

Human Rights and Businesses

14th Informal ASEM Seminar on Human Rights

Background Paper

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Context

- Roots of business and human rights agenda
- UN Guiding Principles on Business and Human Rights
- Key concepts and principles

Europe

- Council of Europe
 - *European Convention on Human Rights*
 - *European Social Charter*
- European Union
 - *Communication on CSR*
 - *National Action Plans on UNGPs*

Asia (1)

- Effects of rapid economic growth upon human rights.
- Implications of CSR as an entry-point into BHR.
- Progress on laws and policy instruments, but implementation challenges; implications of CSR-legislation.
- Changing landscape and implications for UNGPs :
 - *Transnational engagement*
 - *Asian companies operating in developing countries*
 - *Focus on responsible investment*

Asia (2)

- Land-grabbing – rural and urban
- Workers rights – forced labour, migrants, gender discrimination
- Human rights defenders
- Corruption



Working Group 1-State Duty to Protect

- General state regulatory and policy functions
 - *Providing effective guidance*
 - *Corporate reporting*
- State-business nexus
 - *State-owned enterprises*
 - *Public procurement*
- Conflict-affected areas
- Policy coherence

Working Group 2 - Corporate Responsibility to Respect

- Human rights due diligence
 - Policy
 - Impact assessment
 - Remediation
 - Supply chain responsibility
 - Reporting

Working Group 3 -Access to Remedies (1)

- Core to State Duty to Protect and Corporate Due Diligence.
- Challenge to secure A2R through judicial mechanisms is multifaceted:
 - Expanding web of liability but still inadequate:- finding cause of action; locus standi; forum non conveniens.
 - Practice barriers linked to access to justice challenges that the marginalised & disenfranchised face.
- Extraterritorial jurisdiction as a means of dealing with transnational complexities & securing effective remedy...but need to consider effects on state duty.

Access to Remedies (2)

- Non-judicial mechanisms are an important complement:
 - *Build and promote NHRI and NCP capacity*
 - *Project-level grievance mechanisms fulfill a range of needs (due diligence, early warning, easier access) but must meet effectiveness criteria and must be truly rights-based.*
- Improving A2R:
 - *National level civil and criminal liability*
 - *Access to information and transparency*
 - *Treaty on corporate accountability?*

Working Group 4- Multi-stakeholder initiatives

- Relatively new form of governance
- Effectiveness dependent upon internal dynamics and governance and on accountability and transparency.
- Important to assess both immediate impact (upon rights-holders) and long-term impact (upon the human rights ecosystem).
- “Are MSIs necessarily the best way to govern?”

Business, Human Rights and Sustainable Development



- Are current business and human rights tools ‘fit for purpose’?
- How can the business and human rights agenda best enable sustainable development?
- What is missing from the current toolkit / approach?