



Labour, Environment and Asian Transnational Corporations – Toward an East Asian Business and Human Rights Movement -

Cases from Japan, South Korea and Taiwan



Publishers



Today, global business enterprises are causing serious human rights violations in the course of their business in developing countries, such as labour rights violations and exploitation, deprivation of land rights and indigenous people's rights, environmental contamination causing devastating impacts for people's rights to health and livelihood, and so on. HRN calls on multinational corporations to respect human rights in the course of their business in accordance with the UN Guiding Principles on Business and Human Rights. In cooperation with local NGOs, HRN carries out investigations on human rights violations related to corporate activities in Asia, including Japan, China, Cambodia, and Bangladesh. We also have dialogues and consultations with stakeholders in relevant business sectors advocating for them to maximise their influence to respect and ensure people's fundamental human rights related to their businesses.

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Issues in relation to human rights violations, labor rights violations and environmental destruction have increased along with the increase in the number of Korean multinational corporations. Labor rights violations such as the disbanding of labor unions, delays in wage payments, and physical violence are severe and widespread in host countries. There have also been significant environmental issues as well as abuse of rights against indigenous peoples caused by large development projects.

KTNC Watch is made up of human rights, labor, environmental, and public interest law organizations that work together to deal with the various human rights and environmental issues caused by Korean multinational corporations.

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Numerous Taiwanese corporations, including financial institutions, have caused, contributed to, or are directly linked to adverse human rights and environmental impacts locally and around the world. Yet the current domestic legal framework does not provide ample tools for neither the executive branch nor the justice system to hold perpetrating corporations to account. In light of this, seven human rights, labour, environmental organisations formed the Taiwan Transnational Corporations Watch (TTNC Watch) to work in concert to ensure that Taiwanese multinational corporations respect human rights and the environment abroad and in their supply chains. TTNC Watch will also allow for the receipt of complaints from those whose rights are affected or violated by Taiwanese multinationals abroad, and we will endeavour to assist in seeking remedy.

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Foreword

Much progress has been accomplished since the unanimous endorsement by the United Nations Human Rights Council of the UN Guiding Principles on Business and Human Rights in 2011. Mandatory human rights due diligence measures, together with national action plans on business and human rights, have been or are being developed at the State level, triggering fresh opportunities for stakeholders to engage with Governments on business and human rights issues and advance the ‘smart mix of measures’. The Guiding Principles have also proved to be game-changing globally for the business community. Taking the commitment to respect human rights seriously, a growing number of businesses are changing their internal governance structures to generate more awareness and capacity to meet their responsibilities, including by conducting human rights due diligence across their operations and value chains.

Yet, in the Asia-Pacific region, corporate abuses continue to occur with impunity. The governance and protection gaps that originally led to the development of the Guiding Principles unfortunately persist, with those ‘furthest behind’ still being left behind. At a time when the global polycrisis – as evident from the convergence of armed conflicts and economic instability with climate change and intensifying natural disasters – tests the resilience of societies in our region, the need to scale up the implementation of the Guiding Principles, alongside related human rights standards, has become even more exigent.

This report provides a timely survey of the business and human rights situations in Japan, South Korea and Taiwan, where many of Asia’s transnational corporations are headquartered. It highlights a range of challenges from labor exploitation and environmental degradation to the sizable barriers faced by victims to accessing justice and effective remedies. Noting that the value chains of these corporations are inextricably linked with those of other countries in the wider region, the report underscores how critical it is for businesses to ensure that their

operations and relationships do not perpetuate human rights abuses – and how it is equally critical for Governments to strengthen regulatory frameworks and create a rights-respecting environment.

The recommendations that the report puts forward warrant serious consideration by Governments and businesses alike. The key message being that now is the time to make human rights due diligence mandatory.

It is high time for Japan, South Korea and Taiwan to don the mantle of leadership and accelerate the realization of the Guiding Principles. To achieve a sustainable future for people and the planet, the region's economic growth needs to be predicated on a rights-based approach: one that protects human dignity and heightens the standards of corporate accountability.

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Executive Summary

The report highlights persistent human rights and environmental abuses caused by transnational corporations (TNCs) in South Korea, Japan, and Taiwan. Key issues include environmental pollution, climate change exacerbation, occupational hazards, forced labor, and violation of workers' rights. The report provides detailed case studies from South Korea, Japan, and Taiwan, highlighting the corporate abuses in foreign investment projects. Despite the urgency, governments in these countries have failed to establish effective regulatory frameworks to hold corporations accountable, instead relying on voluntary policies that have proven insufficient. The absence of mandatory legislation, inadequate human rights protection mechanisms, and limited corporate transparency are emphasized as major challenges.

Victims, particularly migrant workers and those overseas, face significant barriers in accessing justice and remedies through both judicial and non-judicial channels. This lack of effective recourse further exacerbates the problem, as victims struggle to halt abuses or seek compensation. Furthermore, there is a glaring deficiency in corporate transparency regarding human rights and environmental risks, as well as insufficient communication with key stakeholders, including grassroots organizations and affected communities.

The report calls on the governments of Japan, South Korea, and Taiwan to urgently adopt mandatory human rights and environmental due diligence legislation, improve access to remedies for victims, enhance corporate risk disclosure, and engage stakeholders in policy development. Companies are urged to establish comprehensive due diligence mechanisms, effective grievance procedures, and stakeholder consultation systems while fully disclosing human rights and environmental risk information.

The report underscores the crucial role East Asian corporations play in the global supply chain and stresses that addressing corporate abuse in this region is essential to ensuring

corporate accountability worldwide. By adopting these recommendations, governments and companies in East Asia can help protect human rights and the environment, aligning with global standards and contributing to a fairer, more sustainable future.

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Abbreviations and Acronyms

APIL	Advocates for Public Interest Law
ATNC	Asian transnational corporation
BHR	Business and Human Rights (the UN Guiding Principles on BHR)
CMM	Conservation and Management Measures
CPO	crude palm oil
CSDDD	Corporate Sustainability Due Diligence Directive
CSO	Civil society organizations
CSR	Corporate Social Responsibility
DWF	distant water fishing
EDCF	Economic Development Cooperation Fund
ERI	Earth Rights International
ESG	Environmental, Social, and Governance
FHS	Formosa Ha Tinh Steel Corporation
FOSPI	Forum Silaturahmi Pelaut Indonesia
FPG	Formosa Plastics Group
FPIC	Free, Prior, and Informed Consent
HRDD	Human Rights Due Diligence
HRN	Human Rights Now
ICCPR	the International Covenant on Civil and Political Rights
IFRS	International Financial Reporting Standards
IJOP	Integrated Joint Operations Platform
IUU	Illegal, unreported, unregulated (fishing)
JaCER	Japan Business and Human Rights Dialogue and Relief
KCTU	the Korean Confederation of Trade Unions
KHIS	Korean House for International Solidarity
KOICA	the Korea International Cooperation Agency
KOTRA	Korea Trade-Investment Promotion Agency

LAC	Labor Action China
METI	Ministry of Economy, Trade and Industry
mHRDD	mandatory HRDD
MOEA	Ministry of Economic Affairs
MOGE	the Myanmar Oil and Gas Enterprise
NAP	National Action Plan
NAPHR	National Action Plan on Human Rights
NHRP	National Human Rights policy
NCP	National Contact Point
NDPE	No Deforestation, Peat, Exploitation
NHRI	National Human Rights Institution
ODA	Official Development Assistance
OECD DAC	Organization for Economic Cooperation and Development's Development Assistance Committee
PRTR	Pollutant Release and Transfer Registry
PT BIA	PT Bio Inti Agrindo
RBA	Responsible Business Alliance
RSPO	Roundtable on Sustainable Palm Oil
SACOM	Scholars Against Corporate Misbehavior
SGM	Shwe Gas Movement
SME	Small- and medium-sized enterprises
TLL	tuna longliners
TNC/MNC	Transnational/Multinational corporation
UN WG on BHR	UN Working Group on Business and Human Rights
UNGP	The United Nations Guiding Principles on Business and Human Rights
VCP	Vietnamese Communist Party
WCPFC	the Western & Central Pacific Fisheries Commission
WRW	Workers' Rights Watch

Introduction

Who is more powerful? The state or corporations? Research in 2017 revealed that of the top 100 revenue generators, only 29 were states, while 71 were corporations. Many of these corporations operate transnationally, and their powers are not constrained by 'the iron cage of the nation-state.'¹ However, the transnational exercise of corporate power often leads to human rights infringement and environmental destruction extrajudicially. A clear example is Royal Dutch Shell's operation in Niger Delta. Since obtaining the exclusive rights to extract the oil in the region in 1937, when Nigeria was under the British colonial rule, Royal Dutch Shell has caused severe damages to the environment and the lives of the local communities throughout its operation.

Though many powerful corporations are based in Western countries, some Asian corporations have a strong presence throughout the global market. For example, Foxconn, Samsung, and Toyota were listed among the top 100 revenue generators, exceeding many states' annual revenues. It is worth noting that their home countries – Japan, South Korea, and Taiwan – underwent similar economic development processes in the 20th century. These developments were driven by the growth of labor-intensive industries aimed at export, such as apparel and electronics. However, as corporations in these countries have expanded their supply chains into other Asian countries with lower wages and weaker regulations, human rights abuses and environmental problems have also spread to these areas.

It has been an uphill battle to hold transnational corporations (TNCs) accountable for their harmful operations and to provide remedies to the affected people. To address this problem, the United Nations adopted the Guiding Principles on Business and Human Rights (UNGPs) in 2011, a voluntary guideline for the states and businesses to comply with to respect human rights in business operations. However, the effectiveness of the UNGPs has been criticized for failing to bring about changes in business practices. Since then, the UN has been working to create legally binding norms related to TNCs' human rights violations through the Working Group on transnational corporations and other business enterprises with respect to human rights, but the discussions have not progressed promptly due to the passive participation of Global North countries, where many TNCs exert influence.

In Western countries, various attempts have been made to hold TNC accountable for human rights abuses and environmental degradation in their overseas operations, through judicial and non-judicial mechanisms. In addition, the EU adopted the Corporate Sustainability Due Diligence Directive (CSDDD), which establishes legal obligations on large EU-based companies worldwide to proactively identify and address human rights and environmental issues in their supply chains.

Lacking a relevant legal framework, Asian transnational corporations (ATNCs) have been rarely held accountable for their human rights abuses and environmental damages overseas. In addition, as many ATNCs do not directly face the end consumers in the market but often operate in the middle of the supply chain, their cases drew less attention compared with the companies with well-known Western brands. Considering the similar political and economic contexts and challenges faced in the East Asian region, civil society organizations (CSOs) in Japan, South Korea, and Taiwan agreed to hold a conference to share the cases of ATNCs' transnational abuses and the current system in each country in November 2023.²

This report is a collaborative work of the CSOs in Japan, South Korea, and Taiwan to further advocate for a legal framework to address the transnational human rights and environmental damages caused by ATNCs in their home countries. The authors, the CSOs in Japan, South Korea, and Taiwan, aim to highlight the urgent need to adopt a comprehensive system to address corporate abuse throughout the transnational supply chains by providing relevant cases. The report also addresses the current system and outlines the CSOs' plans for each country.

The authors recognize the report's limitations. While China is an important player in East Asia's political, economic, and social dynamics, the report does not examine China due to restraints on civil society activities related to human rights and corporate accountability. The authors also acknowledge that the perspectives on cases and contexts presented in this report may not be consistent with traditional or academic, economic, and social analyses.

While the power of corporations is not confined to the iron cage of the state, solidarity transcends it. The authors have witnessed the power of people who stand up to protect their communities and fellow workers across the borders. In that sense, the report is the record of the solidarity and perseverance of the people who have spoken out and fought to protect their communities and fellow workers, even under challenging circumstances. The authors hope this report can be a source of solidarity in their powerful struggles.



Japan

1. Country Context

Over the decades, Japanese companies have significantly expanded their global presence, through innovation, strategic investments, and a pursuit of new markets. This international expansion has not only fueled economic growth and technological advancement but has also exposed complex challenges related to human rights and environmental sustainability.

As Japanese companies ventured overseas, they encountered various global issues, including labor practices that sometimes fell short of international human rights standards and environmental concerns such as resource depletion and pollution. In response to growing international expectations, businesses are increasingly held accountable not just for compliance with local laws but also against broader human rights standards.

Japanese companies, renowned for their technological innovation and market influence, play a pivotal role in global supply chains across various industries. Their reach extends from high-tech electronics to essential consumer goods and seafood products, positioning them as major players in shaping international trade practices and standards.

In the electronics sector, Japanese firms such as Sony, TDK, and Seiko Epson supply critical components for surveillance systems produced by companies like Hikvision. These systems have been linked to serious human rights violations, including mass surveillance and repression of ethnic minorities in Xinjiang, China. The involvement of Japanese companies in this context highlights a critical issue: their components may contribute to technologies used in human rights abuses, raising questions about the adequacy of their due diligence and corporate responsibility practices.

Over the last decade, the garment industry has faced serious human rights violations, beginning with the Rana Plaza disaster in 2013, which exposed inhumane working conditions. In response, various NGOs, including Human Rights Now (HRN), launched campaigns to investigate and address labor abuses. Investigations revealed long hours, low wages, and unsafe conditions in factories, prompting calls for improvements and more rigorous human rights due diligence (HRDD) by companies. Despite some progress and promises from major brands, such as extending HRDD measures and addressing specific issues, many companies still lack comprehensive human rights policies. Voluntary guidelines have proven insufficient, highlighting the need for stronger enforcement and greater collaboration to protect workers' rights effectively.

In the seafood industry, Japanese companies are key importers and distributors, particularly of high-value tuna products. Japan's position as a leading market for sashimi-grade tuna places its companies at the heart of global seafood supply chains. However, severe labor rights violations including forced labor, poor working conditions, and human trafficking, have been reported on Korean distant-water fishing vessels supplying Japan. Despite Japan's relatively advanced domestic labor rights regime, its seafood industry faces challenges in enforcing similar standards within its supply chains. The untransparent nature of seafood distribution and the dominance of large trading companies further complicate efforts to ensure ethical sourcing and traceability.

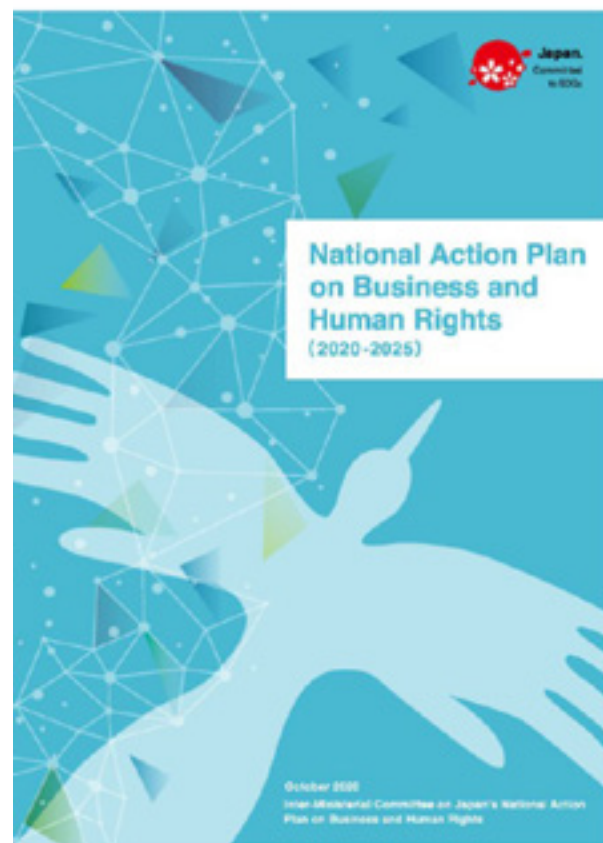
Support for the UN Guiding Principles on Business and Human Rights (UNGP) has been growing in the international community since their endorsement by the Human Rights Council. In response to these global trends, businesses are increasingly expected to respect human rights within their operations. Companies are evaluated not only by their compliance with local laws but also against international standards, which creates pressure to identify and address human rights risks in their activities.

In November 2016, Japan announced its plan to develop a National Action Plan (NAP) on Business and Human Rights and became the second country in Asia to formulate its NAP in 2020. In 2022, the Ministry of Economy, Trade and Industry (METI) released the "Guidelines on Respecting Human Rights in Responsible Supply Chains," providing businesses with actionable steps. A special advisor to the Prime Minister on international human rights issues was also appointed, though the position remains vacant following Gen Nakatani's resignation.

In April 2023, METI published a compilation of case studies for businesses to use as a reference for performing HRDD to ensure no human rights violations within their supply chains. The U.S. and Japan established a joint task force on forced labor and due diligence, and in August 2023, the UN Working Group on Business and Human Rights (UNWG on BHR) visited Japan, submitting an End of Mission Report to the Human Rights Council in June 2024.

Despite these efforts, only 10% of public companies were conducting HRDD in 2022. There is a significant disparity between large companies and small and medium-sized enterprises (SMEs) conducting HRDD. The HRDD guidelines are voluntary, lacking a grievance mechanism and disclosure rules. The Johnny and Associates scandal drew substantial public attention to BHR issues, coinciding with the UN WG's visit, which also highlighted these issues. There remains a disparity in the attention given to BHR between large companies and major cities compared to rural areas and small companies. Large companies have the resources to implement mandatory HRDD (mHRDD).

The UNWG's visit report indicated that most companies recognize the need for mHRDD. HRN's recent survey³ of companies showed positive support for mHRDD, and the findings will be instrumental for advocacy efforts.





2. Case Studies

Case 1: Environment

Mekong Watch focuses on the connection between Official Development Assistance (ODA) and other official funds provided by the Japanese government to countries in the Mekong region and their negative environmental and social impacts. They also monitor investments by Japanese corporations in the Mekong region. The Mekong River Basin region includes six countries: China, Myanmar, Laos, Thailand, Cambodia and Vietnam. The people of the Mekong River Basin depend on the natural resources of the region for their livelihoods. In particular, large-scale development projects always bring negative impacts. Therefore, they are working to reduce the destructive impacts of development. Mekong Watch combines research and advocacy to address and prevent the negative environmental and social impacts of development in the Mekong Region.

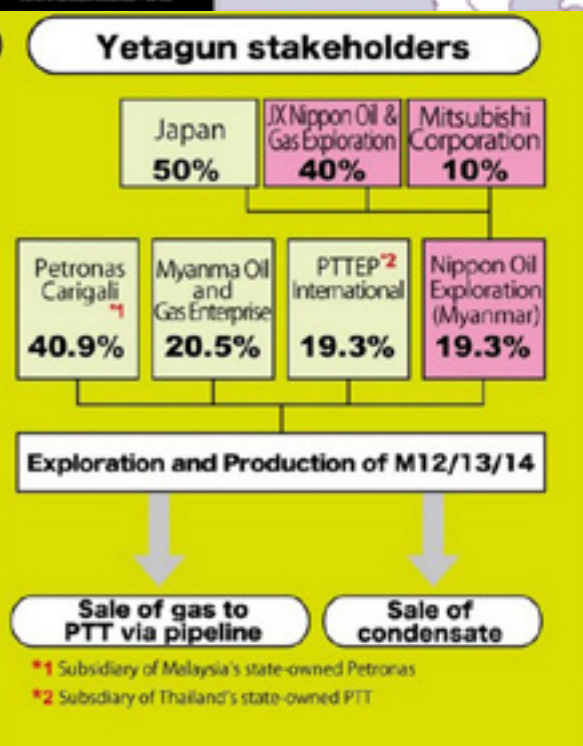
Japan's economic influence in the Mekong Region used to be significant. It started with Official Development Assistance (ODA). Historically, Japanese aid began as reparations by the Japanese government following WWII. Payments were made to five countries in the region, Cambodia, Laos, Myanmar, Thailand, and Vietnam, and this evolved into Yen Loans which are now a part of ODA. These countries used ODA to improve their infrastructure. One of their major goals was to achieve economic growth through foreign capital investment, including from Japanese companies, following a global value chain model for economic development. For the Japanese government, Thailand and Vietnam are examples of economic success under this model.

However, in the shadow of this economic development is the suffering of human rights abuses. Economic development in the 1960s to the 1990s also brought forced evictions and land confiscations for dam construction, further pollution, and environmental destruction, all of which have negatively impacted local livelihoods. Since the 2000s, environmental and social considerations, as well as policies for government-funded development projects, have been strengthened due to pressure from civil society. At the same time, private funding has also increased, exposing the limits of monitoring public funds.



The case of Myanmar since the 2021 coup, which brought the military back into power, illustrates the current realities well. Japanese companies became interested in Myanmar's natural resources, including oil and gas development, in the 1990s. After Myanmar's transition to democracy in 2011, the Japanese government and companies used ODA and private investment to replicate their previously successful model in Southeast Asia. The Japanese government provided USD12 billion in ODA to Myanmar. However, in February 2021, the Myanmar military led a coup, resulting in the deaths of more than 4,000 civilians and the displacement of more than two million people.⁴ While the Japanese government halted the development of new ODA programs, it has continued existing ones even after the coup.

Of particular concern to human rights have been Japanese investments in natural resource development, especially oil and gas extraction. Oil and gas fields are a crucial source of foreign currency for Myanmar. About 80% of gas from Myanmar is exported, mostly to Thailand. Gas exports have also been reported to be a significant source of funds for the military since 2000. Following the coup, the Myanma Oil and Gas Enterprise (MOGE), which controls the country's oil and gas development, fell under military control, becoming Myanmar's largest state-owned enterprise. At the time, the Japanese government and companies were involved in one of four oil and gas field projects.



Oil and gas development has been a major source of human rights violations in Myanmar. Human rights violations occurred during the construction of two major pipelines carrying gas to Thailand, the Yadana and Yetagun pipelines. The abuses were reported by Earth Rights International in their reports “Total Denial⁵” and “Total Denial Continues⁶,” which were published in 1996 and 2000, respectively. The reported abuses by the Myanmar military during the construction of the pipelines in southern Burma in the 1990s against villagers included forced labor, forced relocation, torture, and rape. The Yadana gas pipeline was completed first, followed by the Yetagun pipeline. Both pipelines carry gas along the same route for export to Thailand. While the Japanese government and companies were involved in the Yetagun gas project, they have not been held accountable for their involvement.

Production at the Yetagun gas field began in May 2000. Gas was exported to Thailand by pipeline and sold to the Thai company PTT Public Company Ltd. Japan’s Ministry of Economy, Trade and Industry (METI) held a 10% stake, with JX Nippon Oil & Gas Exploration Corporation, a subsidiary of the Japanese company ENEOS, and Mitsubishi also holding shares. Gas exported to Thailand from the Yetagun field goes to a thermal power plant built with investments from Japanese companies in Thailand. In this way, foreign companies have been obliged to make payments to MOGE, despite MOGE directly funding Myanmar’s military which continues to commit human rights violations.

In 2022, Mekong Watch launched a campaign with other Japanese organizations titled “No more business with the Myanmar junta”. As part of the campaign, they sent letters to hundreds of institutions, companies, and stakeholders that maintain business relationships with the Myanmar military, calling on them to withdraw their investment from Myanmar. Mekong Watch also called on the government of Japan to withdraw from Myanmar. Mekong Watch held rallies in front of the Prime Minister’s office or companies once a month and created an online petition calling for responsible disengagement on [change.org](https://www.change.org). The campaign’s purpose is to raise public awareness about the responsibility of Japanese companies and the government of Myanmar for their engagement with Yetagun and other abusive projects and to put pressure on shareholders involved in such projects to divest.

In one example, Mekong Watch sent letters to 125 shareholders of several Japanese companies, including ENEOS, Sumitomo, and Mitsubishi, all of which had invested in Yetagun and other Myanmar projects. They received substantive responses from 13 investors, out of which three stated that they engaged with the companies after receiving the letter and two stated



that they were already engaging with the companies. Three Japanese investors explained that they had their own human rights policies, but they provided no response regarding the projects in Myanmar. The rest of the responses were very similar; perhaps they were using a template answer. They explained their own human rights policy but provided no response regarding the Myanmar project.

All foreign investors withdrew from the Yetagun project by April 2023, although it was unclear whether the withdrawal was possible without transferring further funds to the military. There remains a question on who will be responsible for the decommissioning of the gas field, which is an important procedure to ensure environmental protection following the field depletion. No information has been made public about it although the cost of decommissioning is enormous, and the gas fields will be depleted soon. This raises the question of who is responsible for the environmental impacts. With no information available, there is an apparent lack of accountability.

Despite these issues, there were still some small successes from the campaign. Documents disclosed by Japan's Ministry of Economy, Trade and Industry (METI) indicate that the Japanese government had expressed concerns to companies about the situation in Myanmar. While the Japanese government and companies primarily withdrew from the Yetagun project because it was no longer profitable due to the depletion of gas reserves, it appears that there was a measure of consideration for human rights in the decision due to pressure from civil society. METI stated:

While it is not confirmed that the profits from this project go into possession of the Myanmar Armed Forces, METI, as a shareholder of Nippon Oil Exploration (Myanmar), continues to pay

close attention to the political and human rights situation in the country, the operational situation of the project, and its relationship with the Myanmar Armed Forces. All operating partners are requested to continue the investigation and promptly report any suspicious information in this regard. Collaboration has taken place with civil society groups in Thailand and South Korea, but companies have not yet been held accountable for their investments. Civil society remains crucial in pushing for accountability, and many issues still need to be addressed. A network of CSOs and NGOs from Taiwan, Japan, and South Korea can collaborate on these issues, as demonstrated in the forum.⁷

Case 2: Garment Industry

Over the last decade, there have been serious human rights violations in the garment industry, raising the question of responsibility among Japanese NGOs. It started with the Rana Plaza disaster in 2013, which included the inhuman working conditions for workers.

Following the disaster, buyers in the garment sector started asking companies about their treatment of workers. A team from HRN visited the site, met with victims, and found evidence of labor rights violations, including forced and child labor. While many famous brands expressed their concern at the time, Japanese brands were not part of them. Why was this the case? And what about the question of responsibility? To address these questions, HRN started a campaign on Uniqlo with the Hong Kong-based NGO Sacom. Together, HRN has conducted an investigation into labor rights abuses among Uniqlo's China-based factory suppliers and organized a joint campaign in 2014, with activists from three countries: Japan, Hong Kong, and China.

The campaign got a lot of media coverage, which Uniqlo attempted to silence through a SLAPP litigation against the journalists, including a defamation suit. This work included an undercover investigation. HRN and Sacom had researchers work for a month at Uniqlo's suppliers, documenting violations and working conditions, including photographic evidence. The disclosure of their findings cannot be considered defamatory if everything reported was documented, regardless of Uniqlo's response to the findings. The findings included long work hours, low wages, harmful conditions, and an unjustifiably severe punishment system. One worker said that the conditions were "like hell." For example, there were fainting incidents due



to the high heat and humidity levels. One photo in the report showed a man visibly topless because of the heat. The investigators also conducted interviews where it was learned that the floor had dirty water, and that one worker died from electric shock caused by the standing water. Uniqlo replied that the claim was not true, stating that the worker had died from illness. It was also reported that there were no safety measures, chemicals were everywhere, and masks were difficult to wear.

The outcomes and findings of the investigation were finally compiled into a report of around 100 pages, and HRN organized a press conference in January 2015 in Tokyo to announce the release of the report. The report and its findings received great attention in Japan.

As for the reaction of Uniqlo, it came close to admitting something. The company stated that it was shocked by the findings and promised to improve the situation. It also noted that while the company had conducted HRDD only during the first year of a project, it would extend it into the second year as well.

Nevertheless, HRN continued its efforts. In February 2015, it worked with a Cambodian NGO to investigate a Cambodia factory supplying not only Uniqlo, but also other garment companies such as H&M. The same problems were found from the investigations. When the investigators met with workers, they discovered that the workers signed a contract containing low wages, unsafe chemicals, and dangerously hot and humid conditions.

Around the time of the investigation, the factory faced a strike by over 100 union workers, and it tried to fire all those participating. The ILO published a report stating that the demonstration was a legitimate strike and that the workers should not be fired. The case went to arbitration, which ruled in favor of the workers, but it was appealed to a Cambodian District Court which reversed the decision. The District Court found that the firings to be legitimate and that there were no grounds for reinstatement.

A year later, the poor working conditions persisted, and photos were sent to HRN showing the ongoing problems workers still faced. H&M, a Swedish company, had cut the factory off as a supplier, which made Uniqlo an even more influential buyer. With this in mind, HRN pressured the company to help reinstate the workers. After 10 days, HRN started a campaign beginning with Uniqlo in Hong Kong, where they held a press conference, followed by London and Canada. After three days, Uniqlo agreed to hold a discussion with HRN regarding the Cambodia workers. A few days later, HRN received news that the workers were reinstated. HRN also asked Uniqlo to disclose the list of its suppliers, but it only provided its first-tier suppliers.



Another issue in the garment sector is the Uyghur situation. After the Australian Strategic Policy Institute released a report⁸ revealing forced labor among Uyghurs in China, the reaction was ambiguous. At the time, HRN held a press conference calling on not only Uniqlo and MUJI, but also their investors, to take action. In response to HRN's requests, Uniqlo promised to implement a new action plan on human rights that includes HRDD, expanding the scope to cover second tier suppliers. Uniqlo reorganized its suppliers, moving its supplier base from China to overseas. However, there has been no specific response to the problem of Uyghur forced labor itself. They have been paying a keen attention to the issue until now, but the reaction from the garment sector has remained superficial. Uniqlo has been targeted for criticism, but there are many other companies lagging far behind. HRN sent out a survey in December 2022, and only 20 companies responded to the question about trafficking. Only 12 said that they had a human rights and HRDD policy. None of them said they acknowledged the technical trainee issue in Japan, although the US State Department classified the program

as a trafficking case.

While the Japanese government has published voluntary HRDD guidelines, the neglect of BHR problems discussed above persists. The conclusion is that the UNGP are not being implemented. HRN has supported victims in raising their voices and sent the message that it's vital for companies to conduct HRDD. The collaboration between HRN and Chinese and Hong Kong civil society groups has been effective, but unfortunately, such collaboration is no longer possible due to the current political situation. For this work to continue, HRN needs support from regional partners.

Case 3: Electronics Industry

There has been large-scale surveillance of Turkic ethnic groups and human rights violations against them in the Xinjiang region. As part of the investigation into these violations, and disassembled a surveillance camera made by Hangzhou Hikvision Digital Technology Co., Ltd. (Hikvision) linked to the violations. Hikvision is a major Chinese surveillance camera company sanctioned by the United States for its involvement in mass surveillance involving serious human rights crackdowns against Uyghurs and other Turkic ethnic groups in East Turkestan (Xinjiang Uighur Autonomous Region). The investigation discovered that multiple Japanese companies were supplying parts for the surveillance camera.

The Chinese government's oppression of Turkic ethnic groups includes the following repeatedly reported violations:

- Arbitrary detention in concentration camps
- Physical and psychological torture
- Sexual abuse



- Forced labor
- Forced sterilization
- Family separation
- Enforced disappearances
- Cultural persecution

These abuses are supported by a mass surveillance system called the Integrated Joint Operations Platform (IJOP). The Chinese government is constantly monitoring Uyghurs through the IJOP and sending them to detention camps in large numbers based on the surveillance results. The horrifying reality is that IJOP detected approximately 24,000 "suspicious individuals" in just one week, following which approximately 15,000 people were sent to concentration camps.

Office of the United Nations High Commissioner for Human Rights (OHCHR) released a report on August 31, 2022, which noted that China's violations against the Uyghur people may amount to "the commission of international crimes, including crimes against humanity." In the Third Committee (Human Rights) of the United Nations General Assembly, 50 countries, including Japan, the United States, and the United Kingdom, issued a joint statement on October 31, 2022, expressing "grave concern" about the human rights situation of the Uyghur people. On November 24, 2022, Committee on the Elimination of Racial Discrimination then called on China to release Uyghurs held in detention centers and recommended that it provide "redress and reparations" to the victims.

On May 24, 2022, the Xinjiang Security Files (also called the Xinjiang Police Files) were leaked from the police records of two counties in Xinjiang region, Konasheher and Tekes. The files contained thousands of pictures and documents, including the internment details of more than 20,000 Uyghurs and other Turkic groups. These files provided conclusive evidence



of severe human rights violations against Uyghurs. The Japan Uyghur Association revealed that a quarter of the detainees included in the “Xinjiang Security Files” were reported to the authorities by IJOP. It was also demonstrated that IJOP identified detainees by analyzing images from the “Xinjiang Security Files.” At the same time, IPVM, a world-leading research company in security and video surveillance, also confirmed that Chinese authorities used Hikvision cameras to identify Uyghurs as part of its crackdown against them.

Motivated by this information, a Hikvision surveillance camera similar to the one used by IJOP was disassembled and investigated, confirming through direct inspection that multiple Japanese companies were supplying parts for the device: Rohm, TDK, Asahi Kasei, Thine Electronics, Sony Group, Seiko Epson, and Micron Japan.

A questionnaire was sent to all of those companies about their business relationships with Hikvision and responses were received from six companies, except for Micron Japan. According to their responses, most of these companies seemed not to have conducted detailed research and merely stated their management policies. The companies' responses reflected a lack of awareness of the gravity of the situation and a deficiency in corporate social responsibility.

Following the response, the following recommendations were provided to the companies:

(1) The Japanese companies mentioned in the above list should clarify their business relationships with Hikvision, implement HRDD to address the negative impact on human rights of their business activities, and be accountable for their contribution to harms against victims.



(2) If the supply of technology and parts to Hikvision by these companies continues from this point forward, unless they can clearly demonstrate that the parts are not used to violate the human rights of the Uyghur people, their business relationship with Hikvision must be immediately severed.

(3) Companies should hold dialogues with stakeholders and review their own initiatives to ensure that their business activities are not contributing to serious human rights violations.

The following are our recommendations to the government of Japan:

(1) Consider legal reforms to require companies to address human rights risks including forced labor in their supply chains based on the UNGP. At the same time, consideration should be given to export control regulations to prevent Japanese companies' exported products from being complicit in human rights violations.

(2) Provide sufficient information to Japanese companies about human rights risks in countries where they maintain a business presence, as well as in those identified as having particularly high human rights risks.

(3) In cooperation with the international community, the Japanese government should urge the Chinese government to ensure thorough compliance with the international human rights treaties it has ratified.

Case 4A: Seafood Industry

HRN has recently released a joint report with the Korean NGO Advocates for Public Interest Law (APIL) on labor rights problems on South Korean tuna vessels exporting to Japan. To give some context, Japan plays a crucial role in advocacy in the tuna industry primarily due to its market power. Although the country's seafood consumption has been decreasing in recent years, Japan remains a major importer in certain categories including sashimi grade tuna, where it imports 80% of the global catch. Japan also has a relatively functional labor rights regime domestically. While there are also labor rights problems in Japan's fishing industry such as the issue concerning migrant crews under the technical trainee program—which is beyond

the scope of this discussion—there is still relatively more concern, motivation, capacity, and power among Japanese stakeholders (consumers, civil society, government, companies, etc.) to address labor rights problems compared to other states in the region.

More fundamentally, if the Japanese government were to mandate Japanese companies to apply strict labor rights standards on their foreign suppliers, it would have a significant impact on the region. One reason the Japanese government might pursue this approach is that labor rights violations abroad undermine the competitiveness of Japan's own domestic producers. This connection highlights how domestic and international advocacy are interlinked. It becomes easier to stop abuses in the domestic technical trainee program if violations are resolved abroad, and vice versa, because labor rights violations in one area create competitive pressure in the other to follow suit.

Thus, establishing strict labor rights standards among suppliers for the Japanese market will have spillover effects, improving standards in other states, as well. Fishing companies typically prefer not to have their distribution streams operate under different regulatory regimes, as they rely on economies of scale. Japan is particularly important in this respect; if seafood distribution becomes fragmented in the current situation, companies would split their distribution into Eastern and Western regional streams. In such a scenario, business arrangements that tolerate violations would likely to gravitate toward the Eastern stream while the Western stream becomes more tightly regulated. EU and US regulations, such as the recently passed CSDDD in the EU and Uyghur Forced Labor Prevention Act in the United States, should only accelerate this effect. However, if Japan were to ban the import of seafood linked to forced labor or labor rights violations, it would significantly disrupt that trend. The pressure to achieve economies of scale might push transnational companies to support a global regime of import restrictions, establishing a level playing field for all companies. Additionally, regions often shift together as a bloc due to the regional fishing frameworks for reasons discussed above, and Japan has a strong influence in the West Pacific region. Japan's adoption of import restrictions would challenge the narrative that labor rights are only a concern of the Western region. Therefore, Japan is a crucial state for advocacy on this issue.

The seafood sector is vulnerable when it comes to the issue of labor rights protection for several reasons. Fishing vessels often stay at sea for long periods, creating conditions prone to forced labor and poor living conditions, such as malnutrition. The practice of transshipment, where secondary vessels transport catches and resupply the primary fishing vessels, enables

the fishing vessels to keep captured crew members at sea for extended periods, often over a year. Through transshipment, vessel owners can conceal the true origins of a catch, shielding the conditions of the crews from scrutiny. Additionally, there are many points in the supply chain, such as processing and transportation, where seafood caught under unacceptable and abusive labor conditions can be mixed with others, further obscuring its connection to violations.

In Japan's case in particular, the seafood market has been shrinking and consolidating in recent years, leading major trading companies to increasingly dominate and squeeze out smaller players. This trend is relevant because smaller seafood companies use public auctions, such as those at Tsukiji market and local port-city markets run by fishing co-ops, where publicly accessible documentation is maintained. In contrast, trading companies are massive, integrated entities that do not need to release such records. For example, a trading company might own a foreign processing factory that receives seafood in another country, process it abroad, and then bring it into Japan post-processing using its own vessels, distributing it through internal domestic networks. The entire process occurs within its own channels, meaning the company is under no obligation to disclose information about its supply chain.

Once seafood enters the hands of the trading company, the distribution process becomes a black box that conceals links to violations. This is why the report was titled, "Tuna in the Black Box: Human rights risks hidden in the untransparent tuna supply chain from Korean fishing vessels to the Japanese market." This opacity is also one of the reasons that makes traceability such a critical issue in the seafood sector. It is worth noting, however, that trading companies generally have human rights policies and legal compliance departments that are at least aware of HRDD and feel some pressure to account for it, though insufficiently. In contrast, awareness and responsibility are often absent in smaller companies. In this respect, the recent trend observed among trading companies has been positive, while much remains to be done in terms of traceability.

To introduce one quick case study, when serious labor rights violations were reported on the Chinese company Dalian's fishing vessel Long Xing 629 in 2020, Japanese buyers quickly dropped the owner Dalian as a supplier. It is worth noting that (1) the Long Xing crew also reported that similar violations were rampant on other vessels exporting to Japan, and (2) the Japanese buyers claim to have had effective due diligence systems in place before the

violations were reported, yet none of those systems identified violations on any Dalian vessels or others. This clearly documents the failure of existing due diligence systems. Corporate PR often tries to frame violation reports as the result of just ‘one bad company’ that they can easily cut out. In fact, the cases that make it into the newspapers are just the tip of the iceberg of ongoing violations. Moreover, the so-called ‘one bad company’ can simply rebrand itself under a new name and resume operations. Buyers’ due diligence systems need to be strengthened so that violations cases can be reported through their own HRDD, not from newspapers. This would also help ensure more systemic, rather than reactive, responses to violations. Additionally, this demonstrates the importance of CSO engagement, as labor rights groups are often aware of the patterns of violations long before the stories break in the news.

As for the legal landscape in Japan, to summarize, the laws related to seafood imports in Japan are generally very weak on traceability and are particularly blind to labor and human rights in supply chains. There are two relevant laws to consider: The “Special Law for Strengthening Conservation and Management of Tuna Resources,” which, as one would expect, only addresses tuna imports. It implements the Conservation and Management Measures, CMMs, of the WCPFC, the Western & Central Pacific Fisheries Commission, which focuses on stopping illegal or Illegal, unreported and unregulated (IUU) unreported and unregulated (IUU) tuna fishing in the Pacific. An important point to note is that this law is closely aligned with the WCPFC rules. Therefore, there will probably not be new regulations for tuna in Japan, such as a law banning tuna sourced from fishing vessels that violate labor rights, unless the WCPFC adopts such measures first. This is why a regional approach to advocacy through the WCPFC is extremely important in this sector. The Tuna Management Law requires vessels carrying certain kinds of tuna into Japan to produce catch certifications, especially for high-end species at risk of being illegally capture, such as frozen bluefin and bigeye tuna. The vessel must receive a certificate from its flag state verifying that the catch does not contain IUU seafood and disclosing certain information about the vessel that caught the fish. This certificate is then submitted to Japan’s Fisheries Agency for confirmation before the tuna can be imported.

There are a few major shortcomings in the current WCPFC framework, which Japan’s tuna law follows. Firstly, its definition of IUU fishing does not include labor or human rights abuses, although IUU fish and forced labor are often closely connected. It is worth noting that if “IUU” were redefined to include “labor and human rights violations,” the existing

WCPFC mechanism could function in favor of labor rights without the need to create a new or fragmented system. Second, the capacity or willingness to issue credible certifications varies by flag state, and there is a financial incentive for vessels to register under flag states with weaker capacity. A large percent of Japanese-owned or co-owned vessels importing to Japan are under Panama's flag state, and a measurable amount of IUU seafood still enters Japan every year despite existing laws. Third, even if a certification is credible when issued, there are many points in the supply chain where IUU seafood can be mixed with certified sea food, as mentioned earlier. As a result, the system is only as strong as the weakest link in the chain of tuna distribution.

The second law is called the "Act on Ensuring the Proper Domestic Distribution and Importation of Specified Aquatic Animals and Plants," which went into force in 2020. This law currently addresses only four species, and, by law, it can never cover tuna, which again is closely tied to the WCPFC. Nevertheless, this law employs a certification scheme similar to that of the Tuna Management Law for imported seafood, with a little more flexibility and the exact same challenges. When interviewed, a former official admitted that even regulators have a poor understanding of seafood distribution channels in Japan, which limits their ability to effectively enforce the law.

To summarize the major recommendations to fill these gaps, HRN have been calling for greater traceability and transparency to publicly track seafood vessel to vessel and facility to facility at every stage in the distribution, ensuring that there are no gaps for violating seafood to slip in. A call was made for the disclosure of suppliers down to the fishing crews, and a prohibition on the use of transshipments, which have proven to be too unreliable on traceability and have facilitated labor rights abuses. There is a need for mandatory legislation, as well as a redefinition of IUU fishing to include labor rights violations and other labor-oriented measures at the WCPFC level. This would allow much of the existing regime to be utilized and applied regionally to all members.

Case 4B: Seafood Industry

HRN has released a report in cooperation with the South Korean NGO APIL titled "Tuna in the Black Box: Human rights risks hidden in the opaque tuna supply chain from Korean

fishing vessels to the Japanese market.” Some of statistics highlighted in the report are: 87% of Sashimi Tuna Exports from South Korea are destined for Japan, 80% of workers on South Korea’s distant water fishing (DWF) vessels are migrant workers, and 30 crews reported exploitation in poor work conditions from 74 migrant workers on Korea-flagged DWF vessels.

Regarding the labor conditions of migrant fishers working on DWF vessels and tuna longliners (TLL), a very high percent are working 14 hours or more (DWF: 60%, TLL: 77%), and a substantial percent are working 18 hours or more (DWF: 26%, TLL: 30%). There is also a substantial percent sailing without entry to port for one year or more (DWF: 40%, TLL: 83%), and for two years or more (DWF: 7%, TLL: 17%). Migrants have reported in interviews that they lack breaks, holidays, and overtime pay, and they have reported violations in interviews in the following ways:

- “I would get physically hit if I rested and was abused on daily basis, so much so that I needed surgery, which I had to pay for myself.”
- “I had to pay a USD 500 fee to get my passport back, and I still haven’t received it.”
- “I had to pay a broker USD 120 every month as a fee.”
- “My work extended beyond the contract period, with two years without port entry.”

In the Tuna Report, HRN investigated the publicly available profiles and practices of six major Japanese sashimi tuna import and distribution companies and discovered the tendencies listed below. The companies surveyed were Toyo Reizo, Mitsubishi Corporation, Try Sangyo, Sojitz Corporation, AEON, and Seven & i Holdings.

It was found that only two companies had recently begun HRDD systems for tuna imports; one provided no information, and the other had systems not specifically addressing tuna. There were few details publicly available for all of the systems.

- Supplier lists were never available to the public in all cases.
- Investigations and monitoring of suppliers were limited to surveys and social audits.
- Accessibility to grievance mechanisms for workers was limited across all instances.
- Inadequate attention has been given to the discussion of human rights abuses within the context of IUU fishing discussions.



The report includes the following conclusions:

- Complex and untransparent supply chains conceal the prevalent risks of forced labor and human trafficking in the tuna fishery industry, allowing the system to operate without accountability for human rights violations.
- The Japanese government's policies and legislation limits the system's ability to identify and respond to forced labor and human trafficking during the fishing process.
- The absence of a cross-border accountability system prevents migrant fishers from addressing forced labor and trafficking by Japanese companies in their supply chains.

3. Current System

a. State Obligation to protect HR

(a) National Action Plan

On October 16, 2020, the Japanese government formulated an action plan on “business and human rights”⁹. However, no analysis was conducted to identify the gaps between the international human rights standard and the current situation/system in Japan prior to the development of the NAP. As a result, the plan became a mere list of measures relating to business and human rights that had already been addressed before. Furthermore, the NAP did not mention any concrete measures to encourage enterprises to implement

HRDD, including mandatory measures. Lastly, the NAP does not mention the national human rights institution, which is expected to play important roles especially in the area of access to remedies.

(b) Public Procurement

On April 3, 2023, the Japanese government decided to work to ensure that companies bidding on government contracts respect human rights. Specifically, the government stated that it would include a clause in the tender documents and contracts for public procurement that reads, “Bidders/contractors “Bidders/contractors should endeavor to respect human rights in accordance with the 'Guidelines for Respecting Human Rights in Responsible Supply Chains, etc.' (decided by the Inter-Ministerial Meeting for Promoting and Coordinating the Policies of the Relevant Ministries and Agencies for the Implementation of the Action Plan on Business and Human Rights, September 13, 2022).” However, this statement merely imposes a duty of effort on companies, and is not a requirement for public procurement bids, making it ineffective. In addition, there is no confirmation of any investigation into how many public procurement bid documents, contracts, etc. actually include this statement, so the rate of dissemination remains unknown.

(c) Import Ban

Japan lacks legislation to directly ban the import of products suspected of being linked to human rights abuses, such as forced labor. The import restriction is stipulated by Article 52 of the Foreign Exchange and Foreign Trade Act. The Article says that “For the purpose of achieving the sound development of foreign trade and the national economy, sincerely fulfilling obligations under the treaties and other international agreements Japan has signed, making Japan's contribution to international efforts for achieving international peace, or implementing a cabinet decision set forth in Article 10, paragraph (1), any person who intends to import goods may be obliged to obtain import approval pursuant to the provisions of Cabinet Order”. The government has not issued an interpretation which would allow for the import ban of products relating to human rights abuses based on this Article.

b. Business Responsibility to Respect Human Rights

There is no legislation on mHRDD in Japan yet.

On September 13, 2022, the Japanese government formulated the “Guidelines for Respect for Human Rights in Responsible Supply Chains.” While this is a step forward, it is extremely insufficient to provide relief to victims of the serious human rights abuses occurring around the world today. This is because the Guidelines are merely “guidelines” and not legally binding. While it is possible that some companies will voluntarily and sincerely engage in HRDD based on the Guidelines, it is inevitable that some companies will not take HRDD seriously. Currently, there is a huge disparity in HRDD efforts among companies in Japan. The biggest concern is that many serious human rights violations occur along the value chains of companies that do put importance in HRDD. In the absence of laws and regulations, these human rights violations will not disappear.

According to the "2023 Survey on the Actual Conditions of Overseas Japanese Companies Global Edition"¹⁰, released by the Japan External Trade Organization (JETRO) in November 2023, only 28.5% (including 4,025 large enterprises and 2,134 small and medium-sized enterprises) out of 18,726 Japanese companies surveyed have implemented HRDD. This means that the rest of 71.5% are failing to implement it. Reasons cited for non-implementation include lack of directives from headquarters or business partners, managerial considerations, an absence or limitations of supply chains, shortage of manpower or inability to allocate resources, lack of understanding of specific methodologies, insufficient understanding of HRDD, and perceived insignificance due to company size or business model. Despite the relatively small sample size of 73 companies due to the survey targeting Japanese companies, it is noteworthy that HRDD implementation of Japanese companies in South Korea showed a significant increase by 35.6%, a substantial increase of 9.1 points compared to the previous year. This increase is notable in light of the proposal for the first Asian human rights and environmental due diligence law in the South Korean National Assembly. Japanese companies in Australia, the UK, and Germany, where efforts towards legislating HRDD obligations are advancing, have also shown progress in HRDD compared to the previous year.

Furthermore, the "Results of the 3rd Survey on Corporate Behavior Charter,"¹¹ released by the Japan Business Federation (Keidanren) in January 2024, reveal that 76% of

respondent companies are making progress on initiatives (including partial implementation or planned implementation) based on the UNGPs. However, this data is based on the responses of only 286 out of 1,539 member companies of Keidanren, representing a response rate of 19%. Moreover, uncertainties remain regarding the actual HRDD implementation in line with the UNGPs due to ambiguous criteria, as the phrase "making progress on initiatives" includes both "partial implementation and planned implementation." For example, while "human rights policy" (90%) and "measures taken to incorporate human rights policy internally" (64%) are frequently disclosed, there seems to be a lack of progress in disclosing information regarding the stage of HRDD implementation, such as "implemented corrective measures or cooperation for them" (28%), "criteria for prioritization" (31%), and "means to track implementation status and results" (41%). It can be inferred that information disclosures regarding HRDD implementation are not making progress in Japan. Additionally, from the summary table regarding human rights risks perceived as of high importance, it can be inferred that the human rights risks to a company's/group's own employees are emphasized more compared to those affecting business partners' employees. It also raises questions about whether prioritization is conducted according to the criteria required by the UNGPs, which focus on the severity of actual and potential human rights impacts (scale, scope, remediability). Moreover, in terms of establishing mechanisms for corrections and complaint handling, it was reported that improvements are needed to ensure accessibility for a wide range of stakeholders including socially disadvantaged individuals who are more susceptible to human rights violations. The current mechanisms of the companies appear biased towards their own employees, domestic subsidiaries, and affiliates.



Hikvision surveillance camera

Considering the continued inadequacy in HRDD implementation by Japanese companies compared to international standards, it is necessary to establish a public Help Desk to provide guidance and support for individual companies, similar to what is institutionalized in Germany. Additionally, the next step should involve proceeding with legislation that mandates information disclosure and HRDD implementation for large enterprises, moving beyond mere guidelines.

c. Access to Remedy

The biggest problem with the Grievance Mechanism in Japan is the absence of a National Human Rights Institution (NHRI), even though many recommendations have been reiterated by the UN treaty bodies.

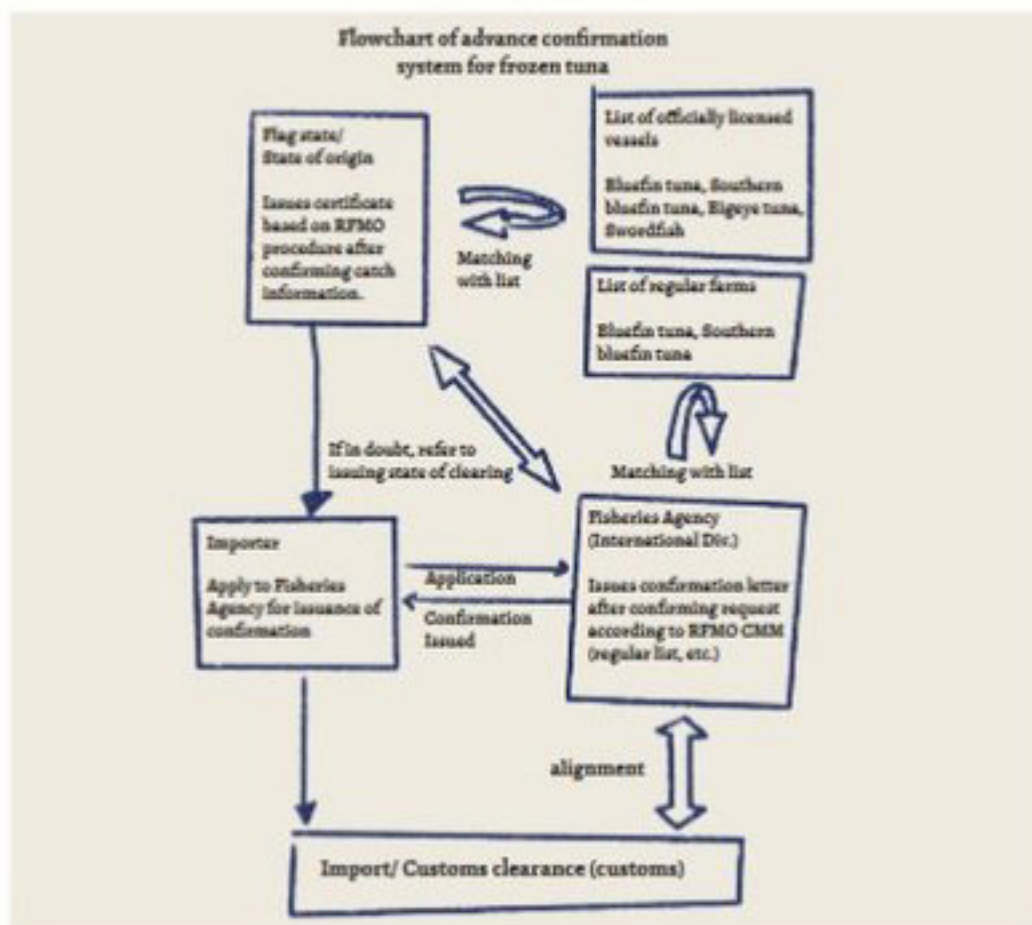
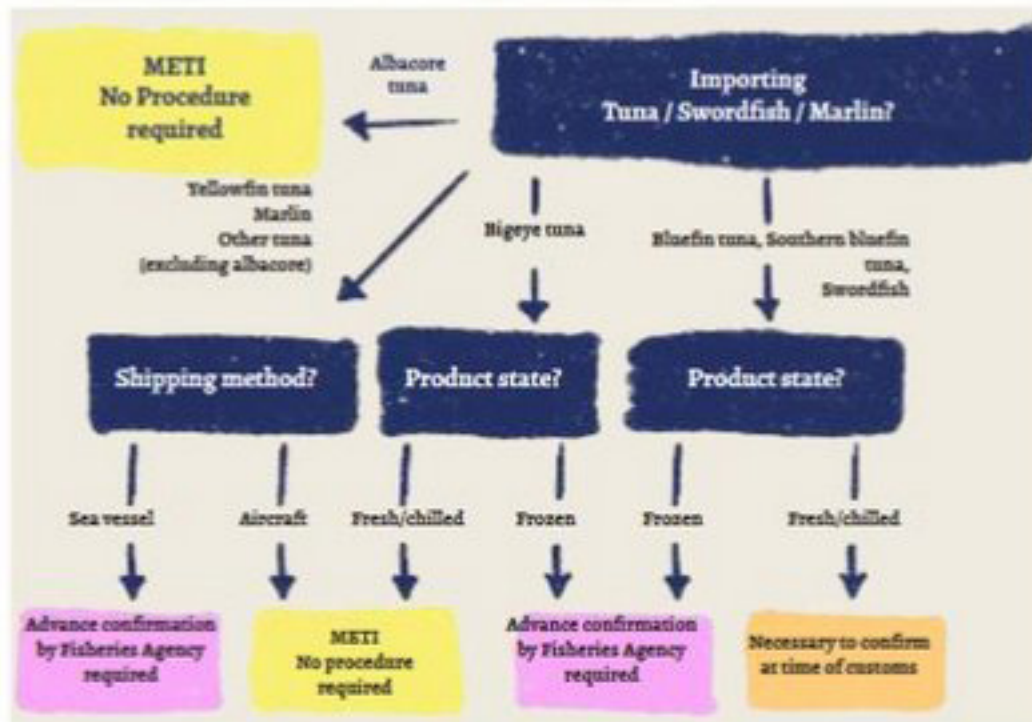
Japan also has difficulties with its own National Contact Point (NCP). The Japanese NCP is an interagency NCP that includes representatives from three ministries within the government: Ministry of Foreign Affairs, Ministry of Justice, and Ministry of Health, Labor and Welfare.

According to the Ministry of Foreign Affairs, over the 23 years since its establishment in 2000, a total of 15 specific instances have been submitted to the NCP Japan. Given that the Japan Business and Human Rights Dialogue and Relief (JaCER), established in 2022, had received over 70 cases in two years¹², the number of submissions to NCP Japan does not fully reflect the human rights reality in the country.

According to the OECD, developing a Promotional Plan is considered best practice to identify their context-specific priority areas and allocate resources efficiently¹³. While many

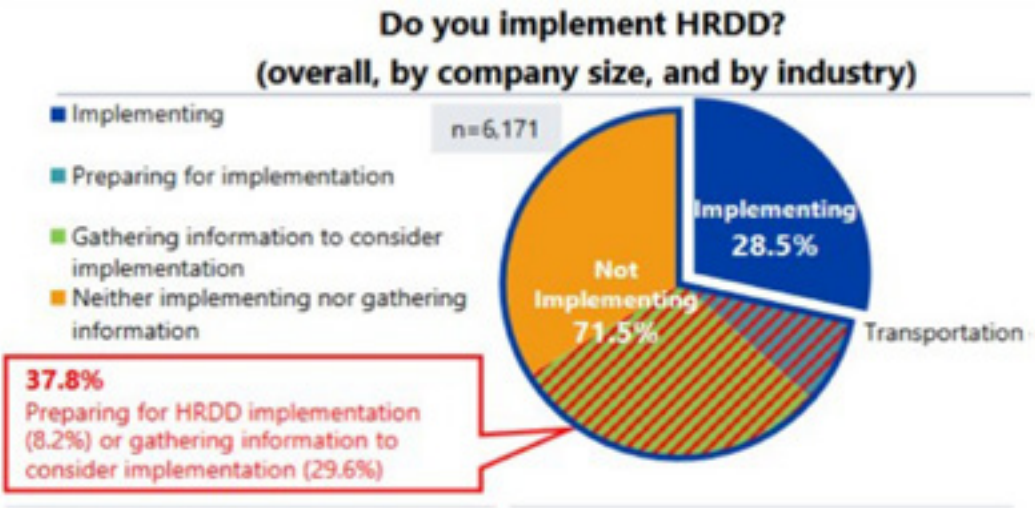


Figure 11: Flowchart of certification for tuna import



countries have developed their plans, Japan has not yet done so. Furthermore, in 2022, NCP Japan did not make any efforts to promote OECD guidelines targeting NGOs¹⁴. In the UK, which received the largest number of specific instances in 2022 (59 cases)¹⁵, 12 events were organized for stakeholders, including civil society organizations, as part of a promotional plan. Meanwhile, NPC Japan hosted zero events. Given that NPC Japan has 11 staff members¹⁶, the largest number among all NCPs, it is expected that the promotional plan will be formulated as soon as possible to strengthen public awareness activities.

NCPs are also problematic in that they require high standards of proof. NCPs impose a high burden of proof at the initial assessment phase, and many complainants are rejected due to insufficient evidence or a breach of the OECD Guidelines. Additionally, 70% of the outcomes of specific instances concluded in 2022 did not result in an agreement, with 44% of them failing due to refusals of engagement by the parties involved. Among 13 specific



instances completed in Japan, three were rejected and eight were concluded without agreement. Only one case was fully resolved by the Japanese NCP¹⁷. This indicates that the NCP is not functioning as an effective remedy for complainants.

NCP Japan should not require excessively high standards of proof. Instead, it should make efforts to encourage companies to engage more in the process when allegations arise. Moreover, in cases where human rights violations are reasonably suspected, NCP Japan should make strong recommendations to companies in its final statement.

4. Way Forward

The current situation in Japan presents two conflicting trends with regards to BHR advocacy and expectations for developments. On one hand, recent events have increased pressure on the government to develop BHR legislation and policy: the blocking of Uniqlo imports to the U.S. in May 2021 due to its links to forced labor of Uyghurs in Xinjiang China; the Johnny Kitagawa sexual abuse scandal, which gained attention after a BBC documentary was released in March 2023 indicating the need for corporate accountability; the visit by and recommendations of the UN Working Group on BHR in July 2024; statistics showing an increasing use of HRDD by companies in 2023; and other external developments such as passage of mandatory due diligence legislation in the EU and several European trading partners, and progress on EU-level import ban rules for products made with forced labor. This places the government under pressure to harmonize its legislation and policy in the direction of greater BHR protection in order for Japanese companies to maintain market access to the U.S. and EU and to level the playing field for transnational corporations already respecting foreign requirements.

On the other hand, the current government has been weakened by a corruption scandal, internal party in-fighting, declining popular support, and a struggling economy with weak a yen. All these present a challenge for pushing for ambitious BHR legislation that may be perceived as “anti-business.” Additionally, small and medium-sized enterprises (SMEs), which are more insulated from the pressures of global trade and developments, have relatively greater influence with the government compared to large companies.

Nevertheless, within this context, advocacy NGOs are pushing for new BHR legislation, such as an mHRDD law and an import ban on products of forced labor, as well as other reforms in a

variety of ways to maximize the chances for progress on BHR issues, including the following:

- Discussions are ongoing with politicians and legislators in the National Diet across the political spectrum to build support for new legislation and to counter typical concerns with BHR legislation that are unwarranted and resolved with greater understanding.
- Efforts are focused on building relationships with influential corporations to build support for new BHR legislation and to add pressure on politicians.
- Institutional reforms are recommended to ensure that any new legislation will be effective, including the creation of a central NHRI, and clarification as well as better coordination among ministries regarding their responsibilities, enforcement, and implementation of BHR legislation and policy.
- Dialogues is underway with the U.S. and European CSOs to understand how they brought about the passage of strong BHR laws and policies in their respective jurisdictions, including the CSDDD in the EU, so that approaches in Japan's context can be applied.
- Public events, reports, and guidelines are being organized to provide more detailed information, to raise awareness and educate both policymakers and the public about the importance and need for new BHR legislation and what such legislation should look like.
- Efforts are also focused on building regional networks and having dialogues with other Asian CSOs to strengthen solidarity and learn from each other's experiences, including by developing joint projects on regional BHR issues.

Korea

1. Country Context

The Miracle of the Han River - Compressed Economic Growth in the 20th Century

At the turn of the 20th Century, after 36 years of colonization by Japanese imperialism and a war that broke out shortly after independence, South Korea was one of the poorest new nations in the world, with no political or economic foundation until the mid-20th Century. Lacking capital, technology, or natural resources, South Korea became a host country for TNCs seeking cheap labor. The country's economic growth was driven by the export of labor-intensive goods such as textiles, shoes, and wigs. Since the 1980s, Korea's economic indicators, such as Gross Domestic Product (GDP) and Gross National Income (GNI), have grown significantly, along with infrastructure construction and stabilization of the political system through the pro-democracy movement. In 1996, Korea joined the OECD and became one of the 'developed countries.' In particular, industries such as semiconductors, automobiles, and shipbuilding have become dominant in the global market, transforming the country from a host nation for TNCs into a home country, and shifting its status from an ODA recipient to an aid donor.

Overseas Expansion of South Korean Capital and Labor Rights Abuses

Since the mid-1980s, the overseas expansion of the manufacturing industry of South Korea, or the relocation of factories, has been active in Asia and North America. In North America, significant capital and technology-intensive investments have been made in the heavy chemical sector, such as steel and non-ferrous metals. Meanwhile, in Asia, small-

scale overseas investments have focused on labor-intensive and cost-saving industries such as textiles and apparel, electrical and electronic, and other manufacturing industries. This trend accelerated after the 1987 "Great Workers' Strike," which led to significant changes in capitalist social relations, including higher wages, shorter working hours, more unions and union members, and an increase in labor disputes. SMEs that had relied on low-wage labor began to actively expand into Asian countries that offered low-wage labor based on strong labor controls.¹⁸

However, along with this trend, were practices such as low wages, poor working conditions, inhumane management, repressive labor management, and frequent labor disputes were also exported and have been criticized. For example, the Dongjae Indonesia Company, which produces and exports Western-branded shoes in Indonesia, prohibited Muslim workers from wearing Muslim clothing, provided poor-quality food, and forced them to work night shifts. In 1992, when the workers organized protests, the protesters were interrogated by military authorities and subsequently fired. In the Indonesian operations of Kyungdong Industry—a company in Korea notorious for producing a bag of chopped-off fingers of the workers every month—workers were penalized with corporal punishment for being late. The workers organized a protest in 1993, when 12 reportedly fainted, four taken to the hospital while taking the corporal punishment. In Vietnam in 1994, it was reported that more than 1,000 workers protested against long working hours and low wages imposed by Korean companies. In China, Korean companies reportedly used violence and corporal punishment against workers for slow work, with more than ten strikes occurring in 1993 alone.¹⁹ These incidents were criticized as a form of neo-imperialism, transplanting the practices of Korean capitalist accumulation to the poorer countries overseas.²⁰

Korean civil society's response

In the 1990s, Korean civil society activists became aware of human rights violations by Korean companies operating overseas. In 1995, a special committee on overseas business issues was established under the Human Rights Center of the People's Solidarity for Participatory Democracy. In 2000, the Korean House for International Solidarity was established and produced a white paper on human rights abuses by Korean companies abroad. The organization also began its active involvement in the Asian Transnational Corporation Monitoring Network, a network of trade unions and organizations in Asia, to respond to labor rights abuses by Korean companies in Myanmar, the Philippines, Indonesia,

and others. In this process, Korean CSOs sent letters to the headquarters of corporations in South Korea to verify the reported abuses. They also attempted to pressure the companies to resolve the issues by holding public discussions, press conferences, and engaging with the media. In 2007, the first complaint was filed with the South Korean NCP about labor rights abuses at Phils Jeon, a Korean company in the Philippines. However, the complaint was not resolved due to the NCP's lack of understanding of multinational guidelines and inadequate complaint procedure.

In 2008, the "Overseas Korean Business Monitoring" network was formed in response to the human rights violations in POSCO's steel industrial complex construction project in India. After the adoption of the UNGP in 2011, the Korean Transnational Corporations Watch(KTNC Watch) was established to address the human rights conditions of Korean companies operating overseas through a business and human rights framework. Since then, the network has conducted field research in Asia and Latin America between 2013 and 2016 and published reports on labor rights violations and various human rights and environmental issues in Korean companies' overseas operations.

South Korean-based TNCs' active expansion overseas

The number of South Korean companies expanding overseas has been steadily increasing. As of December 2022, 11,567 companies established overseas operations, with the majority located in Southeast Asia (50.5%), followed by China (20.2%), Europe (7.1%), and North America (6.3%). In particular, 46.4% of their production subsidiaries are in Southeast Asia, where they are likely to produce labor-intensive products using low-wage labor and secure production bases for export to third countries.²¹ Korean companies have transitioned from providing products within the supply chains of Western brands to becoming a country with global brands made in Korea. They have expanded their electronics and automobile production bases around the world. Samsung Electronics, in particular, has large-scale operations in Vietnam and has had a significant impact on the Vietnamese economy and society, but there have been reports of abusive labor conditions of female workers and environmental concerns due to chemical mismanagement.

In addition, human rights and environmental issues arising from infrastructure development projects funded by Korean ODA have been repeatedly exposed. For example, the Jalaur Dam development project in the Philippines caused the destruction of the livelihoods of Indigenous

peoples and oppression against human rights and environmental defenders. The Xe Pian-Xe Namnoy Dam in Laos, developed with Korean ODA, collapsed due to poor construction, and resulted in human casualties.

Korean companies have been involved in human rights violations and environmental destruction while developing resources around the world. For example, POSCO International's Shwe gas development project in Myanmar was condemned by the international community for the use of forced labor during the military dictatorship. After the military coup in Myanmar in 2021, the project, along with the Korea Gas Corporation, was criticized for funding the military, but due to the lack of clear standards for considering human rights factors in operations within conflict zones, Korean companies have continued their activities.

The following chapters will introduce cases of the adverse impacts of Korean companies' overseas operations and the responses from civil society. Also, an overview of Korea's current systems regarding corporate responsibility to respect human rights as well as suggestions for improvement will be provided.

2. Case Studies

Case 1: Posco Myanmar Gas

Project Tied to the Military Regime

In 2000, POSCO International (formerly Daewoo International) signed a contract with Myanmar's state-owned Myanma Oil & Gas Enterprise (MOGE) to extract and sell gas from the A-1 block off the coast of Rakhine State in Myanmar. At that time, Myanmar was under a military dictatorship, and the project involved not only POSCO International but also the Korea Gas Corporation and Indian companies as part of a consortium. The project to transport natural gas extracted from the sea to an onshore storage facility is operated by a consortium in which POSCO International holds a 51% stake. The transportation of gas from the onshore storage facility to China via pipeline is handled by a separate joint venture, in which China National Petroleum Corporation holds a 50.9% stake. This project, which began in 2000, involved extracting gas from three gas fields, and commercial production officially started in 2013.²² Named the SHWE (meaning "gold" in Burmese) project, it attracted significant attention both domestically and internationally due to the involvement of the South Korean government, which supported the project with tax funds under the Overseas Resource Development Act, and the participation of South Korean public enterprises.

This project has continuously faced issues because it provides significant revenue to the Myanmar Oil and Gas Enterprise (MOGE), which is operated by the military. Myanmar has been a country where the military maintained a dictatorship by suppressing the democratic opposition and ethnic minorities prior to the 2015 general elections. For MNCs to operate in Myanmar, cooperation with the military is essential. POSCO International has maintained a close relationship with the Myanmar military, as evidenced by cases of punishment from the South Korean authorities for arms trading during its predecessor, Daewoo International (such as illegal export of shells in 2006²³ and warship exports in 2022²⁴). In particular, the gas development project has become a target of international criticism since the military coup in Myanmar in February 2021. This is because MOGE, which profits from this gas development project, was under military control even before the coup, from 2015 until February 2021, and has clearly become a source of revenue for the military after the coup.²⁵ Despite this criticism and controversy, POSCO International continues to expand its business.

Press Conference seeking POSCO to cut ties with Myanmar Military in front of HQ of POSCO © KHIS



Response of Civil Society

The response of South Korean civil society to this issue began in earnest after the Korean House for International Solidarity (KHIS) hosted a forum titled "What's Wrong with the Burma Gas Development?" in April 2005.²⁶ Following the forum, KHIS conducted field investigations in Myanmar(2006/2013) and continued protests in South Korea alongside Myanmar migrants, including demonstrations in front of POSCO International's headquarters. On October 29, 2008, KHIS, Earth Rights International (ERI), and six other organizations filed a complaint against POSCO International (then Daewoo International) and the Korea Gas Corporation with the South Korean NCP for violating the OECD Guidelines for Multinational Enterprises. However, on November 27, 2008, the Korean NCP dismissed the complaint, a decision criticized for its hesitant conclusion within less than a month, seemingly favoring the company's position.²⁷ This decision was met with criticism both domestically and internationally. ERI and the Shwe Gas Movement (SGM) published a report on June 15, 2009, titled "A Governance Gap," which was submitted to the OECD Investment Committee, responsible for overseeing the implementation of the OECD Guidelines. The report argued that the Korean NCP's decision demonstrated significant shortcomings in adhering to the OECD Guidelines.²⁸

Another issue raised during the construction of onshore facilities was land expropriation. It was reported that lands were forcibly seized from residents without adequate explanation or compensation. As a result, Myanmar residents filed a lawsuit against POSCO International in the Seoul Central District Court in March 2016. The court stated in October 2020 that it was necessary for the Myanmar residents involved to appear in person at the South Korean court, but this was delayed due to the COVID-19 pandemic. This case is currently under appeal.

Following the military coup in Myanmar in February 2021, South Korean civil society has continuously urged POSCO International to stop payments of revenues to MOGE. On May 4, 2021, a press conference was held in front of POSCO's headquarters, where 10,485 signatures were delivered to the company, demanding the cessation of payments.²⁹ Additionally, in November 2022, the UN Special Rapporteur on the situation of human rights in Myanmar, who officially visited South Korea, pointed out that "between USD 200 million to USD 400 million annually flows to MOGE from the gas development project" and recommended that South Korea enact a law to require corporations to conduct HRDD.³⁰ In response, South Korean civil society, along with 15 members of the National Assembly, proposed an

amendment to the Overseas Resources Development Act on December 8, 2022, which would mandate HRDD for resource development projects in conflict zones like Myanmar.³¹

The Ongoing Shwe Project

Although it has been 23 years since South Korean companies began gas development projects in Myanmar, controversy over the projects continues. POSCO International has gained substantial profits from this venture but is evading responsibility for its cooperation with the Myanmar military. While it explains that payments to the MOGE have been suspended since the EU sanctioned MOGE in February 2022, it fails to clarify why the project is still ongoing. This indicates that the international community has failed to impose effective sanctions on POSCO International. South Korean civil society, alongside civil society groups in Myanmar and the United States, has mobilized various means to campaign against this project. They have pursued actions under the OECD Guidelines for Multinational Enterprises, filed lawsuits, and conducted signature campaigns. Press conferences and protests have been ongoing for over 18 years. However, there has been no actual cessation of payments from the gas development project by South Korean companies in Myanmar, nor has there been a proper application of human rights and environmental due diligence. POSCO International claims that it conducted a human rights impact assessment for its gas development project in Myanmar and publicly disclosed in its 2022 sustainability report.³² However, POSCO International's human rights assessment further underscores the necessity of a law mandating human rights and environmental due diligence. The fact that the self-conducted human rights assessment merely serves as a cover for the company is evident in POSCO International's report. The report lacks information on the criteria used for the evaluation, and there was no communication with stakeholders. Most importantly, it raises doubts about whether the human rights risks associated with a military coup were reflected in the human rights assessment process.



Press conference seeking accountability of Korean owner who fled without paying wages to Indonesian workers © APIL

Case 2: South Korean Garment Factories Around the World

The garment industry is where human rights violations by overseas South Korean companies occur most frequently. As labor costs increased, Korea's garment and textile industry began relocating factories worldwide. Korean companies expanded to China, Southeast Asia, Southwest Asia, Latin America, and any region with low labor costs and weak regulations. More recently, they have even moved to Africa. The garment industry inherently carries significant human rights risks. Because it employs a large number of workers and requires little skill, the industry operates large-scale production facilities in underdeveloped countries where state support and industry demands intersect. This often results in low wages, long working hours, inadequate safety and health systems, and repression of labor unions. In pursuit of profit, global fashion brands pass costs down the supply chain to subcontractors, who, in turn, impose harsh working conditions on workers. The problem is that while some Korean garment companies have their own brands, many are positioned as subcontractors within this global supply chain.

Several significant cases of human rights violations have emerged from these Korean-owned garment factories. One of the most notorious cases occurred at Daewoo Samoa, a garment factory owned by a Korean national that opened in American Samoa in 1999. The factory employed 200 Vietnamese workers who were forced to work under deplorable conditions. For a year, these workers endured forced labor that included confinement and physical abuse. Although the US Department of Labor began an investigation, the Korean owner fled with the money.³³ This case is one of the worst examples of forced labor in a Korean garment factory.

The case of Phils Jeon in the Philippines starkly illustrates union repression by a Korean

garment company. In 2004, workers legally established a union, which the Philippine Supreme Court recognized. However, the company refused to acknowledge the union. During a legal strike in September 2006, the company used police and hired thugs to violently suppress the workers. When two female union members continued their sit-in in front of the factory for eight months, assailants appeared in May 2007, kidnapping the women and destroying their protest site. The Phils Jeon union visited South Korea twice, in 2007 and 2011, to hold solidarity rallies with the Korean Confederation of Trade Unions (KCTU) in front of the company's headquarters. In September 2007, they filed a complaint with the Korean NCP, but the NCP took no action. Phils Jeon's headquarters also ignored the workers' plight, citing financial difficulties. Despite their prolonged struggle, the workers ultimately received no compensation.

Wage theft and sudden escapes by Korean factory owners are also common occurrences. In October 2018, the owner of SKB, a Korean-owned garment company in Indonesia, disappeared after failing to pay the workers. Indonesian workers were owed approximately KRW 6 billion in wages, and with no other recourse, they were forced to occupy the factory. On March 7, 2019, in an unusual move, President Moon Jae-in ordered the resolution of this case, prompting Korean police and other relevant authorities to intervene. As a result, the workers were finally able to receive their unpaid wages, but it took intervention at the highest level to resolve the situation.

Following this incident, the South Korean government announced measures to support labor management for Korean companies abroad, but these measures have not provided a fundamental solution. This is because in the garment industry, business owners with a history of human rights violations, including wage theft, can still secure production orders from global brands as long as the conditions are favorable.

Responses in South Korea

In the garment industry, responses in South Korea face several challenges. First, many of the garment factories where human rights violations occur are small in scale and primarily focused on production, often without a headquarters in South Korea. This makes it difficult to utilize the OECD Guidelines for Multinational Enterprises procedures or organize protest actions in Korea. Additionally, even larger production companies with headquarters in South Korea tend to have lower public visibility than companies in other industries. While protests and other actions have been organized in front of company headquarters, and the Korean

media has reported on these events, public interest remains relatively low. For companies that supply to global brands, it has been more effective for local labor unions and international NGOs to pressure the global brand directly. The reduction in human rights violations in Korean garment factories can largely be attributed to global brands strengthening their management of supply chains.

However, in situations where the influence of global brands is limited, responses have sometimes involved collaborating with local labor unions and labor organizations to share cases with the local Korean embassy. Korean embassies generally take a passive approach to resolving such issues, as their primary role is to protect Korean nationals. However, many Korean garment companies maintain close relationships with these embassies and even having the embassy contact the company to inquire about the situation can put pressure on the company. Nonetheless, this approach may not be as effective, particularly with smaller companies.

Need for Joint Efforts on Global Supply Chains

For a long time, organizations such as ILO and NGOs such as the Clean Clothes Campaign have made significant efforts to mitigate human rights violations in the garment industry. While the role of global brands has been emphasized, human rights violations in the garment sector persist.³⁴ Therefore, further research is needed on the risks of human rights violations posed by South Korean companies within the global supply chains of the garment industry. It is especially urgent to engage in social discussions on applying human rights and environmental due diligence to South Korean companies producing garments in conflict zones or areas with high risks of human rights violations.

Case 3: Electronics Giant Outsources Environmental Risks to Vietnam under Double Standards

Recurring illnesses, outsourcing of toxic processes

Samsung's occupational disease problem started with reports of leukemia at Samsung's semiconductor factory in 2007 and became a social issue. In 2024, cases of occupational

disease are still reported mainly from Samsung's domestic suppliers. Workers at Samsung Electronics' Giheung plant were recently exposed to radiation. However, the company continues to outsource facility maintenance, a typical risky task in semiconductor plants, and relocate Samsung plants overseas. The following demonstrates that Samsung is outsourcing its risks across borders through the issues presented in the report "Investigations by Samsung Show Irresponsible Chemicals Management and Pollution of Vietnam's Environment," published in June 2024.³⁵

The electronics industry developed in close cooperation with the Vietnamese government

Samsung, which has been operating in Vietnam since 1996 as one of the largest foreign investors in the country, producing home appliances and about half of Samsung's mobile phones worldwide. In 2022, Samsung's subsidiaries in Vietnam generated a total revenue of VND71 billion and exported USD 65 billion worth of products, accounting for 9% of the country's total trade revenue. Samsung operates eight plants in Vietnam and plans to expand its investment to produce electronic components for semiconductors.

However, in 2017, interviews with female workers at Samsung's mobile phone factories in Vietnam became public, revealing excessive working hours, labor contract violations, lack of safety training, insufficient breaks, and health issues related to chemical use. In the process, Samsung Electronics Vietnam denied the workers' claims, criticized them as baseless accusations and false and inaccurate information. It responded inappropriately by threatening the researchers and workers who participated in the report.

Environmental Pollution at Samsung Factories in Vietnam

Samsung took advantage of lax environmental regulations and monitoring in Vietnam to emit pollutants for years at its cell phone factory in Bac Ninh, Vietnam, due to a lack of toxic wastewater treatment facilities and poor air pollution control design and operation. Pollution also resulted from poor waste management, including failure to separate designated waste from general waste and the lack of ventilation systems in areas where toxic chemicals were used, which routinely exposed workers to chemicals. Top executives at Samsung's headquarters in South Korea were informed of these issues, but instead of taking action, they covered up the problems. Samsung's other operation in Vietnam, a home appliance factory



Samsung Electronics Vietnam ©APIL

in Ho Chi Minh City, was also found to have serious violations of the regulations until 2021, including water pollution and chemical leaks that harmed workers.

Samsung is obligated to report the amount of chemicals discharged into the air, soil, water, and waste under Pollutant Release and Transfer Registry (PRTR) regulations in Korea, and the information is publicly available. However, before the PRTR was enacted in 2020, Samsung did not report on chemical emissions from its operations in Vietnam due to lack of regulations. It remains unclear whether Samsung started to report on its chemical emissions in Vietnam even after the system was implemented.

Outsourcing pollution

The production of a cell phone requires 1,500 components, which are manufactured and imported by more than 100 suppliers in Vietnam. Some of these suppliers are as large as Samsung's factories but have low environmental health and safety awareness and capacity. In 2017 and 2018, Samsung outsourced toxic chemical-intensive processes such as plating, painting, and printing processes that emit large amounts of air pollutants to suppliers. Samsung's pollutant management of its suppliers is carried out through its Environmental Health & Safety (EHS) team, and between 2016 and 2019, the EHS team at Samsung's Bac Ninh factory assessed the suppliers' compliance with environmental health and safety regulations and found more than 13,000 violations. Violations included poor design of air pollution prevention facilities, poor management of air pollution prevention technology, unauthorized discharge of toxic wastewater, illegal sewage discharge, and bad practices of polluting waste management. However, the team's oversight of suppliers was limited to a few people.

In 2022, loud noises and "unclean smoke" from Samsung supplier SIT Vina were reported in the Vietnamese news. Local residents suffered from headaches, breathing difficulties, and chest pain due to smoke from SIT Vina's chimneys, and many suffered from respiratory illnesses, coughs, and pneumonia.

In addition, Samsung's Vietnamese suppliers frequently discharged untreated chemical wastewater and domestic sewage directly into stormwater sewers leading to the river, which was discovered by the EHS team at Samsung's Bac Ninh factory. The EHS team at Bac Ninh factory also discovered many cases of oil and chemical leaks, as many suppliers lacked facilities to prevent the spread of chemicals, such as proper storage areas for chemicals or designated wastes and spill prevention devices required for facilities with risk of chemical leakage.

Poor supplier management

However, Samsung's management has not taken any action against suppliers' EHS violations and maintains business relationships with them. No improvement measures were taken even after the violations were detected. A typical example is a supplier that failed safety assessments for factory expansion and processes, and received a poor improvement rating, later experienced a dust exhaust pipe explosion that injured 34 workers. Despite the accident, Samsung continued its business relationship with them.

Samsung claims that it is responsibly managing the use of toxic chemicals in its factories and suppliers, including limiting the use of methanol and other substances. However, Samsung regulates only 25 substances, and only two are completely banned: benzene and normal hexane. This lack of regulation has led to 37 workers at one of Samsung's suppliers becoming methanol poisoned, but Samsung has not taken any measures to address the accident. Samsung relies on suppliers' self-reporting of chemical use, and it is difficult to expect the suppliers to report honestly regarding the use of the banned chemicals as they could be disadvantaged if the use of the banned chemical is discovered.

The path to a safe and healthy labor environment

In response to these concerns, Samsung said that it had immediately taken steps to improve the management issues noted in its own environmental safety inspections in 2012.

"Samsung Electronics suppliers are required to fully comply with all applicable laws and regulations, establish management systems that ensure a safe working environment and respect for workers, and conduct business ethically... This Code is based on global standards, including the Responsible Business Alliance (RBA) Code of Conduct, the Universal Declaration of Human Rights, and the United Nations Guiding Principles on Business and Human Rights (UNGPs)... In the event of a conflict between this Code and local laws and regulations, the stricter standards shall prevail."

This is what Samsung's Code of Conduct for Suppliers professes to be. Samsung should honor its commitments with action, not empty words.

Civil society organizations in Korea and abroad are demanding that Samsung disclose the list of chemicals used in its operations, conduct independent health studies to determine the extent of the impact on workers' health, and develop preventive measures to protect against exposure to toxic chemicals. Samsung should uphold a range of human rights principles set out in the UN Special Rapporteur's report, including the right to a clean, healthy, and sustainable environment, the right to safe and healthy working conditions, the right of the child to a clean, healthy and sustainable environment, and the UNGP.

"Samsung's internal investigations show its management is unwilling or unable to carry out its public human rights commitments. Policymakers, regulators, and health advocates should be working to ensure that the grim history of pollution, occupational illness, and death in the South Korean electronics industry is not repeated in Vietnam, India, Indonesia, Brazil, or any other country." - Dr. Joe DiGangi, IPEN(International Pollutants Elimination Network) Special Counsel at IPEN

"Many of the illnesses and deaths that Samsung tried to hide in South Korea are likely continuing internationally. Samsung must fulfill its social responsibility before it is too late. 'The Act on the Protection of Human Rights and Environment for Sustainable Business Management' should be passed to monitor environmental pollution and human rights violations occurring throughout the corporations' supply chains." - Sang-soo Lee, activist at SHARPS Supporters for Health and Rights of People in Semiconductor Industry



The damage observed in some villages in October 2018 after the collapse of saddle dam D of the Xe Pian-Xe Namnoy hydropower project in Southern Laos © International Rivers

Case 4: Collapse of the Xe Pian-Xe Namnoy Hydropower dam in Laos

Catastrophe overview

On July 23, 2018, the Xe Pian-Xe Namnoy Hydropower Dam, built on the Bolaven Plateau in Champasak Province, Laos, collapsed, sending nearly 500 million tons of water down the plateau and flooding villages in Attapeu Province.

According to various reports and the Lao government, 71 people were killed, approximately 14,440 people were displaced, and 19 villages were affected by the collapse of the Xe Pian-Xe Namnoy dam.³⁶ Houses in the six villages hardest hit by the torrential waters that descended from the highlands were smashed, and rice fields were buried in thick mud. Cambodia's lower Mekong region was also flooded, forcing some 25,000 people to evacuate to higher ground.³⁷

The Xe Pian-Xe Namnoy Dam project is a large-scale public-private partnership project. It is designed with three main dams (Xe Pian Dam, Xe Namnoy Dam, and Huay Makchan Dam) and five auxiliary dams (A, B, C, D, and E); Auxiliary Dam D failed.

The Xe Pian-Xe Namnoy Dam is operated by PNPC, a joint venture between South Korea's SK Engineering & Construction (26%), Korea Western Power (25%), Thailand's Ratchaburi Power (25%), and Lao government company LHSE (24%). Of the project cost, 30% was funded by equity and 70% by loans. Of this amount, LHSE's share was provided by the Korean government through the Economic Development Cooperation Fund (EDCF) in the form of a loan to the Lao government. In addition, SK E&C constructed the dam, and KEPCO operated the dam, with Ratchaburi Power taking charge of supervision.

ODA as a bridgehead for Korean companies' overseas expansion

According to the Korea Trade-Investment Promotion Agency's (KOTRA) Economic Diplomacy Utilization Portal, the purpose of EDCF-supported projects is to "support Korean companies' expansion into overseas markets through the provision of long-term, low-interest, concessional loans to developing countries."³⁸ This description sounds quite different from Article 1 of the Foreign Economic Cooperation Fund Act which stipulates that the purpose of the EDCF is to "support the industrial development and economic stability of developing countries and promote economic exchanges."

According to a 2022 report by the Organization for Economic Cooperation and Development, 99.7% of aid through the EDCF is tied aid (0.3% is partially non-binding).³⁹ Tied aid refers to the provision of loans that restrict the purchase of goods, materials, and services to companies of the donor country. Tied aid has been shown to increase the cost of projects by 15-30%, and the OECD's Development Assistance Committee (OECD DAC) adopted the DAC Recommendation to Untie Official Development Assistance to the Least Developed Countries in 2001, which has been revised and expanded several times since then.⁴⁰ South Korea is a member of the OECD DAC, but its EDCF implementation has remained largely unchanged.

Missing Accountability and Remedies Dictated by Lao Government and Corporate Interests

SK E&C has consistently claimed force majeure due to natural disaster, not construction negligence, as the cause of the dam collapse. PNPC and KEPCO, on the other hand, have claimed flawed construction.

Immediately after the accident, the Lao government formed a national investigation

committee. The findings of the independent expert committee composed of world-class dam experts released on May 28, 2019, pointed to a piping phenomenon that occurred in the silt layer of the foundation of the auxiliary dam and the resulting circular collapse of the foundation as the cause of the dam collapse. This pointed to faulty construction which had not sufficiently taken into account the geological attributes of the foundation as the cause of the collapse. However, SK E&C immediately issued a statement refuting the findings. The full report of the independent expert committee was never made public, and the official process to determine the cause of the accident and whom to hold accountable was suspended. SK E&C, which provided the funds for compensation payments in the form of shareholder loans to PNPC, has since filed an arbitration claim against PNPC at the ICC International Court of Arbitration in Singapore for approximately USD 200 million, arguing that the dam collapse was an accident caused by force majeure and that PNPC should bear the costs. In other words, the cause of the dam's collapse is being argued in a closed international arbitration tribunal which decides the cost-sharing between the companies involved while excluding the participation and access of the affected residents. The remedy for the damage was also dictated by the interests of the companies involved and the Lao government rather than the wishes of the affected people. Delays in restoration have forced the affected people to endure harsh conditions for more than three years in unsanitary and impersonal temporary housing made of metal containers, with limited access to food, water, medical supplies, and land.

It was not until July 2020 that the Lao government of Attapeu Province and PNPC agreed on compensation and rehabilitation costs for the collapse.⁴¹ The total amount agreed upon was approximately USD 91.25 million, of which USD 35.85 million was earmarked for the master plan envisioned by the Lao government (permanent housing, roads, bridges, water and sewage, schools, medical facilities, etc). Of the USD 91.25 million, only about USD 2,636 has been paid directly to individuals. Furthermore, the receipts that residents signed to receive compensation included a disclaimer against PNPC.

Compensation for psychological damage was not considered from the outset. According to the companies involved, all agreed compensation and rehabilitation costs have been paid, leaving about USD100,000 for compensation for "unsubstantiated damages" (valuables, teakwood, etc.). However, at the time of writing this report, compensation for these items was still being delayed. In the meantime, overseas media reported on January 17, 2024, that approximately USD 4.2 million of the compensation had been misappropriated by state

officials.⁴²

Affected residents facing forced displacement

Residents of the six villages where all or part of their villages were destroyed have been living in temporary housing complexes for a long time and waiting for restoration. Still, instead of restoring their original villages and rice fields, the provincial government cleared the surrounding mountainous areas to build permanent housing complexes and relocated the residents. According to company officials, the relocation to the permanent housing camps was according to Lao government policy. All major public facilities, including schools, village halls, and temples, were relocated to the camps. Instead of restoring the rice fields, which were the residents' main livelihood source, the state provided them with cleared fields in the mountains. However, only commodity crops such as cassava can be grown on these fields, forcing the residents, who had been living a self-sufficient life of rice farming and fishing, to change their lifestyle overnight.

In September 2022, a fact-finding team formed by KTNC Watch, through interviews conducted with affected residents and company officials, found that the new fields were not suitable for sustainable livelihoods.⁴³ Some villagers were unable to farm because neighbors claiming the land as their own blocked access. In addition, the Lao government implemented a so-called 2+3 policy for new fields, which requires villagers to lease their land to companies and provide labor in exchange for rent and wages (the 2 in 2+3 refers to the villagers' land and labor, and the 3 refers to the companies' capital, technology, and marketing). However, the lease agreements appeared to be arranged by the government, not freely chosen by the villagers, and the rent was set at a constant 1 million kip per hectare per year. Some of the villagers interviewed did not receive the full rent. Those who were able to restore their rice fields by themselves and start farming were better off. However, the law underlying the allocation of the new plots is the law on measures for resettlement related to development projects, which is based on the concept of exchanging the original plots for new plots, so even those who restored their paddy fields are likely to face long-term problems with their land use rights.

Responsibility of Korean companies and government

A complaint filed by South Korean civil society against SK E&C and KWP in June 2019 with the NCP under the OECD Guidelines for Multinational Enterprises was concluded without results as the respondents did not respond to the NCP's mediation.

Even as compensation and rehabilitation are being finalized, the affected communities continue to suffer from the impact of the dam collapse. People have been displaced, losing their homes and livelihoods. This outcome is likely due to the lack of an effective, purpose-oriented investigation into the accident and the fact that the compensation agreement between PNPC and the Lao government of Attapeu province prioritized corporate and government interests. The affected people were not a party to the agreement, and it is not known whether they were consulted. In the absence of freedom of speech and expression,⁴⁴ it is conceivable that voicing their opinions against the government's policy would have been impossible or very difficult for them.

The Korean companies involved have stated that the Lao government's policies, and not the companies, are to blame for the fact that the lives of the residents have not been rehabilitated and that the lack of sustainable livelihoods has left people's lives more precarious than before the dam was built. However, the companies that participated in the Xe Pian-Xe Namnoy Dam project and caused or contributed to the catastrophe have a direct responsibility to provide remediation, i.e., measures to restore the situation, which is predicated on a transparent investigation into the causes of the accident and accountability, and the participation of the affected people in the decision-making process is a minimum requirement. After the dam collapsed, compensation and rehabilitation measures were negotiated between the companies involved and the Lao government. Therefore, companies are not immune from the consequences of the ongoing threat to the livelihoods of the affected communities. The same is true for the Korean government, which has used the EDCF as a lever to support Korean companies' entry into Laos in the name of development assistance but has failed to prevent human rights violations due to inadequate pre- and post-screening of the companies' business activities.



Indigenous forest (left) and oil palm plantation (right) in Boven Digoel, Papua, Indonesia ©PUSAKA

Case 5: Palm oil investors destroying forest and the lives of Indigenous peoples in Indonesia

Palm oil as a solution to the climate crisis

Since 2010, the demand for palm oil, the main feedstock for biofuels, has increased dramatically due to the growing interest in biofuels to respond to the climate crisis. Due to the nature of palm oil that grows only near the equator, Korea has to rely on imports, and the government has provided loans to companies that secure and produce palm oil plantations to secure stable feedstock under the name of overseas agricultural and forest resource development. As a result of these supportive policies, major trading companies, food companies, and biofuel producers entered Indonesia and invested in palm oil plantations between 2008 and 2012.⁴⁵

Human rights and environmental impacts of the palm oil plantations

However, the companies were reported to have destroyed forests and the lives of Indigenous peoples and local communities in the process of producing palm oil. Forests and peatlands were destroyed to make way for palm trees, resulting in biodiversity loss. In particular, the destruction of peatlands, which hold 18-28 times the carbon of typical wetlands, led to large amounts of greenhouse gas emissions.⁴⁶ In addition, land grabs to secure the

plantation without the Free, Prior, and Informed Consent (FPIC) of Indigenous peoples and local communities, who still rely on the forests for their lives, has led to numerous land conflicts and resulted in oppression against human rights and environmental defenders.⁴⁷

POSCO International destroying the lives of Indigenous Papuans

Among the Korean companies in Indonesia, POSCO International, which has an operation in Papua Province, has received international attention for its large-scale destruction of primary forests and violation of the rights of the Indigenous peoples. POSCO International has operated a palm oil plantation and a crude palm oil (CPO) mill in Ulili, Merauke District, Papua Province, Indonesia, through its local subsidiary PT Bio Inti Agrindo (PT BIA). The international community has criticized PT BIA for destroying 26,500 hectares of forest from 2012 to 2017, and Norwegian and Dutch pension funds have divested from POSCO International based on large-scale deforestation.⁴⁸

Deforestation also seriously violates the rights of Indigenous peoples who depend on the forests. In the process of transferring land use rights for plantation development, the free, prior, and informed consent of indigenous communities was not respected, resulting in ongoing land conflicts with the Indigenous communities. In addition, Indigenous peoples originally used the nearby river for drinking and living, but the large-scale chemicals and factory wastewater used from the plantation have contaminated the water quality of the river, making it difficult to use it for drinking as well as living, thus violating their right to water. The Indigenous peoples' right to food and culture was also violated due to the loss of the forests, which Indigenous peoples relied on for their staple food, hunting, and medicines.⁴⁹

South Korean NCP fails to provide remedy to victims

In 2019, KTNC Watch, together with an Indonesian organization, filed a complaint with the NCP of South Korea for deforestation, violation of FPIC, and violation of the right to water, all in breach of the OECD Guidelines for Multinational Enterprises. In addition, the National Pension Service, an institutional investor in POSCO International, and the Export-Import Bank of Korea, which provided the loan, were listed as the co-respondents for violating the due diligence obligations of institutional investors and financial institutions.⁵⁰

The two-year NCP process demonstrated the Korean government's inability to respond to human rights and environmental issues in cross-border supply chains. During the mediation process, there was no support for the Indonesian parties to participate in the process: neither interpretation nor translation was provided, and the initial assessment and final statement were published only in Korean, making it impossible for the Indonesian complainants to understand the situation. During the mediation process, the company was praised for adopting a voluntary human rights and environmental policy and joining the certification scheme. The assessment was inadequate, repeating the company's claim that their practice was 'the best practices under the Guidelines'.⁵¹

"I don't think it's true (that PT BIA is producing sustainable palm oil through RSPO or NDPE). If they went to the villages, met with people, and discussed it, I might accept it, but they didn't. It's a deception to say that they are producing sustainable palm oil under these conditions." - Augus Tomba (Subur villager)⁵²

Limitations of Voluntary Certification Schemes

In response to human rights and environmental issues in palm oil plantations, POSCO International has adopted the No Deforestation, Peat, Exploitation (NDPE) policy and received certification from the Roundtable on Sustainable Palm Oil (RSPO), which claims to recognize companies that produce sustainable palm oil. However, neither the NDPE policy nor RSPO certification serve as a tool for the effective implementation of these policies. And it is unlikely to result in substantive changes in corporate practices. Indeed, PT BIA's affected communities have stated that neither the adoption of the NDPE policy nor the RSPO certification guarantees sustainable palm oil production, as their concerns were not reflected in the process of adopting the policy and the RSPO certification. Furthermore, the compensation promised by the company after these commitments has not been fulfilled.⁵³

The need for effective remedies and oversight of the implementation of human rights and environmental standards

The case of POSCO International shows that victims of human rights and environmental abuses at Korean companies' overseas operations have difficulty accessing remedies through the NCP and that voluntary policies and certifications are not an effective way to ensure that companies fulfill their human rights and environmental responsibilities. A system

needs to be established to ensure that victims of human rights and environmental problems at the overseas operations of Korean companies access remedies in Korea and to allow public authorities to monitor the implementation of human rights and environmental standards by Korean companies and to raise issues if these standards are not properly implemented.

3. Current system

a. State Obligation to Protect HR

Lack of Institutional Mechanisms to Ensure Businesses in South Korea Fulfill Their Responsibility to Respect Human Rights

Fundamental to a state's obligation to protect human rights under the UNGPs is that governments require companies under their jurisdiction to respect human rights in their supply chains and implement laws and policies aimed at achieving this result. The South Korean government has only issued guidelines for companies, assuming that the responsibility to respect human rights is left to voluntary corporate action. In December 2021, the Ministry of Justice published the 'Guidelines for Businesses and Human Rights' on human rights due diligence. In December 2022, the Ministry of Trade, Industry, and Energy published the 'K-ESG Guidelines for Supply Chain Response' which partially included human rights issues such as forced labor. However, the effectiveness of these guidelines in promoting respect for human rights among Korean companies still remains low. It is difficult to identify cases of actual remedies based on the guidelines. It is also unlikely that the South Korean government will go beyond voluntary compliance with the Guidelines. In its 2024 National Action Plan on Human Rights (NAP), the Korean government stated that it would participate in discussions on a 'Framework Act on Human Rights' requiring companies to respect human rights. Still, it did not reveal any specific plans.

Human Rights Management in Public Institutions

In 2018, the Korean National Human Rights Commission (NHRCK) published a "human rights management" manual for public organizations. According to the manual, "human rights management" refers to a company or institution fulfilling its responsibility to respect human rights under the UNGPs. In the same year, the NHRCK recommended that public institutions adopt human rights management by the guidelines and that central and local governments include human rights management as criteria for the annual management evaluation of public institutions. The Minister of Economy and Finance accepted the above recommendation and included human rights management in the management evaluation indicators for public

institutions, as of 2024. Accordingly, most public institutions declared that they are implementing "human rights management." Human rights management in public institutions generally involves publishing a "human rights management declaration," establishing a "human rights management committee," and conducting human rights impact assessments of its operations.

Suppose a public organization contributes to or is directly linked to transnational human rights violations. In such case, it can be argued that the organization has engaged in improper business practices that violate its human rights management declaration or bylaws. It is also theoretically possible to file a complaint using a public organization's internal grievance system.

However, in practice, public organizations' human rights management efforts are largely limited to conducting human rights impact assessments of their operations. The general assessment is that they are not doing enough to identify and prevent human rights violations in their value chains or to provide effective remedies to victims.

Public procurement

According to Article 6 of the Law on Public Procurement, the head of the Public Procurement Agency may consider social and environmental values, including the environment, human rights, labor, and consumer protection, in the procurement process. Some local governments also have ordinances that require consideration of social values (such as protecting workers' rights) in public procurement. However, in terms of the responsibility of MNCs to respect human rights, there are no specific regulations that require states or local governments to consider the HRDD of their counterparties when awarding public procurement contracts.

Human Rights Impact Assessment of Development Cooperation Partners

The Export-Import Bank of Korea largely administers South Korea's international development cooperation for paid aid and the Korea International Cooperation Agency (KOICA) for non-paid aid. Both organizations have safeguard policies to prevent and mitigate the impacts of international development cooperation projects on people and the environment. However, human rights violations in EDCF-funded ODA projects have raised concerns about the limitations of safeguards (such as the lack of accountability mechanisms) and the need for improvement.

On the other hand, the Korean government announced in its National Action Plan on

Human Rights (NAP) for 2024 that it would expand the implementation of human rights impact assessments for companies participating in KOICA's development cooperation projects to prevent human rights risks in the supply chain, including project implementation partners, local business partners, and residents. The government also stated that it would improve the remedy process by establishing a reporting window for human rights violations at local workplaces.

b. Business Responsibility to Respect HR

Lacking legislation to standardize human rights-respecting responsibilities, corporations arbitrarily manage supply chain

As of December 2023, 135 of the largest listed companies in South Korea with assets of more than KRW 2 trillion (56% of the total) have published sustainability reports (source: Korea Exchange). Furthermore, among the so-called "30 largest groups," which covers a significant number of Korean multinationals, 75 companies have published sustainability reports, of which 57 (76%) have ESG management for their supply chains, 44 (59%) have created a code of conduct for their suppliers to follow, and 47 (62.7%) conduct regular ESG assessments of their suppliers (source: Federation of Korean Businessmen and Entrepreneurs).

These statistics may give the impression that Korean conglomerates have adopted a system to manage the risk of human rights violations by business partners as part of ESG.

However, there is a significant gap between so-called "ESG" practices and HRDD, as the responsibility to respect human rights under international human rights standards, including the UNGPs, has not been institutionalized. In addition, the degree of implementation varies from company to company, and information disclosure is limited, making it difficult for stakeholders to verify which human rights risks are being assessed and managed, and whether the full range of human rights are being respected in light of international norms.

In practice, even for companies that publicly declare that they respect human rights, victims of transnational human rights violations have difficulty accessing the grievance mechanisms at the company's headquarters in South Korea. Even when they do, obtaining effective remedies remains challenging.

ESG/Sustainability

As shown above, Korean laws and policies related to business and human rights rely on voluntary compliance. However, in other countries including the EU, HRDD is indirectly introduced through disclosure systems for ESG/sustainability goals. In Korea, sustainability disclosure will become mandatory for listed companies with more than **KRW 2 trillion** in assets from 2026, and a draft disclosure standard was released in April 2024 as a preliminary step to mandatory sustainability disclosure. The draft included disclosing information on 'human rights management' as optional. However, optional disclosures do not involve mandatory action. The draft disclosure standard has not been finalized and may change in the future, but if it remains as it is, it is unlikely to effectively spread HRDD through disclosure.

c. Access to Remedy

Limitations of Judicial Remedies for Transnational Human Rights Violations

There are several critical obstacles for victims of transnational human rights violations to seek redress against Korean headquarters in Korean courts:

- (1) Suppose the Korean headquarters has established a local subsidiary or joint venture in the country. In that case, pursuing claims against the Korean headquarters may be difficult because it may be viewed as a separate and distinct legal entity from the Korean headquarters.
- (2) Korean courts may not have jurisdiction if they do not recognize the claim as having a substantial connection to Korea.
- (3) There is no system to facilitate judicial remedies for victims, such as class actions or recognition of human rights defenders as plaintiffs.
- (4) Even if all of these procedural hurdles are overcome, finding a legal basis for holding a Korean headquarters accountable may be difficult without a law requiring companies to conduct HRDD.

Because of these limitations, it is difficult to find examples of victims of transnational human rights violations receiving compensation through the Korean judicial system.

Limitations of non-judicial remedies

Non-judicial remedies for transnational corporations' overseas human rights violations are also limited. NHRCK investigates complaints of human rights violations. Nevertheless, it is limited to its own jurisdiction and cannot serve as a non-judicial remedy for transnational corporate human rights violations. As for the company's remedial procedures, as shown above, they are not standardized and are unlikely to be effective.

To monitor the implementation of the OECD Guidelines for Multinational Enterprises, an NCP was established at the Korean Commercial Arbitration Board in 2001 and has been in operation since then. However, since then, the effectiveness of the South Korean NCP has been questioned, mainly due to the exclusion of labor unions and civil society from the NCP structure and the lack of fair and transparent operations. In its Fourth NAP, the Korean government included limited improvements to the NCP, such as expanding direct communication with case parties.

4. Way forward

Contents of the proposed 2023 bill

On September 1, 2023, the Korean National Assembly introduced the Act on Human Rights and Environmental Protection for Sustainable Management of Businesses to prevent and improve human rights and environmental violations in companies' global supply chains. The bill includes the core elements of corporate human rights and environmental due diligence emphasized by the UNGPs and the OECD Guidelines for Multinational Enterprises.

Highlights of the bill include below:

Clarifying a company's responsibility to respect the human rights and environment: The bill stipulates matters related to corporate human rights and environmental due diligence and establishes corporate responsibility for respecting human rights and the environment.

Scope of companies subject to human rights and environmental due diligence: The bill imposes human rights and environmental due diligence on companies with 500 or more full-time employees and sales of KRW 200 or more in the previous business year. Small and medium-sized enterprises are excluded from the scope, but they are required to prohibit human rights and environmental violations, make efforts to provide remedies for rights violations, and identify human rights and environmental risks if their business activities may involve crimes against humanity or child labor under international law, or if they plan to operate in conflict or high-risk areas.

Scope of human rights and environmental due diligence: The bill requires companies to conduct human rights and environmental due diligence not only on their own business activities but also on the business activities of companies in their supply chains (relationships formed directly or indirectly at all stages from raw material acquisition to final consumption).

Contents of human rights and environmental due diligence: The bill stipulates the contents of human rights and environmental due diligence that companies must fulfill as follows.

(1) Establishment and operation of a human rights and environmental due diligence implementation system: establishment of a policy, designation of a responsible person, establishment of a committee within the board of directors, and establishment of a grievance mechanism.

(2) Identification of existing or potential human rights and environmental risks: Check at least once a year and take action without delay if the company becomes aware of possible human rights and environmental risks through stakeholders or if the company's activities may be involved in illegal acts against humanity or child labor under international law, or if the company intends to conduct business activities in conflict or high-risk areas.

(3) Establishment and implementation of human rights and environmental risk measures: Establishment and implementation of measures not only for the companies' own business activities but also for the business activities of direct and indirect suppliers in the supply chain.

(4) Evaluation and feedback on human rights and environmental risk measures

(5) Disclosure of human rights and environmental due diligence reports

Communication and Cooperation with Stakeholders: The bill imposes an obligation on companies to listen to stakeholders throughout the entire process of human rights and environmental due diligence, i.e., individuals (including survivors of deceased persons) or groups such as consumers, children, youth, workers, local residents, shareholders, investors, and organizations advocating for them, who have been or may be affected by human rights and environmental risks arising from the company's activities. It also guarantees stakeholders the right to request and receive information related to human rights and environmental due diligence from companies.

Establishment and Operation of the Human Rights and Environmental Enterprise Committee: The bill establishes the Human Rights and Environmental Enterprise Committee (the "Committee") under the Prime Minister to coordinate major matters on corporate activities that respect human rights and the environment and to resolve disputes related to human rights and environmental due diligence. The Committee is responsible for investigating,

reviewing, and ex officio investigating appeals against companies' human rights and environmental due diligence, supporting companies in their human rights and environmental due diligence, and designating and removing conflict and high-risk areas. The members of the Committee shall be persons who have specialized knowledge and experience in human rights and environmental issues and are deemed to be able to perform their duties impartially and independently. Two members shall be nominated by nationally affiliated workers' organizations, two by nationally affiliated employers' organizations, and two by civil society organizations to ensure diversity in the composition of the Committee.

Administrative and criminal sanctions: The bill enforces compliance with corporate obligations under the Act by providing for administrative sanctions such as recommendations for correction, orders for correction, restrictions on eligibility to participate in public procurement bidding, and fines if a corporation fails to fulfill its human rights and environmental due diligence obligations, and criminal liability if there is a material breach of obligations.

Liability for damages: The bill requires companies to compensate others for damages caused by their violation of the Act. Given that it is very difficult for a claimant to prove that a company has violated its human rights and environmental due diligence obligations due to limited access to information about a company, the bill establishes a presumption of violation. If the claimant proves that the activities of the company or an entity in its supply chain are likely to be related to the damage, it is presumed that the company has violated these obligations and that the damage resulted from the violation. If the accused company proves that the company has not violated the provisions of the bill, or that, while it did violate the provisions, compliance would not have prevented the damage from occurring, then the company is exempt from liability for damages.

Future Plans for the Bill

The above bill was not passed by the 21st National Assembly of South Korea and was automatically repealed when the 21st National Assembly session ended in May 2024. Meanwhile, in the EU, the trend of mandatory human rights and environmental due diligence for companies has strengthened, with the CSDDD being approved by the European Parliament. In line with this international trend, Korean civil society organizations will actively pursue activities to urge the enactment of legislation that would make companies

responsible for respecting human rights and the environment and fulfill their human rights and environmental due diligence obligations, ultimately contributing to the prevention of corporate human rights and environmental violations and the relief of victims.

Press confence on proposing the Act on Human Rights and Environmental Protection for Sustainable Management of Businesses © KTNC Watch





Taiwan

1. Country Context

Taiwan's economy began its rapid growth in the 1950s, with national policies playing a crucial role. As the economic environment changed, Taiwan underwent several significant industrial transformations. In the 1960s, the government shifted from import substitution policies to vigorously promoting an export-oriented economy. Light industries such as electronics, textiles, and plastics developed rapidly. The government established export processing zones in several locations, attracting foreign investment with cheap labor and favorable policies, turning Taiwan into a global factory.

In the 1970s, amidst the economic downturn brought on by the oil crisis, the Taiwanese government decided to heavily invest in infrastructure and heavy industries to spur economic growth. Led by state-owned enterprises, Taiwan established production bases for the steel and petrochemical industries.

Starting in the 1980s, as labor costs in Taiwan increased, traditional labor-intensive industries moved abroad in large numbers. Domestically, Taiwan shifted its focus to investing in electronics, electrical machinery, and other "strategic industries." In 1980, the government established the Hsinchu Science Park, offering incentives to encourage investment in high-tech industries.

In the 1990s, Taiwan experienced a process of democratization and achieved the economic status of a developed country, though the pace of its economic growth gradually slowed. Today, Taiwan has the fourth largest foreign exchange reserves in the world. The

semiconductor industry and electronics manufacturing have become the key drivers of the country's economic growth, with industrial policies still heavily reliant on exports.

Taiwan's export-oriented manufacturing is primarily based on original equipment manufacturers (OEM). Overseas investments also focus on OEM, developing a "receive orders, produce overseas, and export to third countries" model, known as triangular trade. The textile, electronic products, electrical machinery, information and communication products, and optical instruments industries are the most dependent on this triangular trade model.

Since the 1990s, China has been Taiwan's most important investment destination. In 2010, Taiwan's investment in China peaked at USD 14.62 billion, accounting for 83.8% of Taiwan's outward investment. However, Taiwanese investment in China has been steadily declining throughout the 2010s. By 2023, investment in China accounted for only 11.4% of Taiwan's outward investment, while investment in the ASEAN countries had grown rapidly, surpassing investment in China. Investments in India have also grown rapidly. On the other hand, due to the reorganization of the global advanced technology supply chain, Taiwan's semiconductor industry has also increased its investments in developed economies such as the United States and Japan.

Nevertheless, China still plays an important role in Taiwan's triangular trade. According to the Export Order Trends Survey on Overseas Operation conducted by Taiwan's Ministry of Economic Affairs, in 2023, 27.7% of Taiwan's electronic products, 59.5% of Taiwan's electrical products and 67% of its information and communication products were produced in China and then sold worldwide. China remains Taiwan's most significant overseas production base. How the supply chains of Taiwanese companies will develop in the future remains to be seen.

Many Taiwanese companies investing overseas are key suppliers to internationally renowned brands. From the supply chains of Apple computers and iPhones to the sneakers, clothing, and sports goods of Nike and Adidas, and even the seafood on consumers' tables worldwide, much of this is produced by workers from various countries laboring in Taiwanese company factories. However, behind the success of these companies, there are many troubling records of human rights violations.

Taiwan's high-pollution, high-carbon-emission petrochemical and steel industries have

expanded their operations to Southeast Asia, the United States, and China. The most notable example is the Formosa Plastics Group, whose investments in Vietnam, Louisiana, and Texas have caused severe pollution. The affected communities are still fighting against Formosa Plastics, striving for a clean environment and fair compensation.

In response to human rights and environmental violations by Taiwanese companies abroad, Taiwan's civil society has, since the 2000s, collaborated extensively with transnational victims to seek justice both in Taiwan and internationally. However, through this process, civil society organizations have discovered that each advocacy case is highly challenging due to systemic issues and resource constraints. Consequently, in 2023, seven human rights, labor, and environmental organizations established the Taiwan Transnational Corporations Watch (TTNC Watch). This coalition aims to combine efforts to promote systemic change and enhance the capacity for international cooperation in social movements.

The following cases are advocacy actions that TTNC Watch member organizations have undertaken in the past or are currently involved in. These examples would help readers gain a better understanding of Taiwan's corporate and human rights systems and movements.



Myanmar Pou Chen Workers Strike© TTNC Watch

2. Case Studies

Case 1: Formosa Ha Tinh Steel Corporation Marine Pollution

The Origin of Formosa Plastics Group's Investment in Formosa Ha Tinh Steel Corporation

Formosa Plastics Group (FPG) is a Taiwanese multinational family-owned conglomerate, founded by brothers Wang Yung-ching and Wang Yung-tsai in 1954. Over 70 years, it has grown into a multinational enterprise with a capital amount of NT\$863.059 billion (approximately USD 28.768 billion) and an annual revenue of NT\$2.5968 trillion (approximately USD 86.56 billion) according to the 2022 annual report.

At the end of 2004, FPG proposed a large steel plant project in the offshore industrial zone of Yunlin, Taiwan. However, after entering the second phase of the environmental impact assessment, the project faced continuous controversies. In early 2008, FPG decided to relocate the project to Vietnam, leading to the investment in Formosa Ha Tinh Steel Corporation (FHS).

On June 12, 2008, Formosa Ha Tinh Steel Corporation (FHS) was established, developing a large steel plant on approximately 3,300 hectares of land in the Vung Ang Economic Zone in Vietnam. This was the largest investment project by Taiwan in Vietnam and the largest integrated steel mill in Southeast Asia. FHS produces crude steel and sells hot-rolled steel sheets, hot-rolled steel coils, steel bars, and wire rods. It is a joint venture between Formosa

Plastics Group, China Steel Corporation, and Japan's JFE Holdings, with a total investment amount nearing USD 30 billion. The ownership proportions are roughly 75%, 20%, and 5%, respectively.

Marine Pollution Incident

On December 25, 2015, FHS began trial operations, producing the first hot-rolled coil made in Vietnam. On April 4, 2016, fishermen discovered that a large underwater drainage pipe was discharging yellow wastewater, leading to unexplained fish and shellfish deaths in Ha Tinh Province on April 6, 2016. Subsequently, fish deaths were reported in Quang Binh, Thua Thien-Hue, and Quang Tri provinces. On April 24, 2016, Mr. Le Van Nhat, a diver, died from poisoning. The marine pollution incident nearly destroyed the coastal fisheries and aquaculture industries in four central Vietnamese provinces and undermined public confidence in the safety and hygiene of fish and shellfish products.

Protests by the Vietnamese People and Suppression by the Vietnamese Communist Party

On April 25, 2016, FHS's director Chu Xuan Phuong stated in a newspaper interview: "It is impossible to build a steel plant without affecting the surrounding environment's fish and shrimp. We must choose one. Why are we still fishing and shrimping here? Choose fish and shrimp or steel? It's your choice. But if you want both, not even your president can achieve that."

These comments sparked widespread anger among the Vietnamese people, leading to protests from villages to major cities. However, some unidentified forces that had been mobilized infiltrated the march, hijacking slogans and engaging in violent acts of destruction.

Using this as a pretext, the Vietnamese Communist Party (VCP) began to suppress the protests. For example, during a Green Trees organization march in Hanoi on June 5, 2016, the police intervened, detaining everyone and transporting them back to police stations. Numerous citizens, journalists, human rights workers, and social media activists were arrested for illegal filming and inciting the public. Even Bishop Nguyen Thai Hop of the Vinh Diocese was targeted by Vietnam Television for issuing a public letter regarding the environmental pollution of Vietnam's central coastal waters. He was accused of inciting and causing panic among

Catholics with biased and exaggerated statements.

Meanwhile, the VCP launched a propaganda campaign, with many leaders swimming in the sea to prove the water was clean. On the other hand, the VCP promoted investigation results showing FHS's violations as the main cause of the fish deaths. The VCP demanded FHS admit to 53 administrative violations, including discharging wastewater containing phenol, cyanide, heavy metals, and polycyclic aromatic hydrocarbons (waste products from coking technology). FHS publicly acknowledged causing the environmental incident, apologized to the government and people, and agreed to compensate VND 11.5 trillion (USD 500 million).

Under the dual strategy of suppression and propaganda by the VCP, protests across Vietnam quickly subsided. The VCP targeted and retaliated against citizens, human rights workers, or journalists who were genuinely concerned about the marine pollution disaster:

- In November 2017, blogger Nguyen Van Hoa was sentenced to seven years in prison for filming, photographing, and writing about FHS's toxic chemical discharge in 2016. He was charged with "propaganda against the government."
- In March 2018, Hoan Duc Binh was sentenced to 14 years in prison for live-streaming a fisherman's family protest, accused of "abusing freedom to infringe upon the interests of the state and people, and resisting police officers."
- Shrimp farmer Nguyen Ngoc Anh was sentenced to six years in prison for "participating in environmental protests against Formosa Plastics Group's steel plant, which admitted responsibility for the 2016 environmental disaster."
- Noted Vietnamese dissident blogger Nguyen Ngoc Nhu Quynh (Mother Mushroom) was arrested when visiting a human rights activist in prison and sentenced to ten years in October 2016, charged with anti-state propaganda (she has since been expelled from Vietnam and currently resides in the United States).
- In August 2018, Le Dinh Luong was sentenced to 20 years in prison, plus five years of house arrest, for "attempting to overthrow the government," accused of inciting protests against Formosa Plastics Group's steel plant.

- In October 2020, Pham Doan Trang, co-founder of the Green Trees citizen group and a journalist, human rights, and environmental activist, was arrested, accused of anti-state activities, and sentenced to nine years in prison.

Challenges of Transnational Judicial Remedies

For those in Vietnam who suffered actual harm and needed compensation, the VCP provided no opportunity for judicial redress. The first lawsuit filed by the victims was dismissed by the local court without a hearing, with a claim that the government had already made a judgment, and the case lacked sufficient evidence. When the victims attempted to appeal, the VCP blocked all roads leading to the court during the appeal period, and the court subsequently declared the appeal period had expired, denying further appeals. Some victims were beaten by police on their way to the court, and the court gates were closed to prevent them from filing lawsuits.

Unable to obtain relief and adequate compensation in Vietnam, the affected people turned to Taiwan, the home country of FHS, for judicial remedies. However, cross-border litigation faced numerous challenges both legally and practically.

Firstly, the 7,874 plaintiffs were under tight surveillance by the VCP, making organization difficult. Taiwanese lawyers visiting Vietnam to meet the plaintiffs faced severe monitoring and interference, almost getting arrested and unable to return home. To legally appoint Taiwanese lawyers, the plaintiffs had to personally go to the Taiwanese representative office in Vietnam for authentication and verification of documents including IDs and Power of Attorneys, with travel expenses and safety being significant challenges. After months of public campaigning by Taiwanese civil society organizations and lawyers, as well as closed-door meetings with decision-makers, the Taiwanese government finally agreed to simplify the authentication and verification procedure. However, the VCP continued to intimidate the plaintiffs through various methods, including surveillance and broadcasting campaigns aimed at discouraging support for the case in areas where many plaintiffs, along with their friends and families, reside. Unfortunately, Taiwanese courts rigidly required authenticated and verified power of attorney documents for foreign plaintiffs to legally appoint lawyers for litigation, a hurdle that remains to be overcome.

The second challenge was persuading Taiwanese courts to recognize international jurisdiction for this cross-border lawsuit. The 24 defendants had business operations in Taiwan, Vietnam, Japan, the Cayman Islands, and the United States, while the tortious acts and resulting damages occurred in Vietnam. Taiwanese lawyers sought to establish jurisdiction through connections like the defendants' domicile, decision-making location, headquarters, business evidence, and decision-making evidence, as well as judicial independence and defendant rights protection.

However, the local and high courts ruled that the tortious acts occurred in Vietnam, and by applying Article 20 of Taiwan's Civil Procedure Law by analogy, concluded that only Vietnamese courts had jurisdiction, thereby dismissing the lawsuit. After the lawyers appealed to the Supreme Court, the Supreme Court remanded the case, stating that applying Taiwan's Civil Procedure Law Article 20 by analogy for international jurisdiction was inappropriate, as it would allow Taiwanese law to unilaterally determine the competent court, denying jurisdiction based on the defendant's domicile.

Since 13 of the 24 defendants had business operations or residences in Taiwan, the Supreme Court deemed Taiwan to have international jurisdiction over these 13 defendants. This breakthrough took nearly three years from the initial lawsuit filing on June 11, 2019, to the Supreme Court's ruling on April 28, 2022, allowing the plaintiffs to seek compensation from 13 defendants in Taiwanese courts.

The third challenge lies in determining facts and applicable laws during substantive trials. The plaintiffs demand monetary compensation, cessation of pollution, adoption of corresponding measures to remove pollution, and environmental improvement and restoration from the defendants. For the 13 defendants other than FHS, the plaintiffs must find evidence to prove the tortious acts and suitable legal grounds for their claims. However, since the damages occurred in Vietnam, evidence collection is challenging. Whether Taiwanese or Vietnamese law should apply remains a future controversy. If Vietnamese law is applied, Taiwanese judges face difficulties interpreting and applying foreign laws and translation issues, posing obstacles to case adjudication.

Case 2: Foxconn's Overseas Investment - The Dilemma of Taiwan's Anti-Sweatshop Movement

From January to December 2010, Foxconn's Longhua plant in Shenzhen, China, which is a subsidiary of the well-known Taiwanese multinational company Hon Hai, experienced a horrifying series of employee suicides, with 18 incidents resulting in 14 deaths. In particular, May of that year saw seven consecutive cases within the Longhua and Guanlan plants, attracting significant attention from global labor, human rights groups, and the media. Labor groups interpreted these suicides by young workers as a protest against an oppressive labor system, prompting demands for Foxconn to thoroughly investigate the incidents and improve its harsh, inhumane management practices. However, in April 2013, two more cases emerged at the same plant, raising concerns about a potential resurgence of employee suicides, although those cases did not garner as much attention as the previous incidents.

The concern over Foxconn's labor practices was not limited to the suicides. In September 2014, the UK's Daily Mail published a report on Foxconn workers in Shenzhen developing leukemia due to chemical exposure, citing comments from Hong Kong NGO Labor Action China (LAC). In response, labor groups from Hong Kong and Taiwan protested at Hon Hai's headquarters in Taiwan, demanding the company investigate occupational health and safety at its factories and ensure compensation and care for the affected workers.

Another major protest occurred in 2019 when Japanese labor representatives and unions from Mie prefecture, alongside groups from Taiwan, Hong Kong, and the US, petitioned Hon Hai's headquarters in Tucheng. They called for the reinstatement of dismissed workers and the cessation of union suppression, following Hon Hai's acquisition of Sharp in 2016, which led to the termination of 4,000 contract workers of Japanese, Brazilian, Peruvian, and Filipino descent at Sharp's plant in Kameyama city in Mie prefecture.

Beyond these domestic incidents, Hon Hai and Foxconn has faced accusations of human rights abuses in other regions. These include low pay and exploitation in its Czech plant in 2013 and recent allegations of gender discrimination at its Indian plant, where married women were reportedly not hired. This section will not delve into each case individually but will instead focus on the broader issue of how a well-known Taiwanese multinational handles labor rights disputes in its global operations, within the context of recent domestic and international corporate human rights accountability legislation, aiming to enrich the vision for establishing

relevant institutions for Taiwan's future.

How to Address Labor Rights Disputes of Taiwanese Multinational Enterprises Abroad?

Whenever significant labor disputes involving Taiwanese multinational enterprises arise abroad, Taiwanese labor groups often receive requests for support from foreign allies and engage in solidarity actions in Taiwan. For instance, in the 2014 "Shenzhen Foxconn Leukemia Incident," the campaign was initiated by LAC and Students and Scholars Against Corporate Misbehavior (SACOM) from Hong Kong, along with Monitoring On Sweatshop Supply Chain from Taiwan. Taiwan's domestic groups such as Serve the People Association, Taiwan Labor Front, Taiwan Occupational Safety and Health Link, Taiwan Association for Victims of Occupational Injuries, and National Federation of Independent Trade Unions co-organized press conferences and protests at Hon Hai's headquarters in Tucheng, demanding improved labor rights and working conditions, as well as compensation for leukemia victims. The protests coincided with Hon Hai's shareholder meeting, drawing significant media attention.

According to a report by LAC, the number of leukemia cases at Foxconn has reached 11. In a documentary they released, an employee with the surname Yang stated that he joined Foxconn's Futaihua factory in 2009. At that time, his employment contract explicitly noted 'none' in response to whether he would be exposed to toxic materials. However, he later discovered that he was surrounded by pollutants such as dust, ethanol, and benzene over the long term. In the department responsible for testing and assembling mobile phones, workers were also exposed to radiation from 100,000 phones daily, which eventually led to his leukemia diagnosis. LAC stated that their investigation has confirmed that 11 workers (9 men and 2 women) at Foxconn's Shenzhen plant have been diagnosed with leukemia, six of whom have already died (5 men and 1 woman). The majority of these leukemia diagnoses occurred between August 2010 and October 2011. The employees with the surnames Yang and Zeng, who are still battling the disease, were diagnosed in 2013. Zeng Hong, one of the deceased employees, obtained an occupational disease diagnosis certificate from the Chinese government, confirming that his leukemia was classified as 'benzene-induced leukemia—occupational tumor.'

Additionally, LAC's long-term investigation revealed that Foxconn's approach to dealing with sick employees is to terminate their contracts. LAC pointed out that after the employee

with the surname Yang was hospitalized for an extended period due to swollen lymph nodes, Foxconn repeatedly pressured him to resign, citing the reason that 'sick leave has expired, and he is still unable to return to work.' After he was diagnosed with leukemia in 2014, the company even began to pressure his family, attempting to evade compensation responsibilities by offering a meager severance payment. Fortunately, with the help of related organizations from Taiwan and Hong Kong, Yang was able to undergo a stem cell transplant that temporarily slowed the disease's progression, and he formally filed a lawsuit in court. However, this has proven to be an extremely long and difficult journey.

LAC further pointed out that Foxconn's stance on this case has become very clear. After the incident came to light, Foxconn did not send the workers to an occupational disease prevention hospital for examination, treatment, and diagnosis as required by law. Instead, they coerced the workers into terminating their labor contracts at a time when they most needed medical insurance and financial support, and they denied the presence of chemical substances in the production process. Moreover, on the evening of June 23, Hon Hai issued a public statement claiming that 'after an independent investigation by the union and external organizations, it was determined that the employees diagnosed with leukemia had no direct contact with the chemical benzene during their work.' In addition, instead of investigating the truth behind the incidents within Foxconn, Hon Hai issued a lawyer's letter to LAC as a warning and threatened to take legal action against the Daily Mail.

On June 25, 2015, labor groups petitioned at Hon Hai's headquarters. Not only did the headquarters fail to respond, but when Chairman Terry Gou was asked by the media about the cases of employees developing leukemia during the shareholders' meeting, he angrily insulted the labor groups present, calling them 'trash' and 'lackeys.' However, the labor groups continued to hope that the multinational corporation, when confronted with doubts and accusations, would act responsibly by investigating the relevant issues. Whether it was the previous series of suicides caused by high-pressure management or the collective leukemia cases among employees, there should be internal mechanisms to respond.

In response to the employees' accusations and protests by labor groups from China, Hong Kong, and Taiwan, Hon Hai and Foxconn not only issued a statement fully denying the allegations but also threatened to sue the media that reported on the matter. In the end, this highly publicized occupational disease case in the electronics industry gradually faded from public attention, and the workers' rights were not adequately protected.

Policy Recommendations

Apart from this particular case of supervising and holding a Taiwanese multinational corporation accountable, as Taiwanese capital continues to expand globally, major labor disputes and environmental incidents have become increasingly frequent, leaving domestic labor and environmental groups overwhelmed. However, these cases are often difficult to effectively address due to spatial distance and jurisdictional limitations. Nevertheless, after decades of advocacy and development, the concept of 'Corporate Social Responsibility' (CSR) should be quite familiar to Taiwanese society, whether due to pressure from labor, human rights, environmental, or consumer movements, government regulations and policies that enforce and guide CSR, or the ethical requirements embedded in supply chain procurement contracts.

In addition to fulfilling the basic responsibility of generating profits to satisfy the interests of shareholders or investors, companies are also obligated to strictly comply with various regulations concerning corporate governance, labor, environmental protection, and consumer rights. They must prevent any operational activities from violating human rights and, when possible, voluntarily engage in public welfare or charitable activities. CSR, or the more recent emphasis on corporate sustainability and investment, along with 'Environmental, Social, and Governance' (ESG) standards, have increasingly become key indicators for evaluating corporate integrity globally.

After decades of development, not only have public sectors in various countries guided corporate social responsibility through policy legislation, but the private sectors (including the business sector) have also developed several forms of mandatory disclosure, supervision, and certification mechanisms as the basis for assessing corporate fulfillment of 'CSR.'

On December 10, 2020, Human Rights Day, Taiwan's Executive Yuan officially announced the 'Taiwan National Action Plan on Business and Human Rights,' which outlines future key directions and measures regarding human rights protection related to corporate operations. This plan is based on the norms and spirit of the United Nations Guiding Principles on BHR. The goal is to ensure that, in the context of the global economy and trade's increasing emphasis on sustainable development and the importance of environmental, social, and corporate governance, Taiwan can pursue economic growth while also upholding the spirit

of democracy, human rights, and social responsibility, thereby effectively enhancing the international competitiveness of Taiwanese industries.

Furthermore, in 2024, the government will introduce an updated version of the National Action Plan on Business and Human Rights. This updated plan will need to respond to the aforementioned international legislative trends, particularly in the prevention of human rights risks by multinational corporations, and should at least include the following key elements:

1. Strengthen the state's duty to protect human rights by enhancing the coordination role of the National Human Rights Commission, the Executive Yuan Human Rights Office, and various government ministries and agencies in addressing corporate human rights issues. In particular, the government should follow the OECD Guidelines for Multinational Enterprises by establishing a NCP to serve as a liaison mechanism for handling disputes related to corporate activities abroad, thereby better managing and coordinating incident investigations.
2. Complete the legislation related to corporate human rights and environmental due diligence or supply chain responsibility as soon as possible, enhancing companies' duty of care in identifying, preventing, and mitigating human rights violations, and imposing penalties to ensure that businesses respect human rights.
3. Strengthen corporate responsibility within the judicial jurisdiction over 'extraterritorial' corporate activities or in administrative regulations related to corporate foreign investments to ensure that these investments comply with basic international standards.

Case 3: WiFi for Distant Water Fishery Workers

Due to the unique nature of distant water fisheries, fishery workers are often at sea for at least six months, sometimes even up to two years. Such long periods of intense labor, combined with foreign status, language barriers, and long-term lack of communication through Wi-Fi or satellite phones, leave distant water fishery workers isolated. This isolation is one of the 11 indicators of forced labor identified by the International Labor Organization, and it has become a prevalent issue in the distant water fishing industry.

The lack of Wi-Fi for distant water fishery workers leads to severe consequences.

Forum Silaturahmi Pelaut Indonesia (FOSPI) in Donggang is the most organized group of Indonesian fishery workers in Taiwan. Testimonies from FOSPI workers reveal that during their time at sea, the inability to communicate with their families or seek help from unions, civil society organizations, or legal aid due to the lack of internet access puts them and their families in survival crisis. For example, Andres, an Indonesian fishery worker who has worked for Taiwan's fishing industry for 19 years, did not receive his USD 500 salary for eight months, almost causing his child to drop out of school. Adrei, another worker, suffered a severe eye injury from a fishing line but was forced to continue working for a month, resulting in permanent blindness. Another worker Susanto also got injured by a broken fishing line; having Wi-Fi onboard would have increased their chances of getting medical help.

FOSPI's vice-chairman Nofian and member Wandu also faced family tragedies due to the lack of internet access. Nofian's wife remarried, abandoning their child without his knowledge. Wandu did not know immediately about his fiancée marrying someone else and even his father's death. Nofian gravely stated, "2014 was my worst year. I don't want anyone to suffer like my family did, but unfortunately, similar experiences are very common among distant water fishery workers in Taiwan. We deserve basic decent working conditions, and we need Wi-Fi communication to protect ourselves and connect with our loved ones." The hardships of these five FOSPI members highlight the high risk of forced labor due to prolonged isolation in the distant water fishing industry.

Systemic flaws and governance failures are the primary causes of forced labor among fishery workers

The high risk faced by Taiwanese distant water fishery workers stems from issues in the system design and a lack of effective governance. The Taiwanese government has not even met the basic obligation to protect human rights, one of the three core duties outlined in international human rights conventions, from a regulatory perspective. As a result, employers can easily exploit loopholes in the system designed to protect the rights of fishery workers, placing them at a high risk of forced labor.

Taiwan's distant water fishing industry ranks second globally in both the number of fishing vessels and the value of its fishery products, second only to China, which has a notorious human rights record. Taiwan operates approximately 1,100 distant water fishing vessels flying the Republic of China flag, in addition to at least 241 "flag of convenience" vessels registered in other countries but owned by Taiwanese investors. These vessels operate in the three major oceans worldwide. According to official statistics from Taiwan's Fisheries Agency, there are over 22,000 distant water fishery workers on these vessels, primarily from Indonesia, the Philippines, and a few other Southeast Asian countries.

The systemic and institutional oppression that leads to forced labor among distant water fishery workers begins with a dual-track employment system that creates vastly different labor conditions for workers doing the same job. The first type, coastal fishery workers, are employed under the Employment Service Act and receive basic protections such as minimum wage, regulated working hours, rest periods, and mandatory labor and health insurance. Their labor affairs are overseen by the Ministry of Labor, which is responsible for conducting inspections and ensuring occupational safety and health. However, the focus of this discussion is on the more than 22,000 distant water fishery workers employed on the 1,100 vessels, who are not introduced under the Employment Service Act and are therefore subject to entirely different, almost slave-like conditions. These workers are not covered by the Labor Standards Act; their wages are far below the statutory minimum wage, and their working conditions, including rest periods and insurance, depend solely on private contracts with their employers. Their regulatory authority is the Fisheries Agency, which lacks expertise in labor rights. The only regulation governing them is a low-density, low-tier set of guidelines titled "Regulations on the Authorization and Management of Overseas Employment of Foreign Crew Members."

Although the Taiwanese government introduced the "Action Plan for Fisheries and Human Rights" in 2022, which appears to signal improvements in the conditions of distant water fishery workers, this national action plan merely proposes remedial measures without addressing the most critical issue: the abolition of the dual-track employment system. This failure leaves a significant loophole that unscrupulous operators can exploit, continuing to place distant water fishery workers at high risk of forced labor. The massive governance gap has created an environment of high risk, intense labor-management tension, and a lack of dignity for workers. As a result, neither Taiwanese officers nor foreign fishery workers on distant water fishing vessels are safe. This unsafe environment has led to a series of incidents: the 2011 Giant Ocean human trafficking case, the 2013 Te Hung Hsing No. 368 stabbing case, the death of the foreign offshore fisherman Supriyanto in 2015 on the Fu Tzu Chun, the 2018 Fuh Sheng No. 11 incident, the 2019 Wen Peng and Da Wang cases, and, most recently, the series of revelations by the Coalition for Human Rights for Migrant Fishers, which exposed cases involving the vessels De Hong, Shun Lian, Man Yu Cai No. 6, Yi Shun No. 101. These incidents have made Taiwanese distant water fishing vessels a focus of both international and domestic media, labeling them as bloody fishing grounds. Taiwan has become the first country globally to violate the C188 Convention and has been listed twice by the U.S. Department of Labor for child and forced labor alongside Xinjiang cotton. The U.S. State Department's annual TIP report consistently highlights forced labor on Taiwanese flag of convenience vessels and distant water fishery workers. Taiwan's distant water fishing industry has been repeatedly condemned in the review of Taiwan's implementation of the International Covenant on Civil and Political Rights (ICCPR) and the International Covenant on Economic, Social and Cultural Rights (ICESCR) for violating basic human rights. The Taiwanese government and industry's negligence in addressing systemic flaws and governance failures are the driving forces behind the self-degradation of Taiwan's fishing industry.

Nevertheless, every distant water fishing vessel carries the nearly universal aspirations and goals of all stakeholders: a safe departure and return, abundant catches, profits for the owners, wages for the fishery workers to support their families back home, and the removal of the stigma of forced labor from Taiwan's fishing industry. This shared goal should be undisputed, but it should be accompanied by a solid strategy and solution.

Legislative enforcement to equip distant water fishing vessels with Wi-Fi will significantly reduce the risk of forced labor.

The Taiwan Association for Human Rights and multiple groups are advocating for the "Wi-Fi Now for Fishers' Rights"⁵⁴ movement, calling for legislative enforcement to equip distant water fishing vessels with Wi-Fi. They argue that ensuring distant water fishery workers' access to Wi-Fi for external communication will significantly reduce the risk of forced labor, alleviate multiple oppressive conditions, empower workers, and realize the critical right to workers' solidarity.

According to the Fisheries Agency's "Foreign Crew Interaction Service Platform," at the peak, 98 distant water fishing vessels had Wi-Fi installed, but this number has since dropped to 76⁵⁵, covering only about 6.9% of all distant water vessels. There is currently no specific audit mechanism to ensure that workers can actually use the Wi-Fi.

However, many owners have independently installed Wi-Fi without applying for the Fisheries Agency's subsidy. It is estimated that at least one-third of Taiwan's distant water fishing vessels have Wi-Fi. One reason is the regulations set by the Falkland Islands, where almost all Taiwanese squid fishing boats operate. To comply with local regulations, they have Wi-Fi installed and allow fishery workers to use it. However, some workers report that Wi-Fi is turned off once the vessel leaves the Falkland Islands' operational area and heads towards Japan. This case shows that owners will comply with regulations, and although it increases costs, it is not unaffordable. To combat IUU fishing, Taiwan's Act for Distant Water Fisheries requires distant water vessels to install VMS position reporting devices and use the system while at sea. Failure to do so results in penalties. Therefore, to combat forced labor, the Taiwanese government should amend the Act for Distant Water Fisheries to mandate Wi-Fi installation and reasonable external communication for all personnel on board.

If the fishery workers on Fu Tzu Chun had access to Wi-Fi, Supriyanto would have received emergency medical treatment and not died. If the workers on Fu Sheng No. 11 had access to Wi-Fi, Taiwan would not have been the first country to violate the C188 Convention. If the workers on Da Wang had access to Wi-Fi, perhaps no one would have been tortured to death.

Taiwan can outperform China in eliminating forced labor among distant water fishery workers.

Although Taiwan is seen as a free, democratic, and human rights-respecting country, unlike China, the high risk of forced labor in Taiwan's distant water fishing industry makes the differences negligible. However, there is a key turning point now. A long-term investigation report by the U.S. Congress on the "Outlaw Ocean Project" revealed that many countries, including the U.S., import seafood involving forced labor from Xinjiang. In a hearing on illegal fishing and forced labor in Chinese fisheries, Thea Lee, Deputy Undersecretary for International Affairs of the U.S. Department of Labor, stated, "The US hopes to help expand Wi-Fi coverage to improve fishery labor conditions in the Indo-Pacific region. This year, I met with many Indonesian fishery and human rights workers who said that a small environmental change, such as providing Wi-Fi to contact the shore, could significantly improve labor rights and prevent exploitation. We are currently working with the Taiwanese government on this issue." Regulations mandating Wi-Fi on Taiwanese distant water vessels will create a significant difference between Taiwanese and Chinese distant water fisheries.

Furthermore, former Premier Chen Chien-jen has upgraded the "Action Plan for Fisheries and Human Rights" after meeting with the core team of the "Wi-Fi Now for Fishers' Rights" campaign, increasing the budget for Wi-Fi installation and inflatable life vests to NTD 1.14 billion. An in-depth report by News & Market also shows that fishing industry stakeholders do not oppose Wi-Fi but request supporting measures and gradual implementation. The Director-General of the Fisheries Agency stated, "The ideal situation is for fishery workers to use Wi-Fi during rest periods, and we will work towards legislative enforcement to mandate installation, giving companies time to adapt and allocate sufficient management personnel."

However, the labor rights of distant water fishery workers cannot wait any longer. The Taiwanese government must quickly move in the right direction: regulations and legislative enforcement of Wi-Fi installation on distant water fishing vessels to ensure communication rights for workers. This will rapidly protect labor rights and significantly reduce the risk of forced labor.

Case 4: Pou Chen's Suppression of Union in Myanmar in 2022 and Taiwanese Garment Manufacturers Labor Rights Overseas

On February 7, 2023, the Clean Clothes Campaign East Asia Coalition and the Youth Labor Union 95 held a press conference to reveal issues at Myanmar Pou Chen Co., Ltd., a factory of Pou Chen International Group, which is the world's largest shoe manufacturer headquartered in Taiwan. The factory experienced a strike on October 25, 2022. The primary cause was the severe inflation and rising prices in Myanmar following the military coup on February 1, 2021. The salary of MMK 144,000 per month (approximately NTD 2,000) provided by Pou Chen was insufficient for the workers' livelihoods. After nearly a year of unsuccessful negotiations for a raise to MMK 240,000 per month (approximately NTD 3,400), about 2,000 of the 7,800 workers participated in the strike. On the first day of the strike, Pou Chen called in the Myanmar military to monitor and intimidate workers and subsequently fired 26 union members, including 16 leaders, on October 28, citing absenteeism as the reason.

Economic Hardships of Workers and Pou Chen's Union Busting

Pou Chen's actions, which involved using the military to threaten workers and suppress strikes under Myanmar's military dictatorship, drew international media attention, including coverage by The Times and The New York Times. Faced with pressure, Adidas, a major client of Pou Chen's Myanmar factory, responded on November 7, stating, "Adidas has objected strongly to these dismissals, which are in breach of our Workplace Standards and our long-standing commitment to upholding workers. We are investigating the lawfulness of the supplier's actions and we have called on Pou Chen to immediately reinstate the dismissed workers."

Despite Adidas's clear stance, Pou Chen refused and delayed reinstating the workers. On November 2, the 26 dismissed workers filed complaints with the local labor bureau in Shwepyitha Township, Yangon, demanding reinstatement. Pou Chen's representative not only refused but also stated that workers would not receive their October salaries unless they signed voluntary resignation forms. Under continued pressure from international labor groups via Adidas, Pou Chen offered a three-month severance pay package during three mediation sessions held on November 22, 25, and December 8. Later in December, Pou Chen required workers to sign new labor contracts by January 2, 2023, forbidding union activities upon reinstatement.

寶成國際集團行為準則
Pou Chen Group CODE OF CONDUCT

95

Inflation in Myanmar and Workers' Difficulties: The Raise Demanded is Less Than 0.7% of Pou Chen's Net Profit

At first glance, the workers' demand for a raise from MMK 144,000 to 240,000 per month seems like a significant increase of nearly 67%. However, MMK 144,000 per month is merely the minimum wage in Myanmar. According to Myanmar law, the minimum wage should be adjusted every two years, but the government-announced minimum wage has not increased from MMK 144,000 since 2018, nearly five years ago. Since the 2021 military coup, Myanmar has experienced severe inflation, with the rate reaching 16.2% in 2022 (compared to a global average of 8.8% and Taiwan's 3.1%).

Inflation means rising prices. According to Adidas, the Myanmar factory employed 7,109 workers in 2022, with 85% being women, mostly young, single individuals from other regions. In Yangon, the cost of living for a young single woman, including rent, transportation, food, utilities, communication, daily necessities, and filial piety, totals about MMK 277,500 per month (approximately NTD 3,900). Even if Pou Chen increased salaries to the union's demand, it would barely cover the rising cost of living, let alone match the current wage levels.

Pou Chen has the financial capacity to raise wages at its Myanmar factory. In 2022, Pou Chen Group's consolidated net profit was nearly NTD 16.9 billion. If the salaries of all 7,109 employees were increased from MMK 144,000 to 240,000 per month, it would cost Pou Chen an additional MMK 682,464,000 (approximately NTD 9.65 million) per month, totaling MMK 8.189568 billion (about NTD 116 million) annually, which is less than 0.7% of Pou Chen's 2022 net profit.

Table 1:
Monthly Estimated Personal Expenditure
for Workers at Pou Chen Myanmar

Item	Amount (MMK)
Rent	60,000
Transportation	30,000
Food	90,000
Water	2,500
Electricity	15,000
Communication	10,000
Daily Supplies	20,000
Parental Support	50,000
Total	277,500

Table 2:
Pou Chen Corporation Consolidated
Net Profit (2014-2022)

Year	Amount (NT\$ Thousand)
2022	16,889,466
2021	16,603,443
2020	3,919,417
2019	18,002,774
2018	16,371,866
2017	21,730,590
2016	23,001,919
2015	16,601,466
2014	13,859,449

Pou Chen’s Consistent Use of State Violence Against Workers from China to Myanmar

Unfortunately, this case of Pou Chen suppressing unions in Myanmar is not the first time the company has used state violence in authoritarian countries to suppress workers' rights. In 2014, Pou Chen's subsidiary Yue Yuen Industrial faced a massive strike in China over unpaid employee social security contributions. The strike, involving over 40,000 participants, lasted 13 days (April 14-26) and spread from Dongguan in Guangdong to Anfu in Jiangxi. During the strike, many workers and supporters were beaten and arrested by police, with some even imprisoned after the strike ended.

Following the resolution of the Yue Yuen strike, Pou Chen complained to Taiwan's Business Weekly about being unfairly targeted by the Chinese government. Believing that paying workers according to the Chinese law was too costly, Pou Chen accelerated its production shift to Southeast Asia. The Myanmar factory, involved in the recent strike suppression, was established in 2015, a year after the Yue Yuen strike. Currently, Pou Chen's global shoe production is led by Indonesia (56%), followed by Vietnam (29%), China (11%), and Bangladesh, Cambodia, and Myanmar collectively accounting for 4%. From China to Southeast Asia, Pou Chen has consistently used state violence to suppress workers. In 2019, Pou Chen celebrated its 50th anniversary and was honored in "CSR@CommonWealth Magazine" as one of the "2019 CSR Top 100," seemingly overlooking its controversial practices.

Global Production Distribution of Pou Chen (Q1 2024) © TTNC Watch



(1) 其他地區包括孟加拉、柬埔寨及緬甸

Taiwanese Garment Companies' Poor Human Rights Record Overseas

Starting in the 1990s, many Taiwanese garment manufacturers, including Pou Chen, expanded overseas to become multinational corporations, playing a significant role in the global supply chain. However, these companies have often been involved in exploiting workers and damaging the environment. Notable cases include:

1. Nien Hsing Textile Co., Ltd. in Nicaragua (2000): The world's largest denim textile and garment manufacturer, producing for brands like LEVI'S, dismissed around 500 union members at its Chentex factory. The incident triggered a three-way coalition among Nicaraguan, American, and Taiwanese unions and labor groups, pressuring the brand, Nien Hsing, and the respective governments. Eventually, on May 10, 2001, Nien Hsing signed an agreement with the local union, reinstating 21 union members and compensating the others with double the statutory severance pay and wages for the disputed period.

2. Tainan Enterprises Co., Ltd. in El Salvador (2002): The top ten Taiwanese garment manufacturer, producing for brands like GAP, closed its El Salvador factory after workers organized a union. Following pressure from unions and labor groups in El Salvador, the United States, and Taiwan, the company signed an agreement on November 12, 2002, establishing a jointly managed factory (later named Just Garment) to employ the workers who lost their jobs due to the factory closure.

3. Nien Hsing Textile in Lesotho (2019): A report by the Worker Rights Consortium revealed widespread sexual coercion by male supervisors against female workers at Nien Hsing's Lesotho factory. Following the exposure, Nien Hsing, along with its brand clients LEVI'S, The Children's Place, and Kontoor Brands, signed binding agreements with five local unions and women's groups. The agreements established an independent body, Workers' Rights Watch (WRW), to handle complaints of sexual harassment and violence at workplace, conduct investigations, and implement remedial actions. If Nien Hsing failed to comply, the brands were to reduce or cease orders from the company. Disputes over cases were to be arbitrated by courts in the brands' home countries (the United States).

3. Current system

a. State Obligation to Protect Human Rights

National Action Plan with poor implementation results

As shown by the previous examples, Taiwanese companies have been involved in numerous human rights and environmental violations abroad. Civil society organizations, having engaged with affected communities and victims of these adverse impacts, have consistently urged the Taiwanese government to establish a comprehensive legal framework to ensure that businesses respect human rights and the environment throughout their supply chains. Following the advocacy of domestic and international social movements and the development of corporate and human rights legal frameworks worldwide, the Taiwanese government has also started to introduce relevant policies and laws to initiate reforms.

In Taiwan, institutions and legal tools related to business and human rights related to corporate human rights protection are scattered across different laws and managed by various government agencies. To consolidate all policies and propose a comprehensive reform plan, the Taiwanese government decided to have the Ministry of Economic Affairs lead the development of Taiwan's first comprehensive National Action Plan on Business and Human Rights, which was introduced in 2020. The following outlines the contents of Taiwan's NAP and the progress made in its implementation so far.

Taiwan's first NAP outlines 11 goals including the implementation of major human rights conventions, domestic legislation and national reporting, strengthening international human rights dialogue and cooperation, promoting labor conditions and rights protection laws, integrating human rights obligations into trade and investment agreements, managing transnational investments administratively, facilitating dialogue and communication between businesses and stakeholders, encouraging companies to voluntarily establish and implement human rights policies, advocating for enhanced non-financial information disclosure by businesses, advancing judicial reform to establish a more comprehensive remedy system, strengthening extraterritorial jurisdiction, and promoting whistleblower protection mechanisms.

However, civil society organizations have found that the NAP's goals, except for

strengthening international human rights dialogue and cooperation, have not been genuinely implemented.

Key international human rights conventions, such as the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (UNCAT), the International Convention for the Protection of All Persons from Enforced Disappearance (ICPPED), and the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (ICRMW), have not yet been incorporated into Taiwanese domestic law. As a result, the rights outlined in these conventions remain without legal protection in Taiwan.

Regarding the inclusion of human rights obligations in trade and investment agreements, civil society organizations established the “Civilian Oversight of the Taiwan-U.S. 21st Century Trade Initiative Alliance,” demanding that the trade agreements between Taiwan and the United States incorporate human rights and environmental protection clauses. These include prohibitions on forced labor, protection of the right to organize, implementation of transparent environmental information, and the establishment of corporate due diligence legislation. However, the negotiation process has been extremely untransparent, and the government has only tentatively planned to draft amendments to prohibit the import and export of forced labor products. The government has not committed to any other issues.

Regarding the administrative management of overseas investments by Taiwanese companies, the Ministry of Economic Affairs (MOEA) currently implements only a review mechanism prior to investment approval. According to the law, if a company "violates obligations under international treaties or agreements or has unresolved major labor disputes due to violations of the Labor Standards Act," the MOEA may deny approval for the company to invest abroad. However, there are no clear standards or precedents for determining whether companies with poor human rights and environmental records constitute a violation that would prohibit future investments.

b. Business Responsibility to Respect Human Rights

Corporate Respect for Human Rights Remains Voluntary

Regarding the requirement for companies to formulate human rights protection policies and implement information disclosure, Taiwan currently only has regulations for companies listed on the stock exchange. As of 2022, Taiwanese law mandates that listed companies in the food, chemical, and financial and insurance industry, as well as those with a capital of over NTD 2 billion, must disclose sustainability reports. This requirement will expand to all listed companies starting in 2025.

However, there is no effective verification and certification mechanism for the credibility of these sustainability reports. Moreover, due to the lack of clear legal positioning for sustainability reports, the responsibilities for false content remain unclear.

The Taiwanese government plans to amend the Securities and Exchange Act by 2026 to add a dedicated chapter on sustainability information. This will align with international standards, making it mandatory for listed companies with a capital of over NTD 10 billion to comply with IFRS's S1 and S2. Additionally, the government issued the "Guidelines for Identifying Sustainable Economic Activities" in 2022, but these guidelines serve only as administrative guidance and not as law.

In Taiwan, the promotion of sustainable investment by institutional investors is still voluntary. Major government-held funds, such as the Labor Insurance Fund and the Labor Pension Fund, currently lack clear sustainable investment policies and disclosure of their effectiveness.

For example, the Taiwan Public Service Pension Fund claims to adopt sustainable and responsible investment indicators. Prior to 2023, however, its top ten holdings included Formosa Plastics, rated the worst CCC level by MSCI. Similarly, the Labor Pension Fund is a top ten shareholder of Formosa Plastics and China Steel, both of which are the parent company and major shareholders of Formosa Ha Tinh Steel. Civil society groups have repeatedly requested that the Bureau of Labor Funds practice shareholder activism and propose at shareholder meetings that Formosa Plastics and China Steel commission impartial third-party investigations into human rights and environmental violations. However, the Bureau of Labor Funds has consistently refused to make such proposals.

In terms of promoting dialogue and communication between companies and various stakeholders, Taiwan currently lacks relevant policies and laws. Without a NCP and due diligence legislation, meaningful and substantive communication between Taiwanese companies and stakeholders whose rights have been violated has yet to be seen.

c. Access to Remedy

Lack of Remedy Systems

After Taiwanese companies are approved for overseas investments, the Taiwanese government currently has no oversight or accountability mechanisms to address human rights violations or environmental damage in the investment locations.

Taiwan also lacks a National Contact Point similar to the OECD model, making it impossible for overseas victims to directly seek protection from the Taiwanese government. They have to rely on Taiwanese NGOs to pressure the government through social movements to intervene. On the other hand, for overseas victims seeking judicial remedies in Taiwan, there are still many obstacles in terms of jurisdiction, legal procedures, and other aspects, as we saw in the Formosa Ha Tinh Steel case.

Regarding how to strengthen extraterritorial jurisdiction and provide effective remedy channels for victims of human rights violations by Taiwanese companies abroad, including ensuring that victims can seek judicial remedies in Taiwan and establishing accountability mechanisms for Taiwanese multinational companies, the government has not released any research findings or concrete reform measures so far.

4. Way Forward

Looking forward, respect for human rights and the environment must transition swiftly from voluntary to mandatory. Businesses, including investors, that continue to do harm to people and the planet must be held legally accountable. Those affected by business activities, including local communities and workers, must have access to effective remedy and justice.

The following three regulatory and policy changes are suggested key solutions to close the gaps in the business and human rights landscape. It is strongly advised that these changes be completed in the next few years.

Adoption of Human Rights and Environmental Due Diligence Law

Firstly, Taiwan must adopt a comprehensive human rights and environmental due diligence law. This law will require all businesses, including the financial sector, to conduct due diligence throughout their value chains, recognizing that resources and leverage may vary. Prevention of harm is top priority, as many types of harms are irreparable.

This law must put people and the planet at the heart of business operations, by mandating meaningful stakeholder engagement throughout the due diligence processes. Whenever necessary, the particularities of vulnerable groups, including but not limited to the Indigenous peoples, farmers, fishers, women, and children must be taken into account, and free, prior and informed consent principles must be always respected. This law must provide for effective remedy for affected communities, including but not limited to financial compensation, commitment to non-repeat, restoration of the environment and/or rights to the status before harm was done. This law must also allow for administrative and civil liability.

Better Governing of Outbound Investments

As explained in the previous chapters, the regulations governing Taiwanese investments going overseas are abstract and ineffective. They should be amended to ensure that investments into high-risk sectors provide feasible and effective action plans to prevent harms to human rights and the environment. High risk sectors include those that are carbon intensive,

have high risk of pollution or other types of human rights violations such as forced labor, child labor, labor exploitations and evictions.

Apart from high-risk sectors, companies with ongoing or unresolved severe violations against human rights and the environment should also be legally required to present feasible and effective action plans to prevent similar harms from occurring, and their new investment applications should be put on hold until previous severe harms are ceased or remedies are provided.

A special mechanism should be set up to review and monitor high-risk investments before and after they are approved. A special team of experts with relevant expertise should be charged to maintain this mechanism and given the power to investigate and act on harms even after investment applications have been approved.

Responsibility of Public Funds as State and Investor

Thirdly, recognizing the intersectional role public funds play as state and institutional investors, there should be more scrutiny over their investment destinations. There are several public funds in Taiwan, all run by the government, including the labor pension fund.

How each fund invests is governed by separate sets of regulations. These regulations currently lack any form of human rights and environmental guardrails. This means that even when an investment portfolio is involved in serious human rights violations or environmental harm, public funds are not legally required to engage nor divest as long as there are financial benefits. People's tax money may therefore be partially funding companies' misconduct.

The regulations governing public funds should all be amended to incorporate human rights and environmental safeguards. This should be in line with international human rights and environmental standards.

OECD National Contact Point

Apart from the policy and regulatory changes, Taiwan should set up a NCP in line with OECD guidelines to share knowledge and train Taiwanese companies on business and human rights and provide overseas victims with a channel to file complaints and voice concerns.

While it is true that Taiwan faces limitations in participating officially in global institutions like the UN and OECD, this has not hindered the nation's efforts to voluntarily comply with international standards. This is evidenced by domestication of UN human rights conventions and establishing its own version of the UN Universal Periodic Reviews. Taiwan invites international human rights experts, including current treaty-bodies' members, to review its implementation of human rights conventions. Given its growing influence in global supply chains, in particular Southeast Asia, Taiwan should promptly set up an NCP comprising labor rights, human rights and environmental experts and NGO representatives.

Conclusion

Based on the reports from South Korea, Japan, and Taiwan, the authors attempt to show how numerous transnational corporations in East Asia continue to cause or are contributing to significant human rights and environmental abuses. Many urgent issues still remain to be addressed, including ongoing environmental pollution, violations of community survival and health rights, exacerbation of climate change, lack of occupational safety and health safeguards, direct involvement in or encouragement of forced labor, and infringement of workers' basic rights.

The authors also find that the existing systems, laws, and policies of the governments of South Korea, Japan, and Taiwan are ineffective in holding corporations accountable. Regarding corporate responsibility for human rights and environmental due diligence, the governments of these three countries currently rely solely on policies of encouragement without implementing regulatory and mandatory measures. This has resulted in only a very small number of companies taking relevant measures, with no standard and inspections. The legal framework for human rights protection is inadequate, especially concerning serious human rights and environmental abuses in corporations' foreign investment, with no effective intervention measures. The lack of institutional measures often leads to difficulties in properly resolving abuse issues and even more so in effectively preventing them.

The lack of remedies for victims is also a serious problem. The authors pointed out that whether through judicial or non-judicial channels, it is extremely difficult for victims, especially migrant workers or those overseas, to access remedies. Victims find it difficult to seek measures that can effectively and promptly stop the abuse, let alone receive due compensation and justice.

Finally, the authors find that companies in Japan, South Korea, and Taiwan severely lack transparency in implementing corporate human rights and environmental responsibilities, disclosing potential risks and response measures, and establishing communication channels with stakeholders, including communities, grassroot organizations and activists. The governments also lack effective related laws and policies.

Given the important role of East Asian transnational corporations in the global supply chain, their implementation of corporate respect for human rights and the environment is an indispensable part of the global effort.

The authors make the following joint appeals to the governments of Japan, South Korea, and Taiwan:

- Urgently adopt mandatory legislation on human rights and environmental due diligence.
- Identify and address obstacles for victims seeking judicial and non-judicial remedies and propose improvement measures.
- Strengthen the disclosure system of corporate human rights and environmental risk information.
- On relevant policies, fully consult stakeholders and civil society.

The authors make the following joint appeals to the companies of Japan, South Korea, and Taiwan:

- Establish comprehensive human rights and environmental due diligence policies and mechanisms.
- Establish effective grievance mechanisms for affected individuals.
- Establish comprehensive stakeholder consultation systems.
- Fully disclose information related to human rights and environmental risks.

Endnotes

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