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Policy Analysis on the National Action Plan on Business and Human Rights

The case of Thailand, Japan, and Taiwan

Topic and Research Question

The National Action Plan (NAP) on Business and Human Rights (BHR) is a recommended tool for states to implement the UN Guiding Principles on Business and Human Rights (UNGPs) which promises progress in attaining Sustainable Development Goals (SDGs). However, since its launch in 2011, the popularity of the NAP on BHR remains low in East Asia as growth and human rights seem to contradict a common goal. Factors including the lack of knowledge of state on the cost of adoption; limited data; and applicability of such document in developing countries hinder states to subscribe to this 'new governance' policy. Given the opposing views about the importance of having a NAP on BHR, the publication of independent NAPs of Thailand (2019), Japan (2020), and Taiwan (2021) is recognized as an important milestones in the region not only as pioneers but more interestingly in their respective position as actors in the global sphere. Henceforth, this research seeks to answer the overarching research question: **"Can the National Action Plan on Business and Human Rights of Japan, Thailand and Taiwan help implement the Sustainable Development Goals roadmap in East Asia?"**.

State of the Art

Development is not sustainable when economic growth, environmental protection, and human rights are not mutually respected by all stakeholders (Portney 2015; UNOHCHR n.d.). Thus, the UN Guiding Principle on Business and Human Rights (UNGP) supports the SDGs through recognizing that both states and businesses have responsibilities to provide remedies for violation should they fail to protect and respect human rights (UNDP n.d.). This could be implemented by states through launching a stand-alone NAP that (1) highlights the plight of the poorest and most vulnerable, (2) empowers people to get involved in designing and implementing solutions and (3) catalyzes ambitious actions. In 2020, the East Asian region's SDG report reflects that it regressed on environmental issues such as SDGs 14 and 15. Human rights, despite being at threat from climate change, can provide solutions in these developmental issues (Boyd 2019). Public policy documents on human rights have limited visibility to implement international law as legislative and judicial implementation are deemed more effective (Cantu Rivera 2019). The presence of NAPs establishes an approach that highlights the complexities of implementing

human rights measures through benevolent approach to businesses as a duty-bearer. The promises of the NAP on BHR pulls states towards increased accountability in implementing key business and human rights frameworks (ICAR et al. 2017). As NAP envisages explicit capacity-building initiatives, it also resolves the issue of management — a factor that slows down implementation of human rights norms (de Felice and Graf 2015). In 2017, an updated version of the 2014 toolkit produced by Danish Institute of Human Rights in collaboration (DIHR) with International Corporate Accountability Roundtable (ICAR) was released. This tool has been helpful in developing a NAP based on a rights-based approach and the ideal NAP cycle: 1. establish a governance framework for the NAP; 2. conduct National Baseline Assessment; 3. elaborate scope, content, and priorities of NAP; 4. implement, monitor, and review the NAP; and 5. update the NAP. This study only focuses on the first 3 parts.

Methodology and Approach

This case study requires qualitative discussion based on document reviews and key informant interviews that highlights the uniqueness of each state's process of launching a NAP. Part of the study juxtaposes the connection of the realities of SDG priorities and the core of their respective NAPs. Political, economic and social systems of each state also plays an important role in analysis to establish the unique characteristics of Asian region in the global arena. Respective processes undertaken by Thailand, Japan, and Taiwan will be dissected following the toolkit presented by the DIHR and ICAR.

Main Facts

There is a growing expectation to the East Asian region, being the emerging economic hub of the world hosting transnational businesses and exporting workforce to the western world, to contribute on sustainable development. The UNGP framework on "protect, fulfill, and remedy" operates on the idea that business and states are both duty-bearers and must comply with a set of standards that accelerate sustainable development for all. As transnational and multinational businesses changed the landscape of doing business within their host country, this framework opens opportunities for them as duty-bearers as the race towards universality of business and human rights commenced. However, the region is challenged to comply because of the following realities:

1. Foreign Direct Investments. Thailand, Japan, and Taiwan hosts transnational and multinational businesses which are continuously growing.
2. Resource depletion. The lack of interest from younger generations to work in the agricultural sector and the growing ageing population endangers agricultural lands.
3. Influx of workers. Thailand, Japan, and Taiwan are economic hubs in the region receiving foreign worker annually as a solution for the depleting labor force and growing old-age dependency ratio.
4. Business culture. The influx of foreign businesses and workers challenged the culture of doing business in Thailand, Japan and Taiwan that is anchored on the principle of doing good to others.
5. Political instability. Cases of corruption, weak governance, and the lack of grievance mechanisms hinders the ease of doing business.

With these realities, Thailand, Japan, and Taiwan are motivated to launch their independent NAP as it promised to:

1. Establish partnership with other like-minded states to do business in the region;
2. Lead the region in promoting solutions for sustainable development;
3. Integrate foreign workers and businesses in their system as a fulfillment of their duty to maintain equitable development; and
4. Shape the regional identity of sustainable business that can improve the way of doing business in other regions.

Results

The need for regional initiator(s) in building the future of business and human rights and achieving SDGs should be recognized through the successive independent NAPs launched by other states in Asia following the footsteps of Thailand, Japan and Taiwan. The growing number of independent NAP on BHR in the region are beneficial to the states which are in the currently in the drafting process. This will ensure that similar mistakes done in the past will not be repeated thus creating a higher-standard of compliance. This globalized action establishes a NAP that does not end as a printed document available to the public rather it becomes a way of life engaging stakeholders' participation in promoting sustainable development.

There is no perfect NAP and lessons from the experiences of Thailand, Japan, and Taiwan in the sustainable development roadmap in East Asia vary. This study concludes that: 1. Thailand, being the first in Asia to launch its NAP, had an edge to shape how the region responds to the global norm. It sets the bar that pleases the global community. However, it has also committed similar mistakes of its predecessors. 2. Japan's NAP is an output of almost a decade-long drafting process that had extensive consultation yet similar issues on business and human rights persist especially in integrating migrant workers in the community. 3. Taiwan's position in launching a NAP is a diplomatic approach to show its commitment despite having a challenging position with the UN. Aside from having the shortest period of implementation, its NAP can be improved through reviewing the suggested checklist to make it at par to the global community. Therefore, the launch of an independent NAP can help implement the SDG roadmap of East Asia if it establishes a respectable bottom-up process that understands the universal principles of human rights.

References

All references can be found in the full version of the MA thesis available at EcoS Library in UniWien and online at <https://ubdata.univie.ac.at/AC16915655>

About the Author

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