Press Release

South Korean Lawmakers Propose an Asia-first Bill on Mandatory Human Rights and Environmental Due Diligence

- Representative Jung Taeho (Democratic Party of Korea), introduced a bill to prevent and address corporate human rights and environmental abuses in global supply chains.
- Civil society organizations urge the National Assembly and the Korean Government to actively work towards the enactment of the legislation.

- Representative Jung Taeho (Democratic Party of Korea, Gwanak-eul, Seoul) introduced the Act on Human Rights and Environmental Protection for Sustainable Business Management on September 1 to prevent and address human rights and environmental violations by business enterprises in their global supply chains. Representative Jung and a network of civil society organizations (Korean Transnational Corporations Watch*) co-hosted a press conference on the same day to urge the National Assembly and the Korean Government to enact the bill as soon as possible.

- Human rights and environmental due diligence refers to a set of procedures that requires companies to identify, prevent, and mitigate negative human rights and environmental impacts, as well as transparently disclose relevant information. Previously a voluntary practice undertaken by a few leading companies, there has been increasing criticism that merely voluntary action is insufficient to address transnational human rights and environmental abuse, and several countries have introduced or are taking steps to establish a corporate duty to implement human rights and environmental due diligence.

- France, Germany, and Norway have already introduced laws on human rights due diligence, and the EU is going through legislative procedures to enact a directive on mandatory human rights and environmental due diligence. Japan, a neighboring country of South Korea, is also actively discussing the enactment of such laws at the government level.

- The Act on Human Rights and Environmental Protection for Sustainable Business Management covers the core elements of corporate human rights and environmental
due diligence introduced in the United Nations Guiding Principles on Business and Human Rights (UNGPs) and OECD Guidelines, including making and internalizing commitment to respect human rights and the environment, implementing human rights and environmental impact assessments, monitoring the effect of the measures taken, disclosing relevant information, and operating grievance mechanisms. [For more information, see annex 1.]

- For the first time in Korea, the bill prescribes corporate responsibility to respect human rights and the environment, and stipulates the corporate duty to conduct human rights and environmental due diligence. The scope of this duty is limited to companies with more than 500 employees or more than 200 billion KRW in revenue. Small and medium-sized enterprises are excluded, but the scope may be expanded by presidential decree in the future, considering domestic and international situations.

- The bill also defines the supply chain as business relationships, both direct and indirect, formed at every stage of a company's value chain from raw material acquisition to final consumption. It imposes due diligence obligations to companies on activities of direct and indirect suppliers in their supply chain, however, appropriate measures may vary depending on the influence the companies have over the suppliers’ actions. Meanwhile, the government shall establish guidelines, corporate disclosure standards, and systems and policies to support companies with the implementation of human rights and environmental due diligence.

- “In 2021, the United Nations Conference on Trade and Development changed South Korea's status to a developed economy, and last year, Korea recorded the world's sixth largest trade volume, confirming further heightened status in the international economy,” said Rep. Jung, the chief author of the bill at the press conference. “I expect that enacting this law will enable South Korea to contribute to the global community in business and human rights, as it befits its advanced economy. I will work actively towards passing the bill in the upcoming regular session of the National Assembly, initiating today,” he added. [For the full text of the joint statement presented at the press conference, see annex 2.]

- Pichamon Yeophantong, a member of the UN Working Group on Business and Human Rights**, commented “Because the current pace of UNGPs implementation in the Asia-Pacific region remains slow and incremental, we need States and businesses operating in this region to champion the conduct of HREDD*** and join the 'mandatory wave’,” and that “The Working Group hopes that the South Korean government will seize opportunities to do so and, alongside businesses and other stakeholders, advance the UNGPs in the Asia-Pacific region over this next decade of implementation.”

- Kim Doo-na, a lawyer from Korean Lawyers for Public Interest and Human Rights(a member organization of Korean Transnational Corporations Watch) pointed out “As Korean companies become more influential in the global economy, reports on serious
human rights and environmental abuses in their transnational operations are growing. The civil society believes that this bill will contribute to the prevention of human rights and environmental violations in the global supply chain, as well as serve as a legal framework to hold companies accountable for failing to perform due diligence and providing justice and remedy to victims.”  

*KTNC Watch: a network of human rights, labor, environmental, and public interest law organizations that work together to deal with the human rights and environmental issues caused by Korean multinational corporations.

**The Working Group on the issue of human rights and transnational corporations and other business enterprises (also referred to as the Working Group on Business and Human Rights) is one of the special procedures of the UN Human Rights Council. The special procedures of the Human Rights Council are independent human rights experts with mandates to report and advise on human rights from a thematic or country-specific perspective. The Working Group on Business and Human Rights consists of 5 experts and its mandate is mainly to promote, disseminate, and implement the UNGPs.

***HREDD: abbreviation of Human Rights and Environmental Due Diligence.
[Annex 1] Highlights of the Bill

1. Scope
   (1) The corporate duty to conduct due diligence applies to enterprises that are not (1) small or middle-sized enterprises (2) business entities with less than 500 employees or with less than 200 billion KRW in revenue in the previous business year.
   (2) However, a few key provisions may apply to companies of all sizes, i.e., a duty to identify human rights risks when there exists a concern that the business activity is linked to war crime or child labor.
   (3) The scope of application may be expanded by presidential decree in the future.

2. Contents of human rights and environmental due diligence
   (1) It is a corporate duty to implement human rights and environmental due diligence.
   (2) Human rights and environmental due diligence includes identifying the risks, establishing and implementing countermeasures, assessing the effect of the measures, and disclosing relevant information.

3. Scope of human rights and environmental due diligence
   (1) In principle, due diligence should be done on the risks that may arise throughout the whole supply chain.
   (2) However, appropriate actions may vary depending on whether the human rights or environmental risk is found in a direct or an indirect supplier.

4. Business activity in conflict areas or high-risk region
   When corporations operate in conflict areas or high-risk areas, due diligence obligations are heightened.

5. Rights of the stakeholders
   Stakeholders may request access to information related to human rights and environmental due diligence to business enterprises.

6. Administrative regulation
   If a company fails to fulfill its human rights and environmental due diligence obligations, the government can issue a corrective order.

7. Criminal liability
   (1) Failure to comply with a corrective order or failure to identify human rights and environmental risks when business activities are directly or indirectly involved in war crimes or child labor, or when a company operates in a conflict or high-risk area shall lead to criminal penalties.
   (2) Other violations of the obligations under this Act shall be subject to administrative penalties (fines).

8. Civil liability
(1) In addition to general torts, civil liability for violation of this Act is separately prescribed.
(2) In the case of civil liability under this Act, the burden of proof on the plaintiff is alleviated.

9. Establishment of a governmental committee
The bill establishes a committee whose function is to determine critical matters and resolve disputes about human rights and environmental due diligence.

10. Creation of a government fund
The bill creates a government-funded fund to assist victims of human rights violations or environmental degradation.
Introducing Legislation on Corporate Human Rights and Environmental Due Diligence for a Sustainable Future
- Joint Statement of the Civil Society and the Member of the National Assembly

Twelve years after the UN Guiding Principles on Business and Human Rights (UNGPs) was endorsed in 2011, the concept of “corporate due diligence” suggests that companies shall identify its adverse impact on human rights and the environment, prevent or mitigate the impact, and disclose information on the procedure, is now globally recognized.

Today we are to introduce a bill on mandatory due diligence on human rights risks and environmental impacts, as the international community has come to recognize that human rights abuses and environmental degradation caused by corporations are major threats to humanity's sustainable future. It is a widespread agreement that business entities shall bear the responsibility to oversee risks that they pose to human rights and the environment throughout their value chain, and it is now inevitable for governments to introduce legislation to enforce such responsibility. Without such a change, neither CSR, which focuses on corporate giving, nor ESG, which emphasizes non-financial risks to corporate profits, can solve the global crisis.

France, Germany, and Norway have already introduced mandatory human rights due diligence, and the EU is going through legislative procedures to establish a corporate duty to implement human rights and environmental due diligence. The United States, the United Kingdom, and the Netherlands also have laws on human rights due diligence, albeit in limited areas, and Japan is actively discussing the enactment of such laws at the government level. Given the international trend and export-oriented structure of the economy, the Republic of Korea (ROK) has no choice but to enact human rights and environmental due diligence.

We hope that this legislation will enable Korean companies, which have a significant influence over the global value chain, to take the lead in addressing human rights and environmental risks arising from their transnational activities in line with the international norm.

We are not the first to point out the necessity of mandatory human rights and environmental due diligence in the ROK. In November 2022, Thomas Andrews, the UN Special Rapporteur on the situation of human rights in Myanmar, visited the ROK and recommended introducing mandatory human rights due diligence law citing the economic ties between Korean companies, including state-owned enterprises, and the Myanmar military. In addition, human rights and environmental issues involving Korean corporations have been highlighted by the international community, including the destruction of tropical forests and violation of indigenous peoples' rights in Indonesian palm oil plantations, and poor labor rights in Korean
garment factories around the world. That is why as early as 2017, the UN Committee on Economic, Social and Cultural Rights made a specific recommendation to the ROK to legislate human rights and environmental due diligence in the supply chain.

Even in the absence of such expectations from the international community, it is our responsibility and obligation to create laws and systems that prevent Korean companies from engaging in human rights and environmental abuses at home and abroad. We strongly urge the National Assembly and the Korean government to actively work towards the enactment of this law, so that it can serve as a wake-up call for Korean companies to reflect on their business practices with a view to prevent human rights and environmental violations. Furthermore, Korean companies are already being affected by the mandatory human rights and environmental due diligence laws of other countries, as they are part of the global supply chain. If the National Assembly and the government hesitate to discuss and pass this law, it is highly likely that Korean companies will lag behind the international trend.

In this regard, we will continue to work actively to pass the bill, which aims to mandate human rights and environmental due diligence in the supply chain.

September 1, 2023

Rep. Jung Taeho, Democratic Party of Korea

Korean Transnational Corporations Watch