

FOCUS

Asia-Pacific



Newsletter of the Asia-Pacific Human Rights Information Center (HURIGHTS OSAKA)

December 2018 Vol. 94

Contents

Human Rights Abuses in Business Activities

This is a report on the discussions held during the 7th Asia Pro Bono Conference as well as a Roundtable on business and human rights both held in Hong Kong in October 2018.

- Jefferson R. Plantilla

Page 2

The Evolution of Strategic CSR through SDGs

This is a discussion on the increasing attention being given to the Sustainable Development Goals by the Japanese business community.

- Masao Seki

Page 6

International Trend Towards Eradication of Human Rights Abuses in the Supply Chains

This is a review of the simultaneous efforts at the international and domestic levels on making businesses comply with their responsibility to respect human rights in their operations.

- Takeshi Shimotaya

Page 9

Inaugural UN South Asia Forum on Business and Human Rights

This is the concept note for the first South Asian forum on business and human rights being organized by the United Nations in March 2019 in New Delhi.

Page 12

HURIGHTS OSAKA Activities

This is a report on the activities of HURIGHTS OSAKA in celebration of the 70th anniversary of the Universal Declaration of Human Rights held in Osaka.

- HURIGHTS OSAKA

Page 14

Editorial

Doing Business the Right Way

The current interest among big business enterprises on human rights is important in raising the standard of their operations. By respecting human rights, big business enterprises are subscribing to what are considered to be global standards, whose compliance has previously been considered as solely state duty.

The current view of going beyond the state duty framework and making business enterprises assume the responsibility of respecting human rights should make significant impact in the business world. This should redefine how business is done in the right way.

But there are challenges to face. Representatives of big business enterprises may attend all the international conferences on business and human rights and issue declarations and policies supporting human rights and yet human rights abuses would still occur at the business operations level. What measures are needed to ensure that human rights abuses do not occur in business operations?

Misunderstanding of human rights among corporate leaders and officials and restrictive or permissive political environments hinder the realization of respect for human rights at the operations level.

Obviously, big and small business enterprises have to do more for human rights.

Human Rights Abuses in Business Activities

Jefferson R. Plantilla

Even legitimate business activities can facilitate human rights abuses. They can subject workers to discriminatory policies and actions as much as expose them to physical harm in the work place. They can indirectly support human rights abuses through their services that benefit entities engaged in criminal activities. They can adversely impact local communities without technically violating laws.

Institutions operating in the business world including the big financial institutions, commercial law firms and government oversight agencies are subject of scrutiny on their role (or lack of it) in ensuring that business runs without human rights abuse.

The 7th Asia Pro Bono Conference held in Hong Kong on 25-27 October 2018 provided opportunities for the discussion of the different aspects of business that impact on human rights.

Held since 2012,¹ the Asia Pro Bono Conference aims “to develop, explore and share pro bono initiatives and projects that strengthen access to justice in Asia and internationally.” It “brings together lawyers, academics, law students, jurists, pro bono professionals, policy makers, civil society and non-profit representatives”² from

many countries in Asia and the Pacific. The 2018 conference, held with the support of the Hong Kong-based law firms, adopted the theme: “Inspire. Impact.”

“Doing the Right Thing”

In the session on “Inspiring the Profession,” Philip Dykes, a well-known human rights lawyer³ in Hong Kong speaking as a panelist, lauded the action of Hong Kong-based financial institutions and law firms⁴ in filing an intervention in support of the appeal to the Court of Final Appeal of a court decision on the Director of Immigration’s rejection of the application of a person (QT) for dependant visa for her partner with whom she had a same sex civil partnership. The Court of Final Appeal rejected their intervention.⁵ But the court

ruled that the decision of the Director of Immigration constituted an “unlawful discrimination.”⁶

Dykes stressed that the lawyers thought that “something was not right” and so they took the action of questioning the decision of the Director of Immigration in court.

The financial institutions considered this court decision significant in view of the possible adverse impact of such government decision on the movement of people in Hong Kong who work for the business establishments. They “believed [that] respecting diversity was essential for the city to attract talent.”⁷ Together with the law firms, they considered taking action on the issue was the right thing to do.



Financial Institutions and Trafficking

The session on “People Trafficking and the Financial Sector” dealt with the role played by the business sector in the operations of human trafficking groups. The main concern was the use of the banks and remittance companies in transferring large amounts of money by people involved in human trafficking. This is illustrated in the case of Western Union which was penalized in the U.S. in January 2017 for failing to monitor the remittances of money by individuals to suspected human traffickers.⁸ This case is a lesson for banks and remittance companies regarding the need to exert due diligence in monitoring the use of their services by individuals and organized crime syndicates. This case also points to the need to see human trafficking as an economic issue considering the staggering amount of money involved.

Western Union has initiated changes in its operations since August 2018⁹ and joined international initiatives on countering human trafficking such as the use of the Anti-Human Trafficking Toolkit by banks and financial institutions. The toolkit is being shared on “confidential basis with financial institutions, expert anti-trafficking NGOs [non-governmental organizations], and other key stakeholders, including financial crime compliance standard-setting bodies, national Financial Intelligence Units (FIUs), and law enforcement agencies.”¹⁰

The main initiator of the anti-human trafficking project for financial institutions in the U.S. reports on the toolkit:¹¹

“This Toolkit empowers financial institutions to leverage the vast amount of data at their disposal to identify red flags and help end human trafficking. Instead of allowing the proceeds of these despicable crimes to move through their institutions unchecked, these banks are choosing to tackle trafficking proactively in what could be a life-saving act of good corporate citizenship. Together with our law enforcement and advocacy partners, I am thrilled to work alongside these institutions to stymie the flow of illicit profits and put traffickers out of business,” said Manhattan District Attorney Cyrus R. Vance Jr.

Pro Bono for Migrant Workers

The session on “Pro Bono for Migrant Workers” highlighted the significant contribution of the migrant workers to their countries’ economy, with their remittances rising higher than the foreign direct investment (FDI) in their countries such as in the cases of India and the Philippines. It also pointed out that the exploitation of migrant workers, globally speaking, was done by legitimate businesses not only by organized crime syndicates.

The session discussed ways of providing remedies to the problems of the migrant workers such as the use of existing labor laws in the host country (on issues such as overtime pay, compensation for illegal acts)

and criminal injury compensation scheme to counter exploitation of migrant workers and sex trafficking (Australia). And in case they have gone back to home country, cooperation among lawyers in both host and home countries would be crucial in pursuing claims against abusive employers. This is illustrated by the work of the Justice Without Borders (JWB), which has solely focused on obtaining compensation for migrant workers and victims of trafficking after they left the host country. JWB works with commercial law firms in getting the compensation for workers who have returned home. Experiences in other countries also showed the need to make the company leaders become more aware of the problems of the migrant workers and discuss them at the Board level.

United Nations, Businesses and Pro Bono Lawyers

The session on “Advocacy, Influence and Breaking Through” showcased how the United Nations, businesses and pro bono lawyers could collaborate to make a difference in the business and human rights field. Surya Deva, the Asia-Pacific representative in the United Nations Working Group on the issue of human rights and transnational corporations and other business enterprises,¹² urged the maximized use of a range of remedies to human rights abuses arising from company operations. He cited the role of non-judicial remedies including those available at the national human rights institutions.

Use of Information Technology

The conference also dealt with the use of the internet-based information and communications technologies in reaching out to those in need of legal support as well as helping lawyers in their work from legal research to preparing legal documents. These new technologies are also essential additional tools in monitoring business enterprises on their compliance with the responsibility to respect human rights.

Side Event: Business and Human Rights Roundtable

The Human Rights Law and Policy Forum (HRLF) of the Law School of the City University of Hong Kong in collaboration with the Research Center for Sustainable Peace, Graduate School of Arts and Sciences, University of Tokyo organized a roundtable on “Building an Access to Justice Network for Business and Human Rights in Asia” on 28 October 2018, a day after the Pro Bono conference ended.

The Roundtable brought together lawyers, academics, non-governmental organization workers and students from China, Hong Kong, Japan, Korea and the Philippines. They discussed the different initiatives on addressing business-related human rights abuses.

Some Highlights of the Roundtable

The brief presentations and discussions in the Roundtable dealt with the developments, opportunities, obstacles, and



proposed measures on how to address business-related human rights abuses.

The current situation in a number of countries shows some opportunities and developments in areas where human rights can be protected in relation to business operations. Existing laws related to business operations that may have human rights implications can be used to address problems (China). Corporate social responsibility (CSR) can be used as vehicle to introduce human rights to companies (China); certified social insurance and labor consultants¹³ (*sharoushi*), for example, can use CSR to be able to get companies to comply with international human rights standards (Japan).

There are also initiatives by lawyers' organizations on business and human rights such as that of the Japan Federation of Bar Associations (JFBA); initiatives such as the creation of link between lawyers working

on human rights issues and the companies through dialogue (Japan) and the networking among corporate and human rights lawyers (Japan).

There are however serious obstacles to promoting human rights in business operations. Human rights are still sensitive matters in China that can hinder any initiative on business and human rights. The headquarters-centered corporate system of Japanese companies is a problem. Decision and action cannot be taken in the branch offices outside Japan unless approved by the headquarters, which may not fully understand the local situation. At the same time, there is a need to increase “low level” decision-making and localization (hiring of local employees in management positions) in the offices of Japanese companies in other countries.

There is also little involvement of local stakeholders in addressing the issues of the companies (Japan, China). Also,

company officials may not be aware of reports about their operations prepared by external institutions such as non-governmental organizations (NGOs).

Inter-country efforts at holding companies accountable are difficult as shown in the humidifier case in South Korea.¹⁴ And lack of laws to address human rights issues such as “slavery” hinder action on these problems (Hong Kong). And the law on non-Chinese non-governmental organizations (NGOs) affects not only the non-Chinese NGOs but also their relationship with the Chinese NGOs.

There are possible measures that should be considered. Academics can act as bridge between companies and stakeholders (China). Companies can engage the local civil society organizations in host countries. And with restrictive political environment, judicial and administrative procedural laws can be used to protect rights, rather than stressing only the laws on “substantive rights.” Also, there should be adequate attention to small and medium-sized companies (which constitute 98 percent of all companies in Japan),¹⁵ where human rights abuses also occur.

The Roundtable discussion ended with a proposal to create an online platform for exchange of information, ideas and experiences that would support the advocacy on resolving business and human rights issues. Such platform may create a database on different situations from which

companies may learn about the risks of supply chain.

Jefferson R. Plantilla is the Chief Researcher of HURIGHTS OSAKA.

For further information, please contact HURIGHTS OSAKA.

Endnotes

- 1 Previous Asia Pro Bono conferences were held in Laos (2012), Vietnam (2013), Singapore (2014), Myanmar (2015), Indonesia (2016) and Malaysia (2017).
- 2 2018 Asia Pro Bono Conference, www.probonoconference.org/about/.
- 3 Philip Dykes is the new Chairperson of the Hong Kong Bar Association.
- 4 Fifteen financial institutions and sixteen law firms filed an intervention in the court petition, QT versus Director of Immigration, Court of Final Appeal, FINAL APPEAL NO. 1 OF 2018 (CIVIL), [2018] HKCFA 28, https://legalref.judiciary.hk/lrs/common/ju/ju_frame.jsp?DIS=116049.
- 5 See Chris Lau, “Hong Kong’s top court denies 31 major banks and law firms’ bid to support lesbian expat ‘QT’ in LGBT rights battle,” MSN News, 1 May 2018, www.msn.com/en-sg/news/other/hong-kongs-top-court-denies-31-major-banks-and-law-firms-bid-to-support-lesbian-expat-qt-in-lgbt-rights-battle/ar-AAwAkFt.
- 6 See QT versus Director of Immigration, *ibid*.
- 7 Lau, *op. cit*.
- 8 See Peter J. Brown, “Human traffickers face cash crunch after Western Union probe,” *Asia Times*, 7 February 2017, [www.atimes.com/article/needs-pic-human-traffickers-face-](http://www.atimes.com/article/needs-pic-human-traffickers-face-cash-crunch-western-union-probe/)

[cash-crunch-western-union-probe/](http://www.atimes.com/article/needs-pic-human-traffickers-face-cash-crunch-western-union-probe/). Also, Lauren Debter, “Aiding Crooks, Agrees To Pay \$586 Million,” *Forbes*, www.forbes.com/sites/laurengensler/2017/01/19/western-union-anti-money-laundering-consumer-fraud-violations/#46ee0efa7238.

- 9 See “Western Union Crack Down on Human Trafficking,” Press Release, Western Union, 6 August 2018, <http://ir.westernunion.com/news/archived-press-releases/press-release-details/2018/Western-Union-crack-down-on-Human-Trafficking/default.aspx>.
- 10 Western Union, *ibid*.
- 11 “Thomson Reuters Foundation launches resource to help financial institutions tackle human trafficking,” Thomson Reuters Foundation, 19 July 2018, www.trust.org/i/?id=928ac731-8e74-40db-985a-5e5a4464a86b.
- 12 See “Members of the Working Group on the issue of human rights and transnational corporations and other business enterprises,” United Nations – Human Rights, www.ohchr.org/EN/Issues/Business/Pages/Members.aspx.
- 13 See Japan Federation of Labor and Social Security Attorney’s Associations, www.shakaihokenroumushi.jp/en/tabid/296/Default.aspx. Also, in relation to CSR, see this report in Japanese language, 鈴木 俊男, 社労士の労働CSRとの関わり, www.shakaihokenroumushi.jp/Portals/0/doc/nsec/souken/2017/鈴木_2016-11.pdf.
- 14 See “S Korean exec jailed over toxic humidifier disinfectant,” BBC, 6 January 2017, www.bbc.com/news/business-38526697. See also Reckitt Benckiser, Humidifier Sanitizer, www.rb.com/responsibility/humidifier-sanitizer/.
- 15 See SME Support Japan, www.smrj.go.jp/english/about/.

The Evolution of Strategic CSR through SDGs

Masao Seki

The Sustainable Development Goals (SDGs) adopted by the United Nations in 2015 have become a lingua franca. At the same time, they are also a matter of interest as risks and opportunities to companies around the world. Whether in the developed or developing nations, companies are increasingly integrating SDGs in their products and services as well as in their operating processes, and addressing them in their core business strategies and operations, to achieve an inclusive and sustainable society in the future. The view that companies need to provide solutions to social issues through their core businesses while simultaneously acting as engines of economic growth in order to ensure fair profit in the future is spreading.

I participated in the SDG Business Forum, a part of the High-Level Political Forum, held in the United Nations Headquarters in New York in July 2018, after having participated in the Forum in 2017. Corporate interest in these initiatives has increased significantly, as 4,000 people applied to participate, a three-fold increase compared to 2017. It was a ten-fold increase compared to the First Forum held in 2016. This year, due to limited capacity of the venue, only six hundred people were able to participate.

Keidanren and SDGs

The Japan Business Federation (*Keidanren*) organized a delegation for the 2018 Forum, and Mr. Masaya Futamiya, Chair of the *Keidanren* Committee on Corporate Behavior & Social Responsibility spoke at the plenary of the Forum, presenting the initiatives taken by the Japanese business sector. Fortunately, we received tremendous response not just from numerous companies around the world but also from a broad range of participants including governments, the United Nations and other international organizations as well as think tanks.

The presentation was about *Keidanren's* strategies on SDGs. In November 2017, *Keidanren* revised its Charter of Corporate Behavior, which is an aspirational code of conduct among its member-companies, as well as the Charter's Implementation Guidance. It was seven years since the last amendment, and the main objective of the latest amendment was to incorporate widely accepted international norms of behavior, such as the 2011 United Nations' Guiding Principles on Business and Human Rights: Implementing the United Nations "Protect, Respect and Remedy," Framework (UN Guiding Principles), the Paris Agreement on climate change and the

SDGs. In particular, the Charter states in its preamble that the "role of a corporation is to take the lead in the realization of a sustainable society"¹ and emphasizes that the corporate sector will contribute to the achievement of the SDGs through realization of Society 5.0, a human-centered super-smart society.²

A significant feature of the Charter is the inclusion of a clause on human rights. It stipulates that members will conduct business that "respects the human rights of all persons" in line with the UN Guiding Principles which has become a bible in this field. It encourages corporations to take the following concrete actions; understand and respect internationally recognized human rights; create mechanisms to prevent human rights violations; and promote human rights through contributing to the creation of an inclusive society.

Human rights were an important topic for discussion at the SDGs Business Forum. The report, *The Human Rights Opportunity*, published in time for the Forum by the World Business Council for Sustainable Development (WBCSD) jointly with Shift (an organization promoting the UN Guiding Principles), is an inspiring publication.³ It provides good practices of progressive

companies that have integrated the respect for human rights in their core businesses in the context of SDGs. Eliminating child labor and human trafficking in the supply chain is of course very important, but there are diverse human rights issues and approaches that companies should address. In that sense, the fifteen cases introduced in the report offer a wealth of inspirations on what constitutes efforts to respect human rights that contribute to the achievement of the SDGs.

Many Japanese corporations are actively integrating SDGs in their operating strategies. For example, Sompo Japan Nipponkoa Insurance, uses its advantage of being an insurance company to develop and offer insurance in new areas in order to build a resilient and inclusive society, such as the weather index insurance that protects small-scale farmers in developing countries from droughts, and insurance developed in partnership with the World Bank covering catastrophic natural disasters and pandemics in vulnerable developing countries. Domestically, the company is vigorously promoting various services to prevent traffic accidents by using digital technology and group businesses addressing the super-ageing society, such as through nursing care and health care, while working on projects such as the SAVE JAPAN project, which engages in activities for bio-diversity conservation in collaboration with Japan NPO Center and local environmental not-for-profit organizations/non-governmental organizations as

well as the citizens across Japan.

Human Rights Underpinning SDGs

The SDGs consist of seventeen goals, but these goals are not scattered and arbitrarily put together. It is clear when you thoroughly read the whole text of the resolution adopted by the UN General Assembly that the underlying philosophy shared by all the goals is the respect for human rights and the human-centered principle. The concept pledged in the resolution, “leave no one behind,” expresses this very well.

However, “business and human rights” is a relatively new concept. Among companies around the world, environmental issues have been the main focus of the earlier CSR initiatives. The ISO14001 on environmental management systems was published in 1996. The process is now well-established in corporations around the world as well as in Japan and is widely known. But with human rights issues, the situation is completely different, and there are many corporations that are not well-prepared in terms of measures to address those issues. Basically, it should be the same as with the environmental issues; they should implement a PDCA (Plan-Do-Check-Act) cycle by setting up a basic policy, identifying risks, establishing a mechanism to prevent their manifestation, conducting regular follow-ups and disclosing the progress made. However, few companies have understood or implemented the process so far. It is only in the

last two or three years that we have seen progressive global companies publish their own human rights reports and disclose information on their efforts. Such companies include Nestlé, Unilever and M&S. In Japan, ANA Holdings, Inc. published its first “Human Rights Report” in June 2018.

The history of corporate efforts in the field of human rights is not as long as that in the field of environmental issues. But all companies are now urged to integrate the respect for human rights in their management. The seventeen goals and one hundred and sixty-nine targets of the SDGs provide clues on strategies and approaches that could be taken in engaging in this field.

The Tokyo 2020 as SDGs-supportive Olympic and Paralympic Games

The awareness on human rights issues of not just companies but also of various stakeholders remains insufficient in Japan, when compared to international level. A good opportunity to overcome the deficit would be the Tokyo Olympic and Paralympic Games to be held in two years’ time, in 2020.

The Tokyo Organizing Committee of the Olympic and Paralympic Games published a Sustainability Plan (Version 2) in June 2018. It is a groundbreaking declaration to embrace the SDGs in the operation of the Tokyo Olympic and Paralympic Games. The Committee plans to seek ISO20121 certification, an international standard for sustainable management of

mega-sports events. The contents of the Sustainability Plan (Version 2) is wide ranging, including consideration of the environment, human rights and labor issues, as well as promotion of participation and cooperation.

Of particular note of the Plan is the declaration to operate the Games based on the UN Guiding Principles. This will become mandatory for the host country from the Paris Games in 2024 onwards. It is therefore not mandatory yet for the Tokyo Games, but the Committee made the declaration voluntarily. Also noteworthy is the new procurement codes for paper, timber, agricultural products, marine products and palm oil. Included in those

codes are considerations for the environment as well as for matters regarding human rights and labor, such as the rights of indigenous people and migrant workers.

Regrettably, domestic media interest in the plan is limited. The publication of the plan did not attract much attention from the mass media, and even when the media did take notice, they referred only to the environmental issues, calling it the "Eco-Games." Abroad, the sustainability of mega sports events has attracted a much larger interest, and media coverage of the publication of the plan this time was well-balanced, including references to human rights and labor issues. There is a significant gap

in awareness in Japan and abroad. That is all the more reason why the Tokyo Games, which will be watched globally, will be an extremely valuable opportunity to raise awareness of human rights issues in Japan. It is hoped that the Tokyo Games will become a turning point to mainstream SDGs and human rights in the Japanese society.

Masao Seki is a Senior Adviser on CSR, Sompo Japan Nipponkoa Insurance Inc. He is also a professor of School of Business Administration, Meiji University.

For further information, please contact HURIGHTS OSAKA.

UNDP Work on Business and Human Rights

Since 2016, UNDP Asia-Pacific has promoted regional efforts to implement the UN Guiding Principles, focusing on advocacy, policy development, technical support, and capacity building. In 2018, UNDP accelerated this commitment by launching the Business + Human Rights Asia (B+HR Asia) Unit.

B+HR Asia leverages UNDP's trusted relationships throughout the region and convenes governments, private sector actors, civil society, and national human rights institutions for greater coherency on collective action for business and human rights progress.

Currently, B+HR Asia provides UNGP implementation support in the following countries: Bangladesh, India, Indonesia, Malaysia, Sri Lanka, Thailand, and Viet Nam.

With project activities aligned with the UN Guiding Principles, B+HR Asia works to:

- Provide technical and advisory support to governments to develop National Action Plans or similar policy frameworks in furtherance of UNGP implementation and boosting the regional 'race-to-the-top'
- Boost regional peer learning and capacity building on the UNGPs for all sectors to maintain the momentum for Business and Human Rights progress
- Support the business sector in the development of company human rights policies, programmes, and due-diligence protocols
- Strengthen and support the role of civil society and national human rights institutions that provide access to effective remedy when human rights are at risk.

(Continued on page 15)

International Trend Towards Eradication of Human Rights Abuses in the Supply Chains

Takeshi Shimotaya

Currently, human rights abuses by transnational businesses continue to occur. In order to stop the abuses and to make businesses take appropriate actions respecting human rights, development of international standards and enactment of domestic legislations related to human rights have taken place. As an international standard, the United Nations (UN) adopted the "Guiding Principles on Business and Human Rights: Implementing the United Nations 'Protect, Respect and Remedy,' Framework" (UN Guiding Principles) in 2011 which states and businesses should follow. The amendment of the Organisation for Economic Co-operation and Development (OECD) Guidelines for Multinational Enterprises in 2011 and the issuance of "ISO 26000" as the international standard on corporate social responsibility in 2010 affected the preparation of the UN Guiding Principles. In recent years, with these international standards, called soft law, having been established, businesses have been required to voluntarily undertake human rights activities. However, alongside these activities, use of binding treaties and enactment of new domestic legislations have become the trend.

United Nations Binding Treaty

The development in the UN of binding human rights instruments remains a big international trend. Aiming to eradicate the human rights abuses of transnational corporations, the Human Rights Council adopted Resolution 26/9 in June 2014 to establish "an open-ended intergovernmental working group on transnational corporations and other business enterprises with respect to human rights." Discussions about a binding treaty have been ongoing since 2014. The so-called "Zero Draft" of the draft treaty was published in July 2018 and then submitted to the United Nations High Commissioner for Human Rights.

The draft "Norms on the responsibilities of transnational corporations and other business enterprises with regard to human rights" adopted by the UN Subcommission on the Promotion and Protection of Human Rights in 2003 was discussed by the experts of the Human Rights Committee for potential ratification by the states that would help them impose human rights obligations directly on businesses. But there was a huge gap between the businesses and human rights-

related organizations and activists on what such "Norms" should be, and support from UN member-states could not be obtained. As a result, the UN Commission on Human Rights at that time did not express any opinion and intention about it. Against the background of the failure to adopt the "Norms as a treaty," Professor John Ruggie of Harvard University was appointed as Special Representative of the Secretary-General of the UN in 2005 in order to tackle "the issue of human rights and transnational corporations and other business enterprises." Thanks to Ruggie's holistic and systematic research, the UN Human Rights Council adopted the UN Guiding Principles in 2011. The UN Guiding Principles worked as the core international business and human rights framework that states and businesses have acted upon, but only on a voluntary basis up to now.

Since the UN Guiding Principles promotes voluntary efforts by states and businesses, it cannot be enforced. It has been pointed out that the actions of states and businesses have been very slow since the adoption of the UN Guiding Principles in 2011. Based on this background, some states (such as Ecuador and South Africa) have raised the issue of human rights abuses by

transnational corporations and took on the role of core countries that have proposed the adoption of a legally binding instrument on business and human rights. After this, the United Nations Human Rights Council adopted Resolution 26/9 in 2014 "to establish an open-ended intergovernmental working group on transnational corporations and other business enterprises with respect to human rights, whose mandate shall be to elaborate an international legally binding instrument to regulate, in international human rights law, the activities of transnational corporations and other business enterprises." These movements are aimed at making states and businesses comply with the international law on human rights.

The open-ended intergovernmental working group under Resolution 26/9 has been meeting on the drafting of an international human rights treaty. The working group held four meetings since 2014 discussing the scope, form and contents of the treaty. The Chair of the working group, the delegation of Ecuador, made public in July 2018 the "Zero Draft." The "Zero draft" focuses on "business activities of a transnational character," rather than those of all companies. It also features a stronger obligation for countries that ratify the treaty to prevent human rights abuses arising from corporate activities and to ensure justice and access to remedy for victims. Some members of the civil society were concerned that the "Zero Draft" did not include many of

the important points from the "Elements" document presented in 2017. At the fourth session of the working group held in October 2018, these important points were discussed as necessary in any international legally binding treaty on the issue.

Enactment of Domestic Legislations

Domestic legislations on human rights are being enacted in a number of countries, independent of the trend of using legally binding treaties. The Dodd Frank Act Section 1502 in 2010 in the United States (requiring listed companies to report the existence of conflict minerals in their supply chains), the California Supply Chain Transparency Act in 2012 (requiring companies to check their direct suppliers on how they tackle the eradication of slavery and trafficking and to report their activities on their website) and the revision of the United Kingdom (UK) Company Law in 2013 (forcing listed companies in the UK to provide information on human rights in their annual reports) have been implemented. Based on the UK National Action Plan (NAP) that was adopted in accordance with the UN Guiding Principles, the UK "Modern Slavery Act" (requiring identified companies to report the procedures to identify and eradicate modern slavery on their supply chains) was enacted in March 2015. In addition, recently, the Australian Modern Slavery Act was enacted on 29 November 2018 and would enter into force from 1 January 2019. In France, the

duty of vigilance law requiring companies to check their supply chains was enacted, and failure to comply with the required procedures would incur penalties for the companies. In the Netherlands, the Child Labor Due Diligence bill is under discussion but it plans to have the law enter into force from January 2020. These cases show a trend on enactment of national laws on business and human rights in countries that have adopted the NAP. The European Union adopted the conflict minerals regulation in March 2017, which will enter into force as EU Regulation from January 2021.

Reflections on the Trend of Binding Treaty Adoption and Domestic Legislations Enactment

Currently, the adoption by the UN of a binding treaty on business and human rights faces a number of issues:

- The treaty-drafting process takes a long time;
- The process of adopting a binding treaty and the promotion of UN Guiding Principles complement each other, thus discussions have been directed toward connecting the two processes;
- The binding treaty should cover not only transnational corporations but all companies including domestic ones;
- While discussion on the binding treaty continues, a state should have a NAP in accordance with the UN Guiding Principles and make it work;

- National laws on human rights issues (e.g., Modern Slavery, Conflict Minerals, etc.) create mechanisms that require businesses to take action on human rights;
- Businesses that have not implemented the UN Guiding Principles should start taking action, while those that already have implemented it should continue to make efforts and ensure that their system works well.

At present, globally, countries and companies voluntarily act on the UN Guiding Principles while states such as Ecuador and South Africa take the core role in the adoption of a binding treaty. The Ambassador of the Permanent Mission of Japan to the International Organizations in Geneva announced at the fifth, sixth and seventh sessions of the UN Forum on Business

and Human Rights that Japan had initiated the process of formulating a NAP on business and human rights. We might suppose that the Japanese NAP will be adopted before 2020 when the Tokyo Olympic and Paralympic Games are held. While Japanese businesses should follow the NAP that Japan would adopt, they are already forced to take actions according to national laws (such as the Modern Slavery Act 2015 in the UK) being implemented based on the respective NAPs in other countries. The enactment of such domestic legislations prompted Japanese businesses to discuss whether or not they should be subject to such laws. But they should accelerate appropriate measures on human rights from the viewpoint of competition with European and North American businesses. Under these circumstances, it is impossible for Japanese businesses to ignore problems

related to human rights and workers' rights in factories in their supply chains in other countries. Businesses need to consider the trend towards the adoption of a binding treaty and to take action in compliance with national laws implementing the UN Guiding Principles. Similarly, Japanese businesses are now required to take such action in countries that have such laws.

Takeshi Shimotaya is the Executive Director of the Global Alliance for Sustainable Supply Chain.

For further information, please contact: Takeshi Shimotaya, Global Alliance for Sustainable Supply Chain, e-mail: shimotaya.t@g-assc.org; <http://g-assc.org/en/>.

Tracking Equality at Work

The New Zealand Human Rights Commission issued on 27 June 2018 its final report entitled Tracking Equality at Work 2018.

Here below is a brief introduction of the project and an over-all statement on the results of the monitoring done in 2018:

Overall results show that the labour force participation and unemployment rate for women is improving however there are persisting inequalities particularly for young Māori women and young Pacific men and women, evidenced by high not in education, employment or training ("NEET") rates for 20-24 year olds and high unemployment rates for people under 25 years which are two to three times higher than those of European New Zealanders. Young Middle Eastern, Latin American and African ("MELAA") women of 20-24 years also have a high NEET rate that is over double that of European New Zealanders.

Full data sets are not available for disabled workers until the Census 2018 data is made available at the end of 2018. However, data reflective of the Census 2013 data shows that disabled people and particularly disabled women are the most marginalised in New Zealand's labour market.

Source: www.hrc.co.nz/files/2115/3013/8951/Tracking_Equality_Report_FINAL.pdf

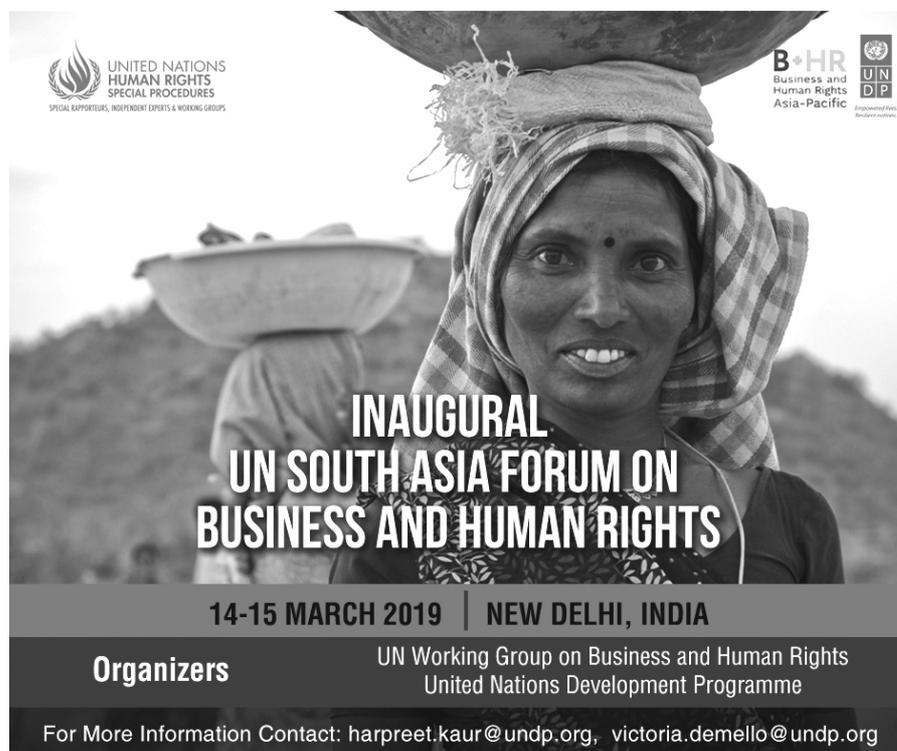
Inaugural UN South Asia Forum on Business and Human Rights

Background:

Building on the annual UN Forum on Business and Human Rights, the UN Working group on Business and Human Rights (UNWG) in collaboration with the United Nations Development Programme (UNDP) is organizing the inaugural South Asia Forum (SA Forum) on 14-15 March 2019. The SA Forum is aimed at raising awareness about business and human rights issues in South Asia and facilitating implementation of the UN Guiding Principles on Business and Human Rights (UNGPs), including through national action plans. The two-day event will bring together various stakeholders from South Asia, and beyond.

Business and Human Rights in South Asia:

Asia is the largest continent and is home to about 60 percent of the world population. Nearly all the countries in the South Asian region – Afghanistan, Bangladesh, Bhutan, India, the Maldives, Nepal, Pakistan, and Sri Lanka – are making progress in accelerating economic development and achieving Sustainable Development Goals (SDGs). However, despite this progress, these countries continue to face common challenges concerning business-related human rights abuses. The rise of globalized market economy opened doors to







**INAUGURAL
UN SOUTH ASIA FORUM ON
BUSINESS AND HUMAN RIGHTS**

14-15 MARCH 2019 | NEW DELHI, INDIA

Organizers UN Working Group on Business and Human Rights
United Nations Development Programme

For More Information Contact: harpreet.kaur@undp.org, victoria.demello@undp.org

critical jobs and access to formal economy in the region – helping poor join the workforce, provided stable employment, some measures of social security, raised their standard of living and improved social mobility. At the same time, it exposed them to negative impacts of business activities and operations including through their supply chains. Unsafe working conditions, low wages, child labour, forced labour, labour rights abuses and violations, unfair land acquisition, attacks on human rights defenders are some of the key human rights impacts of businesses in the region. Moreover, the benefits of economic development have not been shared equitably and

many vulnerable or marginalized groups including women, children, people with disabilities, and indigenous peoples continue to face adverse impacts of business activities disproportionately.

It is important therefore to take a closer look at how businesses can collaborate with government, civil society, academia and other social actors to mitigate adverse impact of their activities on human rights and contribute to achieving SDGs in South Asia. The UN Guiding Principles on Business and Human Rights (UNGPs), which were unanimously endorsed by the Human Rights Council in June 2011, provide a global

authoritative framework to achieve these goals. It is in this context that the UNWG and UNDP is organizing the South Asia Forum highlighting key business and human rights issues in the region and identifying opportunities for effective implementation of the UNGPs in the region.

Objectives:

- To assess the key challenges, opportunities and progress made in South Asia in implementing the UNGPs;
- To initiate a multi-stakeholder dialogue to promote implementation of the UNGPs, including through the development of National Action Plans;
- To encourage peer-learning amongst States and businesses in South Asia, facilitating regional exchange of good practices;
- To build synergies in implementing the UNGPs and accomplishing SDGs;
- To explore ways to strengthen judicial and non-judicial mechanisms to provide effective remedies to affected individuals and communities; and
- To discuss the role of National Human Rights Institutions to address business-related human rights abuses at both national and regional levels.

Agenda:

The agenda of the SA Forum will be developed in consultation with the relevant stakeholders. We, however, envisage that issues such as the

following will be discussed during the two-day Forum:

- A general introduction to the UNGPs for those attending the forum that have not yet been exposed to the Protect, Respect and Remedy framework;
- Challenges and opportunities in UNGPs' implementation in South Asia;
- National action plans to implement the UNGPs: potential pathways in South Asia;
- Comparative experiences from other regions of Asia where the Business and Human Rights discourse is already progressing
- Connecting UNGPs with SDGs;
- Strengthening compliance with labour rights and standards;
- Health and safety at workplace: building on what works;
- Supply chains and export processing zones;
- Human rights due diligence, including environmental impact assessment;
- Sector specific human rights impacts (e.g., extractive, manufacturing, agriculture, textile, electronic, technology, ship-breaking etc.);
- Gendered impacts of businesses and their operations;
- Role of CSOs, human rights defenders and trade unions in promoting business respect for human rights;
- Judicial and non-judicial mechanisms available in the

region to access to remedy in context of business-related human rights impacts;

- Role of NHRIs in addressing business-related human rights impacts.

Practical Information:

The SA Forum is convened by the UNWG and UNDP. The Forum will take place on 14-15 March 2018 in New Delhi, India.

As the organizers have limited funds, we would encourage participants to explore funding from their respective organizations/institutions. Those requiring support are encouraged to notify the Forum secretariat as early as possible.

Formal letters of invitations will be made available for Visa-applications purposes.

Should more information be required about the SA Forum, please contact the Forum Secretariat: Harpreet Kaur, PhD, Business and Human Rights Specialist, UNDP (Harpreet.kaur@undp.org) and Victoria de Mello, Project Coordinator, Business and Human Rights (victoria.demello@undp.org).

HURIGHTS OSAKA Activities

HURIGHTS OSAKA organized several events in 2018 to celebrate the 70th anniversary of the Universal Declaration of Human Rights (UDHR), as well as to raise awareness of human rights. A film screening event and a symposium were held to attract people among the events.

Human Rights Film Screening

HURIGHTS OSAKA screened on October 13 and November 11, 2018 in Osaka city five human rights-related films, aiming at encouraging people to have a personal “feel” for human rights by watching films on specific issues that both inform and entertain them. The five films were about a community-based nursery in a district of Osaka city where daily workers live (*Satoni Kitara Eeyan* – a documentary), a

she wanted including riding a bicycle (*Wadjda*), a teenage girl’s story about discrimination against her indigenous community in Sweden in the 1930s (*Sami Blood*), a film based on a true story of a French teacher who challenged her “difficult” students to change their indifference towards the Holocaust (*Once in a Lifetime*), and a Syrian refugee in Finland who was befriended by a Finnish salesman (*The Other Side of Hope*). More than two hundred people joined the two-day event. The participants were satisfied with the films and commented positively on the event overall by requesting similar events to be held in the future and by stating that it helped them to have better understanding about the specific topics of the films.

Symposium on the 70th Anniversary of Universal Declaration of Human Rights

In collaboration with the Osaka Liaison Conference for the Universal Declaration of Human Rights, HURIGHTS OSAKA held a symposium on 5 December 2018 in Abeno Kumin Center in Osaka city. The symposium constituted two major sessions in order to look into the role that the UDHR played in the last seventy years and the future issues toward the realization of human rights in the 21st century.

In the first session, Yoko Hayashi, a lawyer and a member of the United Nations Committee on the Elimination of All Forms of Discrimination Against Women, gave the keynote speech. She explained the history on the adoption of the UDHR, and how international human rights laws have been gradually recognized as “a living instrument”. Then she pointed out some ongoing issues and challenges in establishing infrastructures for ensuring human rights in Japan - such as the absence of a national human rights commission and the individual communication mechanism under United Nations human rights treaty monitoring system. A panel discussion followed as the second session on intersectional discrimination through the gender perspective with three speakers discussing different topics, in order to



Film Screening

dwell on issues and tasks that remained to be addressed regarding the rights of minority persons in Japan. Wooja Kim, Associate Professor of Ritsumeikan University presented the results of a survey on discrimination that *Zainichi* (resident Korean) women face

as a social minority. Ippo Tanaka narrated his personal journey from his career in a nursery, to his past life as a female, to his life as a *Buraku* person and to his current engagement in the education of children of members of the sexual minority. Kumiko

Fujiwara explained the activities of the DPI (Disabled Peoples' International) Women's Network Japan as a head of the network. Around four hundred people attended the symposium.



Panel Discussion



Keynote Speech, Yoko Hayashi

UNDP Work on Business and Human Rights

(Continued from page 8)

Transformative Impact

Implementing the UN Guiding Principles means:

- A boost in jobs and improved livelihoods;
- Increased access to basic services and assets;
- Strengthened social care and protection systems;
- Effective governance reinforcement;
- Greater environmental protection and accelerated climate action;
- Advancement in gender equality;
- Expanded opportunities for trade and investment, including reduced reputational, operational, and legal risks in businesses; and
- More just, inclusive, and peaceful societies as a result of fewer conflicts between the State, business, and citizens.

Source:

www.asia-pacific.undp.org/content/rbap/en/home/programmes-and-initiatives/BusinessandHumanRights.html.

HURIGHTS OSAKA Calendar

HURIGHTS OSAKA will likely have articles from national human rights institutions and non-governmental organizations in West, South and Southeast Asia for the ninth volume of *Human Rights Education in Asia-Pacific*.



PRINTED MATTER

AIR MAIL

May be opened for inspection by the postal service.

HURIGHTS OSAKA, inspired by the Charter of the United Nations and the Universal Declaration of Human Rights, formally opened in December 1994. It has the following goals: 1) to promote human rights in the Asia-Pacific region; 2) to convey Asia-Pacific perspectives on human rights to the international community; 3) to ensure inclusion of human rights principles in Japanese international cooperative activities; and 4) to raise human rights awareness among the people in Japan in meeting its growing internationalization. In order to achieve these goals, HURIGHTS OSAKA has activities such as Information Handling, Research and Study, Education and Training, Publications, and Consultancy Services.

FOCUS Asia-Pacific is designed to highlight significant issues and activities relating to human rights in the Asia-Pacific. Relevant information and articles can be sent to HURIGHTS OSAKA for inclusion in the next editions of the newsletter.

Sender: HURIGHTS OSAKA

(Asia-Pacific Human Rights Information Center)

8F, CE Nishihonmachi Bldg., 1-7-7 Nishihonmachi, Nishi-ku, Osaka 550-0005
Japan

Phone: (816) 6543-7002

Fax: (816) 6543-7004

E-mail: webmail@hurights.or.jp

Website: www.hurights.or.jp



HURIGHTS OSAKA