

Training Modules

Context of the Northeast Asian Subregion - Human Rights Issues and Business

This module has the following objectives:

Enable the participants to

- Clarify the human rights issues related to company operations or the so-called “business-related human rights impacts” in the subregion;
- Identify people affected by the human rights issues; and
- Discuss human rights in general and in relation to specific issues that arise from the participants’ presentations.

Time: 3 HOURS AND 15 MINUTES

Materials:

- Big size papers, colored pens, writing papers, adhesive tapes;
- Equipment - computer, projector, screen;
- Video, visual aid on human rights.

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I. Procedure

a. Opener – 30 MINUTES

Do a brainstorming exercise by asking the participants to answer the following questions:

- What is the current situation regarding company operations?
- What are the possible reasons for this situation?
- Who are affected by this situation?

The participants are expected to provide answers based on their own experiences – as workers, members of communities near company premises, members of institutions working on issues regarding company operations, etc.

Alternatively, the participants can use the sample materials in Annex A to answer the questions.

Tell the participants to write their answers on each question on separate small pieces of paper and paste their answers on the board or wall under each of the three issues: current situation; possible reasons for the situation; and affected people.

After all the answers have been posted, ask the participants to read on their own the answers on the board or wall.

Organize the posted answers on another board by reducing duplicate answers or rearranging answer placements according to the questions:

Current situation	Possible reasons for the situation	Affected people

b. Presentation – 1 HOUR AND 30 MINUTES

This section has two parts: presentation on human rights in general, and discussion on specific rights affecting company operations.

i. Part 1 – General human rights discussion

Provide a 20-minute input/video presentation on human rights in general – discussing briefly the following:

- development of international human rights standards (i.e., standard-setting that started in 1948, overview of human rights instruments and the major historical contexts involved; continuing nature of United Nations human rights standard-setting process to cover more issues);
- internationally agreed human rights (and also those that are still being discussed);
- issues covered by the existing international human rights standards; and
- main documents involved (e.g., International Bill of Human Rights – see Annexes B, C and D for information on human rights treaties ratified or acceded to by Northeast

Asian states, list of treaties under the International Bill of Human Rights, and the list of specific rights).

The presentation on human rights can use the Universal Declaration of Human Rights (see text of the declaration at Human Rights Documents section) as major reference in terms of justification for recognizing human rights, the basic rights involved and their relevance to the issues regarding business operations. In case internet connection is available, the presentation can use the discussion on human rights in the website of the United Nations High Commissioner for Human Rights (OHCHR) - www.ohchr.org/EN/Issues/Pages/WhatareHumanRights.aspx.

Invite the participants to

- identify the rights they are familiar with (such as those rights found in domestic laws like the Constitution), and
- raise questions and comments on the meaning and realization of human rights.

Note on the board the rights and comments raised by participants.

ii. Part 2 – Specific rights and the company operations

Using the answers of the participants earlier posted on the board or wall during the brainstorming exercises, introduce the concept of “business-related human rights impacts” and their categories. See section on Concepts and Terms to discuss the concept of “human rights impact.”

The input may stress impact related to the following:

- Fair working conditions;
- Equality, non-discrimination and dignity;
- People’s health, life and security;
- Housing and standards of living;
- Indigenous peoples, land and culture; and
- Human rights impacts in the supply chain.

(List from the Australian Human Rights Commission, see Catherine Sutherland, “Measuring up on human rights,” WME, www.wme.com.au/categories/sustainable/aug6_2012.php)

The categories can also be the following:

- Children’s rights;
- Environment and water;
- Gender;
- High-risk and conflict-affected areas;
- Indigenous Peoples;
- Land and food;
- Supply chains;
- Migrant workers; and
- Working conditions.

(Source: Nora Götzmann and Claire Methven O’Brien, *Business and Human Rights - A Guidebook for National Human Rights Institutions* [International Coordinating Committee of National Institutions for the Promotion and Protection of Human Rights (ICC) and Danish Institute for Human Rights (DIHR), November 2013] The category of migrant workers has been added to the original list.)

Whatever categories are used, ensure that the specific rights involved are identified and explained as much as possible. Refer also to the list of human rights found to have been abused by companies in Annex E.

c. Activity

Group Work – 1 HOUR

Using the summarized list of problems posted on the board or wall, ask the participants to

- identify which would fall under the different types of “human rights impacts” of company operations; and
- discuss what measures are being done on the human rights issues.

Ask the participants to discuss ways by which the identified measures have included or excluded the affected people (workers, members of affected communities, etc.) in resolving issues, and explain their involvement if any.

Ask the participants to report the results of their group discussion.

Note on the board the different measures identified by the participants.

II. Summary

Time: 15 MINUTES

Summarize the main points in the discussion particularly stressing the following:

- Current situation in companies and the issues that occur from company operations;
- Basic understanding of human rights;
- Human rights impacts of business operations;
- Categories of human rights impacts; and
- Concrete measures being done or can be done on issues arising from company operations.

Annex A

Case Materials

Case 1

A company has been mining gold using sodium and aluminum. It built a waste dump by paving fifteen thousand square meters of land. However, the paved dump was destroyed by harsh weather and resulted in huge financial loss for the company. An inspection of its underground mining revealed many safety breaches including insufficient bracings; violations of the General Safety Regulation for Underground Mining; irregular testing or lack of daily report of air samples; no separate registration of mineral samples in the different processing stages; establishing office and check points outside the license area; failure to build fence around canal for waste flowing from processing plant; and dumping of waste water from gold mining directly into the soil. The last violation is a very serious breach of the Law on Water as well as the Law on Environmental Influence Evaluation. A year before, the Specialized Inspection Agency, Police Department, and the Emergency Department in a province found expired blasting material in the company's warehouse and destroyed them.

(Based on Center for Human Rights and Development, *Human Rights in the Mining Industry of Mongolia*, page 114)

Case 2

In the garment industry of A country, wage competitiveness is the principal element when considering investment. Whereas the monthly wage in the country was ten US dollars fifteen years ago, it has increased to a hundred US dollars today. The frequent demonstrations in 2011 and 2012 led to a steep rise in wages in 2012. At the same time, the number of companies investing in A country sharply increased, raising the number of garment factories run by companies from thirty to nearly seventy. In order to prevent a drastic increase in wages, an association of garment companies controls the amount of wage increase.

Children in A country go to companies looking for jobs. Investigations by the ILO or the Ministry of Labour compelled the companies not to employ the children. However in many cases, the children being desperate for work lie about their age.

Workers usually work for ten to eleven hours a day, from 7 a.m. until 7 p.m. with one-hour break for lunch. They have eighty to one hundred twenty hours of overtime work a month.

(Based on Korean Transnational Corporations Watch, *Korean Companies and Human Rights: Doing Business in the Philippines, Myanmar and Uzbekistan*, page 74)

Case 3

The workers of a shipbuilding company have been trying to form a labor union since 2007. Their leaders, however, were either fired or transferred by the company as soon as they undertook the initial labor union activities. The company explained that they were fired because of involvement in robbery or theft or negligence of duty. However, the workers claimed that they were fired or transferred by the company to suppress the formation of a labor union. Under the labor law of the country where the

company operates, “probationary employment” shall not exceed six months from the date the employee started working. This means that workers who continue working in a company beyond the six-month period are qualified for permanent employment unless there are grounds for non-qualification. According to the workers, the company used tricks, such as registering the employees as workers of subcontractors, or dismissing and re-hiring them to prevent them from becoming regular employees. Such tricks upset the employees’ efforts to form a union. Some workers organized a group. However, the company claimed that it was a group of dismissed workers while in reality the group has members who are currently employed by the company.

(Based on Korean Transnational Corporations Watch, *Korean Companies and Human Rights: Doing Business in the Philippines, Myanmar and Uzbekistan*, pages 64-65)

Case 4

Petroleum companies faces the risk of causing damage to the environment and people’s health and livelihood due to oil and gas exploration, related construction processes as well as oil exploitation, transportation or warehousing. Over the past years, several industrial incidents have occurred in the country such as the pipeline spill of an oil company, a pipeline explosion and other serious oil spill accidents that have caused long-lasting damage and extremely harsh consequences to the local ecological environment, and the local residents’ living environment and health. Solid, gaseous and liquid wastes generated during the production process in the petrochemical industry also bring environmental hazards. In one case, the members of an ethical council of an organization that has investment in the company had face-to-face dialogues with the company officers regarding the “deficient safety procedures and emissions of chemicals” into a river, contrary to the Basel Convention on Hazardous Waste. The ethical council was satisfied with the action taken by the company after the dialogues. The nature of projects of the company exposes its workers to hazardous materials and equipment that can cause occupational diseases and injuries.

(Based on Huang Zhong and Cheng Qian, *Merging Business and Human Rights in China: Still A Long Way to Go*, pages 44-45)

Annex B

Table of Ratification of Human Rights Treaties

Human Rights Treaties	China	Japan	Korea	Mongolia
International Convention on the Elimination of All Forms of Racial Discrimination (ICERD)	1981a	1995a	1978	1969
Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW)	1980	1985	1984	1981
International Covenant on Civil and Political Rights (ICCPR)	-----	1979	1990a	1974
International Covenant on Economic, Social and Cultural Rights (ICESCR)	2001	1979	1990a	1974
Convention on the Rights of the Child (CRC)	1992	1994	1991	1990
Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT)	1988	1999a	1995a	2002a
Convention on the Rights of Persons with Disabilities	2008	2014	2008	2009a

Note: "a" means accession by the State to the treaty

Source: Office of the United Nations High Commissioner for Human Rights, <http://indicators.ohchr.org/>

Annex C

Human Rights Treaties

International Convention on the Protection of All Persons from Enforced Disappearance (ICPED) 2006	Committee on Enforced Disappearance (CED)
International Convention on the Rights of the Persons with Disabilities (ICRPD) 2006	Committee on the Rights of Persons with Disabilities (CRPD)
International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families 1990	Committee on Migrant Workers (CMW)
Convention on the Rights of the Child (CRC) 1989	Committee on the Rights of the Child (CRC)
Convention against Torture, Other Cruel, Inhuman or Degrading Treatment (CAT) 1984	Committee against Torture (CAT) Sub-committee on Prevention of Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (SPT)
Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) 1979	Committee on the Elimination of Discrimination against Women (CEDAW)
International Covenant on Civil and Political Rights (ICCPR) 1966	Human Rights Committee (CCPR)
International Covenant on Economic, Social and Cultural Rights (ICESCR) 1966	Committee on Economic, Social and Cultural Rights (CESCR)
International Convention on the Elimination of All Forms of Racial Discrimination (ICERD) 1965	Committee on the Elimination of Racial Discrimination (CERD)

Annex D

Examples of Human Rights

In the area of civil and political rights	In the area of economic, social and cultural rights
<ul style="list-style-type: none"> • Right to life • Freedom from torture and cruel, inhuman or degrading treatment or punishment • Freedom from slavery, servitude and forced labour • Right to liberty and security of person • Right of detained persons to be treated with humanity • Freedom of movement • Right to a fair trial • Prohibition of retroactive criminal laws • Right to recognition as a person before the law • Right to privacy • Freedom of thought, conscience and religion • Freedom of opinion and expression • Prohibition of propaganda for war and of incitement to national, racial or religious hatred • Freedom of assembly • Freedom of association • Right to marry and found a family • Right to take part in the conduct of public affairs, vote, be elected and have access to public office • Right to equality before the law and non-discrimination 	<ul style="list-style-type: none"> • Right to work • Right to just and favourable conditions of work • Right to form and join trade unions • Right to social security • Protection of the family • Right to an adequate standard of living, including adequate food, clothing and housing • Right to health • Right to education
In the area of collective rights	
<ul style="list-style-type: none"> • Right of peoples to: • Self-determination • Development • Free use of their wealth and natural resources • Peace • A healthy environment 	<ul style="list-style-type: none"> • Other collective rights: • Rights of national, ethnic, religious and linguistic minorities • Rights of indigenous peoples

(Source: Inter-Parliamentary Union and Office of the United Nations High Commissioner for Human Rights, *Human Rights: A Handbook For Parliamentarians*, page 2. Available at www.ipu.org/pdf/publications/hr_guide_en.pdf.)

Annex E

Business impact on human rights

Labour rights

Freedom of association	Right to equal pay for equal work
Right to organize and participate in collective bargaining	Right to equality at work
Right to non-discrimination	Right to just and favourable remuneration
Abolition of slavery and forced labour	Right to a safe work environment
Abolition of child labour	Right to rest and leisure
Right to work	Right to family life

Non-labour rights

Right to life, liberty and security of the person	Right of peaceful assembly	Right to an adequate standard of living (including food, clothing, and housing)
Freedom from torture or cruel, inhuman or degrading treatment	Right to marry and form a family	Right to physical and mental health; access to medical services
Equal recognition and protection under the law	Freedom of thought, conscience and religion	Right to education
Right to a fair trial	Right to hold opinions, freedom of information and expression	Right to participate in cultural life, the benefits of scientific progress, and protection of authorial interests
Right to self-determination	Right to political life	Right to social security
Freedom of movement	Right to privacy	

(Source: Protect, Respect and Remedy: a Framework for Business and Human Rights Report of the Special Representative of the Secretary-General on the issue of human rights and transnational corporations and other business enterprises, John Ruggie, Advance Edited Version, A/HRC/8/5, 7 April 2008, pages 15-16.)

Materials

Short papers/media reports on the situation at the workplace and other aspects of company operations such as the following:

- Thomas Wilson, Antoni Slodkowski and Mari Saito, “Subaru’s secret: Marginalized foreign workers power a Japanese export boom,” *Reuters Investigates*, 28 July 2015, www.reuters.com/investigates/special-report/japan-subaru/
- Alexandra Chan, *Investigative Report on the Working Conditions in UNIQLO’s China Suppliers*, January 2015, http://sacom.hk/wp-content/uploads/2015/01/2014-UNIQLO-Investigative-Report_final_20150109.pdf
- Survey of Northeast Asian companies in the Mongolian mining industry, see Center for Human Rights and Development, *Human Rights in the Mining Industry of Mongolia*, pages 108-118
- Field reports on Korean company operations in other countries, see Korean Transnational Corporations Watch, *Korean Companies and Human Rights: Doing Business in the Philippines, Myanmar and Uzbekistan*, pages 64 – 87
- Huang Zhong and Cheng Qian, *Merging Business and Human Rights in China: Still A Long Way to Go*, pages 36 – 45
- “Human Rights Issues by Sector,” *2014 Stakeholder Engagement (Human Rights Due Diligence) (version 3, March 3, 2014)*, Caux Round Table, available at [http://crt-japan.jp/files2014/2-2-0-stakeholder_engagement/pdf/HR_DD_Final_Report_en\(2014\).pdf](http://crt-japan.jp/files2014/2-2-0-stakeholder_engagement/pdf/HR_DD_Final_Report_en(2014).pdf)