FRAMING THE CAMPAIGN ON AND STRENGTHENING MOVEMENTS FOR LBI

IDEAS AND SUGGESTIONS FROM THE ASIAN TASK FORCE
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

ASIA AND THE VOTE IN 2014
UNHRC RESOLUTION 26/9

ASIA AND THE GLOBAL ECONOMY
ISSUES AND CHALLENGES

A PEOPLES MOVEMENT FOR CORPORATE ACCOUNTABILITY
SUGGESTIONS ON WAYS FORWARD
RISING NUMBER OF HR VIOLATIONS AND ABUSES

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
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

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.


Alphabet, Google's parent company, had more money than Puerto Rico in 2017. Greg Sandoval/Business Insider
<table>
<thead>
<tr>
<th>Rank</th>
<th>Company</th>
<th>Country/Territory</th>
<th>Sales</th>
<th>Profits</th>
<th>Assets</th>
<th>Market Value</th>
</tr>
</thead>
<tbody>
<tr>
<td>707</td>
<td>SM Investments</td>
<td>Philippines</td>
<td>$9.2 B</td>
<td>$860.7 M</td>
<td>$22.6 B</td>
<td>$20.2 B</td>
</tr>
<tr>
<td>937</td>
<td>BDO Unibank</td>
<td>Philippines</td>
<td>$4.3 B</td>
<td>$840.3 M</td>
<td>$64.6 B</td>
<td>$8.8 B</td>
</tr>
<tr>
<td>1170</td>
<td>Top Frontier Investment Holdings</td>
<td>Philippines</td>
<td>$19.5 B</td>
<td>$207.4 M</td>
<td>$36.2 B</td>
<td>$930 M</td>
</tr>
<tr>
<td>1234</td>
<td>Ayala Corp</td>
<td>Philippines</td>
<td>$5.1 B</td>
<td>$681.3 M</td>
<td>$26.6 B</td>
<td>$7.2 B</td>
</tr>
<tr>
<td>1388</td>
<td>JG Summit Holdings</td>
<td>Philippines</td>
<td>$5.6 B</td>
<td>$604.2 M</td>
<td>$18.4 B</td>
<td>$7.2 B</td>
</tr>
<tr>
<td>1453</td>
<td>Metropolitan Bank &amp; Trust</td>
<td>Philippines</td>
<td>$2.8 B</td>
<td>$533.5 M</td>
<td>$46.7 B</td>
<td>$3.5 B</td>
</tr>
<tr>
<td>1873</td>
<td>LT Group</td>
<td>Philippines</td>
<td>$1.8 B</td>
<td>$447.9 M</td>
<td>$25 B</td>
<td>$1.7 B</td>
</tr>
</tbody>
</table>
# THE LIST: 2020 GLOBAL 2000

<table>
<thead>
<tr>
<th>Rank</th>
<th>Company</th>
<th>Country/Territory</th>
<th>Sales</th>
<th>Profits</th>
<th>Assets</th>
<th>Market Value</th>
</tr>
</thead>
<tbody>
<tr>
<td>347</td>
<td>Bank Rakyat Indonesia (BRI)</td>
<td>Indonesia</td>
<td>$10.5 B</td>
<td>$2.4 B</td>
<td>$102.1 B</td>
<td>$22.5 B</td>
</tr>
<tr>
<td>487</td>
<td>Bank Central Asia</td>
<td>Indonesia</td>
<td>$6 B</td>
<td>$2 B</td>
<td>$66.2 B</td>
<td>$42.8 B</td>
</tr>
<tr>
<td>495</td>
<td>Bank Mandiri</td>
<td>Indonesia</td>
<td>$8.6 B</td>
<td>$1.9 B</td>
<td>$95 B</td>
<td>$14 B</td>
</tr>
<tr>
<td>708</td>
<td>Telkom Indonesia</td>
<td>Indonesia</td>
<td>$9.4 B</td>
<td>$1.4 B</td>
<td>$15.1 B</td>
<td>$23.3 B</td>
</tr>
<tr>
<td>1053</td>
<td>Bank Negara Indonesia</td>
<td>Indonesia</td>
<td>$5.4 B</td>
<td>$1.1 B</td>
<td>$60.9 B</td>
<td>$5.1 B</td>
</tr>
<tr>
<td>1516</td>
<td>Gudang Garam</td>
<td>Indonesia</td>
<td>$7.9 B</td>
<td>$774.2 M</td>
<td>$4.7 B</td>
<td>$5.9 B</td>
</tr>
</tbody>
</table>
## The List: 2020 Global 2000

### Search by Country/Territory

<table>
<thead>
<tr>
<th>Rank</th>
<th>Company</th>
<th>Country/Territory</th>
<th>Sales</th>
<th>Profits</th>
<th>Assets</th>
<th>Market Value</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>ICBC</td>
<td>China</td>
<td>$177.2 B</td>
<td>$45.3 B</td>
<td>$4,322.5 B</td>
<td>$242.3 B</td>
</tr>
<tr>
<td>2</td>
<td>China Construction Bank</td>
<td>China</td>
<td>$162.1 B</td>
<td>$38.9 B</td>
<td>$3,822 B</td>
<td>$203.8 B</td>
</tr>
<tr>
<td>5</td>
<td>Agricultural Bank of China</td>
<td>China</td>
<td>$148.7 B</td>
<td>$30.9 B</td>
<td>$3,697.5 B</td>
<td>$147.2 B</td>
</tr>
<tr>
<td>7</td>
<td>Ping An Insurance Group</td>
<td>China</td>
<td>$155 B</td>
<td>$18.8 B</td>
<td>$1,218.6 B</td>
<td>$187.2 B</td>
</tr>
<tr>
<td>10</td>
<td>Bank of China</td>
<td>China</td>
<td>$135.4 B</td>
<td>$27.2 B</td>
<td>$3,387 B</td>
<td>$112.8 B</td>
</tr>
<tr>
<td>26</td>
<td>China Merchants Bank</td>
<td>China</td>
<td>$58.4 B</td>
<td>$13.7 B</td>
<td>$1,094.9 B</td>
<td>$120.9 B</td>
</tr>
<tr>
<td>30</td>
<td>Postal Savings Bank Of China (PSBC)</td>
<td>China</td>
<td>$64.4 B</td>
<td>$9 B</td>
<td>$1,522.4 B</td>
<td>$92 B</td>
</tr>
<tr>
<td>31</td>
<td>Alibaba</td>
<td>China</td>
<td>$70.6 B</td>
<td>$24.7 B</td>
<td>$189.4 B</td>
<td>$545.4 B</td>
</tr>
<tr>
<td>32</td>
<td>PetroChina</td>
<td>China</td>
<td>$364.1 B</td>
<td>$6.6 B</td>
<td>$392.3 B</td>
<td>$65.9 B</td>
</tr>
<tr>
<td>Rank</td>
<td>Company</td>
<td>Country/Territory</td>
<td>Sales</td>
<td>Profits</td>
<td>Assets</td>
<td>Market Value</td>
</tr>
<tr>
<td>------</td>
<td>------------------------</td>
<td>-------------------</td>
<td>---------</td>
<td>----------</td>
<td>----------</td>
<td>--------------</td>
</tr>
<tr>
<td>58</td>
<td>Reliance Industries</td>
<td>India</td>
<td>$84.8 B</td>
<td>$6.2 B</td>
<td>$147.2 B</td>
<td>$123.8 B</td>
</tr>
<tr>
<td>146</td>
<td>HDFC Bank</td>
<td>India</td>
<td>$20.7 B</td>
<td>$3.8 B</td>
<td>$209 B</td>
<td>$73.1 B</td>
</tr>
<tr>
<td>171</td>
<td>State Bank of India</td>
<td>India</td>
<td>$51.1 B</td>
<td>$2 B</td>
<td>$559.9 B</td>
<td>$22.6 B</td>
</tr>
<tr>
<td>255</td>
<td>ICICI Bank</td>
<td>India</td>
<td>$20.8 B</td>
<td>$1.3 B</td>
<td>$182.8 B</td>
<td>$32.8 B</td>
</tr>
<tr>
<td>269</td>
<td>Oil &amp; Natural Gas</td>
<td>India</td>
<td>$60.1 B</td>
<td>$4.4 B</td>
<td>$72.6 B</td>
<td>$13.4 B</td>
</tr>
<tr>
<td>279</td>
<td>HDFC</td>
<td>India</td>
<td>$13.2 B</td>
<td>$2.3 B</td>
<td>$98.2 B</td>
<td>$44.2 B</td>
</tr>
<tr>
<td>375</td>
<td>Tata Consultancy Services</td>
<td>India</td>
<td>$22.1 B</td>
<td>$4.6 B</td>
<td>$16 B</td>
<td>$100.7 B</td>
</tr>
<tr>
<td>389</td>
<td>Indian Oil</td>
<td>India</td>
<td>$69.9 B</td>
<td>$1.8 B</td>
<td>$47.1 B</td>
<td>$10.6 B</td>
</tr>
<tr>
<td>443</td>
<td>Larsen &amp; Toubro</td>
<td>India</td>
<td>$20.8 B</td>
<td>$1.4 B</td>
<td>$40.4 B</td>
<td>$16.8 B</td>
</tr>
</tbody>
</table>
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
Figure 5. Changes in national investment policies, 2003–2018 (Per cent)

Source: UNCTAD, Investment Policy Hub.
ASIA AND THE VOTE
THE VOTE ON RESO 26/9

20 YES VOTES (6 YES FROM ASIA)
14 NO VOTES
13 ABSTENTIONS
“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 Azebairjan-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?

josephp@focusweb.org
www.focusweb.com

CREDITS: This presentation template was created by Slidesgo, including icons by Flaticon, and infographics & images by Freepik

Please keep this slide for attribution