



FRAMING THE CAMPAIGN ON AND STRENGTHENING MOVEMENTS FOR LBI

IDEAS AND SUGGESTIONS FROM THE ASIAN TASK FORCE

MAIN QUESTIONS

**WHY SHOULD ASIAN STATES AND PEOPLES PUSH FOR
GREATER CORPORATE ACCOUNTABILITY?**

**WHAT CAN WE DO TO STRENGTHEN AND CONSOLIDATE
PEOPLES MOVEMENTS FOR CORPORATE
ACCOUNTABILITY?**



THE NEED FOR STRONGER REGULATIONS

RATIONALE AND CONTEXT

01

ASIA AND THE VOTE IN 2014

UNHRC RESOLUTION 26/9

02

ASIA AND THE GLOBAL ECONOMY

ISSUES AND CHALLENGES

03

A PEOPLES MOVEMENT FOR CORPORATE ACCOUNTABILITY

SUGGESTIONS ON WAYS FORWARD

04

RISING NUMBER OF HR VIOLATIONS AND ABUSES

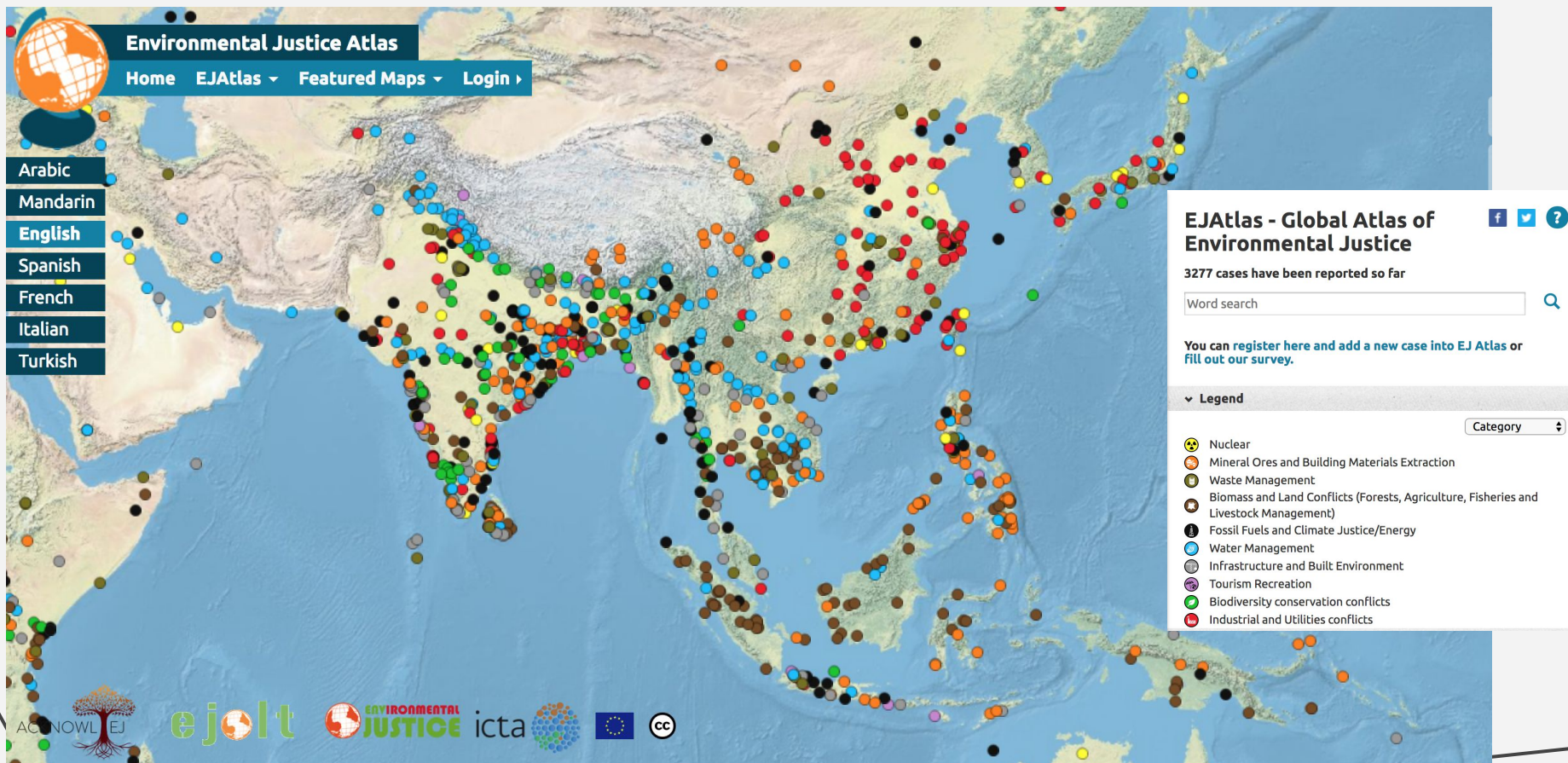


**RANA PLAZA DISASTER IN SAVAR,
BANGLADESH (2013)**

Some emblematic cases

- 2013 Rana Plaza disaster in Bangladesh that killed 1,132 factory (mostly female) workers,
- 2012 Marikana massacre of 34 miners in South Africa,
- ongoing destruction caused by Shell in Nigeria's Ogoniland
- and by Chevron in the Ecuadorean Amazon,
- the human rights violations linked to the Cerrejon Coal mine in Colombia
- Tampakan massacre in the Philippines





<https://ejatlas.org/>





RULES FOR BUSINESS **RIGHTS FOR PEOPLE**

ASIA DEMANDS BINDING RULES ON BUSINESS

October 2018



<https://www.foei.org/wp-content/uploads/2017/02/18-foe-corp-treaty-bookletASIA-WEB.pdf>



ARCHITECTURE OF IMPUNITY

“TNCs are able to evade national jurisdictions because of their transnational character, and the unprecedented economic, financial and political power they command, their economic and legal flexibility, and the complex structures they use to carry out their operations. Impunity therefore typically prevails, especially when the affected communities and peoples are in the Global South.” (Transnational Institute)



RISE OF CORPORATE POWER

"WE WILL NOT SELL
OUR SOULS TO THE
MULTINATIONALS!"



25 giant companies that are bigger than entire countries



Fernando Belinchón and Qayyah Moynihan, Business Insider
España Jul 25, 2018, 8:40 AM



Alphabet, Google's parent company, had more money than Puerto Rico in 2017. Greg Sandoval/Business Insider

- The annual revenues of giant corporations such as Apple, Microsoft, and Walmart are colossal.
- The scale of their profits takes on a whole new meaning when compared with the GDPs of many of the world's countries.
- Walmart out-earned Belgium in 2017.



PHILIPPINES

THE LIST: 2020 GLOBAL 2000

SEARCH BY COUNTRY/TERRITORY

Philippines

OR

SEARCH BY NAME



Rank	Company	Country/Territory	Sales	Profits	Assets	Market Value
707	SM Investments	Philippines	\$9.2 B	\$860.7 M	\$22.6 B	\$20.2 B
937	BDO Unibank	Philippines	\$4.3 B	\$840.3 M	\$64.6 B	\$8.8 B
1170	Top Frontier Investment Holdings	Philippines	\$19.5 B	\$207.4 M	\$36.2 B	\$930 M
1234	Ayala Corp	Philippines	\$5.1 B	\$681.3 M	\$26.6 B	\$7.2 B
1388	JG Summit Holdings	Philippines	\$5.6 B	\$604.2 M	\$18.4 B	\$7.2 B
1453	Metropolitan Bank & Trust	Philippines	\$2.8 B	\$533.5 M	\$46.7 B	\$3.5 B
1873	LT Group	Philippines	\$1.8 B	\$447.9 M	\$25 B	\$1.7 B

INDONESIA

THE LIST: 2020 GLOBAL 2000

SEARCH BY COUNTRY/TERRITORY

Indonesia

OR

SEARCH BY NAME



Rank	Company	Country/Territory	Sales	Profits	Assets	Market Value
347	Bank Rakyat Indonesia (BRI)	Indonesia	\$10.5 B	\$2.4 B	\$102.1 B	\$22.5 B
487	Bank Central Asia	Indonesia	\$6 B	\$2 B	\$66.2 B	\$42.8 B
495	Bank Mandiri	Indonesia	\$8.6 B	\$1.9 B	\$95 B	\$14 B
708	Telkom Indonesia	Indonesia	\$9.4 B	\$1.4 B	\$15.1 B	\$23.3 B
1053	Bank Negara Indonesia	Indonesia	\$5.4 B	\$1.1 B	\$60.9 B	\$5.1 B
1516	Gudang Garam	Indonesia	\$7.9 B	\$774.2 M	\$4.7 B	\$5.9 B

CHINA

THE LIST: 2020 GLOBAL 2000

SEARCH BY COUNTRY/TERRITORY

China

OR

SEARCH BY NAME



Rank	Company	Country/Territory	Sales	Profits	Assets	Market Value
1	ICBC	China	\$177.2 B	\$45.3 B	\$4,322.5 B	\$242.3 B
2	China Construction Bank	China	\$162.1 B	\$38.9 B	\$3,822 B	\$203.8 B
5	Agricultural Bank of China	China	\$148.7 B	\$30.9 B	\$3,697.5 B	\$147.2 B
7	Ping An Insurance Group	China	\$155 B	\$18.8 B	\$1,218.6 B	\$187.2 B
10	Bank of China	China	\$135.4 B	\$27.2 B	\$3,387 B	\$112.8 B
26	China Merchants Bank	China	\$58.4 B	\$13.7 B	\$1,094.9 B	\$120.9 B
30	Postal Savings Bank Of China (PSBC)	China	\$64.4 B	\$9 B	\$1,522.4 B	\$92 B
31	Alibaba	China	\$70.6 B	\$24.7 B	\$189.4 B	\$545.4 B
32	PetroChina	China	\$364.1 B	\$6.6 B	\$392.3 B	\$65.9 B

INDIA

THE LIST: 2020 GLOBAL 2000

SEARCH BY COUNTRY/TERRITORY

OR

SEARCH BY NAME

Rank	Company	Country/Territory	Sales	Profits	Assets	Market Value
58	Reliance Industries	India	\$84.8 B	\$6.2 B	\$147.2 B	\$123.8 B
146	HDFC Bank	India	\$20.7 B	\$3.8 B	\$209 B	\$73.1 B
171	State Bank of India	India	\$51.1 B	\$2 B	\$559.9 B	\$22.6 B
255	ICICI Bank	India	\$20.8 B	\$1.3 B	\$182.8 B	\$32.8 B
269	Oil & Natural Gas	India	\$60.1 B	\$4.4 B	\$72.6 B	\$13.4 B
279	HDFC	India	\$13.2 B	\$2.3 B	\$98.2 B	\$44.2 B
375	Tata Consultancy Services	India	\$22.1 B	\$4.6 B	\$16 B	\$100.7 B
389	Indian Oil	India	\$69.9 B	\$1.8 B	\$47.1 B	\$10.6 B
443	Larsen & Toubro	India	\$20.8 B	\$1.4 B	\$40.4 B	\$16.8 B

Microsoft now has a UN representation office

Our interconnected world requires collective action

Sep 17, 2020 | [John Frank - Vice President for UN Affairs](#)

“Many of the big challenges facing society can only be addressed effectively through multi-stakeholder action. Whether it’s public health, environmental sustainability, cybersecurity, terrorist content online or the UN’s Sustainable Development Goals, we at Microsoft have found that progress requires two elements. We need both international cooperation among governments and inclusive initiatives that bring in civil society and private sector organizations to collaborate on solutions.”



01

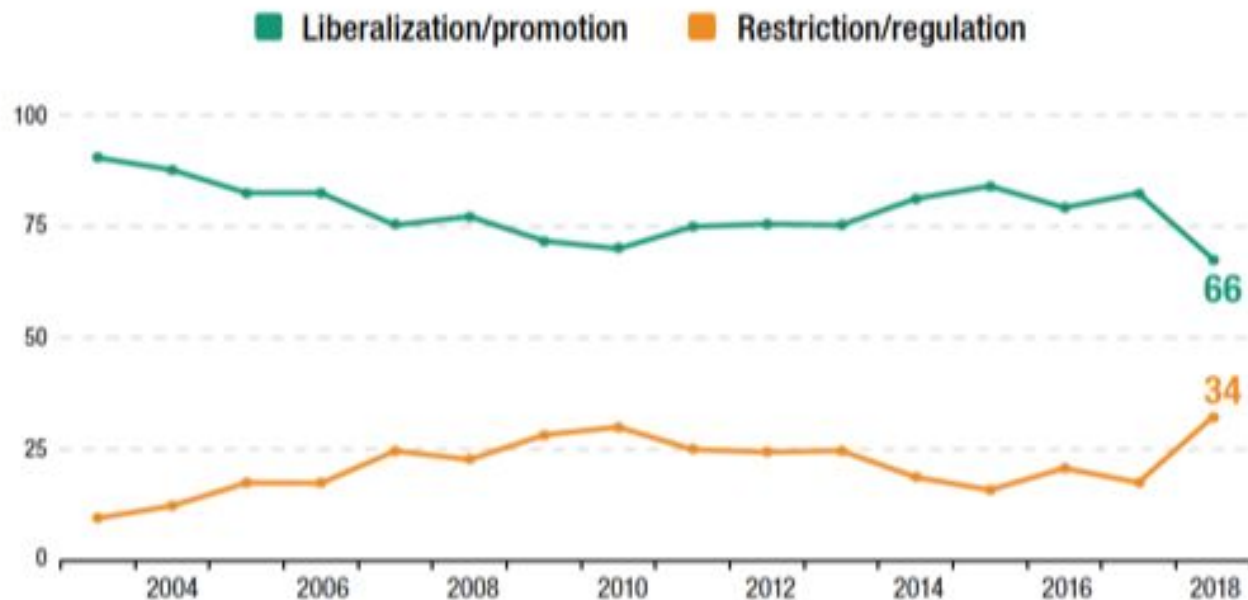
THE NEED FOR STRONGER REGULATIONS

RATIONALE AND CONTEXT



DIRECTION OF REGULATIONS

Figure 5. | Changes in national investment policies, 2003–2018 (Per cent)



Source: UNCTAD, Investment Policy Hub.

02

ASIA AND THE VOTE



THE VOTE ON RESO 26/9

20 YES VOTES (6 YES FROM ASIA)

14 NO VOTES

13 ABSTENTIONS

/ binding instrument on TNCs
prises... orally revised

FRANCE	No	PAKISTAN	
GABON	Abst	PERU	
GERMANY	No	PHILIPPINES	
INDIA	Yes	REP. OF KOREA	
INDONESIA	Yes	ROMANIA	
IRELAND	No	RUSSIAN FEDERATION	
ITALY	No	SAUDI ARABIA	
JAPAN	No	SIERRA LEONE	
KAZAKHSTAN	Yes	SOUTH AFRICA	
KENYA	Yes	THE FORMER YUG. REP. OF MACEDONIA	
KUWAIT	Abst	UNITED ARAB EMIRATES	
MALDIVES	Abst	UNITED KINGDOM	
MEXICO	Abst	UNITED STATES OF AMERICA	
MONTENEGRO	No	VENEZUELA	
MOROCCO	Yes	VIET NAM	
NAMIBIA	Yes		

Abstention 13

No

ADOPTION OF UN HUMAN RIGHTS COUNCIL RESOLUTION 26/9

**“WHAT WE BEGIN HERE TODAY IS A
HISTORIC MOMENT. WE ARE EMBARKING
ON A NEW PHASE OF OUR COMMON
ENDEAVOR WITH REGARDS TO HUMAN
RIGHTS PROTECTION AND PROMOTION”**

Statement from Indonesia (July 2015)

*“to establish an open-ended
intergovernmental working group on
transnational corporations and other
business enterprises with respect to
human rights, whose mandate shall be
to **elaborate an international legally
binding instrument to regulate, in
international human rights law, the
activities of transnational
corporations and other business
enterprises.**”*

IMPERATIVES OF THE NEW PHASE

- The increasing **cases of human rights violations and abuses by some Transnational Corporations**
- the UN Guiding Principles on Business and Human Rights” as an important “first step” but a legally binding instrument is important in order to “**provide a framework for enhanced State action** to protect rights and prevent the occurrence of violations
- clarify the **obligations of transnational corporations** in the field of human rights, as well as of corporations in relation to States, and provide for the **establishment of effective remedies for victims** in cases where domestic jurisdiction is clearly unable to prosecute effectively those companies.

(Statement of behalf of a Group of Countries at the 24th session of the Human Rights Council, September 2013)





03

ASIA AND THE GLOBAL ECONOMY

ISSUES BEHIND THE VOTE AND THE CHANGES THEREAFTER

(1) **Asia at the center of growth and development**

- Neoliberal, Corporate driven model
- Hub of Mega Free Trade and Investment Agreements (RCEP, EU FTAs)
- Direction of regulations is towards liberalization but States considering measures
- Economic policies are generally pro-corporate (easing restrictions, providing more incentives, greater investor protection)



(2) Impact of Corporations

- Environment
- Human Rights
- Rise of Corporate Power

(3) Political

- Elections and politics
- For example, Peru belonged to the group that first issued a statement in support of the LBI in 2013 but then abstained when the resolution was put to a vote in 2014.



**THE BALANCE BETWEEN HUMAN RIGHTS
PROTECTION AND DEVELOPMENT IS AT
THE CENTER OF THE DEBATE**



ISSUES AND CONCERNS RAISED BY ASIAN STATES

- HOW THE TREATY COULD AFFECT INVESTMENTS AND DEVELOPMENT
- HOW THE TREATY COULD AFFECT MICRO, SMALL, MEDIUM ENTERPRISES
- HOW THE TREATY COULD AFFECT STATE HUMAN RIGHTS OBLIGATIONS





State of Play

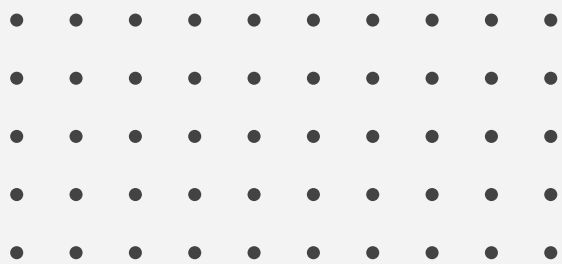
- 2nd revised draft text
- 6th session (online and offline)
- Until February 2021 comments and inputs to the draft
- 3rd Revised Draft by June 2021





Balance of Forces

- **STATES WHO OPPOSE THE PROCESS (Main line of argument 'Make UNGP Work')**
 - United States- boycotted the process until 7th session
 - EU- blocking progress; diluting the mandate
 - Supported by TNCs and corporate lobby groups
- **STATES WHO SUPPORT THE PROCESS TOWARDS A STRONG LBI CONSISTENT WITH THE MANDATE**
 - Ecuador (as Chair)-
 - China
 - Palestine and Azerbaijan-TNCs in conflict zones
 - Indonesia and Philippines- raising development issues
- **Friends of the Chair** (Azerbaijan, France, Indonesia, Portugal, Uruguay)- lack of clarity and doubts about legitimacy



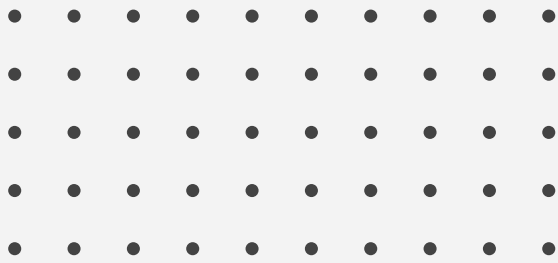
Contentious Issues

- SCOPE: Should it zero in on TNCs?
- What RIGHTS should be covered? All violations or only gross violations?
- Should there be obligations on TNCs or just States? (“abuse” versus “violations”)
- Liability: ‘business relationship; across the value chains
- Jurisdiction: Domestic Courts and International Court
- Prevention: Due Diligence; effective implementation



04 MOVEMENTS FOR CORPORATE ACCOUNTABILITY

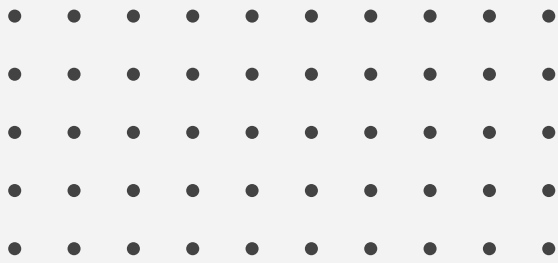
SUGGESTIONS ON WAYS FORWARD



Role of Civil Society

Civil Society has been at the forefront of the campaign for the LBI. It has played an important role in:

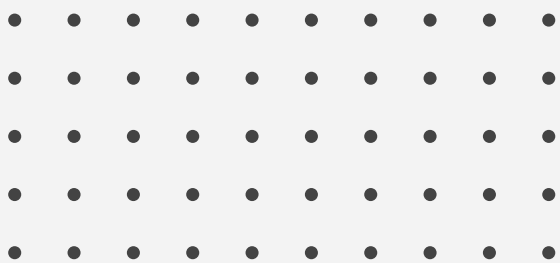
- Raising awareness about the process
- Provided a constituency in support of the process
- Substantially engaged the process both in Capitals and in Geneva, putting forward comments and concrete inputs to the text.



THE CAMPAIGN IN ASIA AIMS TO:

(1) build a political constituency made up of individuals, groups, institutions that support the LBI.

1. Victims and Affected communities; communities struggling against investments/corporations.
2. Groups and Networks campaigning on trade, investment and corporate accountability
3. Human Rights Networks
4. Groups working on UNGP/NAP
5. Academe/ International Law/ Legal experts



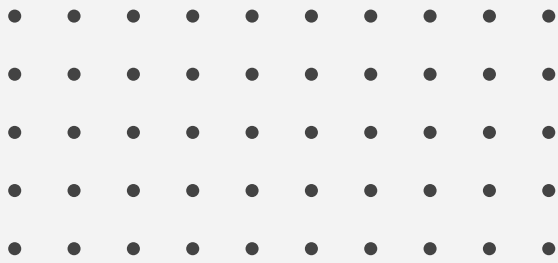
What can be handles or entry points for discussions with these groups to make them realize that this process is important to them?

Struggles: how can LBI process and UN as arena support or amplify their struggles; spaces that can open up beyond the national level

Articles on Rights of Victims, Prevention and Grievance- need to develop more popular materials on these articles

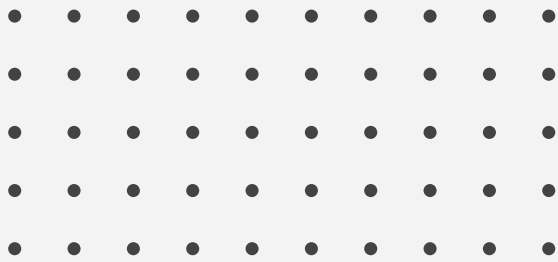
Settling particular cases; discussions on similar cases across the region
(developing solidarity among affected communities)

Frustration at the national level in terms of getting justice
Part of a bigger struggle



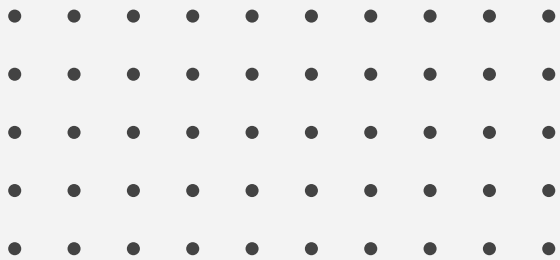
In Asia the key areas are in

- a. Mining and Extractives, Fossil Fuel industry
- b. Large scale investments in agriculture and fisheries
- c. Mega infrastructure projects
- d. Essential services (water, electricity, health)
- e. Workers/Labor rights



(2) engage the governments in the region to pressure them to support the LBI.

- 1. Continued engagement with the Permanent Mission in Geneva- i**
- 2. Sustained engagement at the national level (Capitals)**
 - a. Foreign Affairs- spearheading the inter-agency mechanisms
 - b. Other Departments/Ministries and Agencies- Trade, Labor and Employment, Environment, NCIP, Human Rights and Law
 - c. NHRIs



THE ROAD AHEAD FOR LBI AND CORPORATE ACCOUNTABILITY

**URGENT
NECESSARY
DIFFICULT
BUT NOT IMPOSSIBLE**

THANKS!



Do you have any questions?

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