

Press release

AFRICAN & ASIAN RESEARCHERS SUBMIT FINAL REPORT FOR UN PROJECT ON NATIONAL ACTION PLANS FOR BUSINESS & HUMAN RIGHTS TO THE UN WORKING GROUP

Johannesburg/Singapore (23 October 2015) –

The Centre for Applied Legal Studies (CALs) and the Singapore Management University School of Law (SMU) and their coalition partners in Africa and Asia (CALs-SMU coalition) submit their final report on national action plans for business and human rights (NAPs), to the United Nations Working Group on the issue of human rights and transnational corporations and other business enterprises (UN Working Group) on the eve of the ASEAN Responsible Business Forum in Kuala Lumpur in October 2015 (ASEAN Forum). The report places an emphasis on the state of play of, and perspectives on, NAPs in these two regions from the Global South and draws upon workshops in both regions that are a key focus of the ASEAN Forum.

Two years ago, the CALs-SMU coalition was selected by the UN Working Group to aid the UN Working Group in the preparation of its Guidance document on NAPs. Beyond sustained secondary data analysis and regional stakeholder interviews, the project held two workshops in February 2015 - one in Asia and one in Africa - aimed at eliciting perspectives on NAPs from stakeholders in the Global South.

The project's research findings and recommendations will inform the progressive update of the UN Working Group's Guidance on NAPs. These findings (are included in the Third Submission of the Coalition which may be found here: http://asean-csr-network.org/c/images/stories/publications/coalition_third_submission_to_the_wg_20151012.pdf and <http://www.chr.up.ac.za/index.php/centre-news-a-events-2015/1537-press-statement-asia-a-africa-national-action-plans-update-to-the-un-working-group-on-business-and-human-rights.html>) include:

- a. The value of a transparent, participatory process for the development and evaluation of a NAP extends beyond its creation towards the development of a consultative and inclusive system of governance and policy evaluation that is aligned to the participatory spirit of existing instruments of the African Union and the ASEAN.
- b. If developed in an inclusive, transparent, and accountable manner, with concrete targets and timetables, NAPs can serve to help a country that has experienced conflict move towards peace, institutional reform and rehabilitation.
- c. There is an appetite for NAPs in Africa and Asia. NAPs are seen as a potentially powerful defense against economic exploitation and the erosion of a State's legitimate regulatory space by foreign and national businesses operating in the region.
- d. While a NAP in the Global South will focus principally on human rights impacts within its own territory, NAPs in those countries that are home to multinationals need to address the extraterritorial application of laws and policies to companies when operating beyond their borders.
- e. The start of a participatory NAPs process creates opportunities for an on-going and structured national dialogue on business and human rights. As such, there's

- a high value in getting the discussions going.
- f. The contemporary sustainable development agenda of the African and Asian countries reviewed is inherently compatible with business and human rights. In light of resource constraints and in an effort to build policy coherence, it makes sense for many Global South countries to build NAPs into their country's National Development Plans.

The following issues were identified as important for all NAPs, devised in and for the South, to address:

- a. Labour rights are a key area of concern where Global South NAPs can and should take the lead. The International Labour Organisation's conventions and recommendations are a good guide for effective and sustainable standards in this area.
- b. NAPs should consider including provisions which mandate the respect for customary tenure to protect the land rights of indigenous peoples and other vulnerable groups.
- c. NAPs should consider emphasizing the need for policies that are gender-sensitive rather than gender-blind, including with respect to compensation schemes when people are forced to move off their lands to make way for business.
- d. NAPs should consider making human rights due diligence mandatory, especially for companies operating in conflict zones.
- e. NAPs should consider making mandatory the publishing of State contracts, concession agreements and benefit-sharing agreements.

Project Team:

The lead project institution is the Centre for Applied Legal Studies (CALS) at the University of the Witwatersrand, whose Director Prof. Bonita Meyersfeld is the Co-Principal Investigator for the African component of the project. The coalition partner in Africa is the Centre for Human Rights at the University of Pretoria. The Asia research is led by the Asian Business & Rule of Law initiative at the Singapore Management University Law School (SMU-ABRL), with Ast/Prof. Mahdev Mohan as its Co-Principal Investigator. The coalition partner in Asia is the ASEAN CSR Network. The project's chief independent consultant is Prof. Joanne Bauer, Senior Researcher and Adjunct Professor of International and Public Affairs at Columbia University, USA.

The UN Working Group's decision to appoint the CALS-SMU coalition to carry forth this work followed a 2013 open call for project proposals on this topic, and an objective evaluation of the many proposals it had received. It marked the first commission by the UN Working Group of a project involving third parties from these regions.

"I congratulate the CALS-SMU coalition. I am convinced that the outcomes of this research report will inform the progressive update of our guidance document, and assist the UN Human Right Council and state parties to develop context-specific and sustainable National Action Plans that resonate with the nations of the Global South as much as they do with those of the North."

- **Prof. Michael Addo, Member, United Nations Working Group on the issue of human rights and transnational corporations and other business enterprises**

“This UN Working Group-backed Africa-Asia academic collaboration is unprecedented. The project provided a valuable opportunity to bring a group of African stakeholders together from civil society, academic institutions, human rights institutions, government and business to consider opportunities and challenges for NAPs development in their countries, and the promise of NAPs for addressing development, human rights and conflict prevention objectives in the region.”

- **Nomonde Nyembe, Attorney, Centre for Applied Legal Studies, University of the Witwatersrand**

“Within Asia, NAP processes have begun in Malaysia, Indonesia and South Korea. In March 2015, Malaysia, the current Chair of ASEAN, released a “Strategic Framework on a National Action Plan on Business and Human Rights for Malaysia” to give policy direction for the formation of a NAP. Other Asian States have followed suit. Going forward, we believe that this project is a first-step in the establishment of continent and region-wide epistemic communities on NAPs in Asia and Africa”.

- **Jaya Anil Kumar, Research Associate, Asian Business & Rule of Law initiative, SMU**

Geneva & Kuala Lumpur:

The coalition’s findings will be discussed at a day-long side-event to the upcoming ASEAN Forum in Kuala Lumpur, co-organised by the ASEAN CSR Network, SMU and the British Institute of International and Comparative Law. The coalition’s findings will also be featured at a side-event on NAPs at the 2015 annual UN Forum on Business and Human Rights in Geneva, and referenced at the formal session where the UN Working Group launches its updated Guidance.

Background:

In 2011, the Human Rights Council in Geneva unanimously endorsed the *UN Guiding Principles on Business and Human Rights: Implementing the United Nations “Protect, Respect and Remedy” Framework* (Guiding Principles). The authoritative global reference point for business and human rights, these Guiding Principles outline global standards for preventing and addressing business-related human rights harm. Shortly thereafter, the Human Rights Council established the UN Working Group to promote the effective implementation of the Guiding Principles and provide advice and recommendations regarding the development of domestic legislation and policies relating to business and human rights. A core component of the UN Working Group’s mandate is translating the Guiding Principles from ideals into practice. This project aims to contribute to achieving this end.

For further information:

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