

2019 Australian Dialogue on Business and Human Rights

Doing business with respect for
human rights in the Asia Pacific region

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Global Compact
Network Australia



Australian
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Commission





Summary document



The 2019 Australian Dialogue on Business and Human Rights was convened by the Global Compact Network Australia (GCNA) and the Australian Human Rights Commission (AHRC) on 17 October in Melbourne. For the sixth consecutive year, Australia's multi-sector, multi-stakeholder Dialogue brought together leaders and experts to progress the business and human rights agenda.

Recognising the importance of the Asia-Pacific region as a major trading partner and host to many suppliers and customers of Australian companies, the theme for the 2019 Dialogue was *Doing Business with Respect for Human Rights in the Asia Pacific Region*.

This year's Dialogue featured a multi-stakeholder line-up of experts drawn from both Australia and the region. The Dialogue highlighted the diverse challenges Australian companies may face in respecting human rights in Australia and the region and practical solutions to address them. The regional theme was timely given many Australian companies are considering their relationships in the region as part of their response to new modern slavery legislation. Australian companies are also facing increasing pressure from stakeholders, including consumers, investors, customers and governments, to address their human rights impact at home and abroad.

The aims of the Dialogue are to:

- Enhance the capacity of Australian businesses to identify and manage their human rights-related risks and opportunities;
- Build participants' understanding of business and human rights in a practical way, through highlighting current leading practices;
- Explore the role of different stakeholders in supporting businesses to understand and manage human rights issues; and
- Build peer and multi-stakeholder networks around business and human rights.

The Dialogue highlighted key business and human rights developments that took place over the year. Some of these included the passage of the Commonwealth Modern Slavery Act and Guidance, Australian National Contact Point's new procedures, global developments in mandatory human rights due diligence, cross-sector engagement at the UN Climate Action Summit and the GCNA Conference and investor alignment with environmental, social and governance issues. It was noted that further work still needs to be done. Some of the key issues requiring focus included understanding the shrinking civic space and its impacts on business and society and the need for enhanced and more collaborative stakeholder engagement.

The Dialogue was not run under the Chatham House rule; however, media was not present. Insights from the Dialogue were captured on social media by speakers and participants, using the designated hashtag #bizhumanrightsAU. This Summary does not necessarily represent the GCNA's, the Commission's or any participating organisation's views. The Dialogue Agenda is available [here](#).

1 Business leadership on human rights in the Asia Pacific region

The Dialogue started with a call to action to Australian businesses operating in the Asia-Pacific region through a keynote address from Debbie Stothard, Secretary General of the International Federation for Human Rights. Ms Stothard emphasised that a key human rights issue for businesses operating in the region is ensuring they obtain free, prior and informed consent of communities, which includes the right for communities to say no to projects.

For vulnerable communities in the Asia-Pacific, entry of foreign investors is sometimes considered a threat due to issues such as land grabbing, sea grabbing or alignment with host-country military. Civil society and human rights defenders contribute crucial early warnings and sources of information for business in relation to their human rights impacts. Business should expect civil society to play a role in providing advice and assurance to business, but also accountability.

Commenting on the role of business in society with respect to climate change, Ms Stothard emphasised that 'you cannot stay in your own lane when the road is collapsing.' In the panel that followed, business leaders encouraged companies operating in the Asia-Pacific region to creatively and iteratively tackle human rights issues in the region, putting diversity and inclusion at the centre of their problem solving. For example, banks may help fight corruption and foster transparency in the movement of money by encouraging online transactions rather than cash payments. However, they must be aware that cashless approaches can often exclude and disempower women.

A key theme arising during the Dialogue is that Australian businesses are now expected to look beyond their first-tier suppliers (which often operate in the region) to understand their human rights risks. Participants noted that business should take measures to mitigate the short comings of supplier audits by supporting trade unions and freedom of speech, collaborating with peers and local NGOs, and engaging with local workers. There is a need for business to listen to the communities in the region in which they are operating, especially indigenous communities. This includes engaging with community expectations around remedy, which may not necessarily involve monetary compensation. The investor perspective that emerged from the Dialogue was that human rights issues have a direct impact on sustainable, long-term returns and that businesses have an obligation to manage them.



2 Respecting human rights defenders and the civic space

A prominent theme throughout the Dialogue was growing expectations on business to engage effectively with human rights defenders, and to recognise them as key partners for business in conducting human rights due diligence.

Human rights defenders in the Asia-Pacific region face a wide spectrum of challenges including criminalisation, law suits, harassment and violence and shrinking civic space. Human rights defenders in the region often operate in contexts of high corruption, poor transparency around natural resources and weak rule of law. Key issues for human rights defenders in the region include indigenous rights, access to food and water, sexual abuse, abuses at the hands of armed forces, and land rights.

Business and NGO panellists explained that the term 'human rights defender' should be understood broadly as anyone who promotes or speaks up about human rights issues (which are often interlinked with environmental concerns). The term encompasses both individuals or organisations (such as NGOs, universities or unions) that look for solutions to human rights concerns and work to empower communities and workers to claim their rights and access remedy. Emmanuel Peni, a human rights defender from Papua New Guinea (PNG), provided insights into his lived experiences in tackling business related human rights abuses, including experiencing harassment and threats due to his activism.

Companies can increase their capacity to engage with human rights defenders through actions such as internal training on human rights for employees and the board and creating a company culture where employees are encouraged to talk about human rights. One way to build capacity amongst suppliers around human rights issues is to start by identifying issues of mutual interest, and re-framing human rights issues in language suppliers understand; such as access to clean water and sanitation. Businesses can also monitor attacks on defenders in regions where they operate through the Business, Civic Freedoms & Human Rights Defenders Portal provided by Business and Human Rights Resource Centre.



3 Creating effective company grievance mechanisms

Workers and community access to remedy for human rights harms through effective grievance mechanisms is a key aspect of the businesses responsibility under the UN Guiding Principles on Business and Human Rights (UNGPs).

The Dialogue explored some of the challenges workers in the Asia Pacific region face in accessing company grievance mechanisms and remedy. The barriers raised included: lack of trust, security concerns, lack of visibility, literacy issues, fear of retaliation, design flaws and culturally inappropriate mechanisms.

Rekha Chakravarthi (Cividep India) shared that barriers to accessing grievance mechanisms and remedy are exacerbated in the context of garment workers in Bangalore by factors such as a lack of freedom to association or collective bargaining agreements. These factors reduce the likelihood that grievances are raised. High production targets are linked to many worker grievances (such as verbal and physical harassment and not having time to go to the bathroom) and additionally act as a barrier to reporting grievances due to time pressures. Companies should consider whether their purchasing practices create downward pressure on suppliers leading to adverse conditions for workers.

The Dialogue made clear that effective grievance mechanisms help mitigate well-known shortcomings of supplier audits, along with measures such as anonymous surveys and engagement with workers and local NGOs. Effective grievance mechanisms can also help business to identify and prevent potential human rights harms before they occur. Businesses should be tailoring their grievance mechanisms to the needs of local users. For example, Kathmandu is building on social media tools already used by workers in its supply chains in the Asia-Pacific to create more effective grievance mechanisms. Similarly, operating in rural, remote and culturally and linguistically diverse environments in PNG means Oil Search uses a range of formal and informal, culturally adapted grievance channels, with an emphasis on visible and accessible engagement and a network of community-appointed liaison officers.

Kathmandu has also had success collaborating with business peers to create leverage to address a grievance about a common supplier in the region. Businesses can also help address grievances by partnering with problem suppliers on solutions, creating correction plans and incentivising suppliers to make changes.



Tech platforms aimed at elevating worker and community voices within businesses have proliferated in recent years, such as TIMBY. The Dialogue highlighted the importance of using an iterative, tailored and user-centred approach to the creation of trusted tech platforms for grievances. Questions businesses should be asking about tech platforms in this space include how is data being collected, kept safe and anonymised (with regular audits being key) and whether the relevant platform or app has features to keep users safe, such as fake 'masking' sites, passwords or panic buttons. Other considerations include whether there are transparent timeframes for company responses; accommodations for offline stakeholders and keeping the mechanism simple enough to ensure it is used by the intended cohort, including in low literacy settings. Companies should ensure they have channels for stakeholders (e.g. women) that may be culturally or practically excluded from formal mechanisms.

4 Climate inaction as a human rights risk

Discussions emphasised the relationship between climate change and the responsibility of business to respect human rights. Growing activism and increasing investor expectations of business disclosure of climate related risk means that climate impacts increasingly present material financial risks to business. However, it is important for businesses to recognise that inaction on climate has a human cost.

The Dialogue highlighted the growing understanding of the human right impacts of climate change (particularly extreme weather conditions) on the health, livelihoods and culture of already vulnerable communities in the Asia-Pacific. There is increasing pressure from civil society, regulators and investors for businesses to find solutions to climate induced human rights issues, which are also a source of reputational risk. In addition, the factors that make people vulnerable to exploitation such as modern slavery, poverty and displacement will only increase with climate change.

The acceleration in instances of climate-related litigation involving human rights aspects means understanding the relationship between climate change and human rights is vital. Australia has the second highest number of climate related litigation claims globally. The trend towards climate litigation is also appearing in the Global South. Recently Torres Strait Islanders took a complaint to the UN Human Rights Committee against the Australian government for breaching their human rights by not adequately protecting their island homes from sea-level rises driven by climate change. Expressing the interest of responsible investors, Brynn O'Brien emphasised that 'business models need to radically change' if we are to limit global warming to well below 2 degrees, as articulated by the Paris Agreement.

Professor Katerina Taewa (ANU) shared insights into the impacts of climate change on the Pacific Islands, including rising seas, king tides rushing the land and seawater destroying freshwater atolls. Professor Taewa highlighted the way that Pacific culture and the environment are deeply intertwined, explaining that 'what happens to the land, happens to the people.' One way businesses can support the communities affected by climate change is by helping them to preserve their culture through support for the arts.





5 Governance in the Asia Pacific region remains a challenge



Governance issues continue to be a key challenge to respecting human rights in the Asia Pacific region. As Serena Lillywhite (Transparency International Australia), explained there is a connection between human rights violations, corruption and conflict. Some of the industries that tend to be prone to corruption include extractives, construction and telecommunications.

Businesses face heightened challenges when operating in jurisdictions with weak rule of law or with little protection of human rights. In order to navigate these challenges, business should undertake thorough due diligence to both 'know your customer' and understand the political environment before commencing new projects or entering new markets. This includes recruiting locally and engaging early with communities and local civil society organisations who are well placed to highlight issues such as corruption and land disputes. Another key measure in these contexts is establishing robust whistleblower protections and grievance mechanisms, which often have the additional benefit of helping detect other risks such as fraud or environmental concerns. The gendered impacts of weak governance and corruption were also considered. One illustration of this issue is that if women are unable to pay bribes required to access a service, they would be expected to pay it through sexual favours.

6 Empowering women and girls in the region

Ensuring the protection and empowerment of women and girls is a cornerstone of sustainable business and human rights in the Asia Pacific Region. Key hurdles faced by women and girl workers in the region include unequal pay, unpaid work, denial of access to maternity leave, sexual harassment and lack of access to remedy.

The particular precarity of migrant women and girl workers in the Asia-Pacific was highlighted during discussions at the Dialogue. These workers are attractive to employers as compliant, hard workers and therefore are susceptible to being forced or trafficked into exploitative labour. Host countries' immigration policies and visa conditions (including Australia's) can compound the vulnerability of migrant workers. With this in mind, companies' modern slavery responses should include establishing strong grievance mechanisms in their business and supply chains and engaging directly with workers (where possible in their native languages).

Business-based sexual harassment in the Asia-Pacific region not only impacts women workers but also companies' bottom lines. CARE Australia's research demonstrates that in Cambodia alone 89 million USD is lost per year due to increased absences and staff turnover arising from sexual harassment. CARE's training project aimed at combatting sexual harassment in garment factories in Cambodia has resulted in increased staff retention and relevant factories becoming employers of choice for the majority female workforce.

The role for business-CSO partnerships in empowering women in the region was illustrated via a discussion of CARE Australia and Cotton On Groups' partnership providing leadership training for the (predominantly women) garment workers in Cotton On supplier factories in Bangladesh. Factors contributing to the success of this partnership that were highlighted included extensive consultation and project co-development with supplier partners, ensuring the buy-in of the supplier-factory management in Bangladesh and developing a monitoring and evaluation framework for the project.



7 Cross-sector collaboration

The Dialogue ended with a keynote address from Ciara Sterling, Director and CEO of the Thriving Communities Partnership, who stressed that most of us are only one life event from being vulnerable and suggested that businesses should examine whether their business activities may inadvertently be contributing to systems that exacerbate vulnerability.

Thriving Communities Partnership enables cross-sector collaboration to better support people across Australia in vulnerable situations by aligning approaches amongst sectors such as banking, utilities and civil society. These partnerships model placing the human rights of vulnerable people at the centre of business decision-making.

The underlying theme across the Dialogue was the importance of collaboration across all sectors including business, civil society, academia, unions, investors and government. Ultimately, meaningful and sustainable change in the Asia Pacific region is only possible by working together across sectors to put human rights at the centre of decision-making.



The Ten Principles of the UN Global Compact

The Ten Principles of the United Nations Global Compact are derived from: the Universal Declaration of Human Rights, the International Labour Organization's Declaration on Fundamental Principles and Rights at Work, the Rio Declaration on Environment and Development, and the United Nations Convention Against Corruption.



HUMAN RIGHTS

- 1 Businesses should support and respect the protection of internationally proclaimed human rights; and
- 2 make sure that they are not complicit in human rights abuses.



LABOUR

- 3 Businesses should uphold the freedom of association and the effective recognition of the right to collective bargaining;
- 4 the elimination of all forms of forced and compulsory labour;
- 5 the effective abolition of child labour; and
- 6 the elimination of discrimination in respect of employment and occupation.



ENVIRONMENT

- 7 Businesses should support a precautionary approach to environmental challenges;
- 8 undertake initiatives to promote greater environmental responsibility; and
- 9 encourage the development and diffusion of environmentally friendly technologies.



ANTI-CORRUPTION

- 10 Businesses should work against corruption in all its forms, including extortion and bribery.

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