

# 15TH ESSEX ANNUAL HUMAN RIGHTS IN ASIA CONFERENCE



## Human Rights Impacts of the Fashion Industry in Asia

18 MARCH & 25 MARCH

10:00 - 12:00

Via Zoom

### MORE INFORMATION

-  @15hrasia\_essex
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# FINAL REPORT



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# Acknowledgements

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Each of us in the student committee express our gratitude to staff members at The University of Essex who gave up their time to help contribute to this conference. While the conference was a student-led project, the guidance, support and assistance offered to us from supportive staff members have made this conference possible.

In particular, we take this opportunity to thank: Ms. Amy Swaine and Ms. Günce Yurdakul for their logistical support and much needed coaching to ensure the smooth running of the conference; Dr. Katya Alkhateeb for her participation and interest in moderating Day One's panel discussion; Dr. Andrew Fagan for his introductory remarks, input and moderating Day Two's panel; and Dr. Sanae Fujita for introducing us to, and guidance throughout, this worthwhile and rewarding project.

We would also like to thank each of the external speakers that offered their time and expertise to contribute to the conference. Thank you for sticking with us throughout the pandemic and finding the time to take part once it was rescheduled. Your expertise and inputs are greatly appreciated, and we owe this conference to your participation. Our deepest gratitude to Dr. Obokata Tomoya; Ms. Kate Larsen; Mr. Wiranta Ginting; Dr. Arjun Kharel; Dr. Anil Yilmaz; and Mr. Namit Agarwal.

Finally, we express our gratitude towards one another. This has been a turbulent year by every measure, and yet we found the patience to work on this project throughout the academic year. While the pandemic had led to our in-person conference being cancelled in March 2020, the resilience and enthusiasm of the team facilitated an online format for the conference this year that allowed for the attendance of over 100 interested participants. We are grateful to one another for the opportunity to create a worthwhile platform, and the chance to develop lasting relationships in the process.

# The Conference Summary

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## The Conference Timeline

Day ONE – 18 <sup>th</sup> March (10am – 12pm GMT)	
Time	Presentation
10:00 – 10:05	Welcoming and Housekeeping
10:05 – 10:15	Introduction to Human Rights in Asia Conference
10:15 – 10:20	Introduction to Speakers
<b>10:20 – 10:45</b>	<b>Dr. Tomoya Obokata – “Working Conditions in the Asian Fashion Industry”</b>
<b>10:45 – 11:00</b>	<b>Ms. Kate Larsen – “Human Rights Impacts of the Fashion Industry in Asia: A Fair Deal for the People Who Grow, Make and Move our Things”</b>
<b>11:00 – 11:15</b>	<b>Mr. Wiranta Ginting – “Living Wages and the Impact on ESCR”</b>
11:15 – 11:20	BREAK
11:20 – 11:50	Panel Discussion
11:50 – 11:55	Q & A
11:55 – 12:00	Closing Remarks

Day TWO – 25 <sup>th</sup> March (10am – 12pm GMT)	
Time	Presentation
10:00 – 10:05	Welcoming and Housekeeping
10:05 – 10:10	Introduction to Speakers
<b>10:10 – 10:25</b>	<b>Dr. Arjun Kharel – “Recruitment Costs, Wages and Working Conditions for Women Migrant Workers in the Garment Industry in Jordan”</b>
<b>10:25 – 10:40</b>	<b>Dr. Anil Yilmaz – “Business and Human Rights and the Emerging Due Diligence Laws in Europe”</b>
<b>10:40 – 10:55</b>	<b>Mr. Namit Agarwal – “BHR and Sustainability in Garment Industry and Supply Chains”</b>
10:55 – 11:10	BREAK
11:10 – 11:40	Panel Discussion
11:40 – 11:50	Q & A
11:50 – 12:00	Closing of Human Rights in Asia Conference

## **The Conference Information**

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The Asia Conference is an annual, student-led initiative from the Human Rights Centre at The University of Essex. Our purpose is to provide a platform to highlight and discuss human rights issues in Asia with a larger audience, whether they be students, academics, or general members of the public around the globe.

The 15th Human Rights in Asia Conference discussed “The Human Rights Impacts on the Fashion Industry in Asia”. The focus will be on the impact of fast fashion industries on the working conditions of factory labourers in Asia. Additionally, it discussed the relationship between Business and Human Rights and the industry’s obligations towards the realisation of Economic, Social and Cultural Rights (ESCR) and sustainable practices in the garment industry. Finally, it concluded with the vulnerable position of migrants and women in the industry.

On Day One of the conference, there were key discussions on labourers’ working conditions and living wages. The three speakers were Dr. Tomoya Obokata, Ms. Kate Larsen and Mr. Wiranta Ginting. The panel discussion was moderated by Dr. Katia Alkhateeb. Day Two of the conference discussed the role of Business and Human Rights frameworks, Corporate Social Responsibility in the garment industry, and the working realities experienced by migrants and women were discussed. The speakers were Dr. Arjun Kharel, Dr. Anil Yilmaz, and Mr. Namit Agarwal. The panel discussion was moderated by Dr Andrew Fagan.

## **Speaker Biographies**

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### **Andrew Fagan**

**Director of the Human Rights Centre**

**Senior Lecturer at School of Law, University of Essex**

Dr. Andrew Fagan has been teaching human rights at Essex since 1998 in the Department of Philosophy, the School of Law and the Human Rights Centre. He has occupied several positions within the Human Rights Centre, including Deputy Director, Research Director, Director of Academic Studies and, currently, he is the Co-Director of Postgraduate Studies (Human Rights) within the School of Law. He has extensive multi-disciplinary teaching experience and interests, spanning the theory and practice of human rights. His research focuses upon the normative, political and cultural challenges to human rights. He is particularly interested in the contributions which radical philosophies and politics can make to defending human rights against multiple challenges. He has taught and lectured upon human rights across the world; including, Central Asia, East Asia, Europe, Southeast Asia and North and South America.

### **Sanae Fujita**

**Fellow at School of Law, University of Essex**

Dr. Sanae Fujita is a fellow of the Human Rights Centre at the University of Essex and has been a supervisor for the annual student-led Human Rights in Asia conference since its establishment in 2009. Her research closely engaged with Asian Development Bank and published ‘The World Bank, Asian Development Bank and Human Rights: Developing Standards of Transparency, Participation and Accountability’ (Edward Elgar Publishing, 2013). Since 2013, she has played a crucial role in raising international awareness of human rights in Japan, including problems of the amendment bill to the Immigration Control and Refugee Recognition (2021). She has been leading a project by assisting the UN Special Rapporteurs on Freedom of Expression as well as Right to Privacy.



### **Katya Alkhateeb**

#### **Senior Research Officer**

#### **School of Law & Human Rights Centre, University of Essex**

Dr. Katya Alkhateeb is Senior Research Officer, and the deputy director of the Digital Verification Unit at the Human Rights Centre and School of Law, University of Essex (UK). She currently works on Human Rights in East Anglia Outreach Project, how to build a Human Rights City and empower people through promoting a human rights culture. She holds a PhD in Migration Studies and an LLM in Human Rights Law and Humanitarian Law from the University of Essex (UK) where she addressed the problematics of using Human Enhancement Technologies in military applications.

### **Obokata Tomoya**

#### **UN Special Rapporteur**

#### **Special Rapporteur on contemporary forms of slavery, OHCHR**

Dr. Tomoya Obokata is a Japanese scholar of international law and human rights, specialising in transnational organised crime, human trafficking and modern slavery. He was appointed as the Special Rapporteur on contemporary forms of slavery, including its causes and consequences in March 2020. He currently serves as Professor of International Human Rights Law at York Law School, and previously taught at Keele University, Queen's University Belfast and Dundee University (all in the United Kingdom Great Britain and Northern Ireland). He has extensive experience of working on the issues of transnational crime, human trafficking and modern slavery with relevant stakeholders, including the UK Parliamentary Joint Committee on Human Rights, the Northern Ireland Assembly All Party Group on Human Trafficking, the United Nations Office of Drugs and Crime, the International Organisation for Migration and the European Union. Dr. Obokata also worked as a legal clerk for the United Nations High Commissioner for Refugees in Japan. He has published widely on the topics mentioned.

### **Kate Larsen**

#### **Founding Director, SupplyESChange.com**

Ms. Kate Larsen is the Founding Director of SupplyESChange.com and advocates for responsible sourcing by advisory, delivering training, and courses and public speaking. Prior to her Advisory and Training to fashion companies, their investors, and many other firms, Ms. Larsen worked in large fashion and apparel brands monitoring working conditions of garment workers and with NGOs and leading retailers, which involved visiting factories to engage with workers in China and Japan, where they are often found in bonded labour conditions. She speaks Chinese and had lived and worked in China and Asia for 11 years. She also worked in Human Rights Watch in London briefly supporting advocacy on what companies should do to better respect worker rights and has also led apparel supply chain projects for the World Bank, and other organisations.

### **Wiranta Ginting**

#### **Deputy International Coordinator, Asia Floor Wage Campaign**

Mr. Wiranta Ginting is the Deputy International Coordinator of the Asia Floor Wage Alliance (AFWA). He is an organiser and labour rights educator, who has worked with trade unions, small grassroots NGOs and worker-led organising programs in South-East Asia for twenty years. He's led workplace and community campaigns for decent work and living wages in global fashion supply chains. Before joining AFWA, Mr. Ginting was the Executive Director of the Local Initiative for Occupational Health and Safety (LION), an NGO focused on

improving occupational health and safety in Indonesia. He holds a Master of Arts in Sustainable International Development from Brandeis University, USA.

### **Arjun Kharel**

**Assistant professor of Sociology, Tribhuvan University**

**Research fellow, Centre for the Study of Labour and Mobility**

Dr. Arjun Kharel is an Assistant Professor of sociology at Tribhuvan University and a Research Fellow at the Centre for the Study of Labour and Mobility at Social Science Baha, Kathmandu, Nepal. His research focuses on migration, labour, social change, and development. He holds a PhD in Sociology from Kansas State University.

### **Anil Yilmaz Vastardis**

**Senior Lecturer, Essex Law School**

**Co-director of the Essex Business and Human Rights Project**

Dr. Anil Yilmaz Vastardis joined the Essex School of Law and Human Rights Centre in September 2015. She studied law at Marmara University in Turkey, and she is a non-practicing lawyer at the Istanbul Bar Association. She holds an LLM in International Trade Law and a PhD in Law from the University of Essex. She is a co-director of the Essex Business and Human Rights Project. Her main research interests are in the fields of international investment law and business and human rights. Her research bridges the gap between corporate law, international investment law, human rights law, and tort law, examining how these areas can and should interact so as to operationalise human rights standards in the modern business context. She has published works in leading international law journals and edited collections on parent-subsidiary relationships in the business and human rights context, non-financial reporting, duty of care in supply chain relationships, human rights in investment contracts and the embedded inequalities in the investment treaty regime. Her recent book 'The Nationality of Corporate Investors under International Investment Law' was published with Hart Publishing in 2020.

### **Namit Agarwal**

**Social Transformation Lead, World Benchmarking Alliance**

Mr. Agarwal leads WBA's social transformation work, bringing over a decade of experience influencing public policy, companies and investors on issues of transparency, accountability, human rights and gender. Prior to WBA, Mr. Agarwal worked for Oxfam India, CARE India and Samhita Social Ventures in the areas of advocacy, campaigning, program design and communication. A strong believer in evidence-based advocacy and multi-stakeholder dialogue, he has helped design and implement India Responsible Business Index, led supply chain research and convened civil society, companies, investors and government for advocacy and action. Mr. Agarwal has written extensively on the intersection of business, Sustainable Development Goals, human rights and finance and is a member of India's National Human Rights Commission core group on Business, Environment and Human Rights. He holds an MBA from ICFAI University and a Bachelor of Commerce from Calcutta University.

# Conference Reports

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## Introductions at the 15th Human Rights in Asia Conference



Dr. Andrew Fagan, Director of the Human Rights Centre, and Dr. Sanae Fujita, Fellow at The University of Essex and Supervisor for the Student Organising Committee, opened the 15th Human Rights in Asia Conference on 18 March 2023.

Dr. Andrew Fagan began the opening remarks by expressing his gratitude to the participants and acknowledging the significant number of attendees joining the conference. He mentioned that the conference would be held over two successive Saturday mornings. Dr. Fagan highlighted the importance of this initiative for the Human Rights Centre, emphasising that Asia, despite being the most populous continent, often remains overlooked and marginalised in discussions on human rights. He commended the student organising team for their dedication and recognised Dr. Sanae Fujita's pivotal role in driving the conference forward throughout its 15-year history.

Dr. Fagan mentioned that this year's conference would focus on the production of clothes in Asia and its implications for human rights. He underscored the personal and topical significance of this issue and expressed his anticipation for the discussions that would take place during the conference. He reiterated the Human Rights Centre's appreciation for the student organising team and Dr. Fujita, emphasising their crucial contributions to making the conference possible.



Dr. Sanae Fujita then took the floor and thanked the speakers for their time and preparation, as well as the participants and promoters of the conference. She expressed her gratitude for the support received from the Essex University Human Rights Centre and the School of Law. Dr. Fujita highlighted that the conference was an annual student-led event and considered the flagship event of the Essex Human Rights Centre. She mentioned the availability of past conference reports on the centre's homepage.

Dr. Fujita emphasised the importance of addressing human rights issues in Asia, given the region's substantial population and the many challenges it faces. She highlighted that the commitment of Asian governments to human rights was not satisfactory, as reflected in the low ratio of ratification of major human rights treaties compared to other regions. Dr. Fujita explained that the conference originated from the voices of Asian students in 2009, who called for a dedicated focus on human rights in Asia. Over the years, the conference grew in size and attracted prominent speakers from various places.

Due to the COVID-19 pandemic, the conference transitioned to an online format, allowing for the participation of individuals from all over the world. Dr. Fujita acknowledged the efforts of the student team, consisting of six students, who had worked tirelessly since October to organise the conference. She encouraged participants to enjoy the conference and reminded them to register for the second session. Dr. Fujita concluded her remarks by thanking everyone involved and expressing her appreciation for their hard work.



# Day One: Keynote Speech

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## Dr. Tomoya Obokata: “Working Conditions in the Asian Fashion Industry”

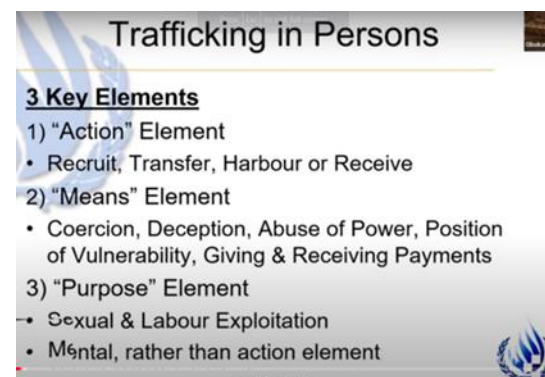


Dr. Tomoya Obokata is a Japanese scholar of international law and human rights, specialising in transitional organised crime, human trafficking and modern slavery. He was appointed as the Special Rapporteur on Contemporary Forms of Slavery including the Causes and Consequences in March 2020. Dr. Obokata explained the definitions of various forms of exploitation and the international standards on working conditions, illustrating examples of states' obligations to enforce such standards within the fashion industry.

First, he illustrated the definition of ‘slavery,’ referencing a key legal instrument - the 1926 Slavery Convention - that has been universally ratified. The elements of this convention can be seen in various treaties such as the International Covenant on Civil and Political Rights (ICCPR), the ICC statute, as well as other regional treaties. According to the article of the slavery convention, slavery is defined as ‘the status or condition of a person over whom any or all of the powers attaching to the right of ownership are exercised’. Examples underlying ‘powers attached to the right of ownership’ include the control or coercion over a person’s autonomy, restrictions on their freedom of movement, and the lack of consent, threat or use of physical or psychological violence and abuse of power or authority over another. Slavery has been universally abolished in law but in practice, the Master-Slave relationship persists in certain parts of the world.

Another concept is ‘Servitude’ which is not defined in international law but stipulated in international instruments including the ICCPR and the European Convention on Human Rights. The European court defines servitude as a ‘particularly serious denial of liberty.’ An example includes individuals who are coerced to provide services and live on another’s property, in forms of debt bondage, serfdom, domestic servitude and servile or child marriage.

The next concept is ‘Forced Labour,’ referred to in the 1930 Forced Labour Convention, defined as ‘all work or service which is exacted from any person under the menace of any penalty and for which the said person has not offered himself voluntarily.’ The ‘menace of penalty’ means coercion, violence, isolation or restriction of movement and the involuntary nature indicates a lack of consent. The difference with servitude is that there is a feeling that their conditions are permanent in servitude. On a scale, slavery constitutes the most severe form of restriction or control over an individual, and moving down, servitude and forced labour.



**Trafficking in Persons**

**3 Key Elements**

- 1) “Action” Element
  - Recruit, Transfer, Harbour or Receive
- 2) “Means” Element
  - Coercion, Deception, Abuse of Power, Position of Vulnerability, Giving & Receiving Payments
- 3) “Purpose” Element
  - Sexual & Labour Exploitation
  - Mental, rather than action element

The final concept is 'Trafficking in Persons' which is defined under the 2020 Protocol to Prevent, Suppress and Punish Trafficking Persons attached to the UN Convention against Transnational Organised Crime. Three key elements to identify Trafficking in Persons are:

- 1) 'Action' element which is the conduct of trafficking – i.e., recruit, transfer, harbour or receive.
- 2) 'Means' element refers to the means in which an individual has been recruited by coercion, deception, abuse of power, position of vulnerability or giving and receiving payments.
- 3) 'Purpose' element refers to the purpose for sexual or labour exploitation. If a trafficker is intending for victims to be exploited, the trafficking offence is complete.

Second, Dr. Obokata discussed human rights standards. The most important instrument is Article 7 of the ICESCR and General Comment No.23 which touches upon the just and favourable condition of work. According to this, just and favourable condition of work is a right for everyone and so the principle of non-discrimination is very important, and it is an obligation of immediate effect even though it is stipulated under ICESCR. The committee also explained some key concepts in this document, the first of which is remuneration in the form of wages and social security contributions. To advocate for equality, all workers must be paid equally regardless of gender, nationality, migration status, religious beliefs, and political opinions. Another important concept is the difference between living wages and minimum wages. Providing a minimum wage is insufficient due to rising inflation. As such, a certain level of living wages is established to determine a more sufficient level of compensation that allow individuals to survive on a day-to-day basis. Safe and healthy working conditions are also key provisions in the ICESCR. To prevent occupational accidents and diseases, states must pay due regard to workers' disabilities and gender in securing access to justice and remedies as part of their obligation. Other elements include access to safe drinking water and sanitation in the workplace and paid sick leave mandated in national legislation.

Dr. Obokata touched upon another crucial provision – the equal opportunity for promotion particularly for women in various sectors including the fashion industry. Women being paid less than men for the exact amount of work is a clear breach of Article 7 of the covenant. The right to rest, leisure, working hours and paid holidays are equally as important. The Committee on Economic, Social and Cultural Rights specifies that the daily working limit should be eight hours per day. In theory, requiring workers to work more than eight hours is



a clear breach of the covenant. But if workers have to work more than eight hours, a certain amount of overtime is permissible, in which case, overtime pay must be paid. The committee also specifies that the daily rest period, including lunch or toilet breaks, and weekly rest days of at least one, and preferably two days, must be provided. Additionally, paid annual leave must be provided by companies and should be stipulated in national legislation. According to the committee, two weeks should be regarded as a minimum. Flexible working arrangements that we have come to appreciate in light of the pandemic should be respected. Companies need to take into account and provide appropriate working arrangements for older workers, female workers with families and children to look after, and disabled workers with different needs in terms of physical and mental

capacity. Above all, freedom from physical and sexual harassment and violence is crucial.

Dr. Obokata then refers to the UN Guiding Principles on Business and Human Rights. It consists of a set of principles for businesses to uphold work-related rights and human rights due diligence. Businesses have to identify, prevent, mitigate and account for the actual or possible negative impact of business operations on human rights and provide remedies upon violations of such rights.

Third, Dr. Obokata shared examples of the issues he has seen from his experiences visiting Sri Lanka as a special rapporteur. He began by giving a statistical overview. According to the latest estimate by Walk Free Foundation, 50 million people are held in modern slavery on any given day. This number has increased by at least ten million since 2016. 27.6 million people are held in forced labour whereas the rest are in enforced child marriage. The victims of forced labour are mostly found in the Asia-Pacific region, amounting to 15.1 million people. The Asia-Pacific region is the most affected by modern slavery compared to Europe, Africa, the Americas or the Middle East. Particularly in the garment industry, the prevalence of debt bondage is high. The majority of workers are women, which raises many important issues in terms of the obligations of states as well as businesses.

It is evident that pay gaps remains to be a significant issue. According to ILO in 2016, the gap is the highest in Pakistan followed by India, Thailand, Philippines, Vietnam, Cambodia, Indonesia, Laos and Bangladesh. Migrant workers, workers with disabilities, children and younger individuals are usually victims to inequitable pay gaps as companies do not regard them as proper workers. Migrant workers do not complain because they have to support their families back home and would face direct and indirect threats of being terminated if they do so. People with disabilities are regarded as being less productive, and children and young people are easy to manipulate and influence. Overall, most workers earn even less than the minimum wage.

Within the fashion industry, unsafe and unhealthy working conditions are one of the biggest problems that workers face. Workers are exposed to toxic substances that are used for manufacturing garments, and other accidents occur regularly. The pandemic magnified problems faced by workers too. Some had lost their jobs during the lockdown, while others were forced to work longer in crowded spaces without ventilation and access to water or sanitation because the manufacturing industry was regarded essential in the workforce. Paid sick leave is a mandatory provision but was not put into practice, resulting in workers being forced to work even when they were ill. Workers have been compelled to working long hours with little to no break because they are threatened with deducted wages if they do not meet the high production targets set by factory owners. Many female workers shared that they could not even take toilet breaks, as they rush to meet the targets. Moreover, the regulations for overtime pay and paid holidays are not being practised. Recently in Thailand, it was found that a number of garment factories forced employees to work for 90 hours a week. With work promotions, discrimination based on intersectional identities with workers' gender, ethnicity, migration status or disability is another big issue. Harassment,

## Conclusions

- Working conditions in the fashion industry in Asia require improvement
- States must do more through legislative and other means to improve the status quo.
- Implementation of human rights due diligence (HRDD) by companies is more important than ever





threat and verbal and physical violence, including those of a sexual nature, continue to pervade the workforce in the fashion industry.

States and businesses heavily restrict the activities of civil society organisations, trade unions and workers organisations. Businesses do not work cooperatively with trade unions. In the Middle East, they do not even recognise the right to organise or bargain. Workers should be empowered to be able to negotiate their working conditions, which is an essential part of exercising their human rights. The impact of external events such as Covid-19, climate change, humanitarian crises, natural disasters or conflicts also influence working conditions. They can lead to unemployment without alternative opportunities or deteriorating working conditions which may amount to forced labour, servitude or slavery.

In conclusion, Dr. Obokata stated that working conditions in the fashion industry in Asia require improvement and states must do more through legislative and other means to improve the status quo. Many states have legislation, but they are not enforced because if states force these regulations strictly, companies pull out and subsequently, negatively impacts employment opportunities. He also underlined that the implementation of human rights due diligence by companies should be enhanced. It is an obligation of both the state and companies. Both parties must be held accountable legally, otherwise, workers' rights to just and favourable conditions of work continue to be at risk.

### **Ms. Kate Larsen: “Human Rights Impacts of the Fashion Industry in Asia: A Fair Deal for the People Who Grow, Make and Move our Things”**



Ms. Kate Larsen is the Founding Director of SupplyESChange.com and advocates for responsible sourcing by advisory, delivering training, and courses and public speaking. Prior to her Advisory and Training to fashion companies, their investors, and many other firms, Ms. Larsen worked in large fashion and apparel brands monitoring working conditions of garment workers and with NGOs and leading retailers, which involved visiting factories to engage with workers in China and Japan, where they are often found in bonded labour conditions. She speaks Chinese and had lived and worked in China and Asia for 11 years. She also worked in Human Rights Watch in London briefly supporting advocacy on what companies should do to better respect worker rights and has also led apparel supply chain projects for the World Bank, and other organisations. In her presentation on the human rights impact of the fashion industry in Asia, she stressed the importance of understanding the problems that exist and what solutions are available.

Ms. Larsen pointed out that modern slavery has been increasing recently due to deteriorating human rights in some countries, that are coupled with the growing need for migration due to climate change and other disasters that leave people vulnerable and in need of work. For example, people living in villages in Bangladesh not only face distress from the impacts of climate change, but some Bangladeshis in cities also suffered loss of employment or income when western brands irresponsibly cancelled orders and didn't pay their fashion factory suppliers during COVID. Although there were a few brands who did pay their suppliers, many Western and some Asian brands cancelled orders made by their suppliers in South Asia in particular, sometimes already sewn and packed by workers, meaning suppliers could not pay

workers properly, which left many workers destitute. This is a factor feeding into why they continue to be Bangladeshi and others vulnerable to recruitment by unscrupulous agents who charge illegal and unethical fees landing



them in bonded labour conditions as foreign workers in Malaysia for manufacturing of garments, electronics, and other products. This is some context behind forced labour, and further up the ladder, from a fall in living wage.

Forced labour, modern slavery and most labour violations in a garment supply chain are invisible violations of workers' human rights. These violations include workers paying exorbitant fees to secure a job, restrictions on movement, delayed payment of wages, passports and identification papers being held by factories, and threats of violence on workers who wish to act on their basic human right to quit a job with fair notice. Foreign contract workers in Malaysia, Taiwan, Japan, etc are also often made to live in dormitories with poor living conditions, whilst many working in apparel factories in Bangladesh, Cambodia or India continue to not be provided dormitories at all and are only paid enough to live in slums, where they are charged high rents per square meter. These problems and safety issues are also caused by the fact that brand buyers do not pay their suppliers sustainably. Driving down pricing to garment suppliers for margins, coupled with poor monitoring of respect for labour and safety rights, has resulted in tragedies such as the collapse of the Rana Plaza building in Bangladesh, in which sloppy safety management resulted in the deaths of 1,200 workers in this building of five apparel factories that produced products for more than 30 brands. The incident triggered increased attention to safety issues and respect for worker rights to collective bargain in the sector, as garment workers who tried to unionise and speak up for safety collectively before the tragedy were not listened to.



Ms. Larsen shared a few tips to hold companies more accountable for responsible sourcing - 1) to be aware and care; 2) to collaborate; 3) to promote onsite integrity; 4) to reward good practices and improve internal structures; and 5) to speak up for and instigate change. Firstly, be aware and

care about, and understand the fact that buyers and brands have not been paying enough to suppliers for workers to be paid real living wages and have safe and decent work conditions. Fashion and retail brands need to improve their purchasing practices, and place orders with suppliers with better conditions, rather than merely buy from suppliers with the lowest price or push down prices. Paying more goes to the heart of what is needed for remediation of issues, and the realisation of the social standards espoused in fashion and retail company Ethical Trading or Social Compliance Policies. Ms. Larsen emphasised the need to be aware and care by joining together in solidarity to hear workers voices from NGOs, to investigate better with audit and assessments with integrity, applying aligned standards in supply chains,



and strategizing ways to move from forced labour to remedy creation and paying worker living wage for poverty alleviation.

Secondly, collaborate. Most factories supply for multiple brands, buyers and agents. Thus, aligning standards on production and working together helps cut cost and overlap, and increase impact. Collaboration among brands and with NGOs and partners like Fair Wear and ILO Better Work reduces wasteful duplication of spending on expensive audits, and allows funding to be available to invest in better assessing, and funding of effective learning for suppliers and workers, sharing of industry knowledge and resources, and support programmes for workers.

Thirdly, promote onsite social audit Integrity. During due diligence inspections, inspectors should not only listen to management and workers who have been coached and forced by management to lie about their working conditions. The voices of workers should be included, through rigorous unannounced audits, by worker rights-focused teams who are safe, resourced, and confident to conduct offsite worker and community interviewing, and are local labour law and/or worker home country language speaking experts. In order to improve human rights due diligence within businesses, we all need to be a part of implementing and educating for rigorous monitoring. Beyond audit work which trains factory owners and managers in the fashion industry, collaboration between trade unions and employers, and NGO run worker helplines trained to worker and other grievance mechanisms are equally as important. There should not only be expectations on suppliers to deliver on time and with quality, but also that they provide decent living wages and better safety and environmental standards for workers, and fair payment to suppliers so that they can do this.

Fourthly, reward good practices. Suppliers who remediate and improve conditions for workers and have better working standards need to be rewarded by fashion brands and other buyers. Good practices include paying suppliers on time, and fairly, as promoted by the "Pay Up Fashion" campaign, all of which creates a massive impact on delivering human rights for workers in the industry, and SDGs such as Decent Work. Companies should continuously learn, assess their internal processes, build awareness, and align buyer and executive systems, policies, incentives and bonuses to placement of orders with suppliers verified by rigorous assessments to have better labour, safety, and environmental conditions. Companies also need to be transparent in making aligned incentives clear, and to commit and show their suppliers that their efforts for better labour standards deliver fair business of increased orders.

Finally, speak up for change. People can be a part of influencing companies to improve conditions in the industry. Structural and legal changes bring about the greatest change. Laws make a difference in levelling the playing field and requiring all, not just some companies to do supply chains business human rights due diligence and, if we speak up for Accountability, that companies need to do these assessments with

**Usually, we can't "see" modern slavery on a factory or site visit**

- Paid fees to get the job (which add up to more than their wages so they are forced to keep working)
- Have restrictions on movement (not allowed to leave factory & dorms)
- Have passports and papers held by factory/employer management so can't leave or travel locally.
- Have wages delayed by 1 or more months.
- Might not be allowed access to phones and/or internet.
- Can be threatened with violence against themselves or family back in their home country if they try to leave, escape, or turn down requests to work excessive hours, or request to be treated inline with labour laws and decent work standards.
- Malaysia, Chinese workers Japan debt bondage, Taiwan, Korea, Thailand

Lured by a job, trapped in forced labour!  
39,347 views · 2 Oct 2015

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Kate Larsen

Integrity and improve their purchasing practises. However, laws may not be enforced thoroughly. Therefore, the public need to monitor compliance with the law and help human rights activists in solidarity to advocate for change.

As a summary, Ms. Larsen cited that whilst the Asian fashion industry faces human rights issues in terms of forced labour, modern slavery, and labour violations in the garment supply chain, similar issues are found in factories in Italy, the UK, USA, and more. She highlighted actions to address these issues everywhere. Suppliers who are honest and allow workers to tell the truth should be rewarded. As fashion buyers, we should help suppliers understand how to improve and make incremental improvements, and we should speak out for more brands to join programs such as ILO Better Work and Fair Wear Foundation. Our involvement in advocacy can bring about real improvements to workers lives in the supply chains making our clothes.

**THE 15TH HUMAN RIGHTS IN ASIA CONFERENCE**

**HUMAN RIGHTS ISSUE OF FAST FASHION IN ASIA**

**MEET THE SPEAKERS (DAY 1)**

**Tomoya Obokata**  
SPECIAL RAPPOREUR ON CONTEMPORARY FORMS OF SLAVERY, OHCHR

**Kate Larsen**  
FOUNDING DIRECTOR, SUPPLYESCHANGE

**Wiranta Ginting**  
DEPUTY INTERNATIONAL COORDINATOR, AFWA

March 18th, 10 a.m. to 12 p.m.  
Online (Zoom) & Free

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## Mr. Wiranta Ginting: “Living Wages and the Impact on ESCR”

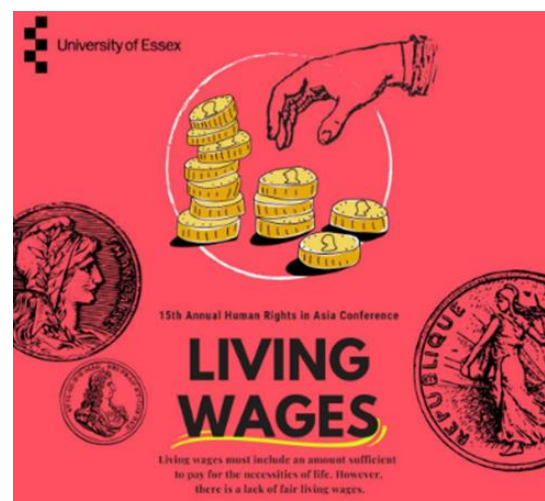


Mr. Wiranta Ginting is the deputy international coordinator at Asia Floor Wage Alliance (AFWA), an Asian labour-led global labour and social alliance across garment-producing countries in Asia and consumer regions across Europe and the US. AFWA aims to build regional unity among Asian government unions to overcome the limitations of country-based struggles in the global production network and create a more unified minimum wage. At the outset, Mr. Ginting explained that the living wage problem is compact and relates to a variety of issues. He addressed the issue of living wages, focusing on the AFWC's activities as follows.

First, he argues that it is important to integrate the Global Supply Chain (GSC), which is a pathway to development and economic growth, and to combat unemployment. This is recommended by the Organisation for Economic Co-operation and Development, the World Bank and academics. Although the GSC can foster economic growth and better living conditions, the situation on the ground is known by those working with trade unions and labour organisations to be in terrible condition, with problems such as poverty-level wages, long working hours, unsafe and unhealthy conditions, job insecurity, gender-based violence and harassment. All these have been recurring for decades. There are contradictions with how the GSC has been promoted as a way of economic growth, while in practice, violations of female workers affect them disproportionately. Mr. Ginting also states that brands are the principal employers and hold the most power and control over the GSC. The problem is that there is no jurisdiction to hold brands legally accountable. Therefore, he insists that labour rights violations should be avoided at the onset, and advocates that we need to regulate the GSC.

Second, it is essential to establish the enforceable agreement with brands. AFWC is increasingly trying to regulate the GSC with enforceable brand agreements. The Rana Plaza collapse, which resulted in the deaths of thousands of workers, was due to the lack of an evaluation mechanism. After the incident, global garment workers' rights movements pushed the brands to establish binding agreements which led to the Bangladesh Agreement. He also argued that it has led to limits on corporate social responsibility and voluntary social audit initiatives. Therefore, we need binding agreements in order to hold principal employers accountable. In addition to that, the lack of a sustainable living wage is one of the key issues in the government. AFWA is campaigning for a sustainable living wage not only in Asia but also in Eastern Europe. He insisted that standards for living wages should be an enforceable wage agreement. In this regard, ILO discusses “decent work,” but conventions on decent work are not there yet. There are no definitions of living wages until now, so AFWA defines living wages as being capable of supporting workers family's basic needs to ensure children receive education in order to take more opportunities to rise out of poverty and meet the minimum requirements for a decent life.

Third, AFWC have been doing surveys on the daily consumptions of workers, such as on their calorie intake. The results show that wages paid to workers do not allow them to





meet the recommended calorie intake. From this survey, AFWC have consistent findings that their studied countries' calorie intakes are lower than the standard of the poverty calorie intake standard set by the World Bank (2400 kilocalorie). This is why AFWA is promoting and demanding for living wage concepts that allow workers to live in better and more dignified conditions. After COVID-19, people are now asking to have living wages to allow a buffer for surviving unprecedented circumstances because the pandemic pushed workers below the poverty level.

Forth, he explained that wages for garment workers have been stagnant for many years, some even for the lifetime of workers. Workers find themselves compelled to reduce costs on food and housing during the crisis. This does not only affect workers, but their next generation of children too, so it is an intergenerational impact. In a 2019 research study, it is estimated that about \$164 million was stolen from workers because they are not receiving the minimum wages enacted by law. He also stressed that minimum wage should not be reduced by any agreement or conduct if the ILO Conventions are to be considered. Brands have been earning significant profits, whilst the cost of crises, such as during COVID, has been pushed onto suppliers, and then onto workers. He argued that it needs to stop, and workers should not bear the responsibility for this.

In conclusion, a living wage is a human right, as the Universal Declaration of Human Rights provides for the right to a just and favourable wage and an adequate standard of living. The state and business employers must implement the realisation of these rights. Brands in the fashion industry have consistently avoided this responsibility. The failure to pay a living wage is undeniably linked to the violation of right to life. A living wage is also linked to the right to various opportunities, especially for women and children. Nonetheless, when living wages remain unpaid, women and children are disproportionately affected, and the wage gap between men and women is amplified.



# Panel Discussion

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Moderator: Dr. Katya Al Khateeb

Panellists: Dr. Tomoya Obokata, Ms. Kate Larsen, Mr. Wiranta Ginting

## Question 1 from the audience

- *What are the main challenges in promoting the ratification and application of international norms such as the forced labour convention by countries?*

### Dr. Tomoya Obokata

There are different levels of challenges. There may be a law against forced labour, but enforcement is an issue. This is because of a lack of political will on the part of the government or power relations between businesses which hold enormous power. They can threaten to withdraw their factories resulting in unemployment, so the government often turns a blind eye. In addition, labour inspection is very weak. Having a labour inspector make daily visits in every factory is almost impossible. Businesses take advantage of this, so governments should strengthen labour inspection. A proper and unannounced inspection would capture the working realities in factories better because it has been found that factories instruct workers to leave the premises or direct them on what to share if they are informed of an inspection in advance. We must also consider the demand for inexpensive garments in purchasing countries. Although governments are responsible for change above all, it is also the responsibility of business to uphold their obligations. We, as consumers, should think about how we can create change through our purchasing practices.

### Moderator's comment

There is growing attention in the past decade on non-state actors and their role in forming and shaping international law. Non-state actors now could be massive and powerful companies, so if they want to be a positive force and change their practices, they would be able to see more pressure from the part of the consumers. On the other hand, some companies promote a green label saying sustainability or ethic, but their products are not affordable for ordinary people.

### Ms. Kate Larsen

As a customer, we do not have all the information about products. For example, when people buy a car, they do not inspect whether it has seat belts because the law enshrines certain safety standards and requires that all cars have seat belts. There are hundreds of other safety standards. This is how companies should perform due diligence on supply chains. There should be legislation on what companies need to provide when they offer their products or services, such as safety standards or environmental plastic packaging. However, for example in the UK, there is no legislation stating that companies need to have assessed their supply chains on





whether workers are being paid and treated properly; on whether remediations and improvements have been made after complaints; and whether this information have been published and made public. If they are required by law, consumers do not have to worry about them. Civil societies can take cases against companies to ensure that workers are paid properly. If the prices of products are being raised, it can indicate that the playing field is levelling.

### **Mr. Wiranta Ginting**

There should be regulations in both the brand's headquartered countries and producing countries. For example, trade unions in Indonesia should be able to file a case against international brands in the Indonesian national legal system. Doing so could place pressure on brands and hold them accountable.

### **Question 2 from the audience**

- *What are motivations for brands to collaborate in auditing/remediating or align their labour standards? Do they not hesitate to disclose their supply chains to their competitive brands in fear of their business strategies getting stolen?*

### **Ms. Kate Larsen**

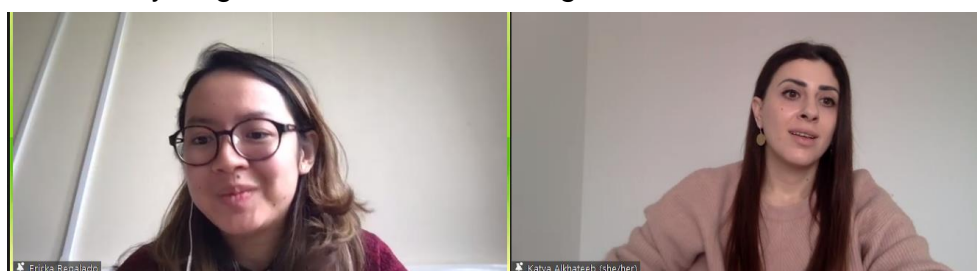
It is expensive to integrate proper assessments of working conditions and to help rank suppliers on their labour performance and so on. Collaborating enables us to share the cost and learn more about supplies. We have to align assessments, standards and our engagement for remediation because if different helpline programs are provided, workers get confused. There are over a hundred brands who publish their supplier factory lists regularly, but luxury fashion brands do not. You can walk into a factory or meet a factory owner and find out instantly where everybody produces.

### **Question 3 from the moderator**

- *In terms of accountability, in Syria for example, LaFarge was guilty of human rights violations because they decided to buy from a group that participated in terrorism. In Nigeria, there was a big lawsuit about exploitation of the environment and workers. What are the wins that we have achieved so far and how can capitalise on that going forward? Are there systems of assessment or systems of check?*

### **Dr. Tomoya Obokata**

Accountability is certainly an issue and enforcement is difficult to some extent. Businesses are less incentivized to comply with guiding principles or national regulations if there are no consequences. Regarding due diligence, if there are monitoring and enforcement mechanisms, they can be effective. Under certain laws in Europe, there are some legal consequences such as criminal prosecution that may encourage compliance. Additionally, there are fashion brands that care about their brand image and once their reputation gets damaged, their sales get negatively impacted. Consumers can exercise their agency to choose products they align with. There is strong movement towards consumer boycott



today. We should also consider the consequences of human rights due diligence. Does that enhance the right of workers if the law applies to only 1% of the companies in EU and does not apply to small companies? These days, companies are outsourcing to produce their product resulting in the separation of companies. Hence, we must be careful about how we can effectively enforce due diligence.

### **Ms. Kate Larsen**

The US government provides grants to civil societies to investigate cases of forced labour in supply chains among importers to the US, and to make reports to US customs. This week, the US customs did a webinar sharing that they have made thousands of product seizures coming to the US and about 30% of which were fashion products. If importers cannot prove that their products were not made under forced labour conditions, they cannot enter the US. They also are pushing legislation that ceases imports into some other countries. Besides, in the US, a legislation which expands this regulation to small shipments came into effect a few years ago. Laws improve the situation, look at widening the scope and make sure there are no loopholes that people can get away with.

### **Mr. Wiranta Ginting**

One of the core ideas of forced labour is coercion. Workers only hold power through unionising. Global garment supply chains are basically in forced labour situations where workers being trained every time. If workers unionise, companies terminate their contracts. This weakens workers' powers. That is why freedom of association, and the role of unions are important. Collaboration with trade unions is essential in the process of due diligence. For instance, trade unions play an active role in ending the gender-based violence in Eastman factories. They are key actors to make global supply chains better.

### **Ms Kate Larsen**

There are a few ways that fashion brands are physically doing such as joining the international court on Fire and Building Safety in some countries, committing to industrial global frameworks which include the principles to support trade unions, the ACT initiative with industrial global unions and working with ILO work program. For example, in Vietnam, we have seen the empowerment of worker trade unions by brands paying to join the ILO program, which allows workers to work alongside the government and improve labour inspector capacity.

### **Question 4 from the audience**

- *Do you think that legislation should create a certain ratio between the highest paid CEO, investors, owners and the lowest paid workers in value chains?*

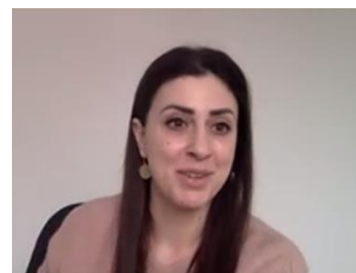
### **Mr. Wiranta Ginting**

It is not healthy for the economics of the country. It is just an extreme grid for a few stakeholders and does not help the industry grow better.

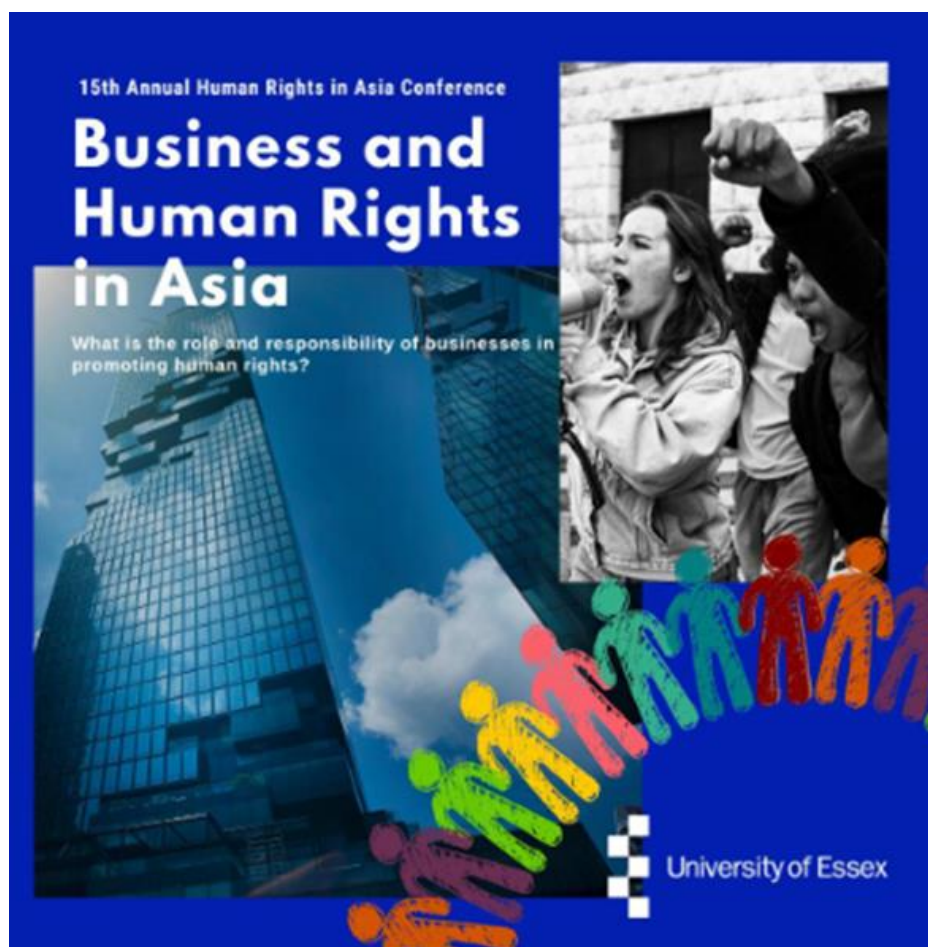
### **Question 5 from the moderator**

- *In terms of the health sector, Germany is increasing tax on high sugar content products and reducing tax on certain products. What do you think states should be doing more to encourage ethical practices?*

### **Ms. Kate Larsen**



It depends how the law is crafted. The law requiring companies to perform human rights due diligence on their supply chains can also require and uphold principles of collaboration, engagement with trade unions, respect for the freedom of association and collective bargaining, transparency in publishing businesses' supply chain lists. For example, the EU corporate sustainability due diligence laws had the word "purchasing practices" removed from it at one stage. We have to advocate for the crafting of these laws so that companies do the steps that help support workers to come together and collectively bargain and to raise their working conditions and wage levels.



# Day Two: Keynote Speech

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## **Dr. Arjun Kharel: “Recruitment Costs, Wages and Working Conditions for Women Migrant Workers in the Garment Industry in Jordan”**



Dr. Arjun Kharel’s presentation was on “Recruitment Costs, Wages and Working Condition for Women Migrant Workers in Garment Industry” on Nepal-Jordan migration corridor. The presentation was based on Dr. Kharel’s interviews with Nepali workers during their employment in the garment industry in Jordan. Dr. Kharel’s presentation centred on three key elements: the working and living conditions of migrant workers in the garment industry in Jordan, comparison of the Jordanian garment sector with other employment sectors and destinations of

Nepali women migrant workers, and the potential roles of different actors in improving working and living conditions for migrant workers, particularly women. The primary data was collected by Dr. Kharel and his colleague a few years back. The interview was conducted with 13 migrant women workers from Nepal who were employed in three different garment factories in Jordan.

As a background on the garment Industry in Jordan, Dr. Kharel explained that garment factories are established in qualified industrial zones (QIZ) in Jordan and are owned and operated by multi-national companies (MNCs). The MNCs established these factories in Jordan due to the agreement between the USA and Jordan, which eliminates tariffs on Jordanian garment products for the US markets. These products are made by mostly South Asian and Southeast Asian migrant workers. According to Dr. Kharel, there are about 75000 migrant workers in 2022, and most of them are women.

Dr. Kharel explained that migration cost to Jordan is low compared to other destination countries. Most workers did not pay any money for their migration to Jordan. The average migration cost was about USD 40, and this was also for medical screening borne by most workers. This cost was much lower in comparison to average migration costs of Nepali workers to other major destinations, such as the Gulf countries and Malaysia, where workers pay over USD 1000 for labour migration. Dr. Kharel highlighted that most migration workers to those destinations take loans in other areas to pay migration costs. However, this was not the case for Jordan migration. The migration costs are significantly less in Jordan as jobs are

undesirable and wages are low. MNCs are willing to pay more to origin countries for recruitment, and this also helps for a better corporate image.

The workers in the garment industry in Jordan earned between USD 170 to USD 260 per month. The actual amount of payment depended on overtime work and bonuses. In addition, workers' average savings were between USD 170 to USD 230 per month. The workers did not have a clear understanding of how much they earned every month due to the difference in overtime work and bonus amount each month.

Long working hours are a problem among migrant workers, and Jordan is no exception. Dr. Kharel mentioned that migration workers in Jordan worked 8 hours of regular work and another 2 hours of overtime work daily. And, especially on public holidays or ahead of festivals, they worked for more than 10 hours per day. The biggest problem was that the workers were forced to work extra hours without pay when they did not meet the target set for the day, and this target system led to exploitative conditions. This system also affects groups. Colleagues working within the production line feel unhappy if one worker cannot meet targets because this penalises the entire production line, and these conditions lead to conflict among the workers.

Overtime work was also considered another problem. Surprisingly, most workers perceive overtime work positively because it gives them an opportunity to improve

their income. However, workers had to continue working, even during the Christmas period, without holidays or breaks. Employment contracts are for three years, but many Nepali workers wish to return home after two years because the work is difficult, monotonous, undemanding, uninteresting and alienating.

Working conditions also affect workers' health; some people fell ill due to the physical effects of having to stand all day and the pressure of the job, whilst others said they did not get enough rest when they were sick. They also found it difficult to meet targets even if they worked hard. There is an elevated risk of allergies due to the dust, especially in certain areas of the factory, such as during the cutting and sewing process. In addition, the initial months are difficult as the workers are not used to such a stressful environment.

### Presentation objectives





Workers in these demanding situations coped in a variety of ways. It was evident that they tried to cope up with these situations by sharing and crying with certain friends and roommates from the same expatriate community. After a few months they also learnt how to report to their supervisors and other senior workers, but this did not work all the time.

In conclusion, Dr. Kharel noted that, on a positive note, migration cost to Jordan is low and conditions for migrant workers are relatively good in Jordanian garment industry in comparison to particularly domestic work or construction work in other labour destinations. There are trade unions in Jordan, and workers can report to them. However, wages are low, and workers are stressed due to arduous and unpleasant working conditions.

**THE 15TH HUMAN RIGHTS IN ASIA CONFERENCE**  
**HUMAN RIGHTS ISSUE OF FAST FASHION IN ASIA**  
**MEET THE SPEAKERS (DAY 2)**

**Namit Agarwal**  
SOCIAL TRANSFORMATION LEAD, WORLD BENCHMARKING ALLIANCE

**Anil Yilmaz**  
SENIOR LECTURER, ESSEX LAW SCHOOL; CO-DIRECTOR OF THE ESSEX BUSINESS AND HUMAN RIGHTS PROJECT

**Arjun Kharel**  
RESEARCH FELLOW, CENTRE FOR THE STUDY OF LABOUR AND MOBILITY

March 25th, 10 a.m. to 12 p.m.  
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## **Dr. Anil Yilmaz: “Business and Human Rights and the Emerging Due Diligence Laws in Europe”**



Dr. Anil Yilmaz, a senior lecturer at Essex Law School and co-director of the Essex Business and Human Rights Project, delivered a presentation on the business and human rights (BHR) aspect of the fast fashion industry. Her talk specifically focused on the impact of emerging due diligence laws in Europe on the conditions of workers in the garment industry, particularly in relation to the Ali Enterprises factory fire and the role of German retailer Kik.

Dr. Yilmaz’s engagement with labour law and human rights was triggered by incidents such as the Bangladesh Rana Plaza collapse and the Ali Enterprises fire in Pakistan, both of which resulted in significant deaths and injuries due to the lack of safety protocols and poor working conditions. These incidents highlighted the plight of informal workers in precarious employment, who often face the greatest risks.

One notable case she discussed was the Ali Enterprises factory fire in Karachi, Pakistan. The main buyer from this factory was the German retailer KiK Textilien, which issued a code of conduct for its suppliers, including an obligation to conduct social audits and correct any identified failures. However, despite these requirements, the implementation of such codes and standards was inadequate. Furthermore, KiK may have also employed abusive purchasing strategies, such as driving down wages and undermining working conditions by placing orders with extremely tight deadlines, leading to a reliance on precarious labour.

A group of affected individuals filed a lawsuit against KiK in Germany in 2015, seeking damages for the emotional losses and distress they had suffered. The claim argued that KiK had a due diligence obligation to ensure that its supplier adhered to basic safety standards. However, the German court rejected the claim, citing the expiration of the statute of limitations. This case highlighted the need for stronger human rights due diligence (HRDD) laws to improve human rights conditions within supply chains.

In response to such incidents and challenges, several European countries, including Germany, France, Norway, and the Netherlands, have enacted HRDD laws to enhance corporate respect for human rights. These laws require certain large businesses, particularly those headquartered or established in these jurisdictions, to develop HR policies, carry out HRDD, identify risks, and mitigate and prevent adverse human rights impacts throughout their supply chains. The laws also mandate periodic reporting on human rights performance.

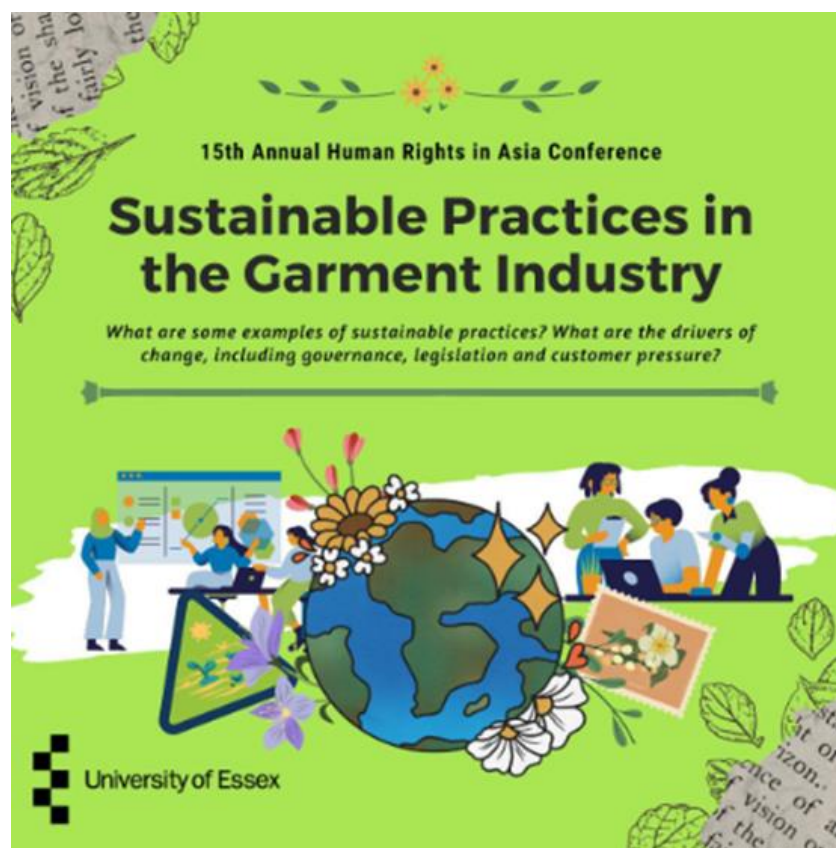


While the introduction of these HRDD laws is a welcome improvement, questions remain regarding their effectiveness in addressing the real issues faced by workers in the garment industry. Dr. Yilmaz echoed concerns raised by Professor Surya Deva, who suggested that HRDD may become an end in itself rather than a tool contributing to corporate respect for human rights. The KiK case serves as an example of where a code of conduct and social audits did not prevent abuses.

Dr. Yilmaz emphasized the prevalence of a steep learning curve for companies and regulators in ensuring compliance with HRDD laws. The role of regulators and other accountability mechanisms is crucial in holding companies accountable when they fail to prioritise human rights within their supply chains. However, there is still a risk that businesses may restructure their supply chains to dilute connections with suppliers exhibiting the worst violations. Moreover, there are doubts about the laws' effectiveness in improving the rights of workers in the informal sector, as they may go unnoticed in HRDD processes, potentially leading to an increase in informal and precarious labour.

Nevertheless, despite their shortcomings, these emerging HRDD laws provide new pressure points for affected groups, trade unions, civil society organisations, lawyers, and academics to pursue accountability and improvements in working conditions. While the path forward may be challenging, these laws represent a step in the right direction toward securing the rights of workers and communities impacted by corporate human rights abuses.

In conclusion, Dr. Anil Yilmaz's presentation shed light on the challenges faced by workers in the fast fashion industry and the potential impact of HRDD laws. By examining the Ali Enterprises factory fire and the subsequent legal proceedings against KiK, she highlighted the need for improved supply chain practices and greater corporate accountability. Despite the limitations of HRDD laws, they present an opportunity for stakeholders to advocate for enhanced worker protection and human rights standards in the fast fashion sector.





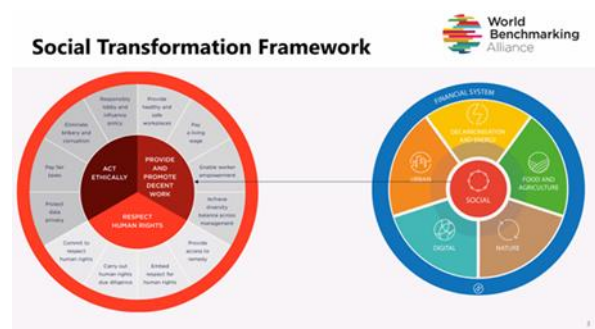
## Mr. Namit Agarwal: “BHR and Sustainability in Garment Industry and Supply Chains”



Mr. Namit Agarwal is the Social Transformation Lead for World Benchmarking Alliance, a company that equips businesses, institutions, and governments with benchmarks, such as the Corporate Human Rights Benchmark, Social Benchmark and Gender Benchmark, that measure their sustainability impact and implementation of the Sustainable Development Goals (SDGs). Mr. Agarwal introduced the Social Transformation Framework that operates under three pillars – Act Ethically, Provide and Promote Decent Work, and Respect Human Rights. Indicators under the three pillars are used to assess companies' direction and approach in undertaking their commitments to the development of the SDGs.

Mr. Agarwal starts out by pointing out the sustainability issues that exist in the garment industry:

- **Purchasing practices** – in that suppliers' procurement practices reflect buyers' purchasing practices and needs. There is a power imbalance between buyers in the global North and suppliers in the global South. This imbalance is evident in issues, such as poor forecasting, tight lead times for completing orders, low margins that force suppliers to look for unsustainable ways to fulfil order requirements, last-minute changes in orders and delayed and unfair payment terms.
- **Supply chain due diligence** – The lack of transparency is the biggest challenges. It is difficult to obtain important information on who the suppliers are, where factories are located, the composition of factories, and statistical data on formal vs informal workers. There is disaggregated information on the work force, and policies and measures are being framed and implemented without the consultation among stakeholders within supply chains.
- **Remedy** – The lack of effective and timely remedy. There is no standardized process for remedy in place. It is crucial to look at gaps by giving workers a voice to share what they need.
- **Gender-based discrimination** – A lot of women working in both formal and informal spaces in the industry, with large-scale discrimination and exploitation of women at various levels. These include gender pay gap, violence and harassment, challenges over unpaid work and overtime, unsafe and





unhealthy working environments, lack of leadership and career progression for women.

- **Pollution and waste management** – Excessive generation of waste and excessive use of water from the sourcing of cotton to the final production of garment.

Mr. Agarwal notes that though there have been improvements and positive changes in the industry, transformative change needs to pick up the pace and create sustainable changes faster. He observes that companies that utilise the Corporate Human Rights benchmark have significantly improved in their commitments to upholding practices that respect human rights, with the example of a positive correlation between companies assigning board-level and senior-level management responsibility on the company's performance in human rights. This benchmark assesses the resource and responsibility allocations that are being made to track progress in the implementation of companies' commitments to human rights.

Actions taken on stakeholder engagement remains to be a significant gap. He points out that companies draw boundaries on when and how to engage with stakeholders, which undermines the process of creating new policies and measures. There is also an absence of consultation with stakeholders in regard to grievance mechanisms, and with women's organisations and gender experts during risk identification and assessment processes. Companies take a hands-off approach and do not work closely with suppliers in implementing their sustainability commitments. They put in expectations in suppliers' code of conduct but do not have mechanisms in place that train and engage with suppliers to ensure that such policies and expectations are being met.

Mr. Agarwal shared a few examples of good practices, with Inditex that calculates and analyses global gender pay gaps; Adidas that prohibits discrimination against trade union members or representatives; Page Industries that discloses internal responsibility for its supply chain targets and supplier assessments; and Asics that discloses their supplier list and introduced a grievance mechanism in collaboration with international organisations.

Mr. Agarwal concluded his presentation emphasising the need for supply chains to take immediate actions in enhancing transparency and ensure due diligence, grievance and remedy mechanisms. There needs to be an alignment between

### **Board responsibility for human rights is crucial**



- Companies that improved on HRDD have established senior management level responsibility for human rights
- More companies are meeting the fundamental requirements, but few are achieving best practices
- Strong positive correlation between assigning board responsibility for human rights and resources for day-to-day human rights functions, and HRDD scores



sustainability requirements and a study of how purchasing practices can enable or disable these requirements. Brands should learn and collaborate with one another to address systemic issues, rather than competing with one another. From a policy and legislative point of view, governments should raise the bar with legislative actions and with implementation.



# Panel Discussion

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**Moderator:** Dr Andrew Fagan

**Panelists:** Dr. Arjun Kharel, Dr. Anil Yilmaz, Mr. Namit Agarwal



## **Question 1 from Dr. Yilmaz**

• *For Mr. Agarwal - Companies have done better in taking issues of human rights at the board level, but there is still a gap between purchasing departments and sustainability departments? Looking forward, how do we involve the board managements in bridging this gap?*

## **Mr. Namit Agarwal**

There is a correlation between companies that have board-level and senior-level accountabilities in the performance of human rights due diligence. But again, the companies that are doing so are very few. One of the indicators that we have that looks at purchasing and sustainability practices is through one business model changes companies are making based on their assessment and engagement with different stakeholders. So far, we have seen none of the companies that we have assessed, disclosing information on whether what they are learning through different polices are informing their business model changes or not. The idea now is to disclose what actual business model changes they are making based on what they are learning.

## **Question 2 from the moderator**

- *Given your own expertise, how do you try to grapple with the unmistakable and undeniable context of how these discussions of labour exploitation in the garment industry are embroiled in capitalism? How do you understand the influence of capitalism in your work, in the industry, and in your hopes of having a human-rights approach in this industry?*

## **Dr. Anil Yilmaz**

I look at corporate purpose and profit-driven model is corporate law that is designed to maximise profit at the costs of other interests and rights that are outside and within the corporation. The emerging due diligence laws are almost mandates to fix a problem that is a lot bigger than what can be done by a due diligence law. But I try not to lose hope, because we are operating within the system, and we have to find its weak spots and keep fighting with any tools we can get. It would be ideal to find a broader political transformation, if that was on the table, but we can work towards both goals in parallel – working within the system to improve the working conditions because workers need improvements now, yesterday, so anything that the law can provide, even if it seems inadequate, should be pursued. Although sometimes it becomes a box-ticking exercise, a PR exercise that companies use, because corporate purpose does not disappear and easily corrupt progressive legislation to work in its favour. We've seen Corporate Social Responsibility models as a PR mechanism to promote and market their brand rather than providing improvements to workers and communities that are affected by their business. So capitalism and neoliberal model of production should always be kept in mind because reforms and progress still operate within

the confines of the socio-economic and political economy within which we live, and not seeing that would be quite naïve. But I have an optimism that we can find ways to operate within the model.

### **Mr. Namit Agarwal**

Hope is very important because most of the work that has been happening on making companies and supply chains more sustainable have been going on for decades. So to say that nothing has changed would not be factual. So, it's important to show what possibilities of change exist and what needs to be furthered worked on to further that momentum to push companies towards moving from those commitments to actual actions. Capitalism is not going anywhere, and we have to work within the ecosystem. What is more alarming is the excessive power and influence that large corporations have on government policies, and on people. On ethical consumerism, these corporations have narratives that influence consumer behaviours. It's only a matter of time before companies will be able to dictate what is ethical consumerism. The trust barometer that comes out every year puts companies as the most trusted institutions. It's telling of the times that are going to come. It's important to work with companies and within the capitalist model to make sure to ensure that there is enough accountability, checks and balances, to ensure that the imbalance of power is controlled, and people, workers and communities at least have a seat at the table, a voice to talk about the impact on themselves and check them. Transparency is very important to hold these companies accountable.

### **Question 3 from the audience**

- *With regard to the cases cited, how is the dialogue between the governments of Germany and Pakistan is ongoing to address the implementation gaps of due diligence policies, and the UNGP in general. It is often that the state hosting a garment industry lacks adequate capacity to oversee the work of a foreign multinational company. The strategic litigation and/or the law development on corporate accountability in the state which purchases garment products without comprehensive assistance to a hosting state, appears leaving workers vulnerable, and making little difference to their working and living standards.*

### **Dr. Anil Yilmaz**

There are free trade agreements and investment agreements that are geared towards facilitating investment and trade between Pakistan and Germany, which gives business' interests safeguards to trade more freely. Governments enter into dialogue at the level of stimulating trade between two countries where Germany is there as an importer, and Pakistan as an exporter, and there is a lot of legal protection and incentives that are provided to businesses. But when it comes to protecting workers and their working standards, we've had emerging standards in free trade agreements, for example, that require that exporter countries to respect labour standards. But these have not been successful in improving working conditions on the ground, and developing countries are fed up with these requirements in free trade agreements, because they don't work towards making any meaningful changes. They're mostly introduced into these agreements as a way to ensure that the





competitiveness of the market is preserved. There is a lot more to be done in that respect when countries conclude trade and investment agreements. Some of the work I do is how we can embed better safeguards into these instruments to hold businesses and states directly involved and responsible for failing to improve working conditions. In some ways, global North companies do provide financial and development assistance to countries in the Global South, but there are a lot of problematic aspects behind these financing arrangements as well. There are colonial legacies that still play a role in the structural systems that operate within these jurisdictions. Without overcoming these, we can only make incremental changes.

#### **Question 4 from the audience**

- *What role do gender stereotypes and racial discrimination play in human rights violations in the garment industry?*

#### **Dr. Arjun Kharel**

Some male workers have been working longer in garment factories, but worked more on machine-operating, which paid slightly better than stitching works. Managerial supervisor positions were mostly held by men. So there is a strong correlation between low wages and high rate of women's unemployment in garment industry, but we also see in other job sectors. These sectors that employ a significant number of women also pay lower wages. In terms of a racial component, some migrant workers I've spoken to have shared that they are mistreated by their supervisors based on their nationality. Particularly in one factory in Sri Lanka, they say that even when Sri Lankans make mistakes, workers from Bangladesh and Nepal are being scapegoated and blamed.

#### **Dr. Anil Yilmaz**

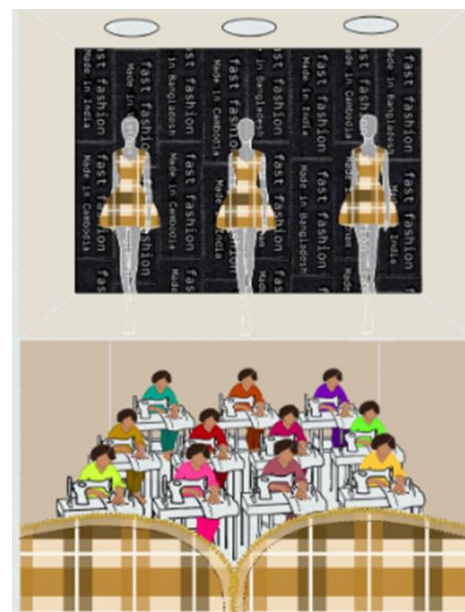
Gender pay gaps and racial discrimination play a role in human rights violation everywhere, and probably more so in sectors with low wages and where work conditions are more precarious. From my perspective, the human rights due diligence laws emerging in Europe may not be sufficiently addresses the intersectional dimension of human rights impact. Laws cannot prescribe every detail, but the practices and guidelines that emerge from government authorities to guide businesses need to take this into account.

#### **Mr. Namit Agarwal**

There are a lot of initiatives that look at gender or racial discrimination, but very few that look at the intersectional dimension, like what happens when both gender and racial, such as caste-based discrimination, in this region, are at play. These come from social norms that exist, so there is a lot that needs to be done outside factors. This is where collaboration needs to be happened between companies, factors, civil societies and governments, and this is lacking.

#### **Question 5 from the audience**

- *What actions should be taken to change apparel companies' attitudes towards due diligence? What actions are required of us as consumers and key players in changing corporate action in the current situation where fast fashion is favoured by many people?*



### **Mr. Namit Agarwal**

When we are talking about an ecosystem, the expectation from society, whether it is in the form of policy or a consumer demand, it is generally coalescing towards the bare minimum hours. In the due diligence space, what is unusual to general policy development is where companies are playing catch-up with a policy or legislation. Usually, the case is policies and legislations play catch-up with existing corporate practices and tries to come in to have a levelled playing field. This shows that the expectations of people on what companies should be doing in supply chains are not matching with what companies are already doing. In today's environment where online activism is popular, this is a good trend to see where consumers are moving forward of what companies are already envisioning, which encourages companies to reflect on what changes they can make and similarly, how policies can also catch up with the current situation and have a law in place. What's definitely missing is the actual impact on the ground. When countries, such as China and India, where exploitations exist, and consumers there and start demanding companies to change their behaviour, I think this will be phenomenal in influencing behavioural change from companies.

### **Dr. Anil Yilmaz**

In some specific contexts, boycotts or consumer activism can work to achieve small gains. But we're speaking about a massive structural problem, that I personally think a consumer's role can be quite minimal. We can only do so much as consumers. This is not to say that we shouldn't do things, but it goes back to our discussion on capitalism and the model of the economy that we live in that is geared towards consumption, growth, and we demand, as consumers, more and more fast fashion products. Our public opinion is influenced by this model. One way we, as consumers, can influence policies or corporate behaviours, is to start consuming less. This may or may not impact working conditions on the ground, and in some ways, may even create a detrimental impact, because there will be fewer jobs on the ground if we consume less. But we need to start thinking about the bigger picture and how to build a different model in our economy and production that will alleviate and improve working conditions.

### **Question 6 from moderator**

- *What do you think workers on the ground want us to do? Consume less, demand from companies that products are produced under sustainable conditions, that workers not have to work in such industries at all? Do you have anecdotal sense to this?*

### **Dr. Arjun Kharel**

Migrant workers definitely want jobs, as they migrated to look for sources of income. But they want a sustainable job. They're constantly concerned about losing overtime work or not having consistent work because of the lack of demand of garment products from the US. So, they do want jobs, but improved working and living conditions. They also want more freedom in terms of choosing their residence, and better food.



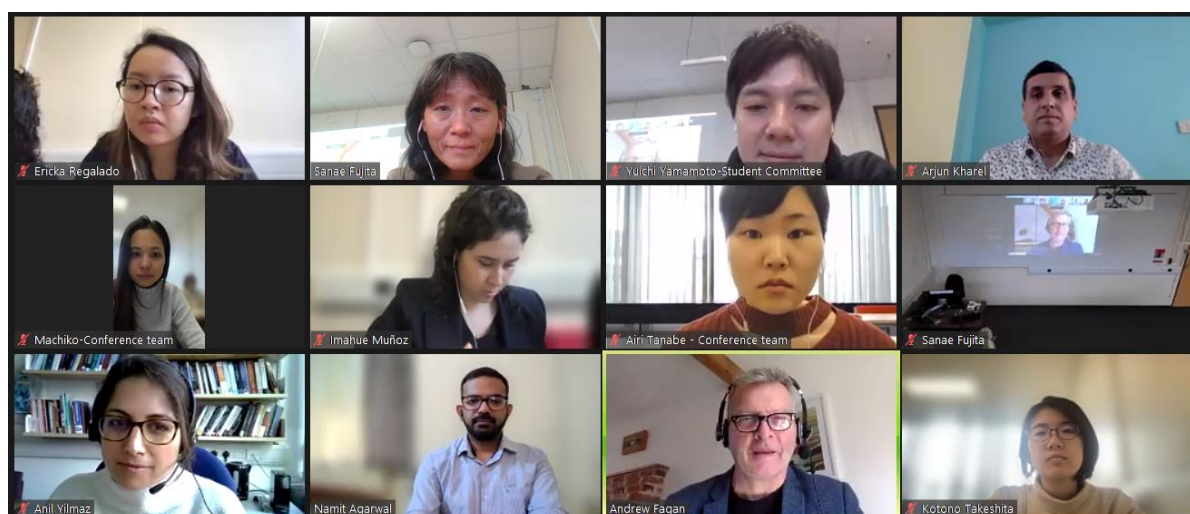
## Closing Remarks at the 15th Human Rights in Asia Conference

The organizing members of the 15th Annual Human Rights in Asia Conference invited Dr Andrew Fagan, a Law and Human Rights lecturer at The University of Essex and the current Director of the Human Rights Centre, to offer the closing remarks.

Dr. Fagan expressed that the intersection of academic expertise and practitioners' perspectives and experiences facilitated a rich discussion and has demonstrated the importance of theory and practice. He also emphasised that today's discussion has made clear the importance of norms within the scope of human rights. The issues addressed at day two of the conference, the insightful and diverse comments, and the substantial discussion provided a concrete opportunity to consider how we should move forward and make further progress in the future.

The importance and value of the Human Rights in Asia Conference, which has been organised consistently over the past 15 years, speaks for itself. Dr. Fagan emphasised that all credit is due to Dr. Fujita and the student conference teams who have been consistent in making the conference possible, especially through the pandemic. He notes that very few national and international organizations have managed to host annual academic conferences that have lasted for 15 years.

Finally, Dr. Fagan affirms the motivating drive for the annual conference, which is the importance and significance of spotlighting human rights issues in Asia, particularly because of how much the region is overlooked when it comes to the study of human rights despite the region containing challenges that are also present in other regions. Dr. Fagan concluded by thanking all those who have been involved and contributed to the longevity of the conference, but also to professionals who have contributed to confronting human rights issues within the fashion industry in Asia.



# Human Rights in Asia Conference Student Committee

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This report is prepared by the conference organising team members below.

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