

Report on Issues Concerning Business and Human
Rights in Emerging Countries
(Summary)

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I. Background

Increasingly, companies from developed countries now operate in developing countries, and while these countries offer potential business opportunities as new markets, issues of human rights, which have rarely been problems within developed countries, have been becoming a risk that could severely impact business activities. For example, companies may be deemed responsible for working and employment conditions not only in their own factories but also in those of their suppliers, and also for the issues and challenges of the local communities. In this way, companies are increasingly held responsible for issues relating to human rights.

The following are some recent examples in which the human rights in emerging countries have been raised by the activities of companies from developed countries.

Examples of human rights issues raised in emerging countries

Type	Company	Details of problem
Workers' rights	Nike (Indonesia/Vietnam)	In 1997, problems with commissioned factories, including child labor, low wages, long working hours, coercive sexual behavior, forced labor, etc., were alleged, leading to boycotting of products and legal action.
Workers' rights	Apple (China)	In 2010, a series of suicides by factory workers at Foxconn, an Apple supplier, took place in response to frustration at the working environment. In January 2012, the non-governmental organization FLA was requested by Apple to implement on-site inspections of the same factory, where it was announced that illegal activities were taking place.
Workers' rights	Asics, Mizuno (China)	A survey of working conditions in Asia among sportswear manufacturers, implemented by a non-governmental organization, showed problems in the working environment and treatment of workers at factories in 2004.
Human rights infringements in war-torn areas, and infringement of rights of indigenous peoples through environmental pollution	Shell (Nigeria)	During the 1990s in Nigeria, an oil-producing company, Shell, who controlled 40% of oil extraction, was criticized for supplying profits to the military government, who were engaged in human rights infringements. Frequent leaks of crude oil resulted in serious environmental damage through water and soil pollution, resulting in indigenous people losing their sound living environment and suffering damage to health.

Treatment of immigrant workers	Hitachi, Ltd. (Malaysia)	In 2011, immigrant workers at a local factory belonging to a Japanese supplier appealed to the company for improvements to unfair treatment, but were threatened by the company. This fact was made public by a human rights activist. Protest activities were implemented in regard to Hitachi, which was a client of the company in question, as a result.
Lifestyle of indigenous people	Union Carbide (India)	In 1984, highly toxic chemicals leaked from the company's pesticide plant, exposing around 500,000 people to toxic gas, and resulting in many deaths. Dow Chemical, which owned 100% of Union Carbide shares, is still the focus of criticism from human rights groups today.
Access to water resources	Sumitomo Metal Mining Co., Ltd. (The Philippines)	In 2011, a non-governmental organization highlighted pollution in the water area close to a nickel smelting plant in the Philippines. Through working alongside the non-governmental organization to persuade the locally financed joint venture company, a proposal for environmental countermeasures was produced.
Access to water resources	Oji Paper Co., Ltd. (China)	Construction of a wastewater pipe to carry effluent water to the sea was planned for a factory in Chiangsu Province, China. The project had been granted permission by the local government, but worsening opposition from residents in regard to the dangers presented to their living environment resulted in large-scale demonstrations in 2012.
Freedom of expression/privacy	Yahoo (China)	In 2004, Yahoo provided details of the user account of a journalist, who had posted an article about China on an overseas website that emphasizes democracy, to the Chinese authorities. As a result, the journalist was arrested, and Yahoo was criticized.
Misuse of products	GE (India/China)	During the 1990s, GE's ultrasound imaging diagnostic equipment was used to determine the gender of unborn children in India and China, where families have a strong preference for boys, with the result that girl fetuses were aborted. This situation was acknowledged by both governments.

II. International trends relating to business and human rights

1. United Nations guidance

1) Framework for business and human rights¹

¹ A/HRC/8/5. This framework is also referred to as the "Ruggie Framework", taking the name of UN Assistant Secretary

It has been suggested that one of the basic reasons why the problem of corporate activities and human rights is becoming more serious is the issue known as the “governance gap” (the disparity between the negative aspects of economic activity by multinational companies and other actors, and the inability of international society to control this activity appropriately). Narrowing and closing this gap presents a serious challenge. Various debates have taken place surrounding corporations and their engagement with human rights, mainly centered on the United Nations (UN), which were compiled in 2008 into the UN’s “Protect, Respect and Remedy” framework for business and human rights

This defines the following three basic tenets, which support one another to form a single overall framework.

- (1) The responsibility of the state to protect human rights
- (2) The responsibility of corporations to respect human rights
- (3) Access to remedies

2) Guiding principles for businesses in regard to human rights²

This framework provides specific and implementable advice in the form of “Guiding Principles on Businesses and Human Rights: Implementing the UN’s ‘Protect, Respect and Remedy’ Framework”, which was approved by the UN’s Human Rights Council in 2011. Broadly, this states the following:

I. The responsibility of the state to protect human rights

- States must protect against human rights abuse within their territory and/or jurisdiction by third parties, including business enterprises. This requires taking appropriate steps to prevent, investigate, punish and redress such abuse through effective policies, legislation, regulations and adjudication.
- States should set out clearly the expectation that all business enterprises domiciled in their territory and/or jurisdiction respect human rights throughout their operations.

II. The corporate responsibility to respect human rights

- Business enterprises should respect human rights. This means that they should avoid infringing on the human rights of others and should address adverse human rights impacts with which they are involved.
- The responsibility of business enterprises to respect human rights refers to internationally recognized human rights* – understood, at a minimum, as those expressed in the International Bill of Human Rights and the principles concerning fundamental rights set out in the International Labour Organization’s Declaration on Fundamental Principles and Rights at Work.
- The responsibility to respect human rights requires that business enterprises:
 - (a) Avoid causing or contributing to adverse human rights impacts through their own activities, and address such impacts when they occur;
 - (b) Seek to prevent or mitigate adverse human rights impacts that are directly linked to their operations, products or services by their business relationships, even if they have not contributed to those impacts.

Definition of Policies and Processes

- In order to meet their responsibility to respect human rights, business enterprises should have in place policies and

General John Ruggie, who directed its creation.

² A/HRC/17/31, Annex. “Guiding Principles on Business and Human Rights: Implementing the United Nations “Protect, Respect and Remedy” Framework”.

processes appropriate to their size and circumstances, including:

- (a) A policy commitment to meet their responsibility to respect human rights;
- (b) A human rights due-diligence process to identify, prevent, mitigate and account for how they address their impacts on human rights;
- (c) Processes to enable the remediation of any adverse human rights impacts they cause or to which they contribute.

■ Policy Commitment

- As the basis for embedding their responsibility to respect human rights, business enterprises should express their commitment to meet this responsibility through a statement of policy that:

- (a) Is approved at the most senior level of the business enterprise;
- (b) Is informed by relevant internal and/or external expertise;
- (c) Stipulates the enterprise's human rights expectations of personnel, business partners and other parties directly linked to its operations, products or services;
- (d) Is publicly available and communicated internally and externally to all personnel, business partners and other relevant parties;
- (e) Is reflected in operational policies and procedures necessary to embed it throughout the business enterprise.

■ Human rights due diligence

- In order to identify, prevent, mitigate and account for how they address their adverse human rights impacts, business enterprises should carry out human rights due diligence. Human rights due diligence:

- (a) Should cover adverse human rights impacts that the business enterprise may cause or contribute to through its own activities, or which may be directly linked to its operations, products or services by its business relationships;
- (b) Should be ongoing, recognizing that the human rights risks may change over time as the business enterprise's operations and operating context evolve.

- In order to gauge human rights risks, business enterprises should identify and assess any actual or potential adverse human rights impacts with which they may be involved either through their own activities or as a result of their business relationships. This process should:

- (a) Draw on internal and/or independent external human rights expertise;
- (b) Involve meaningful consultation with potentially affected groups and other relevant stakeholders, as appropriate to the size of the business enterprise and the nature and context of the operation.

- Business enterprises should integrate the findings from their impact assessments across relevant internal functions and processes, and take appropriate action.

- In order to verify whether adverse human rights impacts are being addressed, business enterprises should track the effectiveness of their response.

- Business enterprises whose operations or operating contexts pose risks of severe human rights impacts should report formally on how they address them.

■ Remediation

- Where business enterprises identify that they have caused or contributed to adverse impacts, they should provide for or cooperate in their remediation through legitimate processes.

■ Issues of context

- In all contexts, business enterprises should:

- (a) Comply with all applicable laws and respect internationally recognized human rights, wherever they operate;

(b) Seek ways to honor the principles of internationally recognized human rights when faced with conflicting requirements

III. Access to remedy

- As part of their duty to protect against business-related human rights abuse, States must take appropriate steps to ensure, through judicial, administrative, legislative or other appropriate means, that when such abuses occur within their territory and/or jurisdiction, those affected have access to effective remedy. Grievance mechanisms for the provision of remedy may be state-based judicial mechanisms, state-based non-judicial grievance mechanisms, or non-state-based grievance mechanisms.

* “Internationally recognized human rights” refers to those understood from the International Bill of Human Rights (the Universal Declaration of Human Rights and the International Covenants on Human Rights [International Covenant on Economic, Social and Cultural Rights/International Covenant on Civil and Political Rights]) and the ILO’s Core Labor Standards

1: Basic human rights in the Universal Declaration of Human Rights

Article 1 Right to Equality	Article 16 Right to Marriage and Family
Article 2 Freedom from Discrimination	Article 17 Right to Own Property
Article 3 Right to Life, Liberty, Personal Security	Article 18 Freedom of Belief and Religion
Article 4 Freedom from Slavery	Article 19 Freedom of Opinion and Information
Article 5 Freedom from Torture and Degrading Treatment	Article 20 Right of Peaceful Assembly and Association
Article 6 Right to Recognition as a Person before the Law	
Article 7 Right to Equality before the Law	Article 21 Right to Participate in Government and in Free Elections
Article 8 Right to Remedy by Competent Tribunal	Article 22 Right to Social Security
Article 9 Freedom from Arbitrary Arrest and Exile	Article 23 Right to Desirable Work and to Join Trade Unions
Article 10 Right to Fair Public Hearing	Article 24 Right to Rest and Leisure
Article 11 Right to be Considered Innocent until Proven Guilty	Article 25 Right to Adequate Living Standard
Article 12 Freedom from Interference with Privacy, Family, Home and Correspondence	Article 26 Right to Education
Article 13 Right to Free Movement in and out of the Country	Article 27 Right to Participate in the Cultural Life of Community
Article 14 Right to Asylum in other Countries from Persecution	
Article 15 Right to a Nationality and the Freedom to Change It	Article 28 Right to a Social Order that Articulates this Document
	Article 29 Community Duties Essential to Free and Full Development
	Article 30 Freedom from State or Personal Interference in the above Rights
	— Adopted by the UN 10 th December 1948 —

Note: Articles 1-20 are rights to freedom, Article 21 is the right of political participation, Articles 22-27 are social rights, and articles 28-30 are general regulations

2: ILO Core Labor Standards

Category	ILO Convention
Freedom of association and collective bargaining	No. 87 Freedom of Association and Protection of the Right to Organize Convention
	No. 98 Right to Organize and Collective Bargaining Convention
Prohibition on forced labour	No. 29 Forced Labour Convention
	No. 105 Abolition of Forced Labour Convention
Effective elimination of child labour	No. 138 Minimum Age Convention
	No. 182 Convention concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour
Elimination of discrimination in recruitment and employment	No. 100 Convention concerning Equal Remuneration of Men and Women for Equal Work
	No. 111 Convention concerning Discrimination in Respect of Employment and Occupation

Characteristics of the Guiding Principles for businesses in regard to human rights

(1) Basic responsibilities of companies that respect human rights

- Where an infringement of human rights occurs, the responsibility to protect human rights lies with the state, with the corporation's responsibility understood as being to respect human rights (to avoid infringing the rights of third parties and remedy any negative impact on rights of related people). The Guiding Principles clarify the division in roles between government and corporations.
- Corporations may be able to engage in activities and commitments beyond respect of human rights, which support and promote said rights, but these activities must not supersede respect for human rights.
- In order to meet their liabilities in regard to respecting human rights, corporations must establish commitments that are appropriate for their scale and situation, human rights due diligence processes, and processes that facilitate remedy of any negative impact on human rights.

(2) Clarification of the extent of corporate responsibility

When a company becomes directly involved in a negative impact on human rights occurring in its value chain, it has the responsibility to remedy such impact (for this reason, some companies have come to interpret their responsibility as extending as far as primary suppliers).

Where infringements happen further down the chain, in a situation with which the company is not directly involved, its responsibilities cease at the point of exerting leverage towards remedy.

(3) Understanding its impact on human rights, and publicizing its actions (Knowing & Showing)

- Evaluation of impact on human rights necessitates understanding of the latent situations, and an awareness of to what extent the company is engaging in human rights infringements. If a problem arises, investigating the situation allows the company to come up with its own solutions.
- It is recommended that companies should publicize such measures and methods outside the

company, thereby fulfilling their responsibility to explain their actions to stakeholders.

(4) Stakeholder engagement

- Companies should strive to partner with and work alongside interested stakeholders. People likely to experience the impact of business activities in developing countries where human rights infringements take place should be prioritized as stakeholders to be partnered/worked with.
- In cases where it is difficult to directly form an agreement with stakeholders, agreements should be entered into with trustworthy independent specialists such as members of civilian organizations or human rights activists in order to utilize specialist knowledge not only from within the company but also from outside.

2. Other international guidance

Other examples of international CSR guidance also include categories relating to human rights, and since the publication of the Guiding Principles, existing guidance has also been revised to include human rights.

1) UN Global Compact (UNGC: 2000)

The UN Global Compact is a voluntary movement that participates in the creation of global guidance to realize sustainable development in a range of organizations, mainly companies. It is the only corporate network within the UN. Two of the Ten Principles of the UNGC relate to human rights.

2) GRI Guidance (2000)

The GRI (Global Reporting Initiative) published guidelines for sustainability reporting, and include human rights as one of the seven areas in regard to which it considers disclosure to be required. Indicators for disclosure categories are not particularly related to the Guiding Principles, but as the human rights movement grows, it is thought that the demand for disclosure of issues relating to human rights will increase.

3) ISO26000 (2010)

ISO26000 is the international standard for social responsibility, and it includes respect for human rights as one of its “Principles of Social Responsibility”, with the requirement that consideration be given to human rights issues in any activity when developing CSR. Here, the scope of organizational responsibility extends not only to respect, but also to promotion.

4) Revised OECD Guidelines for Multinational Enterprises (2011)

In the 2011 revision, a new chapter on human rights was added to these guidelines, regulating categories in line with the Guiding Principles. The OECD is characterized in establishing National Contact Points to support companies and stakeholders in the implementation of its guidelines in each of its member countries.

3. EU measures

1) Outline of activities³

³ From reference report: Yukako KINOSHITA (JBCE: Japan Business Council in Europe) “Trends in CSR in Europe” (2nd

The European Commission published its new CSR communication in 2011 (New CSR Strategy: approved by the Commission in February 2013) ⁴, which gives new definitions of CSR as follows, and is now developing policies along the Strategy.

New Definition of CSR:

“The responsibility of enterprises for their impacts on society”

To fully meet their corporate social responsibility, enterprises should have in place a process to integrate social, environmental, ethical, human rights and consumer concerns into their business operations and core strategy in close collaboration with their stakeholders

Based on this, the European Commission has specified the following actions:

1. Definition of priority issues in Europe (2012)
2. Creation of guidance documents for the three major sectors, and small and medium enterprises
3. Requirement for member countries to submit domestic plans relating to the introduction of the Guiding Principles (2012)
4. Expectation of all European companies that they will meet the responsibilities of corporations specified in the Guiding Principles

2) A guide to human rights for small and medium-sized enterprises (for details, see reference documents)

The guide to human rights for small and medium-sized enterprises was published in December 2012⁵. The guide was subsequently translated into various languages, including Japanese. The guide is an explanation of how small and medium-sized enterprises should engage in respect for human rights, written in a format that is simple to understand, and is characterized by its focus on negative impacts on human rights.

Outline of guidance

1. Introduction

Introductory explanations, including sections on Why should I take an interest in human rights? What are human rights? What is the significance of SMEs engaging in human rights? What should we do within our current business practices?

2. Respect for rights through six basic steps

Gives six steps to understanding a company's negative impacts on human rights, avoiding such impacts, and remedying them where necessary.

3. Questions to consider in everyday business solutions

This chapter envisages the activities and situations dealt with during day-to-day business, and explains the risk of

November 2012)

⁴ Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions, “A renewed EU strategy 2011-14 for Corporate Social Responsibility”

⁵ European Commission, “My business and human rights: A guide to human rights for small and medium-sized enterprises”, December 2012

negatively impacting human rights in each of these situations in a Q&A format.

1) When you recruit employees 2) Once you have recruited employees and they are working for you 3) When setting salaries and deciding who to promote 4) If employees want to join a trade union and engage in collective bargaining 5) When one of your employees is pregnant or has a pregnant spouse 6) If you advertise products 7) If you sell products directly to consumers 8) If your employees work under highly stressful conditions 9) If your employees have access to the internet at work 10) If your employees work with harmful substances 11) If your business uses machinery or vehicles 12) If you place orders to your suppliers with very tight deadlines 13) If you contract another company to provide security services 14) If you buy products from low cost countries or sectors that you suspect use child labour 15) If you sell products or services likely to be used in conflict-afflicted areas, or buy products made in conflict-affected areas

4. Examples of negative impacts on human rights

Explanation of 29 human rights that are all contained within the International Bill of Human Rights and ILO Core Conventions.

3) Guidance for enterprises in different business sectors

Based on the seriousness of human rights issues, the availability of existing guidance and the impact on and usability within other business sectors, the three business sectors of employment and recruitment agencies, information and communication technology (ICT) and oil and gas were selected, and guidance published for each sector in June 2013.

4. Other major agencies

1) Non-governmental organizations

Many non-governmental organizations are involved in human rights issues at the international, national and regional levels. The following organizations are playing certain roles specifically in issues related to business and human rights, and have contributed to the creation and development of the UN guidance.

(1) SHIFT

A non-profit group of specialists formed under director John Ruggie in July 2011, with the purpose of facilitating a “shift” towards the implementation of the Guiding Principles. Its headquarters are in New York and its members comprise several legal specialists from the Harvard Kennedy School who were involved in the creation of the Guiding Principles. The organization partners with government organizations, businesses, non-governmental organizations and civilian groups at various levels in different countries.

(2) Institute of Human Rights and Business (IHRB)

An international non-governmental organization with a focus on business and human rights, with a focus on functioning as a think tank. Involved in networking with global experts in the field on a consultancy basis, the Institute has John Ruggie as one of its directors.

(3) Danish Institute for Human Rights (DIHR)

Established as the Danish center for human rights as a result of a decision by the Danish government in 1987. Since 2002, it has been a state-funded research organization for human rights, and is a major player in the creation of guidance for human rights and business not only for Denmark but also for other European countries and at an international level, developing knowledge of and tools for human

rights, and offering communication support.

(4) Fair Labor Association (FLA)

Established in 1999 as an agency to promote improvements in developing and other countries where corporate labor problems have been highlighted, with the US government as its backbone. Companies, universities and civilian organizations etc. work with the Association on a wide range of activities to improve global workers' rights and labor conditions.

(5) SOMO (The Centre for Research on Multinational Corporations)

A non-governmental organization engaged in surveys, proposals and actions with the intention of providing independent solutions to environmental and social problems, with its base in Holland. It was established in 1973, and is highly regarded for its independent stance and proactive efforts in regard to human rights problems.

2) Business networks

(1) Global Business Initiative for Human Rights

A network organized of global companies engaged in proactive work on human rights issues. Prior to its foundation, leading companies in Europe and the US were engaged in similar activities, but the organization was established in 2009 as a result of a call to major companies throughout the world to proactively contribute to the creation of the Guiding Principles.

(2) CSR Europe

The agency responsible for developing the European Commission's new CSR strategy, which compiles and supports CSR for corporations. In 2012, the organization established a new working group on "Supply chains and human rights", and member companies are involved in specific studies.

3) Investors/Financial organizations⁶

Recently, investors and financial organizations have become more sensitive to human rights issues relating to projects that they are investing in. The background to this is the fact that human rights problems have come to be regarded as having a similar level of impact as environmental problems when assessing investment destinations and related project risks.

The following lists the major movements among financial organizations.

- Four European banks⁷ published the "Statement by the Thun Group of banks on the "Guiding principles for the implementation of the United Nations 'protect, respect and remedy' framework" on human rights" in October 2011.
- The "Equator Principles", which ensures that when private sector financial organizations engage in large-scale project financing they are sufficiently aware of the impacts of their projects on regional society and the natural environment, are expected to be revised in 2013 to create the third edition.
- UNEP FI (the UN Environment Programme Finance Initiative)⁸ has established a human rights working group as part of its activities, which provides guidance to financial companies in regard to human rights issues, and is engaged in educational activities.

⁶ From reference report: Eichiro ADACHI (Japan Research Institute Ltd.) "Human Rights Issues from the perspective of Investors/Financial Organizations", 20th November 2012

⁷ Barclays (UK), Credit Suisse & UBS (Switzerland), UniCredit (Italy)

⁸ As of November 2012, 219 banks, operating agencies, insurance companies, etc. were participating.

III. Survey on activities and measures implemented by global companies

1. Target and methods of survey

1) Scope of human rights

The following were selected from among the areas of human rights that are internationally considered to be strongly related to business.

1) Workers' rights, 2) Health and safety 3) Immigrant workers/human trafficking, 4) Lifestyle and culture of local civilians, 5) Access to water resources 6) Access to medical care, 7) Freedom of expression, 8) Privacy, 9) Misuse of products, 10) Conflict minerals

2) Scope of industries/companies

(Industries)

Natural resources/energy, Fabric/miscellaneous goods/retail, Foodstuffs, Pharmaceuticals, Information communication services, Automobiles, Machinery/electronics

(Companies)

Interviews and surveys on;

- 15 European and American companies
- 6 Japanese companies

3) Period of survey

Early November 2012 – Mid January 2013

2. Key findings (Details of interview with each company available in Japanese)

While business developments in developing countries offer rich business opportunities, in many cases they also present potential risks that were not anticipated in advance. Many forward-thinking companies have had issues in terms of the relationship of their business to human rights highlighted either by non-governmental organizations or the media, and have experienced a negative impact on their business as a result. These companies have overcome these problems and are pressing ahead with further actions and measures. The following is a summary of key findings of the survey.

1) There is support for the Guiding Principles, and consideration is underway of how to apply them in business practice.

The Guiding Principles are supported by most European and American companies as guidance to define the scope of corporate responsibility in regard to human rights issues. The companies studied in this survey were all progressive companies, which had begun to take measures in regard to human rights issues prior to the publication of the Guiding Principles. These companies consider a response to human rights to be an unavoidable issue in developing business at a global level, and believe it is something they will continue to need to incorporate in their business strategies. Based on an understanding that the Guiding Principles are a baseline for corporate responsibility to “respect” human rights, some companies in fact believe that further measures are required, and have been improving their management on these issues. Some European companies, who recognized the need

to incorporate this in management at an early stage, believe that efforts to protect human rights are a vital part of a corporation's "continual journey" alongside its stakeholders.

However, a large number of European and American companies seem to be, while aware of the need to respect human rights, still at the stage of considering how to implement this responsibility, and have not yet begun substantive activities. Society as a whole demands a broad range of responsibilities, and pressure is increasing on corporations, but they are wondering where to draw the line in taking practical actions. The Guiding Principles define a basic standard of responsibility, and it is believed that in the future many companies will use them to help navigate their considerations and activities on the issues of human rights.

In cases where the environment labor conditions in the supply chain is particularly important and monitoring systems are already in place, such as with the fabric and electronics industries, many companies are considering strategies to incorporate human rights elements into their existing activities, rather than directly aligning them with the Guiding Principles.

2) Senior management is aware of the importance of respect for human rights and committed to it

Companies' measures concerning human rights infringements have been highlighted by international non-governmental organizations and major media outlets, etc., and many companies have experience of the negative impact of operating risks and destruction of their reputation on their business. Rather than simply trying to deal with the problem locally, senior management now understands that it is not possible to build business in emerging countries, etc., without engaging in human rights issues. Senior management commitment is prioritized, and human rights policies express this stance both within and outside the company.

One European company was removed from the list of the investment destinations by US pension funds due to its operations in Sudan. This was the trigger for senior management to realize the impact of human rights issues, and the important risks they place on the company's financial and legal activities, and on its reputation. The departments dealing with these issues handled them as an aspect of CR (Corporate Responsibility) in order to raise awareness of the responsibility that comes with the management risks related to human rights issues. Based on its experience of overseas business, one Japanese company, based on a range of international principles, has published its policy on human rights in order to meet its responsibility as a resources company.

3) Working for enhancing understanding within the company

Based on the commitment by senior management, companies are engaged in a range of management activities related to human rights issues. Issues are addressed taking into account broader context and not only those relating to narrow definitions of human rights (such as discrimination among employees). As such, companies are aware that they must engage with these issues at every level of their business activities.

At a practical level, companies tend not to be implementing individual systems for human rights issues, but rather incorporating them into existing management systems (environment or health and safety, etc.) in order to make them compatible with the requirements of human rights. In order to

develop activities at a practical level, they are working towards increased awareness through internal training programs and other measures.

Since problems are particularly common to operations in many emerging countries, companies consider staff training at a global level to be important. One European company has created a basic platform within each country to promote employee understanding on this issue. This platform relates to various programs such as regional volunteer programs in the health sector, to ensure that employees are not simply trained internally, but that they actually go out into the communities and develop awareness on their own initiative. Even such a progressive company finds it hard to ensure that employees in different countries all build proper understanding of the issues. Under such difficulties, however, it continues to develop these programs.

4) Focus on dealing with human rights infringements within supply chains

Supply chain operations in emerging countries are places where human rights infringement can be significant. The issues and responses required differ from industry to industry. Supply chains for resources and energy companies are sites at which natural resources are harvested, such as mines and oil fields, and the impact on the lifestyle and culture of local residents, as well as environmental destruction, are serious issues. Treatment of mine workers and the working environment are also serious problems. Companies in the food sector produce many of their raw materials on farms in developing countries, and are required to be responsible for issues relating to rural and agricultural areas. Local residents in these cases are often families engaged in subsistence farming, and in addition to being provided with economic support by entering into contractual agreements, they are increasingly requesting social activities supporting local livelihoods and infrastructure. In the manufacturing industry, focus has been on labor issues within factories. This is not a new problem, and Japanese companies have already been involved in CSR procurement, in which they require CSR of their suppliers. More recently, companies have been working towards not only asking suppliers to submit their codes of conduct and respond to questionnaires, but also implementing monitoring and checks, and ensuring that suppliers are aware of the importance of respecting human rights. Companies are now considered responsible for areas of their operation that they cannot directly see, and at present, while a response to this situation is difficult, they are working towards measures in cooperation with local partners.

In regard to the question of to what extent companies are responsible for their supply chain, some companies who support the Guiding Principles limit their direct responsibility to only primary suppliers. This is based on their understanding of the Guiding Principles as stating that a company's responsibility goes as far as its "impact", and that beyond that they should be aiming for "leverage". Such companies interpret their direct impact as extending only to primary suppliers. The automobile industry has incredibly complex supply chains, and in practice it would be impossible for companies to manage the broader impact, even if required to do so. For this reason, the realistic stance of the Guiding Principles is useful to such companies.

5) Defining a company's human rights impact, and developing practical activities in response

The due diligence called for in the Guiding Principles indicates the overall steps required for human

rights management, the first of which is to evaluate a company's impact on human rights. On a global level, the range of human rights issues with which a business is required to engage is broad, and a high level of stakeholder demand means that it is simply not possible to deal with all issues at the same level.

Progressive corporations not only deal extensively with a range of issues in relation to human rights, they first- engage in evaluation of their own impact on human rights in terms of global human rights issues, in order to identify issues considered particularly important for their own management. The major issues for each industry are also often considered by industry organizations, and highlighted as focal topics. When identifying issues, additionally, companies engage in dialogue with their stakeholders, considering their evaluation and ensuring that decisions are not based on internal judgment alone.

Some European and American companies conduct company-wide evaluation using risk assessment methods provided by external organizations. These external organizations tend to be highly regarded, neutral, non-governmental organizations, rather than businesses, which is considered in itself an aspect of stakeholder engagement. One European company has developed its own socioeconomic evaluation tool as a standard for their group as a whole, which has already been implemented in 60 locations.

Additionally, another company prioritizes evaluation by country (site), where it evaluates each individual situation in regard to human rights. This allows the company not only to evaluate human rights, but also to benefit from a greater understanding of site-specific operations. One Japanese company implements stakeholder surveys at its plants in Southeast Asia, and maintains strong communication with local communities as a means of ascertaining the state of its CSR.

6) Engaging proactively with stakeholders

All the companies studied in this survey began their efforts to deal with human rights infringements as a result of serious incidents brought to light by non-governmental organizations and other stakeholders. Initially, the companies engage in dialogue with the stakeholders in regard to the problem that has occurred, developing communication with the stakeholder while coming to an understanding of the situation. Through discussing the limitations of the companies' responsibilities, etc., with stakeholders, each side fosters increased understanding of the other's position. Companies with a proactive stance towards social issues tend to cooperate with a wide range of non-governmental organizations, depending on the situation. In some cases, companies have found it useful to work through an intermediary, such as a third party specialist, to engage with stakeholders.

Grievance procedure mechanisms also allow stakeholders' voices to be heard, leading to ongoing monitoring of the situation outside the company. ICM (the International Council on Mining and Metals) has issued a guide to mechanisms for mining companies for this purpose, which one mining company has found useful.

7) Response to issues regarding conflict minerals⁹ under difficult circumstances

⁹ "Conflict minerals" refers to mineral resources harvested from regions in conflict, for example in Africa, where foreign currency obtained in return for such resources finances conflict, resulting in human rights infringements. In July 2010, the US passed the Dodd-Frank Act (on financial regulatory reform) which deals with this. The finalized regulations, according to

European and American companies are pressing ahead with a response to US legal regulations, although with difficulty. They have not adopted the regulations of the SEC (Securities and Exchange Commission) entirely, but are engaged in lobbying activities at the industry level. Since this problem originates with human rights infringements in resources-rich countries in Africa, the EU has begun considering the development of relevant regulations. This is unlikely to take the same form as those in the US, but it is important to closely monitor those policy developments.

which the US Securities and Exchange Commission (SEC) requires manufacturing companies listed on the stock exchange to disclose and report on the use of any conflict mineral products produced in the Democratic Republic of Congo or neighboring countries, was adopted in August 2012.

IV. Challenges and measures to be taken by Japanese companies concerning the issue of human rights

Through this survey, we have found that some Japanese companies recognize and monitor the seriousness of human rights issues, and take action when necessary. However, in general, it is too early to state that human rights issues are being sufficiently addressed among Japanese companies.

In this chapter, we will try to summarize the current situation within many Japanese companies and make some recommendations for improving it, taking into account the findings of our survey on activities and measures implemented by more progressive companies, as well as the significant impacts of human rights issues on business activities.

1. Major challenges concerning the issues of human rights

1) Difficulty in understanding human rights issues in the global context

When discussing human rights and business in the Japanese context, many companies tend to center their awareness on discrimination relating to their own employees, while the scope of issues of business and human rights discussed at the international level is much broader. The concept of basic human rights provided in the Japanese constitution are wide-ranging - they include not only the right not to be discriminated against, but the rights to freedom of expression, fair and decent working conditions, and a minimum standard of health and cultural life. It should naturally be understood that these rights are all related to business. On the other hand, infringements to human rights in emerging countries are not properly regulated by domestic laws. Even if laws exist, in many cases, their execution tends to be incomplete. In many cases, bribery and corruption are such a part of day-to-day life that the local laws are not applied or enforced. Furthermore, the corporate responsibility for respecting human rights extends not only to the company's own activities, but to those of trading partners and others within their value chain. The scope of businesses' engagement with human rights is therefore broad, and does not rest only with the company's own activities. It is a challenge for many Japanese companies to gain sufficient understanding of this situation, and of the fact that it is not sufficient to simply abide by local laws in the country in which they operate.

2) Insufficient consideration and measures for human rights issues within companies and their value chain

Since corporate activities have an impact on a range of human rights, consideration of, and measures in regard to, human rights must be handled not only by the human resources or CSR divisions, but also across the company. Furthermore, since each business will engage with different stakeholders, who are subject to the potential impact of their activities, consideration should be given taking individual situations fully into account, including those within the value chain.

3) Insufficient dialogue and partnerships with stakeholders and specialists in regard to the human rights issues

Many Japanese companies have not yet engaged sufficiently in dialogue with a broader range of stakeholders over the issue of business and human rights. In particular, in the case of human rights infringements in emerging countries, those suffering human rights infringements tend to

work with (international) non-governmental organizations and those NGOs often raise issues to the companies. On the other hand, few companies have engaged in close dialogues with non-governmental or other relevant organizations in order to build cooperative relationships with them.

4) Insufficient awareness raising about the importance of responding to human rights issues publicly, and insufficient capacity of individual companies to deal with human rights issues

One of the reasons that Japanese companies are insufficiently aware of global human rights issues is that insufficient attention has been drawn to such issues by the government and other public bodies.

Current and correct information regarding global human rights issues in emerging countries, the coordination of local laws and the state of their execution, and the political situation and social customs behind these, should be properly understood and communicated. Additionally, some have pointed out that the issues of business and human rights should be incorporated into various support mechanism (government and relevant bodies) in setting up operations in emerging countries.

2. Proposals for the future

Proposal 1: Senior management should be aware of the importance of meeting their company's responsibilities in regard to respecting human rights and commit to implementing this both within and outside the company. They should also be aware that they have a certain responsibility for the impact of businesses on their supply chain in emerging countries, even if they are not required to take this responsibility according to the domestic regulations.

Corporate activities in developing and other countries often cause problems by infringing on specific human rights specified in international agreements such as the Universal Declaration of Human Rights and the ILO Core Labour Standards. There is almost no situation in which corporate activities do not impact on internationally recognized human rights. Companies are expected to behave in line with an intention to contribute to the benefit of human society when considering relationships with a range of stakeholders, and as such it is natural that companies should respect human rights. Senior management are required to be aware of the serious risk that the relationship between corporate activities and human rights brings to their business activities at a global level, based on these principles, and to work to ensure that their commitment to meeting their corporate responsibility to respect human rights is widely recognized throughout the company, and is also communicated externally. It is also considered effective for senior management and executive management to be proactively involved in the international debate on human rights, as a means of broadly communicating their commitment.

When assessing their responsibility to respect human rights, corporations should fully understand that the scope of internationally recognized human rights is broad, that their activities do not end with their own company, but must be based on an understanding that they extend to the impacts on human rights throughout the value chain, and that it is not sufficient to merely abide by local laws, especially in countries where governance relating to human rights is insufficient.

Recently investors and financial organizations have become more sensitive to human rights issues in their investment and related projects. Investors with long-term views, for example, now require

companies to provide disclosure relating to ESG (environmental, social and governance) issues, including human rights. Furthermore, many financial institutions now assess the level of consideration being given to local communities and environmental issues in the implementation of a large-scale project before offering finance. Fulfilling the responsibility of respecting human rights leads investors and financial organizations to more positive evaluations when deciding the financing for companies.

Furthermore, in addition to fulfilling their responsibility to respect human rights, it is hoped that companies will proactively support and promote these issues. Ongoing work in this area can be expected to reduce risk to a company's reputation, strengthen relationships with customers, raise employee motivation and lead to the company being evaluated more positively, broadening opportunities and in the medium term, raising the value of the company overall.

Proposal 2: Companies are required to implement their commitment to respecting human rights comprehensively and practically. Specifically, not only should various departments within a company work together (including HR, CSR, legal, production, sales, development, purchasing, etc.), but also each company should consider the risk to human rights in consideration of its value chain. Measures should be taken to ensure their suppliers do not oppose measures relating to the respect for human rights, by spreading awareness and encouraging strong communication links.

In order for companies to appropriately meet their responsibilities to respect human rights, they need to be aware of why they are engaging in respect for human rights, what impact their activities have on human rights, and then consider how to avoid these defined risks and take actions to remedy problems.

Based on the knowledge that corporate activities can have diverse impacts on human rights, a broad range of departments including HR, CSR, legal, production, sales, development, purchasing, etc. must work together to provide a cross-sectional response.

Furthermore, each business has different value chains and main workplaces, each of which has stakeholders with a different potential for impact. As a result, consideration must be given to the human rights risk for each business, including its value chain, and companies are required to thoroughly implement measures to respect human rights down to the individual workplace level.

In addition, the measures above must be implemented in cooperation with its suppliers. When gaining the cooperation of suppliers with different corporate status, it is important that awareness is shared and information from the suppliers is taken into account, in order to ensure that suppliers do not oppose measures relating to the respect for human rights, or see them as an unnecessary burden, and that mutual communication is strengthened.

It is important to abide by international codes of conduct when implementing measures to respect human rights. The UN's Guiding Principles (see pp. 5-9) provide effective guidance in this, and have been highly evaluated by global companies. For this reason, it is recommended that these principles be referred to and applied. It is also considered desirable for actions which go beyond these basic requirements to be implemented.

Proposal 3: Build dialogue and partnership with stakeholders and gain advice from specialists to allow the prevention of human rights abuses, as well as smooth solutions in the event that they do

occur.

CSR is a responsibility to stakeholders, and human rights issues relate to the right of stakeholders to live. Corporate responses cannot be considered without the engagement with stakeholders, who are potentially at risk of being impacted negatively. Engagement with stakeholders may sometimes involve helping stakeholders to understand the limitations of a single company, and to find a way to work together in tackling problems. Honestly engaging with stakeholders and coming to a shared understanding of the dilemmas posed by human rights problems can bring the two sides closer together and provide indications to possible solutions. Furthermore, in many cases, dialogue or partnership with non-governmental organizations that represent the interests of stakeholders can lead to solutions to problems.

In cases where it is difficult to directly approach stakeholders or the non-governmental organizations that represent their interests, it can be helpful to engage in a strategy that utilizes the abilities of a third party. Local leaders or specialists in the field, or, alternatively, international organizations or regional public bodies may be asked to intervene, or the company may participate in a multi-stakeholder initiative relating to the issue or industry, by jointly working towards a solution with other corporations.

Additionally, even if the company is abiding by local laws, it may be infringing on international standards and lead to human rights problems, and in such cases the company cannot avoid responsibility. In order for a company to avoid international criticism in relation to human rights issues arising from its activities in developing and other countries, or in seeking effective avenues to resolve such criticism, it can be important to obtain advice from legal specialists familiar with local conditions and international human rights standards, but there are few legal specialists who are able to provide integrated advice on both business and human rights, in Japan. For this reason, judicial and government circles should be prioritizing the training of corporate lawyers with a thorough knowledge of CSR and other forms of “soft law”, and human rights lawyers who understand the realities of business in developing and other countries.

Proposal 4: Government and public bodies must call attention to the importance of human rights issues in business development when corporations move into emerging countries, and provide the necessary information and additional support.

The government and public bodies should proactively call companies’ attention to the fact that human rights problems are a major factor in global business development, and that corporations are required to fulfill their responsibility to respect human rights. In addition, they should provide the necessary information to help companies reduce the risk of human rights infringement in emerging countries. Small and medium-sized enterprises, in particular, find it difficult to access this sort of information, and as such the government and public bodies should ideally proactively instigate seminars and training programs for companies working in emerging countries, and those considering doing so.

In addition, the government and public bodies are expected to provide support where possible by aiding small and medium-sized companies in utilizing the advice of specialists when they face issues relating to the infringement of human rights.

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