling Unit (CHU) to deal with complaints and grievances against business-related corruption;
- Launch of anti-corruption media campaigns; and
- Training, workshops and seminars on business ethics and CSR during the project.

⁷ Manandhar, N. 2009: *The anatomy of a failed anti-corruption project: A case study from Nepal*.

Concerns related to policy were the most recurring theme during NBI's consultations with different business associations. Nearly all of those who were consulted in the course of this study considered unfriendly policies to be a barrier to promoting good business practices. The present context shows that businesses do not fully recognize that, apart from policies, they are part of the problem as well as the solution when it comes to moving towards good business practices. The lack of acknowledgement on private sector's part is seen by their reluctance to discuss industry-specific malpractice, with more than 50% of those consulted shying away from sharing this information. Instead, general issues were raised in terms of labour issues such as high turnover rates or lack of skilled human resource. One of the possible reasons for this could be that associations see the need to protect their members and their image as a whole, and are hesitant to openly talk about malpractice.

Most of the consulted indicated that their code of conduct is spelled out in the by-laws. Others have similar document, such as business manual, but they do not seem to have been a point of reference when conducting day-to-day operations. Depending on the industry, they may have quality control units. It is unknown, however, how functional these quality control mechanisms are.

The general observation is that business ethics is often understood as involving scandalous events such as tax evasion or embezzlement, and businesses fail to realize the smaller day-to-day management decisions that add up to make good business practices, such as maintaining transparent financial records, discouraging child labour, avoiding situations of conflict of interest, and providing fair employment opportunities. Failure of businesses to raise these issues shows an overall lack of awareness among businesses of what constitutes business ethics. Furthermore, business ethics is also confused with charitable or philanthropic activities, such as building hospitals or providing financial support to educate children.

Looking at the overall picture, Nepal's private sector has been slow in adopting and leading the international trend of tackling business ethics issues mobilizing the private sector. The international momentum resulting from diverse initiatives such as the UN Global Compact has not had much impact in Nepal's private sector. Although there are a handful of organizations that have committed to the 10 principles of the Global Compact, most of the participating organizations are nongovernmental organizations (NGOs). Businesses in Nepal have not yet taken ownership of the Global Compact and similar private sector-led agendas.

A series of consultations with different associations revealed that they lack a structured approach to promote business ethics among their members. Associations are using various means, such as formulating and adopting a code of conduct or a business manual, setting up a quality control unit, adhering to international standards where appropriate, and using certification as well as labels. However, these attempts are seldom accompanied by strong enforcement or monitoring mechanisms to encourage compliance or discourage violation of established rules. Moreover, some of the rules are vaguely stated in the associations' by-laws while others do not refer to their code of conduct when going about their day-to-day business.

Among those consulted, Nepal Association of Foreign Employers' Agencies (NAFEA) is presented here as a case of good example by having indulged in promoting ethical business practices in the profession by not only adopting but also implementing a well-drafted code of conduct. (See Box 4)

Business associations provide an appropriate space where business ethics can be discussed and practical interventions can be taken. The good news is that efforts have been made in the past and some are being made at present to bring these issues to the forefront to be dealt by the Nepalese private sector. NBI is taking a leadership role to bring together associations, businesses as well as industries to be involved in a common agenda promoting ethical business practices in Nepal.

Box 4. Case of Nepal Association of Foreign Employment Agencies Association

Nepal Association of Foreign Employment Agencies (NAFEA) brings together around 750 foreign employment agencies operating in Nepal. One of the aims of the association is to protect the rights of Nepalese foreign workers by weeding out certain malpractice prevalent in the profession.

NAFEA’s code of conduct is the central guiding document that defines the do’s and don’ts for its members. Some of the issues addressed in the document include, but are not limited to, maintaining financial transparency and avoiding unnecessary charges to workers; providing genuine information to recruited workers regarding working conditions, pay and legal procedures; discouraging corruption and unhealthy competition among member agencies; disseminating information about safe migration; and notifying any illegal practices in the profession.

The NAFEA Code of Conduct requires that any complaint regarding professional misconduct is referred to a disciplinary committee. The code of conduct outlines the role as well as the function of this committee and also details the actions to be taken to discourage non-compliance. In order to promote good practices, the association lists agencies that have been accredited to send workers to specific countries as well as those agencies whose licenses have been scrapped by the Government of Nepal.

Company-level Practices

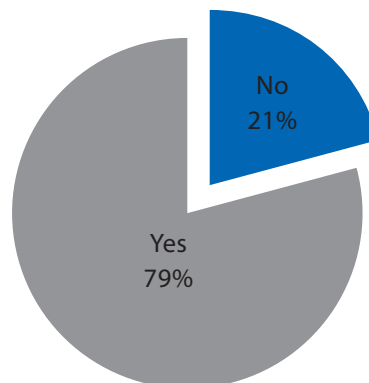
A study of 29 individual companies was conducted in Kathmandu Valley to understand their conceptual knowledge of business ethics, status and the process of implementation, their priority components of business ethics and their willingness to join the national movement. The following section summarizes the findings of this survey.

1. Basic knowledge of private sector on business ethics

Most business people have some basic knowledge of business ethics.

Majority (79%) of the respondents reported having basic understanding and knowledge of ethical business approach, but one-fourth (21%) lacked a clear understanding of knowledge of business ethics and its practices.

Figure 1. Basic knowledge of private sector on business ethics

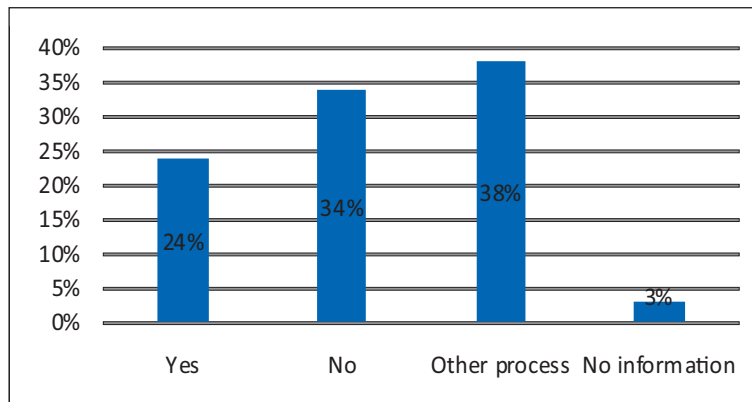


2. Code of conduct: its adoption and implementation

While only a few businesses have own code of conduct, many are developing them.

Less than one-fourth (24%) of the total respondents have adopted a code of conduct in their companies, whereas 34% of the respondents do not have a code of conduct. However, 38% of the respondents are in the process of adopting a code of conduct. All respondents stated a general willingness to introduce a code as a first initiation to practical business ethics.

Figure 2. Code of conduct: its adoption and implementation

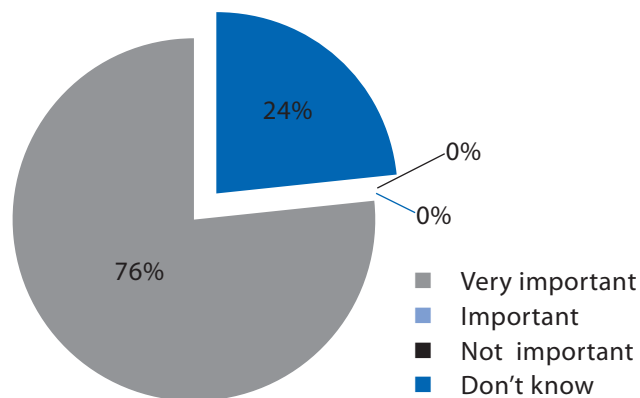


3. Willingness to conduct joint initiatives for ethical business practices and perception of importance

All companies feel that a joint initiative or campaign led by private sector for ethical business practices is absolutely necessary in current situation.

An overwhelming 100% of the respondents showed willingness to join a collaborative initiative for ethical practice. More than two-thirds (76%) of the total respondents felt that this kind of initiative has high importance for joint collaboration and the remaining 24% also regarded it as an important tool to increase transparency and accountability in the private sector.

Figure 3. Business perception of importance of joint ethics initiatives



4. Challenges in ethical business practices

Doing business ethically is highly challenging and even more so when it comes to dealing with corruption and tax-related issues.

More than half of the respondents (52%) felt very serious challenges in conducting their businesses ethically. Out of the six components, the private sector faces severe challenges in Tax and Free Competitive Business-related issues (59%). Similarly, Corruption and labour (55%)

is seen as the second most pressing issue. Environment (17%) is the least challenging aspect for the companies. Consumer Protection, Labour Management and Competitive Business Practices are moderately challenging.

Table 2. Challenges in ethical business practice (in percentage)

	0	1	Few challenge	2	3	Moderate challenge	4	5	High challenge
Consumer Protection	10	17	27	10	14	24	17	31	48
Tax and Financial Accountability	0	14	14	7	21	28	14	45	59
Labour	0	7	7	10	28	38	17	38	55
Environment	7	14	21	14	28	42	21	17	38
Anti-corruption	17	0	17	0	28	28	7	48	55
Free competition and market protection	0	17	17	17	7	24	28	31	59
Total	6	11	17	10	21	31	17	35	52

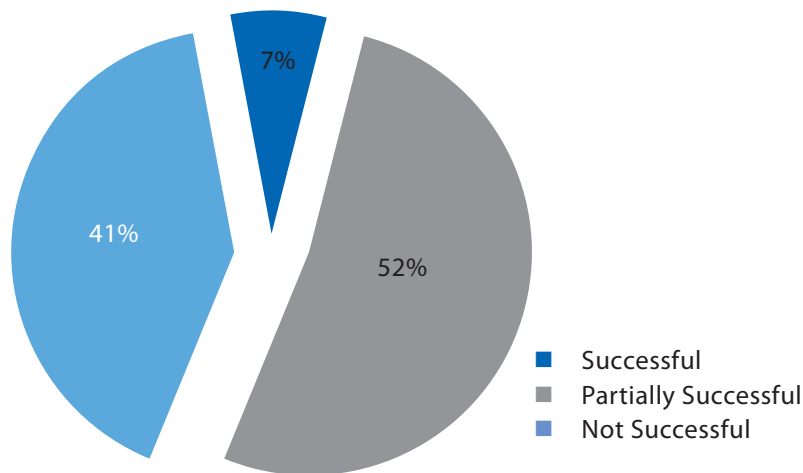
Note: 0-1 = Few Challenges, 2-3=Moderate Challenges, 4-5=Very High Challenges

5. Efforts for mitigation and success rate

Success rate in the company’s effort to mitigate challenges in ethical business practices is low.

Less than one-tenth of the respondents (7%) said that they have been successful in mitigating the challenges that come while performing ethical business practices. Moreover, a large number of respondents identified that they have been able to mitigate some of the challenges, whereas 41% are facing difficulties in mitigating the challenges.

Figure 4. Effort to mitigate challenges in ethical business practices



6. Areas of intervention

Anti-corruption, Tax and Labour are the priority areas where immediate intervention is needed.

More than two-thirds of companies (73%) reported anti-corruption as a major area of intervention to promote ethical practice in the private sector. Similarly, 62% reported that the area of intervention should be on the issues on tax transparency and accountability and labour management, whereas 55% of the respondents identified consumer protection and environment as areas of intervention to promote ethical business practice.

Table 3. Identified areas of intervention (in percentage)

	0	1	Low	2	3	Moderate	4	5	High
Consumer Protection	14	14	28	14	3	17	14	41	55
Tax and Financial Accountability	0	17	17	3	17	20	17	45	62
Labour	0	7	7	14	17	31	21	41	62
Environment	3	17	20	10	14	24	24	31	55
Anti-corruption	17	0	17	0	10	10	14	59	73
Free competition and market protection	7	10	17	7	17	24	24	34	58
Total	7	11	18	8	13	21	19	42	61

Note: 0-1 = Few Intervention, 2-3=Moderate Intervention, 4-5=Very High Intervention

Challenges and Opportunities

Leaving aside political instability and governance issues, there exist quite a few challenges to private sector-led initiative towards promoting business ethics in Nepal. They are presented here as a starting point for a joint discussion about the design of a roadmap.

Some general challenges derived from the business association-level consultations are as follows:

- Private sector's failure to acknowledge their side of the problem when it comes to promoting good business practices;
- High level of corruption in business transactions;
- Lack of proper in-depth understanding among businesses regarding what is meant by business ethics;
- Lack of well-coordinated platforms, such as UN Global Compact, at the national level initiation to take up the business ethics agenda;
- Those losing the most from unethical practices, mostly SMEs, do not have the resource or capacity to adopt ethical practices;
- Lack of clear articulation on the business case to fight against malpractice;
- Very few companies have a code of conduct; and
- Lack of dialogue and coordination forum with consumer.

With challenges come opportunities as well. Some of the opportunities for addressing the challenges are:

- FNCCI's Code of Conduct was adopted by all chambers in different districts of Nepal. Future actions can be built based on this initiative while making changes as demanded by the changed context.
- Although the number of active representatives in the local UN Global Compact is small, there is an opportunity for bringing these companies on board as 'champions'.
- The current scenario indicates that businesses lack crucial information, such as the financial cost of engaging in corruption and procedure of collection of tax. There is room for positive action if the business case can be communicated effectively.
- A handful of multi-national companies (MNCs) and joint ventures (JVs) operate in Nepal. Their expertise in implementing good business practices will be an invaluable resource⁸.
- There is willingness in individual companies to formulate code of code and implement them into business action.

⁸ In an initial meeting with NBI, three MNCs/JVs have their support to provide appropriate documents, such as the company's code of conduct, training materials, etc that can be shared outside the company.

Similarly, the following challenges and opportunities for interventions are derived from the questionnaire filled by individual companies.

1. Consumer Protection

Challenges

- ▶ Lack of code of conduct to address the issue of consumer protection;
- ▶ Unhealthy competition on promotion of products and services; and
- ▶ Lack of standard certified testing laboratories to ensure quality product and service.

Interventions

- ▶ To increase goodwill and improve image of the business and its products;
- ▶ To respect consumer protection and promote consumer welfare;
- ▶ To create consumer awareness of brand and product and ensure best quality; and
- ▶ To de-motivate the hidden politics showcased under consumer rights

2. Tax and Financial Accountability

Challenges

- ▶ Discriminatory policies and tax officers' unethical demands;
- ▶ Imposition of high tax rate for basic consumable products;
- ▶ Unscientific and lack of clarity on tax policy and its scope;
- ▶ Lack of a clear vision;
- ▶ Long and difficult paperwork and lack of transparency;
- ▶ Lack of appreciation and recognition for taxpayers who are transparent and regular on tax compliance;
- ▶ Rampant corruption in all sectors; and
- ▶ Unscientific increment in tax rate.

Interventions

- ▶ To reduce unethical practices in tax transparency and accountability;
- ▶ To bring government and private business sectors together in a joint/common forum;
- ▶ To bring solution-oriented actions on proper and effective implementation for broadening the clarity and scope of tax;
- ▶ To review regional and neighbouring countries' tax policies and systems and their effective way of implementation;
- ▶ To address some irrelevant tax policy (traditions) for upgrade in the present context and advocate for tax consideration; and
- ▶ To coordinate with government for clear information on tax policy and support for its smooth implementation.

3. Labour

Challenges

- ▶ Lack of a well-defined labour management policy;

- ▶ Lack of competent skills to manage and address the issues of human resource in ethical background;
- ▶ Political interference through labour and trade unions;
- ▶ High turnover rate, foreign deployment of skilled human resource; and
- ▶ Dispute among labour and with management

Interventions

- ▶ To create a clear and understandable information platform on all policies and acts under labour issues and management;
- ▶ To conduct awareness programmes to practise ethical business approaches while managing labour issues; and
- ▶ To create a common space to bring about solution-oriented discussions for reducing disputes and increase productivity.

4. Environment

Challenges

- ▶ Lack of information on the policy on environment protection and preservation;
- ▶ High increase in urbanization in industrial areas, leading to forced displacement; and
- ▶ Lack of awareness and innovation to introduce the concept of eco-friendly products and services and bring about new recycling schemes.

Interventions

- ▶ To raise awareness in the private sector about their accountability and sensitivity to the nature and environment;
- ▶ To understand the current policy and laws on environment;
- ▶ To address the problem of waste management and its direct consequences on nature; and
- ▶ To foster the knowledge of innovative concept of recycle and eco-friendly approaches.

5. Anti-corruption

Challenges

- ▶ Deeply-rooted sectoral corruption prevails at all levels;
- ▶ Obligation to entertain demand for bribes from government officials during business transactions;
- ▶ High level of corruption in all administrative process leading to high cost of doing business resulting in low product standards and quality; and
- ▶ Lack of impunity and disciplinary actions for unethical demands and practices.

Interventions

- ▶ To create a good image and healthy business environment;
- ▶ To address rampant corruption in business supply chain which needs thorough proper implementation of existing policy; and
- ▶ To coordinate with government on different channels for introducing ethical practices to prevent corruption.

6. Free competition and market protection

Challenges

- ▶ Unhealthy competition driven by various consumer demands, supply of products from open border and unauthorized channels, uneven price, etc.
- ▶ Lack of a clear concept of policy related to competition and promotion on product and service; and
- ▶ Lack of effective monitoring of informal markets.

Interventions

- ▶ To bring transparency and quality assurance in business;
- ▶ To enable the environment for healthy competition; and
- ▶ To activate an effective monitoring tool for ensuring ethical competition and market protection.

Way Forward

There are two entry points to initiate good business practices: through individual businesses by helping them monitor and improve their internal operations and by mobilizing the different businesses through associations to change the external business environment. While both these approaches are crucial to have an impact for the long-term success of any initiative, it is also important to determine which entry point should be targeted first.

When initiating a collective action, associations can be the starting point as they have a member base that has developed certain level of trust among each other. Trust is an important factor that can help solve dilemmas that arise from collective actions related to free-riding resulting from non-compliance. They also provide a space for negotiation and discussion of issues specific to a certain industry/profession.

Individual companies can rely on the assistance of their association while communicating and implementing good business practices within their organization. This can provide them with an opportunity for repeated interactions that will increase trust as well as disseminate knowledge and best ethical practices.

Individual companies have shown overwhelming willingness for joint collaborative initiatives for promoting ethical practices. There is need for proactive leadership roles to initiate such actions by creating a common platform to bring about collaborative decisions and discussions for solution-oriented action.

The constant coordination and linkage with government to mitigate the challenges of business ethical practices will also be a motivating aspect for the private sector.

Annex 1

Methodology of the study

The report comprises both primary and secondary information. Primary information was collected through a consultation process which took place from January 2013 to June 2013. The first phase of collecting primary information consisted of separate meetings/group discussions with board members from 21 associations (Annex 2) to gather information on sector-specific practices. Each association was requested to fill out a questionnaire (Annex 3) and recommend five or more different individual businesses that might be interested to join our initiative. Among the 21 associations, 12 recommended their members to join the initiative comprising 60 private companies.

The second phase was carried out with a different set of questionnaires for private companies (Annex 4). Among the 60 private companies surveyed, only 29 responded to the questionnaire. During the consultation process, not all consulted associations and individual private companies submitted their responses to the questionnaire despite repeated follow-up and request. The findings of the survey are limited to responses received. Furthermore, the findings from the desk study is limited to the availability of resources within the given time period and to the six components identified under Business Ethics by NBI.

Secondary information was collected through a desk study on selected national policies and international practices. The research focused on international examples and agreements which are most relevant to the social, political and economic contexts of Nepal. Both national and international statuses were categorized into three levels: macro, meso (associations) and micro (individual companies). At the national level, macro refers to government policies and international commitments; meso level looks at the initiatives by business associations; and micro level looks at the company-level practices. Similarly, at the international level macro level presents global initiatives, while meso and micro level deal with country-wise initiatives and company-level practices respectively. Differentiating the layers was crucial to showcase the interventions possible at individual and collective levels.

The survey used Likert Scale⁹ to collect different nature and level of challenges and perceptions of private companies. For some questions, respondents were allowed to determine their level of agreement using the following scale: 0=no challenges; 1=less challenges; 2=few challenges; 3=neutral; 4=high challenges; and 5=very high challenges. The scales of the respondents for each of the 5 subscales were analysed into two groups (No challenges and less challenges; High challenges and very high challenges) to compare the results. The score analysed in this survey is based on the defined score intervals for rating to compare the averages with a 5-point Likert-type, i.e. Very high challenges (5.00-4.20), High challenges (4.19-3.40), Undecided (3.39-2.60), Few challenges (2.59-1.80), Less challenges (1.79-1.00)¹⁰. Similarly, the same tool is used to generate perceptions and ideas on areas of intervention for future programming to mitigate these challenges.

⁹ The Likert Scale was developed in 1932. The main principle is to measure attitudes by asking people to respond to a series of statements about a topic, in terms of the extent to which they agree with them, and so taps into the cognitive and affective components of attitudes. The Likert Scale is a method of ascribing quantitative value to qualitative data, to make it amenable to statistical analysis for measurement of either positive or negative responses to a statement. A numerical value is assigned to each potential choice and a mean figure for all the responses is computed during data analysis. There are a variety of possible response scales (such as 0-to-4, 1-to-5, 1-to-7, 1-to-9). All of these odd-numbered scales have a middle value often labelled as 'neutral' or 'undecided'. Data from Likert Scales are sometimes reduced to the nominal level by combining all 'agree' and 'disagree' responses into two categories of 'accept' and 'reject'. For further details on the Likert Scale please refer to 'Trochim, William & Donnelly, James P. 2007. The Research Methods Knowledge Base, Cornell University Press'.

¹⁰ Altun, A. 2003. *The Turkish Online Journal of Educational Technology: TOJET*, January 2003 ISSN: 1303-6521

Annex 2

List of commodity associations consulted

S.N	Association
1.	Nepal Association of Foreign Employment Agencies
2.	Nepal Gold and Silver Dealers' Association
3.	Grill Association on Nepal
4.	Federation of Electrical Entrepreneurs' Nepal
5.	Restaurant and Bar Association Nepal
6.	Association of Pharmaceuticals Producers in Nepal
7.	Garment Association Nepal
8.	Computer Association Nepal
9.	Leather Footwear and Goods Manufacturer's Association of Nepal
10.	Trekking Agencies' Association of Nepal N- Trekkers
11.	Association of Dairy Industries
12.	Private and Boarding Schools' Organization
13.	Federation of Contractors' Association Nepal
14.	Nepal Pashmina Industries' Association
15.	Federation of Nepal Brick Industry
16.	Federation of Handicraft Association of Nepal
17.	Nepal Association of Tours & Travel Agents
18.	Federation of Liquor Association in Nepal
19.	Association of Nepalese Rice, Oil and Pulses Industry
20.	Federation of Nepal Cottage and Small Industry
21.	Higher Secondary Schools' Association Nepal

Annex 3

Business Ethics Questionnaire (Association)

1. Provide us a brief introduction of your organization/association, including its history, members, organizational structure, annual turnover, etc.
2. What are some of the malpractice or internal problems that have been identified in your industry?
3. What has your organization/association done to address such malpractice? For instance, discussion programmes, quality evaluation mechanisms, code of conduct. Do you have any written document for these initiatives?
4. What has been your experience when making the above-mentioned efforts? Who were for and against such initiatives? What is the current situation?
5. What would you like to do additionally in the future? Please list small steps that can be taken without much controversy or debate.
6. Which government and/or nongovernment organization(s) can provide assistance when taking the above-mentioned steps?
7. Provide us a list of 5 individual companies that are willing to cooperate with NBI in promoting ethical business practices.

Please note that the information collected during the consultation process will be fully confidential and will not be disclosed without the organization's prior consent.

Annex 4

Business Ethics Questionnaire (Individual Companies)

Please answer the following questions to your best knowledge. All information given will be treated confidentially and is only intended for NBI internal use. We assure you of anonymity.

Company Details		
-		
1.1 Name of the company		
1.2 Establishment		
1.3 Affiliation		
1.4 Standard certification		
1.5 Website		
1.6 Human resource details Total employees		
Female employees	Male employees	
1.7 Type of business (Please tick ü your answers)		
1.8	Type of your business?	<input type="checkbox"/> Public company <input type="checkbox"/> Private company <input type="checkbox"/> Partnership <input type="checkbox"/> Proprietorship <input type="checkbox"/> Others
1.9	Area/Scope of your business?	<input type="checkbox"/> Production and construction <input type="checkbox"/> Trade <input type="checkbox"/> Service <input type="checkbox"/> Others

Knowledge of code of conduct in business ethics	
2.1 Do you feel well-informed about Business Ethics as a management instrument?	<input type="checkbox"/> Yes <input type="checkbox"/> No
2.2 Does your company have a code of conduct (or any other document) that touches aspects of business ethics?	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> On the process
2.3 If yes, could you provide a copy of it?	<input type="checkbox"/> Yes <input type="checkbox"/> No
2.4 If you, are you willing to introduce a code of conduct in your company?	<input type="checkbox"/> Yes <input type="checkbox"/> No
Business ethics	
3.1 Would you agree that a joint initiative among the private sector concerning business ethics would improve the business environment?	<input type="checkbox"/> Yes <input type="checkbox"/> No
3.2 In your view, how important these joint initiatives could be for promoting ethical practices in business?	<input type="checkbox"/> Very important <input type="checkbox"/> Important <input type="checkbox"/> Not important <input type="checkbox"/> Don't know

<p>3.3 Which areas related to business ethics pose major challenges to you while conducting business? Rate your answer (0 - 5) No challenge Very less Challenge 5- Very high Challenge</p>	<p>Consumer protection (0 1 2 3 4 5) Tax and financial accountability (0 1 2 3 4 5) Labour (0 1 2 3 4 5) Environment (0 1 2 3 4 5) Anti-corruption (0 1 2 3 4 5) Free and competitive market (0 1 2 3 4 5)</p>
<p>3.4 How well do you mitigate/manage these challenges?</p>	<p><input type="checkbox"/> Successfully mitigated <input type="checkbox"/> Partially mitigated <input type="checkbox"/> No success <input type="checkbox"/> No initiation taken yet</p>
<p>3.5 In your view, among these 6 components, which are the major areas of intervention to promote ethical practices in business and why? No intervention needed Less intervention needed High intervention needed</p>	<p>Consumer protection (0 1 2 3 4 5) Why Tax and financial accountability (0 1 2 3 4 5) Why Labour (0 1 2 3 4 5) Why Environment (0 1 2 3 4 5) Why Anti-corruption (0 1 2 3 4 5) Why Free and competitive market (0 1 2 3 4 5) Why</p>
<p>3.6 Any best practices on ethical business?</p>	
<p>3.7 How would you like to show your participation in upcoming activities of this campaign on business ethics led by NBI?</p>	<p><input type="checkbox"/> Technical and fund support <input type="checkbox"/> Programme coordination and leadership <input type="checkbox"/> Participation</p>
<p>Any comments or feedback?</p>	

Respondent

Company

Mobile

Email

Supported by:



giz Deutsche Gesellschaft
für Internationale
Zusammenarbeit (GIZ) GmbH



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