



DIPLOMACY TRAINING PROGRAM

AFFILIATED WITH THE FACULTY OF LAW AT THE UNIVERSITY OF NEW SOUTH WALES
A training program for peoples of the Asia-Pacific region

Human Rights Advocacy and Business

A Capacity Building Program for Community Advocates
Held in partnership with The Business Watch Indonesia and Indonesia's NGO Coalition for International Human Rights Advocacy (Human Rights Working Group), SOMO and OxfamNovib

20 – 25 August 2007
Jakarta, INDONESIA

Final Project Report

1. Executive Summary

Between 20-25 August in Jakarta, Indonesia, 31 community advocates from Indonesia, the Philippines, Hong Kong, S. Korea, Malaysia, Thailand, Bangladesh, Timor-Leste, China, Cambodia and Australia participated in the Diplomacy Training Program's second regional program focussing on Human Rights Advocacy and Business. The program was held in partnership with Indonesia's International Human Rights Working Group and Business Watch Indonesia, SOMO and Oxfam Novib. This is the report of that program. It looks at the course objectives, program outline and the issues and challenges facing participants in their work, as well as providing some reflections on future directions.



Figure i: Welcome to Participants

The program explored the human rights responsibilities of corporations, and the relevant international standards in relation to business and human rights. It provided an opportunity to learn from advocacy experiences and to build practical advocacy skills for holding corporations accountable for their impacts on human rights.

The positive and negative human rights impacts of corporations are currently the focus of much international debate and local advocacy as processes of economic globalisation lead to shifts in the role and power of national governments and multi-national corporations, and in the relationships between them. The Indonesian Parliament's recent adoption of groundbreaking legislation on corporate social responsibility highlighted the timeliness and relevance of the program to Indonesia in particular.

This capacity building program was a rich collaboration between many individuals and organisations working on a wide range of issues associated with corporate conduct across the region. The following report seeks to capture some of the wealth of experience and the diversity of issues that arise when one explores the theme of human rights and business.

Program participants shared interest and concern in identifying the human rights responsibilities of corporations and the challenges of holding corporations accountable to

these responsibilities. Presentations by participants and trainers provided case studies and personal insights into the range of issues concerning corporations across the Asia-Pacific region. The presentations provided an opportunity to learn from different experiences of responding to these challenges.

While there was great experience in exposing and challenging negative corporate impacts on the environment, Indigenous communities, migrant and other workers and farmers, few, if any, of the participants had previous experience in seeking to apply human rights standards, or emerging accountability mechanisms such as the OECD Guidelines on Multi-National Enterprises to their work on corporations. This is partly because there is uncertainty about how these standards might apply, and concern at the weakness of existing accountability mechanisms governing corporate conduct.

Trainers on the program included both academic experts and experienced practitioners. The major sessions on corporations, and emerging international standards on human rights and business were led by Professor Paul Redmond. Rafendi Djamin (HRWG) provided an outline of the UN system and international human rights standards and Francis Weyzig (SOMO) led participants through sessions on the researching corporations and using the OECD Guidelines on Multi-National Enterprises. Rajah Siregar of Indonesian environmental NGO, WALHI, presented a case study on the case involving Newmont Mining Corporation in Indonesia and Domi Savio Wermasbun (BWI) provided background and details of the new Indonesian legislation on corporate social responsibility. DTP alumnus, Rusdi Marpuang (Imparsial) delivered the sessions on media skills. Jerald Joseph of Pusat Komnas and Dignity International helped facilitate the early sessions of the program.

Jakob Oetama (Chairman of Kompas-Gramedia Group) provided a distinguished contribution on the issues of the media, business and human rights in the Indonesian context. Jonathan Prentice, the representative of the Office of the High Commissioner for Human Rights in Jakarta provided an update on the work of the UN Secretary General's Special Representative on Human Rights and Business.

The program was evaluated through completion by the participants of three evaluation questionnaires at the conclusion of the program. Based on the evaluations the program met its objectives and was successful in building both knowledge and skills among the participants, increased awareness of relevant and emerging global standards and processes relevant to human rights and business and provided a valuable opportunity for the development of links and networks between participants and their organisations.



Figure ii: Participants and Trainers

The Diplomacy Training Program would like to acknowledge with gratitude the support of the Norwegian Ministry of Foreign Affairs, the Friends of the Diplomacy Training Program and the Diplomacy Training Program's partners, Business Watch Indonesia, Human Rights Working Group, SOMO and Oxfam/Novib in making this program possible.

This report was prepared by Alexandra Fielden and Patrick Earle of the Diplomacy Training Program.

“Yes, this will impact upon current work. More importantly though, I feel it will take my work in new and exciting directions. The networks, knowledge and tools provided are invaluable.”

Quote from participant evaluation

2. Brief Background

This was the Diplomacy Training Program’s second regional capacity building program on human rights advocacy and business. The actions of corporations have come up with increasing frequency as a concern among participants on other DTP courses – particularly its courses on Indigenous Peoples Rights and on Migrant Workers. DTP’s course has been developed in response to these concerns, and from awareness that recent years have seen the proliferation of standards and guidelines relating to corporate conduct, but knowledge of how these might be applied to corporations remains limited.

There is a growing international focus on identifying the human rights responsibilities of companies and how companies may be held accountable to these responsibilities. Human rights defenders and campaigners have focussed on the state, yet it is increasingly clear that in some circumstances states lack the power or political will to hold corporations accountable. There is therefore a need for human rights advocates to look at what tools they can use to ensure that companies play a positive rather than negative role in the protection and realisation of human rights. These tools may lay in the available standards, or in particular advocacy and campaigning techniques.

In 2006 Oxfam Novib and SOMO held a consultation in Jakarta with their local partner organisations in the region looking at the issues of corporate accountability. This consultation identified the need for specialist skills building, particularly in relation to researching corporations. The complex ownership structure of many corporations often stretches across borders and jurisdictions in a way that can frustrate easy accountability. In such circumstances, specialised research knowledge and skills becomes particularly important.

Following discussions between Oxfam Novib, SOMO and the Diplomacy Training Program it was agreed that there was sufficient commonality in our objectives that we should combine hold the capacity building program in partnership with each other – and with local partner organisations in Indonesia.

Indonesia was selected as the location of the program due to the interest and experience that exists there in relation to companies and human rights, social and environmental issues. Indonesia has directly experienced many of the worst aspects of corporate conduct. At the same time it has a dynamic civil society and media that has worked over many years and in difficult circumstances to change corporate behaviour. The Indonesian government is in a similar position to the governments of many countries in the region – it wants to attract foreign direct investment, and to provide a positive facilitating environment for business to encourage growth and development. It also needs to ensure that the investment and business activity does not have a negative impact on communities and vulnerable sections of society.

On Friday 20 July Indonesia legislated for Corporate Social Responsibility. It was announced that Indonesian company law now mandates that companies with an impact on natural resources must implement CSR which is to be budgeted for as a cost.

A statement was issued which was subsequently covered in the *Jakarta Post* that read:

'Article 74 of the law provides that a company that operates in any business field related to natural resources is required to institute social and environmental responsibility programs, and that sanctions will be imposed on non-compliant firms. The article not only affects natural resource-based companies, such as mining, oil and gas, and plantation firms, as the commentary accompanying the legislation states that other firms that do not exploit natural resources but affect the environment must also conduct CSR programs. This means that all businesses outside the financial sector may be required to conduct CSR programs.'



3. Program Objectives and Evaluations



Figure iii: Opening Panel Discussion with (from left) Fahri Hamzah, Rafendi Djamin, Kamala Chandrakirana, Francis Weyzig, Professor Paul Redmond.

The program set itself six objectives. On the fifth day of the programs, participants were asked to complete three anonymous evaluation questionnaires, including an assessment of whether the program objectives were met (see table below). In addition individual trainers were evaluated anonymously by participants. Quotes from these evaluations are interspersed through this report; copies of the completed evaluations are available on request.

Participants were asked to tick the box (1-5) that best reflects their judgment on whether the program was successful in achieving these aims; 1 is the most successful and 5 is the least. It should be noted that the

evaluation was completed before the final (optional) day of training dedicated to developing research skills.

Objective	1	2	3	4	5
Build awareness and knowledge among NGO advocates in Asia/Pacific about international developments regarding corporate accountability and human rights responsibilities of business.	12 50%	9 38%	1 4%	1 4%	1 4%
Develop practical skills of advocates for holding business accountable to its human rights responsibilities.	2 8%	15 63%	7 29%	0 0%	0 0%
Contribute to capacity of human rights organisations in the region to engage effectively with the corporate sector, allowing them to explore and integrate different strategies in their advocacy.	7 29%	7 29%	9 38%	1 4%	0 0%
Enhance capacity of NGOs and advocates in Asia/Pacific to contribute effectively to international processes and dialogue on the issues of human rights and business.	8 33%	8 33%	5 21%	2 8%	1 4%
Facilitate greater networking among NGO advocates in region with specialist knowledge and skills in relation to corporations and human rights.	11 46%	8 33%	2 8%	2 8%	1 4%
Provide an opportunity and a forum for participants to share perspectives and experience and identify key issues for further work in the area.	15 63%	4 17%	2 8%	1 4%	2 8%

"I expected more critical discussion on Globalisation, its impact on 3rd world countries, threats and opportunities of globalisation in relation to CSR – to upgrade knowledge and skill."

"Excellent in awareness building, but lack of solid exercise in analysis of the challenges we are facing, what kind of capacity building is urgent."

"All in all, this information (human rights and business) helped to give me a new perspective."

Quotes from Participant Evaluations

4. Program Outline

The program curriculum was designed to provide participants with an introduction to the international human rights framework, before exploring how these standards relate to corporations, and the practical challenges of holding corporations accountable.

Human rights standards, agreed by governments and adopted through the UN, set out the duties of governments in relation to the people living in their territory. These legal standards apply principally to governments, but their applicability to non-state actors, including corporations has recently become a major focus of study, discussion and activity.

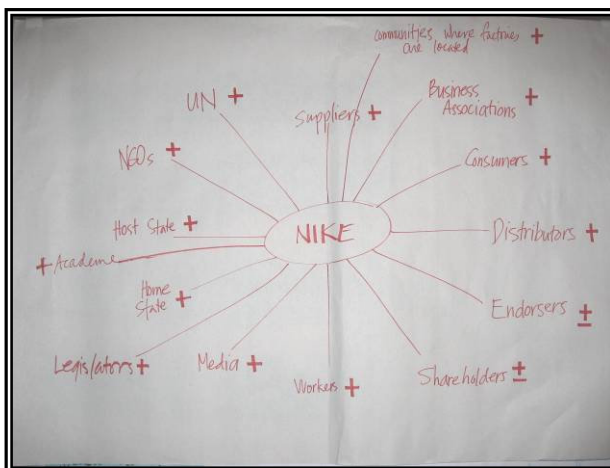


Figure iv: Participants' Representation of a MNC

Corporations, and particularly trans-national corporations, have grown dramatically in size, power and reach over recent years. Increasingly this growth has been accompanied by the withdrawal of government from traditional areas of responsibility such as utilities and services. It has also been accompanied by a growing reliance, by developing countries in particular, on foreign direct investment as a driver of economic development and growth and therefore a pathway out of poverty. The state has not

potentially become weaker, but its potential, or willingness, to hold corporations accountable has in many cases diminished.

"I think UN Norms and OECD Guidelines lay the ground for discussion. Of course, when you are doing campaigning in human rights issues, it is important that all measures are taken, that you choose from what does not, what might and what will work. Like in the Chong Won strike case, if it seems hopeless to resolve the issues, using OECD Guidelines would be really helpful."

Quote from participant evaluation

Efforts to extend international human rights law to companies are among the many responses to these developments, including a major focus on issues of corporate social responsibility. The UN Global Compact establishes key voluntary principles for corporate behaviour. Many of the world's leading corporations have signed up to the Global Compact. Particular industry sectors have developed codes of conduct, and guidelines such as the Equator Principles for the financial sector. Some of these have monitoring and accountability mechanisms. The OECD Guidelines for Multi-National Enterprises, are voluntary, but enable complaints to be brought against companies from OECD countries, even if the focus of the complaint is outside of the OECD countries.

"Fantastic, concise, useful presentation by an extremely passionate and knowledgeable person. Thank you."

Quote from participant evaluation

The program explored different strategies to bring corporate accountability including greater regulation, litigation, including trans-national litigation, documentation and lobbying, media campaigns, and shareholder action. Participants explored the practical difficulties involved in some of these strategies, including the challenge of researching company structures and ownership. Company structures are often complex, with ownership and responsibility apparently hidden behind many different identities, and crossing borders. Being able to identify ownership and control, along the different chains of responsibility is a necessary precondition to being able to identify where advocacy should be targeted.

"...it opened up avenues which can be explored about how business can be made accountable for human rights abuses. The research skills we learnt will be a big help in deciding what advocacy campaign to engage in."

Quote from participant evaluation

Participant presentations were scheduled through the program to enable the sharing of knowledge skills and strategies among the participants.

5. The Participants and Their Work

"The best things about the training were exchanges and dialogues with participants: it's nice to share with people who, with different backgrounds, approach human rights issues with quite different perspectives."

Quote from participant evaluation

The program provided an opportunity for a rich sharing of knowledge and experiences that provide an indication of the range of the relationships that exist between business and human rights.

Many participants were focussed on specific and local issues, from challenging the prosecution of peasant farmers in an Indonesian province for selling seeds, allegedly in breach of patent obligations to the environmental and social impact of a mine in the Philippines. At the same time there was also a clear sense that there were global trends changing relationships between business and society, and government and business. Foreign aid, loan and investment agreements, and trade agreements impose a range of conditions on governments.



Figure v: "Water is a Human Right" Poster

The privatisation of utilities, including water supply, is one example of such conditions that is raising concern. The Blue Drop Campaign of the Freedom From Debt Coalition (FDC) in the Philippines focuses on the human right to water and the impact of the privatization of water services. Frederic Rocha explained how in 1997 two international companies took control of the Metropolitan Waterworks and Sewerage System (MWSS). This was the largest privatization of water distribution utility in Asia, with promises of improved services and efficiency. Despite these promises, ten years after privatisation, many households remain unconnected, and in some areas the water supply only lasts for 3-4 hours per day. There are also concerns about the quality of the water supply, with outbreaks of cholera. Ensuring access to clean drinking water is an obligation of governments, but the concern of campaigners is that companies have little interest in providing services to the poorest

communities where the costs of infrastructure can be highest and the returns lowest. The Freedom From Debt Coalition advocates for the reversal of the privatisation of both MWSS and local water suppliers. It seeks to assist communities directly through as well as building the People’s Freshwater Network and contributing to global and regional solidarity and campaigning against the privatisation of water.



Figure vi: OHK Report

Standards for HK Garment Companies. The report addresses the issues of worker rights, global supply chains and stakeholder engagement.

Tim from Oxfam Hong Kong (OHK) focused on how unfair global trade practices impact the livelihoods and rights of workers. In 2004, OHK released the report **“Let’s Turn The Garment Industry Inside Out”**, which explored workers’ conditions and purchasing practices in garment production and trade. It illustrated how market power enabled big companies to demand that their suppliers cut prices, shorten delivery times, and adjust rapidly to fluctuating orders. OHK published a **“Resource Kit on Corporate Social Responsibility”** and have also produced a Transparency Report regarding Public Reporting of Labour

Savitri Wisnuwardhani of The Institute for Economic and Social Rights in Jakarta looked at the roles and responsibilities of companies in relation to vulnerable migrant workers. The demand to drive down costs, including labour costs is felt along the manufacturing supply chain. This in turn leads to greater demand for cheaper migrant labour, and greater pressure on the working conditions of migrant workers. Through the extended supply chain, the company selling the products to the consumer often avoids taking responsibility for the conditions of work through which it is produced. Migrant workers are vulnerable to a wide range of abuses from legal and illegal migrant labour recruitment companies, and from their eventual employers. Government officials that should be upholding the rights of the migrant workers are too often a part of the problem, with well documented reports of extortion and abuse in both migrant receiving and sending countries. Savitri clarified the objectives of their advocacy to apply human rights principles into profit-oriented work placement businesses – and to work with reform minded parts of government. She also detailed the steps taken to achieve these objectives. These methods were of great interest to participants, who could recognise possible applications to their own specialist issues.

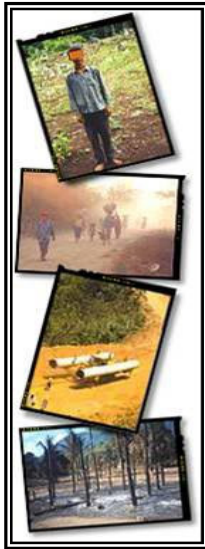
“The participant presentations provided a good opportunity for people to share their work in a systematic and semi-formal manner, though at times it may be difficult because of the lack of background.”

Quote from participant evaluation

The lack of protection for workers rights in free-trade, or export processing zones was also highlighted. Many governments have established these zones to attract foreign investment and provide generous tax concessions and other measures as incentives. In some cases they have exempted these zones from national labour laws, and from accepted international human rights standards that cover rights to freedom of association and health and safety.

The changing nature of investment flows in the region was highlighted by Pill Kyu Hwang from the Korean Bar Association and Korean House for International Solidarity (KHIS). South Korean companies have attracted growing criticism in both Indonesia and the Philippines and in relation to investments in Burma. In Indonesia there has been considerable anger at the sudden closure and relocation outside Indonesia of S. Korean

owned factories – without adequate notice, or payments to Indonesian workers. There were some very valuable practical exchanges about a current dispute in the Philippines concerning a South Korean company. These exchanges have subsequently resulted in the lodgement of a complaint in South Korea under the OECD Guidelines. Particular focus was also given to Korean corporate involvement in the construction of the Shwe Gas pipeline. There is a major international disinvestment campaign in relation to Burma to try and bring pressure for change. There have been some successes in persuading companies based in the US and Europe, but increasingly major investment in the resources sector is coming from China, India and the Asia-Pacific region. This poses difficult challenges for advocates.



The growing reach of corporations was also illustrated in the example of farmers in Indonesia being arrested and prosecuted for allegedly breaching the patent rights of an Indonesian subsidiary of Monsanto. Local NGOs are defending the farmer’s rights, asserting their contribution to the intellectual property involved. The extent to which the basic necessities of life and livelihood, even in traditional and rural communities, can now be the property of corporations raises deep concerns.

The capacity for business to take a wider role in the promotion and protection of human rights was cited in an example from the Philippines, where prominent business leaders have recently been outspoken in highlighting concerns about the increasing number of political killings of journalists, environmental and political activists – and the impunity of the perpetrators which suggests a level of official complicity. Business leaders have taken both a moral stand, and also made it clear that the killings are bad for business.

“I feel connected to the other people who are also experiencing the same issues, and see the opportunity of exchanging ideas and working with each other.”

Quote from participant evaluation

6. Reflections

“I’m about to report my experience in the training to my organisation, I have gathered good ideas from the discussion and sharing experience with other participants which will be very helpful to our campaigns and organising.”

Quote from participant evaluation

Feedback from course participants indicates that the program was well structured, and covered the issues well, although some participants felt they would have benefited from more of a focus on practical skills and others would have liked more critical discussions of the issues around globalization – and the challenges and opportunities it presents.

The program brought together participants from organizations with very different backgrounds – from human rights lawyers to economists, from trade unionists to community environmental activists. This was a deliberate decision. Very little of the advocacy in the region around corporations currently uses human rights standards as a reference point – although the issues involved are more often than not, human rights issues. This was therefore a valuable opportunity to build greater knowledge and awareness of the human rights framework and how it might be practically applied.

The term corporate social responsibility is widely used in relation to corporate behavior – perhaps because the terminology is so flexible that it can accommodate the very different interpretations given to it by different sections of the business community and by NGOs and

others. This flexibility of definition does not lend itself easily to increased accountability, or even always to productive dialogue among concerned parties.

Human rights offer greater clarity, having been legally defined in the 60 years since the adoption of the Universal Declaration of Human Rights, yet these standards apply principally to governments. How to hold companies accountable to these universal standards is one of globalization's major challenges. The need for a clear and binding international set of standards to which corporations can be held accountable was voiced clearly by participants in the closing session of the program. It is not yet clear how far along this path the UN Secretary General's Special Representative on Human Rights and Business will think it possible to travel, particularly in the face of vigorous opposition from some sections of the business community.

The program explored various different forms of accountability. There are currently some standards that exist that have to date been too little used, such as the OECD Guidelines on Multi-National Enterprises. These encompass human rights, environmental, and consumer issues. Where they have been used the experience has sometimes been frustrating, given the lack of any binding sanctions. Litigation under national laws, and increasingly across national borders and jurisdictions, is also increasingly being explored, though it is often lengthy, costly and uncertain in its outcome. The naming and shaming approach that has been so effective a part of human rights advocacy by NGOs such as Amnesty International may be even more effective when deployed against companies, particularly where these are sensitive to their reputation. At the same time there may be greater risks for those involved – in some jurisdictions the threat of being sued and in others greater risks to personal safety.

Specialised advocacy techniques such as shareholder action, ethical investment, disinvestment campaigns and boycotts can also be part of the accountability process. These techniques increasingly rely on effective international action, and appeals to the conscience of civil society beyond government and the board room. Processes of globalization, including the spread of the internet have made such appeals more possible than ever before. The need to develop active civil society networks in the Asia-Pacific region, networks with the capacity to respond to calls for action and support is growing with the emergence of Asian based multi-national corporations.

There is also some concern that a narrow focus on accountability can sometimes make business, and business leaders, feel both defensive about their record, and wary of increased regulation. In such circumstances genuine dialogue can become difficult. Exploring the challenges of human rights advocacy and business encourages, however, a focus not simply on accountability, but on how human rights values can inform decision making processes of organizations, and can fulfill the potential for business to contribute to the realization of human rights. Human rights can provide a common framework of values for dialogue between government, business and wider civil society.

The involvement of the Indonesian Human Rights Commission, KomnasHAM in this year's program was very welcome. National Human Rights Institutions in the Asia-Pacific Region have a very important role to play in both the protection and promotion of human rights. DTP hopes that there will be the opportunity for more engagement with National Human Rights Institutions on these issues over the coming year.

7. Conclusions, Future Directions

- **The partnership with SOMO and Oxfam/Novib:**

The Diplomacy Training Program valued the opportunity to partner with SOMO and Oxfam/Novib. The presence throughout the training of Francis Weyzig, and his input in particular in the area of research on corporations and use of the OECD Guidelines was

central to the success of the program. The willingness of SOMO to offer continuing advice and technical support to some of the participants in the program as they develop their work in this area is also particularly valuable. Such ongoing relationships offer the potential to deepen knowledge and skills, and it is hoped may enable a longer term evaluation of this program. It was also valuable to be able to work with Oxfam-Novib partner agencies. Oxfam-Novib, like other Oxfam agencies, is committed to applying a human rights-based approach to its work. This was a valuable opportunity to explore with its partners, who are doing such significant work on the ground in the region, about how to apply human rights to their work on corporate accountability. It is to be hoped that the collaboration developed in this program can be built on in future.

- **The partnership with HRWG and Business Watch Indonesia:**

This was the first time that the Diplomacy Training Program has worked with either HRWG or BWI. In particular it was they that ensured that there was such a high level of input from leading members of civil society, parliament and business in Indonesia. The combination of the organizations with their different areas of expertise was very valuable. The Diplomacy Training Program hopes that it will be possible to work with both organizations again.

- **Regional solidarity and networking:**

One objective of a regional program on these issues is an opportunity to share experiences and knowledge – and to build support networks, based on shared interest and the friendships that develop during the days spent together. One specific outcome from this program has been the lodging of a complaint in S. Korea about a S. Korean company's operations in the Philippines. An electronic mailing list was established following the training and participants have continued to exchange information and develop areas of collaboration. Relevant materials are being translated into Bahasa Indonesia by one of the participating organizations. While views were expressed about the need to establish a regional network to focus on these issues, no organization present at the training currently has the capacity to be the focal point for such a network. The Diplomacy Training Program has also been circulating relevant follow-up information to participants.

"Maybe we could create a blogsite to create a virtual community of knowledge. We could post and exchange valuable materials and documents."

Quote from participant evaluation

- **Future programs:**

The Diplomacy Training Program is committed to working in partnership with others to develop its capacity building work on human rights advocacy and business. Its programs aim to balance theory and practice, knowledge and skills. The programs provide an opportunity for dialogue, not just between NGOs from different countries and with different perspectives, but between NGOs, and trade unions and business and government. All have a role to play in relation to business and human rights. In 2008, the Diplomacy Training Program will organize a further program on these issues in partnership with the University of the Philippines and the Philippines NGO Action for Economic Reform. As part of the preparations for the next program DTP will aim to develop specific advocacy tools and education resources useful to NGOs and advocates, drawing from case studies in the region.

Appendix 1: Background to the Program

Traditionally human rights advocacy has focused on governments. This reflects both formal power structures and avenues of political accountability, and the reality that under international human rights law, states are the primary duty-holders.

There has been growing concern this focus is inadequate given the increasingly central role that corporations play in the lives of individuals and societies. The growth in the size of transnational corporations, the hunger of developing countries for inward investment, the shrinking role of the state from key areas of service provision - from prisons to health care and key utilities such as water and electricity – have led to a shift of power that human rights advocates, and human rights law needs to respond to.

While the state retains its responsibilities to respect, protect and fulfil human rights, the capacity of many governments to effectively regulate, or negotiate with, companies in relation to human rights is often constrained, whether by international agreements or circumstance. This has brought increased attention to the responsibilities that companies themselves have with respect to international human rights standards – and how they can be held accountable for their actions.

The relationship between human rights and corporations often comes to public attention in high profile cases involving corporations that seem to have disregarded their responsibilities to human rights or to the environment. The use of child labour, and sweatshops in the manufacture of expensive sports goods, Unocal's alleged complicity in violent evictions in Burma along the route of a gas pipeline; Anvil Mining's alleged complicity in a massacre in the Congo; the activities of Freeport McMoran in West Papua and of Bougainville Copper in Papua New Guinea; and over 20 years ago the explosion at the Union Carbide plant at Bhopal in India.

The linking of private security contractors with the torture scandal at Abu Ghraib in Iraq, and the actions of the private companies running Australia's detention centres have also come under scrutiny. The willingness of both Yahoo and Google in ceding to Chinese Government demands on privacy and restriction of content has highlighted the relevance of human rights issues to new industries.

These more notorious cases are only a part of the picture. Companies are an integral part of societies and affect virtually every aspect of our lives. Companies generate employment and economic growth, and spread technological and scientific advances. They often influence government policies in a wide range of areas.

Businesses, particularly larger transnational companies in developed countries, are increasingly looking at their role in a broader context. This trend is signalled in developments such as the UN Global Compact, which has seen an increasing number of companies voluntarily accept responsibilities beyond the financial bottom-line, and a willingness to work in partnership with others. Particular industries and sectors have developed their own codes of conduct. There has been a huge growth in the literature and policies on corporate social responsibility, from inside and outside the business community. There are increasing examples of ways that corporations can change the way they do business in relation to workers, the communities they operate in, and the environment they impact on.

The environmental, trade-union and consumer movements and human rights advocates have all addressed aspects of corporate behaviour and the role of corporations. One result of this has been the development of standards, guidelines, and codes of conduct. The OECD Guidelines for Multinational Enterprises refer to international standards of human

rights as well as having labour, environmental and consumer clauses. The UN Norms on Business and Human Rights Responsibilities are the most comprehensive articulation of international standards relating to corporate conduct and accountability. Adopted by the UN Sub-Commission on human rights, they have been vigorously opposed by some business organizations and governments, while other major corporations have agreed to “road-test” the Norms through the Business Leaders Initiative for Human Rights (www.blihr.org).

In response to growing demands for action in this area and the divisions over the UN Norms, the UN Secretary General Kofi Annan, appointed Professor John Ruggie as his Special Representative on the issue of human rights and transnational corporations. He was given a two-year mandate to chart a way forward for the international community. This process has involved (at Professor Ruggie’s initiative) a series of regional and thematic consultations – addressing both conceptual issues and experiences from existing best practice and perspectives from business, government and NGOs.

At the same time human rights and community advocates are exploring other strategies for holding corporations to account. These strategies include use of existing guidelines and codes of conduct, constructive dialogue with companies, litigation at the national and international level, ethical investment initiatives, shareholder action, media exposure, industrial and consumer action. Indeed campaigns on major corporations may involve a range of all of these strategies.

There is therefore a wealth of practical experience in campaigning and advocacy on corporations. To date however, there have been few opportunities within the Asia-Pacific region for concerned advocates from environmental, human rights, development, labour and consumer movements to come together to exchange experiences, and to explore how existing and emerging standards of corporate behaviour can be practically applied in different contexts – or how NGOs in the region to play a more active and effective role in the international policy dialogue on these issues.

Appendix 2: Program Outline

Day 1. The program was officially opened with brief presentations by Francis Weyzig on behalf of SOMO and Novib, Professor Paul Redmond on behalf of the Diplomacy Training Program and Rafendi Djamin on behalf of the Human Rights Working Group and Business Watch Indonesia. Fahri Hamzah, SE, Member of Congress delivered the key note address which focussed on the Indonesia's newly adopted law on Corporate Social Responsibility. This law was an attempt to get the balance right, by complementing other legislation on foreign investment and corporate conduct. Indonesia was keen to emphasise the positive and vital role that business and business investment played in economic development, but was also committed to ensuring that corporate activity benefited and did not harm society. The new legislation seeks to get the balance right in emphasising that private profit is not the only responsibility of business – and that government has a responsibility to ensure that business understands its wider responsibilities to, and as part of, society. The session was chaired by Kamala Chandrakirana, Chairperson of Komnas Perempuan (The National Commission for the Prevention of Violence Against Women).

Following the official opening, participants introduced themselves and their work and their expectations of the workshop, and identified what they thought were the key challenges in relation to business and human rights (see Appendix 5).

Rafendi Djamin then provided an introduction to the *International Human Rights Framework*. This session aimed to ensure a basic familiarity with key human rights standards and mechanisms, along with an introduction to the obligations of governments to *respect, to protect, and to fulfil* human rights. This was followed by Prof. Paul Redmond's presentation on *Globalisation and the Growth of Corporations*, which gave an overview of the growth in power and influence of the corporation and particularly trans-national corporations, and the drivers of corporate behaviour, including the legislative frameworks that emphasise shareholder returns over other issues.

In the evening participants were able to watch *Jabiluka*, a film documenting the successful campaign by the Indigenous Mirrar people against the Jabiluka uranium mine in Australia.

Day 2. Following on from the earlier sessions, Professor Paul Redmond explored the emergence and development of Corporate Social Responsibility (CSR) and the Global Compact, and other global instruments and initiatives such as ILO Tri-Partite Agreements, OECD Guidelines and UN Draft Norms on the human rights responsibilities of companies. Participants explored the strengths, weaknesses and deficiencies of these codes of conduct took part in practical exercises to discover ways in which they could be used for advocacy purposes. The lack of any binding international standards on corporate conduct was noted. Nor is there any common definition of Corporate Social Responsibility. It is clear that the conduct of corporations is increasingly on the global agenda and the various codes of conduct, guidelines and multi-stakeholder initiatives are a response to both external pressure for action and an internal realisation within the corporate sector that there are issues that need to be addressed – and that national responses alone are inadequate. While governments retain primary responsibility in relation to human rights, it is clear that economic and political realities mean diminished capacity to fulfil these responsibilities in relation to companies. This is a dynamic period of change, reflected in the many current initiatives to respond to the issues.



Figure vii: Francis Weyzig with participants

Day 3. The third day of the program was focused on researching corporations and learning methods for holding them accountable. Both Francis Weyzig and Patrick Earle used examples and role plays to develop knowledge and understanding of methodologies and tools and how to apply them to advocacy campaigns.

Francis looked at why understanding company structures is important to advocacy on corporations – and how one finds out relevant information. This can be understood in relation to both supply chains – from the small local factories that produce products for the major brands and chain stores, through to the ownership structure of companies and value chains which can highlight where a company might be most susceptible to advocacy.

The final session of the afternoon was a Panel Discussion entitled *Perspectives on Human Rights, Business and Society* chaired by Binny Buchori. The panellists were Franciscus Welirang (VP IndoFoods), Mr. Agus Tjahjana (Industry Ministry), (Director, Demos) and Abdul Hakim Garuda Nusantara (Chairperson, KomnasHAM).

IndoFoods has 70% of the food market in Indonesia and has expanded out into the region and into Africa. Franciscus Welirang focused his discussion in particular on how his company understands the relevance of the Right to Food to his companies work. Agus Tjahjana from the Industry Ministry looked at the responsibility of government with a focus on the new law on corporate social responsibility. Abdul Hakim Garuda Nusantara discussed the potential role that national human rights institutions could play in holding companies accountable, based on the Indonesian experience.

Asmara Nababan, one of Indonesia’s most distinguished human rights advocates, looked at the implications for democracy and democratic accountability associated with the growth in power of the corporation, and the contracting out of government responsibilities and the often close relationships between government and business that too often saw human rights issues marginalised.

Day 4. Rajah Siregar began Thursday’s program with a presentation on the Newmont Mining Case from Indonesia as example of litigation. It is a famous case in Indonesia – where major environmental damage was alleged. As a result of concern and protests by villagers near the mine in Buyat Bay, Sulawesi, environmental NGOs began campaigning and then the Indonesian government took a civil case against the company. There was a settlement of US\$30 million that went to the government, although NGOs claim that the funds have not gone to compensate the communities most affected by the pollution and the loss of livelihood it resulted in. The presentation explored with participants the advantages and disadvantages of litigation as a possible strategy, including the length of time involved, and the lack of direct compensation.



Figure viii: OECD Watch in Asia

Francis Weyzig from SOMO then used a number of case studies to how the OECD Guidelines on Multi-National Enterprises could be used (ICN vs. Adidas). The OECD Guidelines require governments to promote minimum standards of corporate conduct – including adherence to international standards of human rights – and to establish a complaints mechanism. The only sanction of this complaints system is the possibility to make an adverse finding, but it cannot impose a penalty.

Its potential lies partly in being an official process that can encourage dialogue, act as mediator, and suggest resolution. The lack of

binding ruling or sanction, and the need to invest time and resources into the process has led to many NGOs seeing it as a frustrating and ineffective strategy to bring about change.

In the final presentation of the day Domi provided insights into the advocacy by Business Watch Indonesia to persuade the Indonesian Parliament to adopt a new law on Corporate Social Responsibility. He addressed the very practical questions such as how long did it take; who had to be persuaded; how were they persuaded; how was opposition to the legislation from some business overcome. He also highlighted the challenges that now exist in relation to implementing the legislation.

Day 5. The morning of Day 5 comprised two sessions about *The Media, Human Rights and Corporations*. With many corporations particularly concerned about their image and reputation, the media can play a particularly important role in bringing about changes in corporate behaviour. There was a fascinating presentation by Jakob Oetama (Founding Editor and Director of Kompas/Gramedia) who looked at the issues of business human rights as both a business proprietor, and also as a champion of a free media and its role in promoting and protecting democracy. Rusdi Marpuang from human rights NGO Imparsial then led a session on some of the practical issues facing advocates wanting to use the media as part of their advocacy strategies. The focus included developing participants' understanding of the role of the media in developing advocacy strategies, how the media works and the demands and pressures journalists work under; the value of media targeting; the importance of credibility, accuracy, clear objectives, targeting messages and audiences; and practical guidance on developing and nurturing good media relations.

In the afternoon there was a panel discussion including a presentation from Jonathan Prentice, representative in Indonesia of the Office of the High Commissioner for Human Rights. The session was chaired by Agung Putri, Director of ELSHAM one of Indonesia's leading human rights NGOs. Jonathan provided a brief background and update on the work of the UN Secretary General's Special Representative on Human Rights and Business, Professor John Ruggie. Professor Ruggie has been charged with trying to map a way forward for the international community in relation to clarifying the human rights responsibilities of companies and how these might be expressed in standards, and what if any international accountability mechanisms may be most suitable. Professor Ruggie has sought to invite input from many experts, industry sectors, and NGOs and his willingness to receive information, ideas and case studies was emphasised. Rafendi emphasised the need for more networking and solidarity among NGOs in the region – and for greater regional coordination of community perspectives into the UN processes.

Day 6. Research Planning and skills. Based on feedback from a previous workshop organised by SOMO/Novib, a further one (optional) day of the training was dedicated to developing research skills. Francis Weyzig led participants through sessions on research planning, desk research and databases, field research and reporting. Participants were presented with the important issues in research planning, information regarding points of influence, debt financing, ownership structures and company profiles.

Appendix 3: Program Schedule

	Monday 20 th	Tuesday 21 st	Wednesday 22 nd	Thursday 23 rd	Friday 24 th	Saturday 25 th –Optional Session
Morning 1 8.30 to 10.30	Opening Ceremony Keynote –Fahri Hamzah, SE, Member of Congress , Rafendi Djamin Francis Weyzig Professor Paul Redmond Chaired By: Kamala Chandrakirana – Komnas Perempuan	The Corporation and International Standards of Human Rights	Holding Corporates Accountable – Developing Strategies and Exploring Principles of Effective Advocacy	Holding Corporations Accountable – Litigation Experience in Indonesia – The Newmont Mining Case	The Media, Human Rights and Corporations Jakob Oetama – Founding Editor- Kompas daily	Research Planning, desk research and databases, field research and reporting
Facilitator(s)		Professor Paul Redmond	Patrick Earle	Rajah Siregar – WALHI	Jakob Oetama – CEO – Kompas/Gramedia	Francis Weyzig
Tea 10:30- 10:45						
Morning 2 10:45-12:30	Participant Introductions – Course Outline	Human Rights and the Corporation - Emerging Global Codes –	Researching the Corporation – Ownership structures	Holding Corporations Accountable – Using the OECD Guidelines -	The Media, Human Rights and Corporations - Media Skills	Research Planning, desk research and databases, field research and reporting cont'd
Facilitator(s)	DTP/HRWG	Professor Paul Redmond	Francis Weyzig (SOMO)	Francis Weyzig (OECD-Watch)	Rusdi Marpuang - Imparsial	Francis Weyzig
Lunch 12:30- 1:30						
Afternoon 1 2:00-3:30	The Human Rights Framework – the International Bill of Rights and State Responsibilities	Human Rights Advocacy and the Corporation – Practical Exercise	Researching the Corporation – Value Chains	Holding Corporations Accountable – Case Studies – Using the OECD Guidelines -	Future Directions - The Work of the SRSG and More – Jonathan Prentice - OHCHR	Research Planning, desk research and databases, field research and reporting
Facilitator(s)	Rafendi Djamin	Professor Paul Redmond	Francis Weyzig (SOMO)	Francis Weyzig	Chair – Agung Putri - ELSHAM	Francis Weyzig
Tea 3:30- 3:45						
Afternoon 2 3:45-5:30pm	Globalisation and the Growth of Corporations	Business, The State and Human Rights – The International Finance Corporation and Export Credit Agencies	Perspectives on Human Rights, Business and Society Franciscus Welirang – VP Indo Foods Mr. Agus Tjahjana, Industry Ministry Asmara Nababan – Demos Abdul Hakim Garuda Nusantara - KomnasHAM	Holding Corporations Accountable – Developing National Frameworks and Other Strategies	Participant Evaluation and Review of Training Program Closing Ceremony –	Final remarks and farewells
Facilitator(s)	Prof Paul Redmond	Professor Paul Redmond	Panel Discussion – Chair — Binny Buchori	Domi Savio Wermasbun		
	Diary	Diary	Diary	Diary	Diary	
Evening	Dinner and Movie “Jabiluka”	Movie “The Corporation”		Solidarity Night	Farewell Dinner	

Appendix 4: Participant Expectations

Knowledge	Skills	Networking
<ul style="list-style-type: none"> • Relationship between HR and business • How business can benefit people • What are gains so far • Knowledge of human rights framework • Global Compact • What international resources exist • Info on mechanisms derived by state and non-state actors and how to utilise their mechanisms • Global overview of issues • Notions of citizenship and company and growing complexities of trade • Global supply chain • MNC accountability • Responsibilities of govt to implement laws • Strategies for promoting knowledge among workers • Strategies for monitoring C of C • How to move beyond CSR – for genuine action on hr how to challenge claims of business • Toolbox for accountability 	<ul style="list-style-type: none"> • Effective advocacy skills on companies • Research tools skills • Negotiation skills • How to work with media • How to monitor company practices • How to monitor and evaluate • How to use international law • Opportunities to advance knowledge and info to policy makers etc. • Educate wider public • How to get HR agreements implemented • How to shape good company practices • Advocacy tactics of confrontation/collaboration – how to decide • How to engage and influence • How to operate in an authoritarian regime • How to affect companies • Put planning into action 	<ul style="list-style-type: none"> • International solidarity and networks • Develop networking to share best practices • How to build networking between TU and HR orgs - esp. in Indonesia • Learn from others - from successes and failures • Support each other practically • Share learning • Opportunity for dialogue by creating a safe space for learning • Exchange whole process

Appendix 5: Participant Issues and Challenges

ISSUES

<u>Regulatory Environment</u>	<u>Labour</u>	<u>Social & Environmental Impact / Indigenous Peoples</u>	<u>Corporations / Codes of Conduct</u>
<p>Privatization of public utilities especially water utilities (Lack of) Criteria (social/environmental, mental) for responsible investment Trade monopoly (local business declines because cannot compete equally with big Corporate State has little power / Human rights accountability versus the government's protection of economy and investment Complicity issues concerning corporations, home country governments, investors etc (eg in the Shwe Gas project in Burma) Improper law enforcement and lack of corporate accountability corporations Exploitation by the employer agencies against migrant workers; business is undetected;</p>	<p>Labour flexibilisation / Labour rights for low wage workers Lack legal protection: too much power in govt and business; (lack) Legal aid for migrants Labour rights and in particular labour practices in the supply chain Engaging women's rights with corporate accountability Working overtime and occupational health and safety in factories Violation of labour rights in particular the failure of the companies to participate/negotiate in a collective bargaining agreement with workers/unions/Right to negotiate and right to organize Limited choice of labour and tensions in the supply chain</p>	<p>Major infrastructure development in SE Asia affecting already poor and marginalized communities Workers Rights, land and housing rights, transparency, corporate use government force to oppress people. Social impact; environmental right People's access to land and property Economic land concession (large scale) Outsourcing and subcontracting complicates investigation and monitoring</p>	<p>How to implement the code of conduct of multinational corporations Transparency (lack of) Outsourcing and subcontracting complicates investigation and monitoring Corporations are enticing Indigenous peoples with business and money in exchange for exploiting the IPs' natural resources Corporate social responsibility usually based on what enterprise gets but we do not know how much profit enterprise got. So enterprise not only must publish what you pay but also what you got. How to make corporations respect the rights of workers and trade unions</p>

CHALLENGES

<u>State – Corporations – Regulatory Environment</u>	<u>Advocacy Challenges</u>	<u>The Role of Corporations and Stakeholders – Sharing the Gains</u>
<p>Make corporations compliant to standards set internationally. To put human rights framework to business and government and to monitor business activities Be able to document and popularize violations committed by corporations and make them accountable by penalizing them. Law enforcement Corporations being protected by governments and government policy For corporations to get out of water utilities Labour law reforms Monitoring and analysing the activities of the corporations that amount to human rights violations</p>	<p>How to find more effective ways to hold governments and corporations accountable and to ensure that corporations fulfil their responsibility. How to engage stakeholders of companies in achieving better labour practices. Difficulties in co-operation or coordination among home/host country, regional, international NGOs (different objectives, varying capacity, funding etc.) Addressing complex cross boundary violations between MNC/nations and looking for strategic advocacy tools Building strong unions and strong networks between TU's and NGOs Destroying the myth that voluntary codes are robust and responsible enough to offer solutions Organising the workers to join a strong organization to struggle for their rights How to influence corporations, government and their regulation or make human rights issues one of their concerns and part of their regulations. Providing tools and human rights education to university students who become corporate leaders in decision making positions Perception that human rights is western made and therefore something that needs to be abolished</p>	<p>How to make environmental right one of their human rights issues and be corporate responsibility To seek a balance between asserting the human rights of IP's and their need for development Ensuring all stakeholders benefit from agreement ie training \$US How to build long-term, mutually beneficial partnerships between communities and corporations Implementing local aboriginal employment and training strategies Corporate body committing to and implementing local Aboriginal employment and training strategies</p>

Appendix 6: Participants and Trainers

Participants

Adrian Pereira: *International Movement of Catholic Students Asia Pacific (IMCS AP)*
Amalia Pulungan: *Institute for Global Justice*
Antonio da Conceicao: *BELUN*
Anwar Ma'ruf: *Congress of Indonesian Unions Alliance (KASBI)*
Bonifasius Junedi Helling Sagi: *Urban Community Mission*
Chris Roberts: *Oxfam Australia*
Darlina Lumbantoruan: *National Industrial Union Workers Union Federation (NIWUF/SPN)*
David Ross: *Northern Land Council*
Deddy Ratih: *WALHI*
Dicky Manufandu: *KontraS Papua*
Eusebio Jacinto Jr: *Tambuyog Development Centre, SEAFish*
Filomeno Sta. Ana III: *Action for Economic Reforms*
Frederic Rocha: *Freedom from Debt Coalition*
Hazel Joves: *National Commission on Indigenous People*
Indah Saptorini: *Trade Union Rights Centre*
Jeudy Oeung: *Cambodian Human Rights Action Committee*
Jiang Zhenlei: *Oxfam Hong Kong China Unit*
John Asit Das: *ASK*
Jumi Rahayu: *LBH APIK Jakarta - The Indonesian Women Association for Justice - Legal Aid Institute*
Kim Ho Mak (Timothy): *Oxfam Hong Kong*
Lynette Olabe: *Workers Assistance Center*
Manlika Kethaisong: *Grassroots Human Rights Education and Development Committee*
Maria Bonita Arreola: *Foundation for a Sustainable Society, Inc.*
Meth. Kusumahadi: *SATUNAMA. Education For Democratic Citizenship*
Nawawi Bahrudin: *International NGO Forum on Indonesian Development (INFID)*
Pill Kyu Hwang: *Korean Public Interest Lawyers Group (GONGGAM)*
Savitri Wisnuwardhani: *Institute for Ecosoc Rights*
Siti Maemunah: *JATAM*
Stephanie Chok: *Transient Workers Count Too TWC2*
Verwena Bibar: *Philippine NGO Council for Food Security and Fair Trade*
Wong Chai Yi: *Suara Rakyat Malaysia (SUARAM)*

Trainers and Facilitators

Alexandra Fielden: *Diplomacy Training Program*
Deborah Raphael: *Diplomacy Training Program*
D. Savio Wermasubun (Domi): *Business Watch Indonesia*
Francis Weyzig: *SOMO*
Jerald Joseph: *Dignity International*
Patrick Earle: *Diplomacy Training Program*
Paul Redmond: *Diplomacy Training Program*
Rafendi Djamin: *HRWG*