



REGIONAL BRIEFING

South Asia

Business & human rights in South Asia – a round-up of recent developments

July 2010

This briefing highlights reports from a range of sources about how businesses have impacted human rights, positively and negatively, in South Asia over the past year (mid-2009 to mid-2010). The following countries are referred to: India, Pakistan, Sri Lanka, Bangladesh, Nepal and Bhutan.

This is not a comprehensive overview – it flags some major issues, cases and developments, as well as emerging trends. For more detail see our website (www.business-humanrights.org), which has sections on each South Asian country, over 5000 companies, and a range of human rights issues.

Business & Human Rights Resource Centre is an independent non-profit organization that brings information on companies’ human rights impacts to a global audience. We also seek company responses when concerns are raised by civil society – some of the responses we have received from companies operating in South Asia are included in this briefing.

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1. Key concerns

i. Land acquisition: Displacement and other human rights implications

In South Asia, in particular in India, land acquisition for large industrial and mining projects and the displacement that results from it have generated protest, catalysed debate, and rarely been out of the news. Many commentators have urged companies to respect the rights of individuals and communities to their lands, livelihoods and ways of life. They have warned that corporate heavy-handedness will almost certainly lead to human rights abuses, and can spiral into violent clashes.

A range of factors make land acquisition particularly contentious. These include: extreme inequality in South Asia; the resulting imbalance in bargaining power between large corporations and affected communities; inadequate compensation and a poor record of rehabilitation for displaced families; outdated property laws.

The past year saw protests in India against, for example, [POSCO's](#) proposed steel plant in Orissa, [Reliance's Special Economic Zone \(SEZ\)](#) in Maharashtra, and [Himagiri Hydro Energy's](#) hydroelectric project in Sikkim [[allegations & Himagiri Hydro response](#)]. In Nepal, a local community has [protested against West Seti](#) hydropower project, saying it will displace and impoverish them. In Pakistan, real estate firms [Bahria Town](#) and [Habib Rafiq](#), and the [Defence Housing Authority](#) have been in the national spotlight for alleged human rights abuses while acquiring large amounts of land [[allegations; and responses by Bahria Town, Defence Housing Authority](#)].

[Vedanta's](#) proposed bauxite mine in Niyamgiri, Orissa, has made international headlines [[profile of legal petition against Vedanta](#)]. While the [Supreme Court](#) of India allowed Vedanta to mine in Niyamgiri, several international NGOs such as [Amnesty International](#) and [Survival International](#) have joined with the local indigenous community to challenge the mine, arguing that locals will be displaced and the mountain they hold sacred destroyed [[Vedanta's response](#)]. The [Church of England](#) and several other social [investors](#) sold their shares in Vedanta, citing concern for the way the company had handled its relations with local communities. The [OECD found](#) Vedanta failed to adequately assess the human rights impacts of its activities on the Dongria Kondh tribe.

The Indian Government has [proposed legislation](#) for the mining industry that seeks to reduce conflicts with local communities over land-use.

Selected commentaries on this issue:

- [“Caught in a crossfire of ideas”](#), Rajni Bakshi, *Mint*, 5 Nov 2009
- [“Preventing Conflicts over Land: Exploring the role of business and the value of human rights approaches”](#), Institute for Human Rights & Business, Nov 2009
- [“Land Acquisition: Fear Factor for Companies”](#), Mrinal Kumar & Ekta Gupta, *Business Standard*, 16 Jan 2010
- [“Facing local protests: where Vedanta's erring”](#), Sudeep Chakravarti, *Mint*, 13 Aug 2009

ii. Workplace health & safety in Bangladesh

Workplace health and safety remain serious concerns in Bangladesh. The ship breaking and garment sectors in particular were under scrutiny last year.

- **Ship breaking – under-regulated and dangerous**

Despite intervention by the High Court and Supreme Court last year, ship-breaking yards in Bangladesh continue to flout environmental and safety norms, and are [extremely dangerous places to work](#). Workers were injured and killed in accidents at many shipyards last year – reports suggest that the yards did little to prevent accidents or to compensate workers and their families. A [fatal accident in Rahim ship yard](#) in December led to [renewed calls for a robust law](#) to regulate the industry.

- **The garment sector – pressure through the supply chain**

Meanwhile, in the garment industry, at least [21 workers died in a fire at Garib & Garib](#) factory in February 2010. Unions have pressured the company to compensate workers. Unlike the ship-breaking yards, which have not responded to NGO efforts to engage with them, the export-driven garment sector can be responsive to international pressure, particularly from international buyers. **H&M**, one of the companies sourcing from the factory, [announced one month later](#) that it would dedicate 1 million SEK (approx \$130,000) for preventive fire and safety measures at garment factories in Bangladesh.

In May 2009, the US-based National Labor Committee (NLC) reported that a [young woman worker died of overwork](#) in the **RL Denim** factory in Dhaka. Other labour abuses were reported including beatings and the denial of maternity leave. Business & Human Rights Resource Centre asked German-based **Metro Group**, a major buyer from RL Denim, for a response to this incident [[Metro Group's response](#)]. RL Denim significantly [improved conditions in its factory](#) - workers now reportedly have the right to unionise, which is rare in the garment sector in Bangladesh. But in the meantime [NLC issued another urgent appeal because Metro Group](#) had initially terminated its contract with the factory (which could leave workers worse off than before), rather than working with it to improve conditions. The Resource Centre put Metro Group and NLC directly in touch with each other; [Metro has now restored its orders with RL Denim](#), and committed to establish effective measures to monitor its supplier factories across the world.

For more information on workplace health and safety in Bangladesh, see these reports by Centre for Corporate Accountability:

- [“Investigations into Workplace Deaths in Bangladesh: Compensation, Accountability and Legal Reform - A Preliminary Report”](#), May 2009
- [“Workplace deaths in the industrial, service and agricultural sectors of Bangladesh 2008”](#), 17 May 2009
- [“Obtaining compensation for workplace death and injury in Bangladesh”](#), 7 Jun 2009

iii. 25-year anniversary of the Bhopal gas disaster

December 2009 marked 25 years since one of the world's most serious industrial disasters occurred in Bhopal, India. On the night of 2 December 1984, tonnes of poisonous methyl-isocyanate gas leaked from the **Union Carbide** pesticide plant and killed about 4000 people instantly. Thousands more suffered from illness and congenital defects in the years that followed. **Dow Chemical** has since acquired Union Carbide. Both firms have consistently denied any liability for the gas disaster. Human rights groups often cite the case of Bhopal as demonstrating the need for stronger corporate accountability for human rights.

For more information see [reports & commentaries](#) from a range of sources, and a [profile of lawsuits against Union Carbide / Dow](#) on the Resource Centre's Corporate Legal Accountability Portal.

iv. The human rights implications of clinical trials

As more multinational pharmaceutical companies outsource clinical trials to South Asia, the medical and ethical debates around testing drugs on people who are generally poor and not very educated are intensifying. Commentators have voiced fears that clinical research companies are not well regulated, and could easily exploit India's poor to test drugs which may have harmful side effects, which focus on diseases of the rich, and which most Indians will not be able to afford. Public health NGOs recently objected to trials in India of HPV vaccines on young girls by the non-profit organization PATH on behalf of

Merck and GlaxoSmithKline. The Resource Centre asked the companies and PATH to respond to these concerns, and all three did so [[NGO statement and company responses available here](#)]. Controversy about the HPV clinical trials persisted, and in early April 2010 the [Indian Government suspended the trials](#). Also in April, [officials in Bhutan suspended plans to distribute HPV vaccines donated by Merck](#).

For more information on outsourcing of clinical trials, see:

- [“Bodies for hire; The outsourcing of clinical trials”](#), Sandhya Srinivasan, *Himal*, 1 Aug 2009
- [“Corporal lab”](#), Ravleen Kaur, *Down to Earth*, 17 Nov 2008
- [“Testing gives India a shot in the arm”](#), Saritha Rai, *Intl. Herald Tribune*, 15 Jan 2009
- [“Many Clinical Trials Moving Overseas - Study says trend raises ethical, medical issues”](#), Amanda Gardner, *US News & World Report*, 18 Feb 2009

2. Positive initiatives by companies

Many companies across South Asia undertake substantive social initiatives that have the effect of promoting human rights – some of these are highlighted below. Examples of firms in South Asia that turn a human rights lens on their own operations remain quite thin on the ground, and [some large Indian firms have been criticised for their relative lack of support for initiatives promoting education, health, etc.](#)

i. Large firms support poverty alleviation, health, access to water, children’s rights

Poverty and access to healthcare, education and water continue to be major challenges in South Asia. A number of firms have undertaken initiatives to address one or more of these issues.

For example [Ballarpur Industries \(paper company\) works in partnership with NGOs](#) near its manufacturing sites throughout India to improve livelihood-creation, education and health. This programme reportedly reaches out to over 250,000 people living in 270 villages and 20 urban slums. In December 2009 [Tata Steel committed to expand community HIV/AIDS programmes in Orissa](#); the company has an HIV/AIDS non-discrimination workplace policy. In 2010, telecoms firm **Bharti Enterprises** [expanded its Satya Bharti School](#) programme that had established 90 primary schools serving poor, previously out-of-school and migrant children across the Punjab, to set up 6 secondary schools.

[Hindustan Unilever’s project Shakti](#), launched in India in 2000 in partnership with NGOs, banks and government, continues to train Indian women from self-help groups in rural areas to become direct-to-home distributors of the company’s soaps and shampoos, providing them with microcredit, leading to increased family incomes. By the end of 2009, the company reported that over 45,000 women were selling products to 3 million consumers in 100,000 villages. The company has launched similar projects in Bangladesh (where it is called Aparajita, run in partnership with CARE International), Sri Lanka (where it is called Saubhagya, and involves the Samurdhi Authority, the government agency responsible for poverty eradication), and other countries.

Sri Lanka firms **Brandix** and **Lanka Walltile** joined together in a [project with villagers in Pubudugama](#) (in a dry zone of Polonnaruwa District, Sri Lanka) to build a water supply scheme for the community – the firms provided funding, materials and project coordination; the villagers raised 1 million Sri Lankan rupees and contributed their labour. In India **Hindustan Unilever**, DHAN Foundation and the National Bank for Agriculture and Rural Development launched a [water conservation project in drought-prone Nialayur](#) (in Madurai, Tamil Nadu). The project aims to renovate over 250 irrigation tanks, benefitting over 20,000 small and marginal farm families. The project will organise farmers, landless labourers and women into an association at each tank level; the farmers themselves will contribute 10% of the renovation cost.

Multinational firms are also involved in initiatives in the region. [Ikea committed \\$48 million to UNICEF](#) in India, expanding its partnership to support healthcare initiatives for children living in poverty. [Barclays also partnered with UNICEF](#), giving \$1.56 million as well as employees’ time towards a project that works with girls in three districts of Maharashtra, mentoring them and teaching marketable skills. [Bayer Crop Science took steps to eliminate child labour in its supply chain](#), committing to work only with growers who

contractually agree not to employ children. [Dell earmarked over \\$2.5 million in 2009 to support 10 organizations in India](#) working toward child labour rehabilitation, educating daughters of sex workers and imparting information on climate change.

ii. Promoting the right to information

In 2009 Tata Steel Rural Development Society, the rural development organization that is an arm of **Tata Steel**, [launched a campaign aimed at creating awareness of the Right to Information Act](#) at the grassroots level in Orissa, India, in partnership with the state-level Orissa Information Commission.

iii. Financial firms reach out to the poor

Financial firms are beginning to design products for traditionally underserved consumers, giving them valuable access to loans and capital. While the motivation is clearly one of increasing profit, these initiatives can help to combat poverty. The **State Bank of India** [offers customers in remote rural areas zero balance accounts](#), where they can receive wages, pensions and social security payments electronically, cutting down on the corruption that accompanied such payments in the past. **ICICI Prudential** has [launched an insurance plan specifically for tea plantation workers](#), in partnership with the ILO and the Bill & Melinda Gates Foundation.

Microcredit initiatives play an important role in tackling poverty in the region. However, their recent proliferation has led to questions about the level of interest charged to beneficiaries. Mohammed Yunus, founder of Grameen Bank in Bangladesh, warned [“we need to draw a line between genuine \[support for the poor\] and abuse”](#), saying that interest rates should be a maximum of 10 to 15 percent above the cost of raising the money.

iv. Businesses promoting peace

In Sri Lanka, Nepal and parts of India, businesses are operating in politically sensitive environments that have seen violence and insecurity for many years. Some firms are contributing to efforts to restore or build peace.

Sri Lanka has many examples of innovative private sector engagement in conflict-prone areas. The [Business for Peace Alliance](#) includes 22 regional business chambers, two of which are exclusively comprised of women entrepreneurs. It lobbies for investment in difficult regions. Members of the Galle Chamber of Commerce’s Peace and Reconciliation Committee use their influence as community leaders to help defuse ethnic tensions, and also participate in peace-building activities – other chambers have followed suit. Apparel firm **Brandix** is [working with UNHCR to provide water and sanitation](#) to communities being resettled after they were displaced by the conflict.

Inter-governmental organizations like UNDP and UNHCR have [urged the private sector](#) in Nepal and Sri Lanka to play a strong role in peace-building, and to explore economic opportunities in ways that are inclusive and sustainable. In an interesting endeavor, International Alert organised an [exchange between business leaders from Nepal and Sri Lanka](#) on strategies for private sector participation in peace-building.

For more information see the following material by International Alert:

- [“Strengthening the economic dimensions of peacebuilding”](#), Mar 2009
- [\[PDF\] “What role for business in “post-conflict” economic recovery? Perspectives from Nepal”](#), Mar 2009
- [\[PDF\] “Rethinking the nexus between youth, unemployment and conflict – Perspectives from Sri Lanka”](#), Mar 2009
- [\[PDF\] “Sustaining Business and Peace: A Resource Pack on Corporate Responsibility for Small and Medium Enterprises” \(Sri Lanka\)](#), Jan 2009

v. Small businesses, serious commitments

It is encouraging to see a number of small businesses in South Asia putting ethics at the heart of what they do. Some of these are export-oriented, for example:

- [Blue Mango](#), a craft company located in the hills of Tamil Nadu in southern India, prioritises employing widows, disabled women, and domestic abuse survivors, and provides its workers with free healthcare;
- [Jaipur Rugs](#), working in an industry often associated with sweatshops, engages 40,000 independent weavers across India, providing livelihoods to people in remote villages;
- Businesses like [People Tree](#) are rejecting the exploitative conditions common in the garment industry, choosing to source garments from fair trade producers in Bangladesh and provide workers with training and opportunities;
- [OnTime Technologies](#), a BPO (business process outsourcing) firm located in rural Anuradhapura in Sri Lanka, draws its employees from the local area, giving people white collar opportunities close to home.

Others are firmly local, doing business in ways that challenges convention and prejudice:

- A café in Mysore, India's [Green Hotel](#) is staffed entirely by young women from a dalit community, challenging generations of ritualised caste-based stigma.
- [La Boulangerie](#), a French café in Chennai, India, follows the same model, hiring young dalit men.
- [Another restaurant in Mysore](#) is run by sex-workers and members of the transsexual community, again challenging entrenched social exclusion.
- In Pakistan, the [Depilex beauty salon](#) chain supports women who survive acid attacks, helping them with reconstructive surgery and helping survivors find work.
- Rickshaw company [Sammaan](#) in India has developed a business model to empower rickshaw drivers economically and socially.

3. Legal, policy and regulatory developments

The past year saw several interesting legal and policy developments in the region, particularly relating to workers' rights. These developments reflect ways in which South Asian governments are grappling to reap gains from liberalisation and multinational investment, while responding to pressure and protest from the workers who often experience the sharp end of globalisation.

i. Indian court rules on Bhopal

In June 2010 an [Indian court found Union Carbide India and seven of its top executives guilty](#) for their role in the 1984 industrial disaster that killed thousands in Bhopal. The judge imposed two-year prison terms and a fine of about US\$2000 each after convicting the men of negligence causing death, endangering public life and causing hurt. Indian campaigners said the two-year sentences were "wholly inadequate". Amnesty International called on the Indian & U.S. governments to bring Union Carbide/Dow to justice. The Madhya Pradesh Government said it planned to appeal the "disappointing" verdict. Union Carbide claims the issue has been resolved and that Dow (which bought Union Carbide in 1999) has no responsibility for the leak.

Business & Human Rights Resource Centre continues to update its [profile of lawsuits relating to Bhopal](#).

ii. A policy for home-based workers, Pakistan

In Pakistan, the Ministry of Women Development drafted a [National Policy of Home-Based Workers](#), which aims to ensure home-based workers have the same rights and protections as others doing similar work. The proposed policy also aims to improve access to markets for Pakistan's 8.5 million home-based workers, who include the majority of the country's female workforce. Women working from home perform manufacturing and post-manufacturing tasks such as embroidery and carpet weaving – they are often invisible members of domestic and global supply chains, their rights ignored or overlooked.

iii. Legal reform on contract labour, India

In India, the Ministry of Labour has proposed amendments to the law regulating the increasingly contentious issue of contract labour. This development comes after a year of high-profile labour-management disputes across India. The Labour Ministry estimates that contract workers comprise nearly 28% of India's 459 million-strong workforce. While trade unions want contract workers to have the same rights and tenure as regular employees, corporations want to have flexibility in hiring in response to the market. In 2009 the government established a task force to review contract labour regulations which failed to reach a consensus. The amendments subsequently proposed by the Labour Ministry are likely to be contested by both unions and employers.

For more information see:

- [“Labour disputes - The summer of discontent”](#), Gurbir Singh, *Businessworld*, 5 Jun 2009
- [“No end in sight to contract labour debate”](#), Maitreyee Handique, *Mint*, 3 Aug 2009
- [“Govt proposes law to ensure better wages for seasonal hires”](#), Maitreyee Handique, *Mint*, 17 Jan 2010

iv. Policy on HIV/AIDS in the workplace, India

In October 2009, India's Ministry of Labour released a [National Policy on HIV/AIDS and the World of Work](#). The policy lays down principles on non-discrimination, confidentiality and access to health care. It asks companies to establish HIV/AIDS policies, and tries to cover the informal economy, which includes the majority of India's workforce. A law on HIV/AIDs has been in the offing for several years, but different government departments are [reportedly still debating its provisions](#).

v. Delhi High Court upholds access to generic medicines, India

In February 2010, the [Delhi High Court ruled against Bayer's](#) attempt to link regulatory approval for generic drugs to their patent status. **Bayer** sought to stop marketing approval of a generic version of a cancer drug for which it holds the patent. Bayer has appealed to the Supreme Court of India against this decision. In the meantime, patients' rights groups and NGOs like [Médécins Sans Frontières have welcomed the judgment](#). [[Judgment](#) in Bayer Corporation v. Union of India, High Court of Delhi].

vi. Companies with human rights policies

The Resource Centre [list of companies known to have a human rights policy statement](#) includes two Indian companies: **IndianOil** and **Tata**. The *Financial Express* [India] recognised the policies of those two companies in an [18 July 2010 article](#) beginning with the comment: “Having a stated human rights policy is no longer a matter of choice, but a business imperative for an increasing number of companies around the world.” The article includes the following comment by V.C. Agrawal of IndianOil: “It's helpful to have a written human rights policy in today's world because human beings are now increasingly being seen as central to business, and everything flows from a policy.”

4. Looking ahead

i. South Asian multinationals – learning the ropes

Mergers and acquisitions by South Asian companies in the West and in the developing world have made headlines over the last 12 months. As an increasing number of South Asian companies evolve into multinationals, they will have to tackle the challenge of traversing a range of political and legal regimes. It will be interesting to observe whether they learn from the good and bad practices of a previous generation of Western multinationals, and whether they engage with civil society, are mindful of community concerns and individual rights, and engage in international initiatives on ethical behaviour like the UN Global Compact. Alternatively, will they take advantage of situations where regulation, enforcement and access to remedies are weak? By the same token, will South Asia's outspoken press and civil society scrutinise how home-grown multinationals behave in other countries in the same way they would companies operating within South Asia?

For more information see:

- [“The reality of rights: Barriers to accessing remedies when business operates beyond borders”](#), May 2009, Corporate Responsibility (CORE) Coalition & London School of Economics and Political Science (LSE)
- [“The party's over for Chinese in Africa”](#), Jonathan Manthorpe, *Vancouver Sun*, 5 Oct 2009
- [“The scramble for a piece of Burma”](#), Hannah Beech, *Time*, 19 Mar 2009
- [“The food rush: Rising demand in China and west sparks African land grab”](#), David Smith, *Guardian*, 3 Jul 2009

ii. Acknowledging discrimination

The Indian Constitution prohibits negative discrimination, and allows for correctives, including positive discrimination for traditionally marginal castes, in the public sector. By contrast, affirmative action is rarely practiced in the private sector. Recently, however, the Indian Government has discussed mandatory quotas in private sector employment, and begun using both [carrots](#) and [sticks](#) to [push companies on caste and religious discrimination](#). Many large corporations have [criticised](#) this, but it has also nudged companies to take the problem of systemic caste discrimination more seriously. Some companies, such as [Tata Group, have attempted to analyse caste imbalances](#) in their workforce. Others, like [Forbes Marshall Group, have developed diversity policies](#). In addition, civil society groups are also [lobbying](#) companies to address caste discrimination, and providing them with [guidelines](#) and [tools](#) to do so. Companies, especially large companies, are likely to face increasing pressure to tackle caste and religious discrimination.

iii. Spotlight on child labour

In India, child labour - banned for children under 14 working in certain hazardous occupations - will be under renewed scrutiny. The Indian Parliament passed a law in 2009 making primary education compulsory. The Right to Free & Compulsory Education Act 2009 is being implemented across the country, and necessarily focuses attention on young children who are forced to work rather than study. The Act makes schooling for children up to the age of 14 an enforceable legal entitlement. This pushes the Indian authorities to identify working children and ensure they attend school, and also pressures them to take action against enterprises that employ children.

For more information see:

- [“Centre indifferent to violators of child labour law”](#), Dhananjay Mahapatra, *Times of India*, 24 Jan 2010
- [“The abandoned generations: how child labourers suffer as India ignores the law”](#), Rhys Blakely, *Times*, 15 Oct 2009

5. The Resource Centre's plans for the region

The Business & Human Rights Resource Centre's first mission in South Asia was to the mining regions of Goa, in February 2009. In the coming years, the Resource Centre hopes to conduct further research missions in South Asia, including to Bangladesh and Sri Lanka. In Bangladesh, we will likely focus on workplace health & safety in the ship-breaking and garment sectors, labour rights, and companies' environmental impacts affecting human health. In Sri Lanka, we will likely focus on working conditions in export-oriented industries, such as garment manufacturing and tea and spice plantations, as well as corporate behaviour in a post-conflict environment. The purpose of these missions is to build contacts with local civil society organizations and businesses so that we can disseminate their work through our website, and highlight positive and negative corporate impacts more effectively.

The Resource Centre website will also deepen its coverage of the issues discussed in this briefing, in particular disputes over land-use. We will ask large and small companies to respond to allegations against them, bring the concerns of local advocates to an international audience, provide examples of

positive steps by companies, and disseminate practical tools that help companies implement their human rights responsibilities.

6. Follow our work on South Asia

You can follow our coverage by region and country here:

<http://www.business-humanrights.org/Categories/RegionsCountries/AsiaPacific>

If you would like to receive our free Weekly Updates, the sign-up form is accessible here:

http://www.business-humanrights.org/weekly_update_signup

Please do not hesitate to get in touch with any questions or suggestions of material for our website. Beginning 2 August 2010, our new South Asia Researcher & Representative will be Dr. Harpreet Kaur; [click here](#) for the announcement of her appointment. Her email address will be: kaur@business-humanrights.org.

Harpreet succeeds Surabhi Chopra, who did outstanding work as the Resource Centre's first South Asia Researcher from 2008 until she stepped down at the end of April 2010 – Surabhi took the lead in drafting this regional briefing. Surabhi is relocating to East Asia.

Our general email address is: contact@business-humanrights.org.

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