

Human Rights Violations by Transnational Corporations:

Mismanagement of Hazardous Substances



Voices from Northeast Asia

September 2016

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■ Background

Mr. Baskut Tuncak, the UN Special Rapporteur on hazardous substances and wastes, will present his annual report at the 33rd session of the Human Rights Council. He has identified that many Asian transnational corporations are involved in different forms of human rights violations. One of main issues is that the health and safety of workers and the public have been harmed or put at risk due to corporations' mismanagement of hazardous substances, where these businesses are linked to the production, use, release or disposal of hazardous substances and wastes up and down the value chain.

The historical development of electronics industry in Northeast Asia, for instance, is relatively distinctive. Japan's electronics industry was the first to take off after WWII, but South Korea and Taiwan quickly caught up and replaced its status. Now, China is the major hub of production. These economic miracles were not without side effects, and have left many workers suffering from occupational chemical poisoning and cancer due to the use of the carcinogenic chemicals, which are banned or regulated strictly in many other developed countries. Certainly, this issue is not limited to the electronics industry.

Other than the rights of workers being compromised, many consumers have become the victims as well. In South Korea, thousands of consumers – mostly young women and children – have fallen ill or even died from exposure to toxic chemicals contained in humidifier disinfectants. This tragedy of public health happened only in South Korea because those products cannot be sold in other developed countries due to regulation.

The Korea Center for United Nations Human Rights Policy(KOCUN), Supporters for the Health And Rights of People in the Semiconductor industry(SHARPS), Victims & Families of Humidifier Disinfectants, Asian Citizen's Center for Environment and Health, Taiwan Association for Victims of Occupational Injuries(TAVOI), RCA Employees Care Association, and Labour Action China(LAC) would like to take this opportunity to raise our common concerns of human rights violations due to toxic chemicals across the Northeast Asian region.

Victims in Samsung Electronics factories

Workers in the semiconductor and LCD factories of Samsung Electronics have been suffering from cancers and incurable illnesses that are suspected to be related to work. The number of workers' illnesses and deaths from electronic industry in South Korea documented by Supporters for Health and Rights of People in Semiconductor Industry (SHARPS) is 368. At least 134 of them have already passed away. Most of the reported cases are from Samsung semiconductor and LCD factories.

Table 1. The Cases of Suspected Occupational Diseases from Electronic Industry in South Korea
(Reported to SHARPS by Mar 2016)

	Products	Reported Cases		Results of the Claims to the KCOMWEL [†]		Results of the Claims to the Court [‡]	
		Total	Death	Claimed	Accepted	Claimed	Accepted
Samsung	Semiconductor	187	61	46	6	15	5
	LCD	37	15	10	0	4	0
	Others	75	34	7	0	1	0
	Subtotal	299	110	63	6	20	5
Other Companies		69	24	13	1	2	0
Total		368	134	76	7	22	5

[†] Korea Workers' Compensation & Welfare Service, the governmental agency dealing with Workers' Compensation Insurance.

[‡] The Administrative Court dealing with the claims against the governmental decision.

The government and professionals have revealed some workplace hazards, and work-relatedness of cancers from Samsung and other semiconductor industry have been acknowledged officially by the government.

Meanwhile, Samsung keeps concealing information on its work environment, refusing to take responsibility on the occupational diseases. It broke its own promise to negotiate with SHARPS and announced *'the issue on occupational illnesses is settled thoroughly'* with its unilateral apology and compensation process. The victims from Samsung including Hwang Sangki, the father of the 1st known leukemia victim, Hwang Yumi, have been in a sit-in protest on the streets for nearly one year since October 2015.

Problem 1. Failure in Safety and Health Management in its Factories

Research and investigations on semiconductor factories have been undertaken by the government and the professionals since 2008, after SHARPS had raised the issue of occupational diseases. These studies have revealed critical problems in safety and health management as below;

Research Organization (Year)	Main Results
Seoul Nat'l Univ. R&DB Foundation (2009)	Samsung Electronics did not check the ingredient of the chemical substances used in its semiconductor factories. Exposure assessment was not done on 71% of the chemical ingredients used in the factories. High concentration of toxic gases leaked in various conditions including preventive maintenance of the facilities. Carcinogens such as benzene were detected in the chemicals used in the factories.
Occupational Safety & Health Research Institute (2012)	When the chemical used in the factories was heated, carcinogens such as benzene or formaldehyde were detected. Exposure to ionized radiation from several facilities exceeded the regulatory standards of the U.S.A.

The Governmental investigation on the safety & health in the semiconductor factory of Samsung in 2013 revealed 1,934 violations of the Law on Occupational Safety and Health in the single factory in Hwaseong. It also pointed that serious problems had been found generally in the chemical management of semiconductor factory in Giheung.

Since 2001, Korea Workers' Compensation & Welfare Service[KCOMWEL], the governmental agency dealing with the Workers' Compensation system, and the Court have officially acknowledged 13 cases of leukemia, lymphoma, aplastic anemia, breast cancer, brain cancer, lung cancer, ovarian cancer, and chronic inflammatory demyelinating polyneuropathy from Samsung Electronics as occupational diseases.

Problem 2. Manipulation & Concealment of Information of Workplace

In response to growing social concerns, Samsung has argued through the media and its own website that it has 'the world's best level of safety in the production line of semiconductor factories'¹. However, Samsung has refused to disclose the results of investigations by the government or academic professionals on the hazards and risks in its factories².

Samsung refused to provide information on its workplace conditions, despite the Court's request for workers' compensation claims, arguing that the requested information is a

¹ <http://news.samsung.com/kr/2s1YT>

² Samsung Electronics has refused to disclose the report of Seoul Nat'l Univ. R&DB Foundation(2009) and of Occupational Safety & Health Research Institute on the Safety & Health of Giheung factory(2013) arguing those reports are its trade secret. Currently SHARPS has the litigation for the disclosure of the latter report.

'trade secret' or 'not related to this case'³. The victims, were not able to obtain even very basic information on safety and health – e.g. types of the personal protective equipment provided or the number of occupational diseases in the factory – because Samsung refused to provide it.

When victims make claims for workers' compensation, KCOMWEL investigates the workplace. But fair investigation cannot be carried out in Samsung because the company has obstructed the participation of the representative of the victims in the field research.

Samsung has contacted the occupational victims and their families offering money in exchange for dropping the occupational disease claims and stop meeting NGOs^{4 5}.

Problem 3. Violation of the Principles of Social Talk

The negotiations between SHARPS and Samsung on apology, compensation, and preventive measures began in Dec. 2013. It turned into the mediation process arranged by a three-person-committee since Dec. 2014, according to the agreement among the parties. But Samsung suddenly suspended the mediation process after the mediation committee announced its recommendations in Jul. 2015 and pushed its unilateral settlement in Sep. 2015. None of the detailed information on the criteria or the results of compensation has been disclosed transparently.

On 12 Jan. 2016, the mediation committee issued a press release saying 'the discussion on compensation and apology has been suspended'. But Samsung tried to distort the facts by releasing its own press material on 14 Jan. 2016 arguing 'the leukemia issue is settled after 9 years', and 'all the three agendas of mediation are completed'.

³ The documents that Samsung Electronics recently refused to provide in the workers' compensation claims Court are <Report of Consulting on the Risk Assessment of Semiconductor Facilities(2009, Seoul Nat'l Univ.)>, <Report of Analysis on the Safety & Health of Samsung semiconductor & LCD factories(2013, OSHRI)>, the records of leakage of gas & organic compounds within the factories, the <Environment Handbook> which Samsung gave to its engineers, and the list of ingredients of the chemicals used in the semiconductor production lines.

⁴ "(Samsung) offered a large sum of money provided that I give up the legal claim for workers' compensation. It was hard for me to afford the medical costs, and the company's offer was bigger than the legal compensation money. (Finally) I gave up the lawsuit for the settlement money of four hundred million won(approximately four hundred thousand US dollars). Samsung demanded that I should not contact the KCTU(the representing labor union) and I must move to prevent NGO people from visiting me." (Interview of the family of the late Park Jiyeon, the leukemia victim from Samsung semiconductor factory, published in the article of the weekly magazine, Hankyoreh21)

⁵ "(Samsung) offered money with some preconditions; you should not criticize Samsung; you should not initiate civil, criminal, and administrative lawsuits; and you should not ask for more money even if you win the current lawsuit."(the testimony of a victims of Wegener's granulomatosis from Samsung semiconductor factory at the Court)

Problem 4. Neglect of the Government's Obligation to Protect Workers' Rights

Currently, the victims have to prove the association between the illness and work to receive legal workers' compensation. Therefore, it is almost impossible for the workers to get official compensation from the government when the company interrupts the investigation or conceals information on the workplace like Samsung has been doing, or when scientific studies on the illness are insufficient. The burden of proof and the deficiency of right-to-know have damaged many occupational victims' just right to receive treatment and support for living.

Whether certain information can be protected as a 'trade secret' or not should be judged according to the legal criteria from the Supreme Court's decision. Also, any information related to safety and health should be disclosed even if it is regarded as a trade secret legally. However, the Korean government has protected most of the 'trade secret' claims of Samsung regardless of the above consideration, which is equal to being complicit with Samsung in the concealment of recognition of occupational diseases.

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Biocide and Double Standards: Humidifier Disinfectants

hazards magazine

UK multinational Reckitt Benckiser (RB) describes itself as “a global force in health.” Korean campaigners, whose claim that at least 100 people in the country have been killed by an RB disinfectant has been backed up by official investigations, have a less rosy view of its health record. *Hazards* editor Rory O’Neill reports.

At the 22 April 2015 launch of Reckitt Benckiser’s (RB) sustainability report, Rakesh Kapoor, the chief executive officer of the UK multinational, commented: “While I am proud of the progress that we have made, we will continue to challenge ourselves to do more with less to achieve our vision of a world where people are healthier and live better.”

The report, *A global force in health and hygiene*, notes “50 per cent of products in pipeline more sustainable than their predecessors.” It has a section on “developing responsible products”, with a commitment to “strive to use better ingredients – for consumers and the environment.”

The company has a ‘happier homes’ website, too, that “helps consumers to use our products in a more sustainable way.” Those products include household names like Finish dishwasher tablets, Harpic, Calgon and Dettol.

Kapoor’s company had a ‘good start’ to 2015, the FTSE 100 consumer goods group reporting a rise in first-quarter revenue this year of 1 per cent, to £2.2bn. Releasing latest quarterly figures on 24 April 2015, he said they showed it was “on track” for a moderate to “nice” operating margin. Kapoor himself is also doing nicely, with his pay packet of £6.7m in 2013 way ahead of his rivals in the sector.

Nowhere in the latest financial returns, sustainability report or RB annual report is there any mention of the deaths in South Korea of at least 100 people, all victims of an RB disinfectant and all developing pneumonia-like systems before dying of “a severe inhalation lung injury”.

Death by disinfectant

In a May 2015 vigil outside RB’s HQ in Slough, Berkshire, some of the company’s Korean consumers challenged its health and consumer safety claims.

From 19 May for five days the group displayed a “Death calendar of 142 Korean babies, pregnant women and innocent consumers killed by humidifier disinfectants.” The large banner noted that the Korean government had confirmed at least 100 of the deaths resulted from the use of RB products.

RB’s ‘Oxy’ disinfectant had an 80 per cent market share in a product used by 8 million people. So far humidifier disinfectants have been linked directly to 142 deaths. The RB product was sold only in South Korea and has now been withdrawn, as have similar products including the Denmark-sourced Cefu disinfectant.

In July 2012, the Korean Fair Trade Commission (KFTC) found Reckitt Benckiser guilty of falsely advertising its product as “safe to humans”, fining the company 50 million won (£28,500). Lee Tae-hwi, director of the consumer division at the KFTC’s Seoul office, announcing the penalty, said: “We expect this decision to serve as a wake-up call for businesses, who must only distribute products that are safe for human use.” An appeal was thrown out by the South Korean Supreme Court. Reckitt Benckiser, though, has still to admit culpability or to provide the “sincere apology” sought by those affected.

Approached by *Hazards*, RB declined to comment on whether it accepted responsibility for these deaths and many other cases of ongoing and severe respiratory ill-health.

In a statement, RB said: “This matter is taken very seriously by RB. Our deepest condolences go to the families involved in the issue. The matter has been the subject of legal action in Korea for several years and we are continuing to work within the legal system in Korea. A fair resolution for all those concerned is our number one priority.”

The company said it had made a “humanitarian donation” of £5m to an account set up by the Korean government to cover some of the victims’ costs. But this should not be taken as an acceptance of culpability, RB said.

Professor Domyung Paek, author of one of the three Korean government reports on the poisonings, said the RB statement was “very disappointing” and “lip service”. There was only “condolences but no sincere apology”, he added.

Paek, a professor of occupational medicine at Seoul National University, chaired the first government probe into the condition, a Korean Ministry of Health and Welfare-ordered investigation which examined 391 cases in 2013/2014.

Speaking alongside victims at the RB vigil, he said: “The company claims its core values are ‘health, hygiene and home’. In truth, it has destroyed the health of the victims, brought disease into their homes and ruined families.

“The company and its executives say they are sorry, but they do not accept responsibility. That is their formal position. And it isn’t good enough.”

RB’s spokesperson said the case was “unprecedented due to the complexity and technical nature of the issues,” adding: “The question of causation is still very much a live issue and is subject to judicial review in the litigation.”

Meeting with anger

Yeyong Choi, director of the Seoul-based Asian Citizen's Center for Environment and Health, said this has remained the company line throughout, with RB "repeating the same thing over and over without any concrete action."

With Paek, he has published heavyweight research papers on the outbreak of 'humidifier disinfectant-associated interstitial lung disease' which found the risks were particularly high in pre-school children and pregnant women. Choi, who also attended the vigil, accused RB of "framing the problem narrowly", with the response "restricted to legal issues without mentioning social responsibility."

A planned protest outside the Houses of Parliament in London on 22 May was cancelled, with the group instead deciding to maintain their candlelit vigil outside RB's Slough HQ.

A meeting that morning with senior representatives of the company, said Choi, again ended with "no apology, no promise of resolution but simply personal sympathy."

Alongside Choi and Paek were bereaved relatives, including Changsoo Maeng, whose wife died aged 38 in 2009 after exposure to the RB disinfectant. Emerging from the meeting, Maeng tore up the paper RB had presented to the delegation and shouted: "I'm not here to get this meaningless paper. I'm going to sue you, RB's HQ, in the British courts for your accountability."

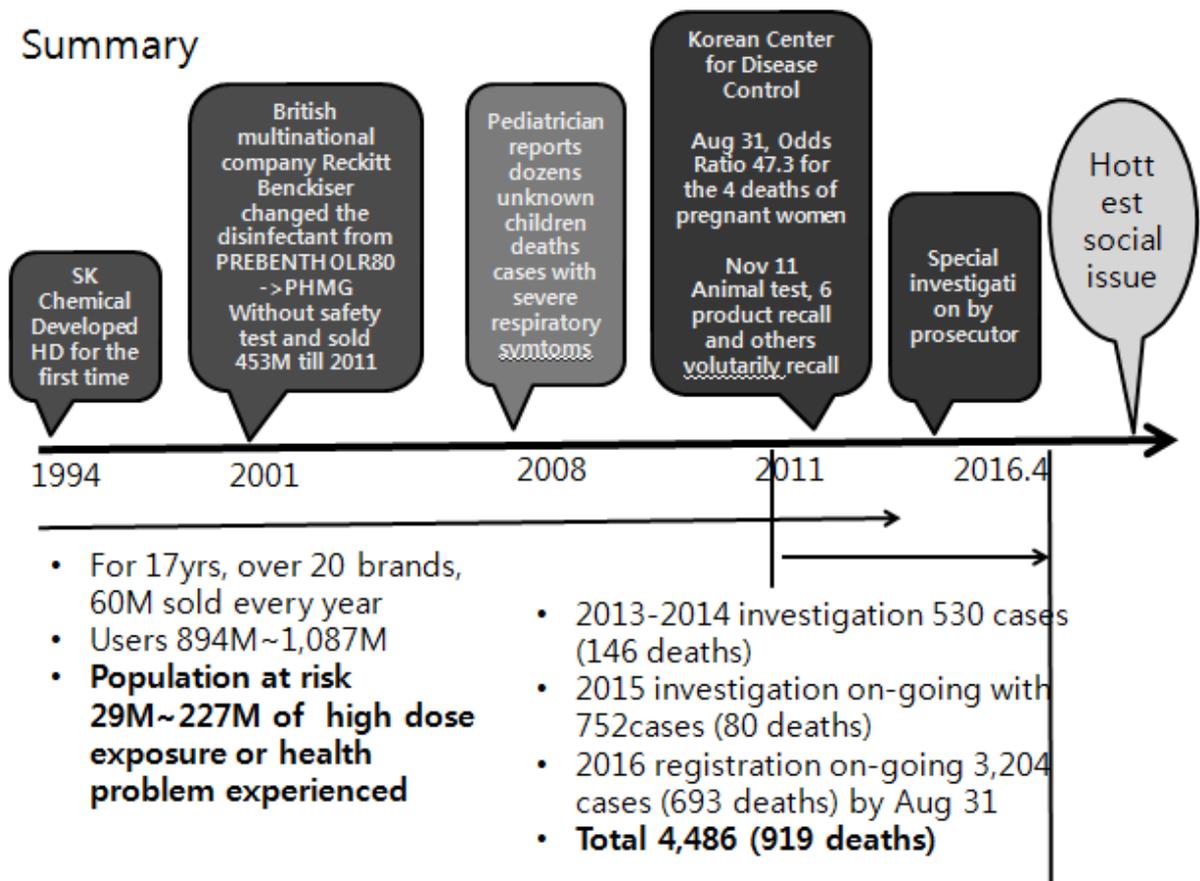
The campaigners say RB will now face at least two lawsuits in the UK.



Humidifier Disinfectant
Kill 140 Korean Babies
and Pregnant Women.

UK company Reckitt Benckiser kill at least 99,
Denmark company Cefu kill 14 Korean consumers.
(Korean Government's investigation result, 2012-2015)

Summary



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Ban Benzene Campaign

Labour Action China (LAC) is a labour organisation rendering paralegal consultation and free legal representation. We have come across many cases of benzene poisoning since 2012. According to the available national statistics, the acute and chronic occupational chemical poisoning in China during 2008 and 2013 were as follows:⁶

YEAR	# OF CASES OF ACUTE OCCUPATIONAL POISONING	# OF CASES OF CHRONIC OCCUPATIONAL POISONING	TOTAL NUMBER OF OCCUPATIONAL POISONING	COMPARED TO PREVIOUS YEAR	# OF FATAL CASES
2008	760	1,171	1,931	nil	49
2009	552	1,912	2,464	+21.63	21
2010	617	1,417	2,034	-21.14	28
2011	590	1,541	2,131	+4.55	45
2012	601	1,040	1,641	-29.86	20
2013	637	904	1,541	-6.49	25

As a result, we decided to launch our Ban Benzene Campaign on 27 July 2014, the 40th anniversary of the ILO Benzene Convention (C136) entering into force. We drafted a declaration and collected more than 100 signatures from victims and others supporting the blanket ban of benzene in various industries. Both Chinese social media and traditional media reported our campaign. Two months later, the Daily Mail reported 13 tragic stories of Chinese electronics workers⁷ and followed up the death of Yi Long,⁸ that caused much attention nationally and internationally.

⁶中华人民共和国国家卫生部 [Ministry of Health of China],《关于 2007 年全国职业卫生和放射卫生监督管理工作情况的通报》[Briefing on the Supervision and Management of National Occupational Health and Radiation Hygiene in 2007];《关于 2008 年全国职业卫生监督管理工作情况的通报》[Briefing on the Supervision and Management of National Occupational Health in 2008];《通报 2009 年职业病防治工作情况》[Briefing on the Prevention of Occupational Diseases in 2009];《通报 2010 年职业病防治工作情况和 2011 年重点工作》[Briefing on the Prevention of Occupational Diseases in 2010 and Priorities in 2011];《关于 2011 年职业病防治工作情况的通报》[Briefing on the Prevention of Occupational Diseases in 2011];《关于 2012 年职业病防治工作情况的通报》[Briefing on the Prevention of Occupational Diseases in 2012];《关于 2013 年职业病防治工作情况的通报》[Briefing on the Prevention of Occupational Diseases in 2013];《2014 年全国职业病报告工作报告》[Report of National Occupational Diseases in 2014].

⁷ Simon Parry, 'Mystery of the cancer cluster killing Chinese workers at factory that makes new iPhone 6: 13 struck by leukaemia in SAME plant... were cleaning agents to blame?', *The Daily Mail* (online), 13 September 2014

To help better understanding of the situation, we conducted an empirical research with two other labour organisations during the first half of 2015, we successfully interviewed 59 victims worked in the electronics industry which these respondents were selected by snowball sampling in 3 cities of Guangdong province only. 21 were occupational benzene poisoning, 16 were occupational n-hexane poisoning, and 10 developed leukaemia caused by benzene. Also, we have learnt more about their struggles on the path of defending their own rights.

Many victims worked in Taiwanese invested electronics factories. Hence, we collaborated with some Taiwanese labour organisations and trade unions and organised a series of events in June 2015, which ended with a protest outside the annual general meeting of Hon Hai Precision (the holdings company of Foxconn). Apart from those who worked in electronics industry, we have come across victims who are/were worked in footwear, toy and other industries.

Electric Industry - ZXH (acronym)

Mr Zou (31 years of age) comes from Jiangxi province and is the father of two children aged 7 and 6. He joined the subsidiary of Johnson Electric (a public listed company in Hong Kong) on 4 January 2013. He was required to work 11 hours a day. His daily job was casting motor parts and that he was exposed to paints, anti-rust oils, cleaning fluids and other solvents.

He was diagnosed of acute leukaemia on 13 June 2014. The company never provided proper and decent personal protective equipment, nor any training to warn of the dangers of these chemicals.



■ Mr Zou was waiting for the bone marrow transplant in October 2015.



■ Mr Zou and other victims from Johnson Electric protested outside the annual general meeting this July.

<<http://www.dailymail.co.uk/news/article-2754824/Mystery-cancer-cluster-killing-Chinese-workers-factory-makes-new-iPhone-6-At-13-staff-diagnosed-leukaemia-falling-sick-plant-recent-years.html>>.

⁸ Simon Parry, 'Worker from iPhone Factory dies of cancer – days after mother begged Apple for help: Young Chinese man is the sixth to die at the complex in southern China', *The Daily Mail* (online), 27 September 2014 <<http://www.dailymail.co.uk/news/article-2772228/Worker-iPhone-factory-dies-cancer-days-mother-begged-Apple-help.html>>.

Currently, he is in the process of determining if his illness is caused by work-related benzene exposure. However, that process has been delayed by the company which has refused to provide necessary documents to government agencies.

The company stopped paying his wages after he was diagnosed with leukaemia and refused to pay for his medical treatment and other related charges even though it is required to do so under the Chinese laws.⁹ On 21 January 2016, the company even unilaterally terminated his employment contract.¹⁰

Toy Industry - DAZ (acronym)

Ms Ding (40 years of age) is originally from Hunan province and has a 16 years' old daughter and a 10 years' old son. In 1994, she went to Guangzhou visiting her pregnant cousin and, by coincidence, she saw the recruitment advertisement of the subsidiary of Jetta and was deeply attracted by the slogan of "Integrity, Excellence, and Gregarious". After passing the recruitment test, her first duty was to collect materials in the workshop. Although she earned ¥300 per month at that time, there were other fringe benefits, including the reimbursement of travelling cost to their rural hometown.

In July 2011, she was promoted to become the caretaker of the warehouse for dangerous goods where it was full of pungent smell. Rash was developed all over her body shortly after she was installed to this position. She always felt fatigue, which she thought it was due to the high labour intensity during the peak season.



■ A worker was handling chemicals in the warehouse.



■ A label illustrating basic information

⁹ 《工伤保险条例》[Regulation on Work-Related Injury Insurance] (People's Republic of China) State Council, Order No 375, 20 December 2010, art 33.

¹⁰ 《中华人民共和国职业病防治法》[Law of the People's Republic of China on the Prevention and Control of Occupational Diseases] (People's Republic of China) National People's Congress, Order No 52, 31 December 2011, art 56.

She was informed of poisoning until her doctor overheard her phone conversation of the delivery of dangerous goods. Subsequently, she was admitted to the hospital for occupational diseases. Neither training nor personal protective equipment were offered.

When she decided to go for the official diagnosis of occupational diseases, the company was uncooperative and reluctant to provide necessary documents. Finally, she received the official certificate of diagnosis for occupational benzene poisoning on 30 April 2014. She has gone through the verification of occupational diseases and the appraisal for labour incapacity. Right now, she is waiting for the second appeal of her tortious claim against the company.

Even though the company has offered trainings to her successors, one of them was also become the victim of occupational chemical poisoning.

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Labor Action China

■ A Fight of RCA ex-Employees Over 18yrs Against Transnational Capital

On April 17, 2015, the Taipei District Court in Taiwan, ordered partial judgment in favor of the plaintiff of RCA Employees Care Association for the 11-year-RCA litigation. Prior to this, the Taiwan Association for Victims of Occupational Injuries (TAVOI) has assisted RCA Employees Care Association to organize protests since 1998, and to bring a lawsuit against US companies such as RCA from 2004.

Currently, the number of victim employees has increased to more than 1,500, and both sides have appealed to the High Court. Each year, there are RCA employees diagnosed with or died from the diseases. The veterans behind Taiwan's high-tech economic miracle, started the fight in their middle age and now are entering old age; even for those who were not diagnosed with disease, they are under the shadow of morbidity and have been in depression. Compare to general retired workers, they are under higher risk of health issues.

During the period when RCA operating factories in Taiwan, it violated the regulations for providing workers who engaged in organic solvent with particular medical examinations and having their health records well-kept, it did not have the exhaust ventilation comply the provisions, nor did it regularly determine the detection of the concentration of organic solvent. According to the testimony of the victim employees, RCA did not provide protective equipments, nor did it clearly label the harmful chemicals to protect workers against the risks of exposure to carcinogenic substances. These conditions evidently show how RCA violates C139-Occupational Cancer Convention (Convention concerning Prevention and Control of Occupational Hazards caused by Carcinogenic Substances and Agents) and C170-Chemicals Convention (Convention concerning Safety in the use of Chemicals at Work).

During the legal proceedings, RCA was requested by judge to provide the documents on measuring the carcinogenic substances that the workers were exposed to, however, it openly declared the documents were damaged in a fire and shirks its responsibility. In 2015, the District Court recognized that the RCA employees were directly exposed to

carcinogenic substances during the workflows, and this shows a clear connection between workers' injuries and the workplace.

However, after the verdict, these multinational companies continue to deny their abusive conducts. Though TAVOI has advocated the revision of the Occupational Safety and Health Acts in Taiwan through the experience of RCA case, workers are still unable to manage the data of the toxic chemicals they came into contact with during the workflow.

This is a battle for workers' health against transnational capital, which has witnessed the governmental shift in Taiwan, and across the continents of Americas, Europe and Asia! The RCA and GE of the US and the Thomson of France, which owned the operating right of RCA, are from the Member states of the United Nations. TAVOI appeals to the United Nations Human Rights Council for imposing sanctions on transnational capital for its abusive conduct, and to stop the occupational injuries spread by it.

1Q: How did the RCA contaminate Taiwan's environment? Was it obviously illegal?

A: RCA, the number one home appliance brand in the U.S., began its investment in Taiwan in 1969 with factories in the Taoyuan, Zhubei and Yilan counties, with total employees of 20 to 30 thousand. Prior to its shutdown in 1992, RCA was designated by the Taiwan government to be a model export company on several occasions. But it wasn't until 1994 that the EPA first disclosed the facts that RCA had been illegally digging wells to dump toxic wastes and organic solvents (trichloroethylene (C₂HCl₃) and ndetrachloroethylene (C₂Cl₄), which seriously contaminated the area's soil and ground water. In 1998, in an unprecedented move in Taiwan, the EPA declared the RCA plant site to be an area of permanent contamination.

In 1998, the Control Yuan investigated the RCA incident, and clearly pointed out in its report that from June 1975 to May 1991, a total of eight labor checks were conducted, and in each time, violations were found against several regulations, including the prevention of organic solvent intoxication, labor health management, labor safety and sanitation facilities. In the final investigation prior to the plant's shutdown in 1991, it still had nine violations against the regulation of the prevention of organic solvent intoxication.

2Q: What are trichloroethylene (C₂HCl₃) and tetrachloroethylene (C₂Cl₄), and how do they affect our health?

A: Both are types of evaporative organic solvents, and are most often used in the electronics, dry-cleaning and aerospace industries. Trichloroethylene (C₂HCl₃) was also the cause of the vocational disaster occurred in the American Fei-Ge electronics plant in Taiwan, which caused the death and injury of many female workers. Recently the International Agency for Research on Cancer (IARC) of World Health Organization (WHO) has evaluated the cancer-causing potential of substances and placed them into Groups 1, 2A, 2B, and 4, within which the trichloroethylene (C₂HCl₃) that RCA employees were exposed to has been included in Group 1 (Carcinogenic to humans); as tetrachloroethylene (C₂Cl₄) is placed in Group 2A (Probably carcinogenic to humans). By virtue of the testimony of the employees and the investigation report on labor inspection and environmental pollution by the Taiwan government, the employees' illness is highly associated with the exposure in the workplace.

3Q: How do organic solvents affect human body, and through what channels?

A: In general, due to its evaporative nature, organic solvents can be absorbed through respiration, drinking water, and skin penetration. Exposure to high concentration of which may lead to headaches, dizziness, nausea, tachycardia, insomnia, etc.; and chronic exposure may cause impairment of the neural and circulatory systems, as well as damages to internal organs such as liver and kidney; their relations to cancerous diseases are still under study. The older RCA employees remembered the old days and said, "no wonder those foreign managers all drank bottled mineral water, only us foolish laborers, drinking toxic water everyday, living in the plant, eating in the plant, even the shower water was toxic!" Not until the revelation of RCA's pollution in 1994 did it pull in city water for the residents around the Taoyuan plant.

4Q: What are the conditions of the RCA employees?

A: It was not until 1997, 3 years after RCA pollution incident broke out, that we found more than a thousand people, among employees who have left for many years, were/are diagnosed with liver cancer, lung cancer, colorectal cancer, stomach cancer, bone cancer, nasopharyngeal carcinoma, lymphoma, breast cancer, cancer and other occupational cancer. Experts have pointed out that the risk of developing cancer for RCA employees is 20 to 100 times higher than general population. Currently, among the members who

engaged in the legal proceedings with RCA Employees Care Association, there are more than 100 people died from cancer, still other 500 people are suffering from cancer or major diseases of the immune system, and almost a thousand people have been diagnosed with various types of cancer, or suffered from miscarriage and stillbirth. If we count the employees who lost contact with and the residents near RCA factories, the total number is beyond imagination.

RCA Profile

- * **RCA** (Radio Corporation of America)was established in 1919. It manufactures TV sets, picture tubes, VCRs, stereos and communication products, and has employees of 55,000 in 45 countries; its products are sold in over 100 countries. RCA's large size picture tube products are number one in sales internationally, and its TV sets, VCRS and stereos are number one in sales in the U.S. From 1970-1992, RCA established factories in Taoyuan, Zhubei and Yilan, with Taoyuan as its head regional office. It had won the recognition of superior export company on many occasions, and was designated as the model factory by the Taiwan government.
- * **G.E** (American General Electric Company))Motors manufactures motors, space shuttles and home appliances. It currently undertakes Taiwan's 4th nuclear plant reactor and relative facilities, a project of \$8 billion US dollars. The RCA head company was merged by G.E. in 1986.
- * **Thomson** (French Thomson group) manufactures high-tech products such as national defense facilities, medical equipments, semi-conductors and communication products. The Lafayette ships - the subject of Taiwan's biggest arm sale scandal in its national defense history - are products of the French Thomson Group. The American Thomson Company was establish in 1987, and in 1988 it purchased several G.E. divisions that included RCA.

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End of Visit Statement

by the United Nations Special Rapporteur on human rights
and hazardous substances and wastes, Baskut Tuncak
(Republic of Korea 12 - 23 October 2015)

23 October 2015

Introduction

In my capacity as the United Nations Special Rapporteur on human rights and hazardous substances and wastes, I undertook an official country visit to the Republic of Korea, at the invitation of the Government, from 12 to 23 October 2015. The purpose of the mission was to monitor and assess steps taken by the Government of the Republic of Korea to protect the human rights implicated by the management of hazardous substances and wastes throughout the life-cycle.

I wish to emphasize at the outset that these are only preliminary observations. A full report of the mission, which will contain a more comprehensive analysis of the situation and recommendations from a human rights perspective, will be prepared and submitted to the Human Rights Council in September of 2016.

I would like to begin by thanking the Government of the Republic of Korea for the invitation to visit the country. During the course of the last two weeks, I have met with the Ministry of Foreign Affairs; Ministry of Defense; Ministry of Employment and Labour; Ministry of Trade, Industry and Energy; various divisions of the Ministry of Environment; and, the National Human Rights Commission. I also had the pleasure to visit the new low and intermediate level radioactive waste disposal center at the courtesy of the Korea Radioactive Waste Agency.

I also would like to express my appreciation for the businesses, members of the civil society organizations and residents and victims who shared their aspirations and challenges toward the full realization of all human rights implicated by the management of hazardous substances and wastes. I had the pleasure to visit Gimpo, Danyang, Wolsung and Boryung to meet with residents living near casting factories, cement factories, a nuclear power plant and army bases.

I also had the pleasure to meet the officials of Samsung Electronics and Oxy Reckitt Benckiser, as well as touring Samsung Electronics' production line.

General observations

One of my main motivations for undertaking this mission was to monitor the development of human rights protection after the rapid industrialization of the country over the past few decades, which is viewed as a model for economic development by other emerging economies. Of particular interest was the corresponding acceleration in chemical production and use in the country in a short period of time, and the challenges it presents.

I am pleased to note several positive developments in the Republic of Korea in recent years, which I will address later. However, I would at the outset like to highlight a few cases that came to my attention during the course of the mission. I would like to highlight these prior to my report as I believe that these cases are relevant not only to the situation in the Republic of Korea, but also offer lessons for countries around the world.

It is widely known that 140 people died and over 500 were injured after purchasing and using a humidifier disinfectant that contained one or more hazardous substances. Most of the victims were women and children, who suffered from a range of illnesses, including respiratory illnesses. It does not appear that Oxy Reckitt Benckiser conducted any investigation into the health risks of inhaling the substance dispersed by the humidifier despite what appears to be virtually no information about its hazards, in compliance with weak legal standards of protection at the time.

Oxy Reckitt Benckiser, which has its headquarters in the United Kingdom, sold 80 % of the humidifier disinfectant on the market, with the remaining sold by four other companies. Oxy Reckitt Benckiser maintains its position that the company has not been proven liable. They claim causation has not been proven for health impacts, despite their failure to prove the product was safe before being sold to consumers. According to the victims, neither the companies concerned nor the Government have offered a meaningful apology to the victims, which both explain as due to ongoing litigation. The victims remain concerned that subsequent measures by the Government and businesses are not adequate to prevent the reoccurrence of a similar tragedy. As of now, the Government has not provided compensation to support approximately 55% of the alleged victims because the causation between their symptoms and the substances in the sterilizer has not been ascertained.

Secondly, the vulnerability of workers to hazardous substances was prominent during my visit. The case of workers in the electronics sector reoccurred in my discussions. I

am concerned that the challenges faced by workers in this industry are not isolated; but, rather, emblematic of the challenges faced by workers across a range of industries that use hazardous substances in manufacturing processes both in the Republic of Korea and in other countries.

I am afraid that many workers at Samsung Electronics have fallen victim to priorities that place profits before human rights. Victims, and family members of those now deceased, shared common stories of grave and irreversible health impacts including leukemia, lymphoma, brain cancer, breast cancer, thyroid cancer, miscarriage, hormonal complications and other diseases. The victims claim that they used or otherwise exposed to hazardous substances every day, sometimes for 12 hours a day, with only 1 or 2 days off per month.

Many victims were women who started working in the semiconductor factory immediately after high school. Many testimonies I heard described intense pressure to meet production goals, little to no training or information about the risks of the hazardous substances they were using and inadequate safety measures to prevent exposure. One mother's testimony was gripped with frustration and grief, blaming herself for the fact that her son was born with deformations, which she believes were caused by her working with toxic chemicals while pregnant without her knowledge.

Victims, labor unions, civil society groups and the Government all acknowledge that occupational disease is an increasing problem and that the amount of information and protection available to workers is a challenge, particularly for sub-contractors. Yet despite what appear to be massive information gaps, victims bear the burden of proving their suffering is a result of hazardous substances in the workplace.

The burden of proof placed by the Government on victims is so great that only three former Samsung Electronics workers out of 67 claimants (4.5 %) have been able to establish causation in order to gain some degree of compensation through the Government's "Occupational National Insurance" for injuries suffered from hazardous working conditions. Estimates of the total number of alleged victims who worked at Samsung Electronics ranges from 90 to several hundred, with the total number across the industry unknown.

My last observation comes from visits to communities living close to hazardous conditions. In the city of Gimpo, located a few hours outside Seoul, small-scale industrial facilities have overrun a once quiet community, as a result of the Government's deregulation policies to promote economic growth. Family homes, subsistence farms

and rice fields are now wedged between metal works and other factories emitting dangerous levels of heavy metals and other toxic chemicals into homes and agricultural land. Only a few local officials have the nearly impossible task of monitoring approximately 10,000 industrial facilities in the area for pollution, thereby offering little evidential support to local residents who hold the burden of proving which companies to hold accountable.

I spoke with many people in other communities who expressed similar concerns with the inability to relocate away from dangerous areas due to the need to establish causation and their inability to do so on their own. For example, residents just beyond the 914-meter safety zone around a nuclear power plant are demanding relocation. The residents have been waiting for years for causation to be determined between thyroid cancer and other types of illnesses and radioactive emissions from the power plant.

Communities frustrated by this challenge include those living near the nuclear plant in Wolsung; coal-fired power plants, cement factories and steel factories in Danyang and Dangjin; and military bases in Boyrung. For example, Boyrung once known for its natural beauty; but studies have revealed three times the safe level of various toxic chemicals and residents claim all but a few deaths in their village have been due to cancer. I believe that the communities I met with are only a fraction of the wider community at risk. I am concerned that many of these residents are elderly, socio-economically disadvantaged and are being denied an effective remedy. Furthermore I am concerned by reports of threats of intimidation including death threats against individual residents and community leaders.

Conclusions

Throughout my fact-finding mission, the dependency of individuals and communities on both the Government and businesses to prevent harms and reduce risks of hazardous substances was clearly apparent. There exists a sense of powerlessness of those at risk, and betrayal of those who believed they have been wronged. Notably, the inability to prove causation between the health impacts that individuals are suffering from and the hazardous substances that they have been exposed to presented an insurmountable obstacle to the vast majority of victims.

Under international human rights treaties ratified by the Republic of Korea, as well as the Constitution's provision for a safe and healthy environment, the Government has an obligation to protect and realize rights implicated by hazardous substances and wastes. These rights include both economic, social and cultural rights, as well as civil and

political rights, such as the right to information and the right of access to an effective remedy. I encourage the Government to immediately ratify the Optional Protocol to the Covenant on Economic, Social and Cultural Rights.

In response to the humidifier disinfectant case, the Republic of Korea has taken steps towards improving the management of hazardous substances through its recently enacted *Act on the Registration, Evaluation of Chemical Substances*. Although necessary steps should not wait for a tragedy to unfold and the victims still not have been offered a solution for their loss of life, morbidity or the death of their loved ones, it is a positive development and I commend the Government for taking such steps. In addition, the Government has provided medical and funeral expenses for a subset of victims whose health impacts have been acknowledged as being caused by humidifier disinfectants.

However, despite recent measures taken by the Government in response to safety of some chemical consumer products, I remain concerned about the sufficiency of preventative measures taken by the Government to prevent similar tragedies in the future arising from consumer products. And, I share similar concerns about industrial chemical disasters. While the Government says the number of deaths and injuries have decreased since the catastrophic chemical disaster in Kumi in 2012, it is reported that the number of small and large industrial chemical accidents may have increased since then. I would like to stress that, with the vast amount of chemical substances and its usage in fast moving industries, prevention is a key aspect.

New institutional and legislative grounds are established for environmentally sound chemicals management by enacting and implementing the Act on Registration and Evaluation of Chemical Substances and the Chemicals control. However, the establishment of necessary information system and governance structures to detect risks before they manifest into adverse impacts were just initiated. I look forward to clarification from the Government and businesses about the adequacy of information systems and governance structures now present to detect risks before they manifest into adverse impacts. There must be a robust legislative framework and implementing regulation to protect everyone, particularly those who are most at risk, such as children, workers including irregular and migrant workers and those living in rural areas that have been recently industrialized, from the various threats to life and health presented by hazardous substances.

During the course of my visit, I have observed the unjust burden placed on hundreds of victims by the legal system to establish causation, which can add insult to injury,

prolonging suffering and an undeserved sense of guilt, and ultimately prevent victims from accessing an effective remedy. In order to help address this, I am happy to learn that *Act of Liability, Compensation and Relief from Damages Caused by Environmental Pollution* will enter into force in 2016. The spirit of this Act is highly compatible with human rights principles, in particular, the right to an effective remedy. This law represents a paradigm shift, which may, if properly implemented, lessen the burden of proof for victims. While I am optimistic that this law will be implemented successfully for wider number of victims, there is much wider range of victims that face an overwhelming burden of proof that I understand is not within the scope of this Act.

As reflected in the UN Guiding Principles on Business and Human Rights, businesses have a responsibility to respect human rights. This includes both the responsibility to undertake due diligence and to help realize an effective remedy. I understand that the Republic of Korea is developing a National Action Plan on the responsibility of businesses to respect human rights, and I hope it pays adequate attention to the issues raised by hazardous substances and wastes.

The realization of an effective remedy requires both compensation for harms and measures to prevent reoccurrence. In both the case of workers at Samsung Electronics and consumers of the humidifier disinfectant, victims are demanding both compensation and prevention. It does not seem that the companies involved are at all interested in discussing prevention in any meaningful manner. Instead, it appeared that the urgent need of victims for essential health care and other expenses is being used to circumvent the prospects of increased scrutiny into whether businesses are taking steps to prevent reoccurrence and are transitioning toward the development and use of safer chemicals.

Along these lines, the recent developments in the mediation process between workers and Samsung Electronics are deeply troubling. The unilateral decision to establish an internal "Compensation Committee" within Samsung Electronics without any indication of how prevention will be addressed does not reflect well. The three mediators appointed by Samsung Electronics and the victims did not recommend an internal body focused solely on compensation of victims. Rather, the mediators recommended an external body focused on both prevention and compensation. Although the Compensation Committee is by no means a Grievance Mechanism, under the UN Guiding Principles on Business and Human Rights and international best practices for the resolution of disputes, processes for compensation must be legitimate, transparent and source of continuous learning, among other elements. I look forward to receiving further

information about how the “Compensation Committee” is in line with international human rights standards.

Korean businesses have quickly emerged as technological leaders over the past few decades. With this growth, not only come greater responsibilities and challenges, but also greater capacity to innovate, to enable a transition to safer homes, cleaner workplaces and healthier communities. I look forward to seeing Korean businesses emerge as leaders in this transition and also look forward to the Korean Government’s effort to better enable this.

I will present in more detail of my analysis, assessment of the situation and recommendations in my report to the Human Rights Council in September of 2016.

Thank you again for the invitation to visit the Republic of Korea and the open and honest discussions we have had over the past two weeks.

- See more at:

<http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=16639&LangID=E#sthash.lt15u4TI.dpuf>

■ Updates of Changes in Korea

1. Environmental pollution on U.S. military bases and restrictions on the right of access to information

More than 80 U.S. military bases in the Republic of Korea will be returned or relocated from 2003 to 2017. The sites of U.S. military bases returned to the Republic of Korea are heavily polluted with oil, heavy metals, wastes, etc. and are also located close to residential areas. However, it is near impossible for local residents to obtain this information before the bases are transferred, because the Korean government restricts the disclosure of information on grounds that an agreement has not been reached with the U.S. military. The environmental problems associated with the Yongsan military base, located in central Seoul, have been the subject of controversies. In 2015, benzene levels of 9.707ml/L (646 times higher than the permissible levels in Korea of 0.015) and TPH levels of 12,950ml/L (8,600 times higher than the permissible levels in Korea of 1.5) were detected from the groundwater flowing outwards from the Yongsan military base. It was only after the local residents and environmental organizations continuously brought up the issue that the Korean government and U.S. military conducted a survey on the internal source of pollution. However, the results were not made public and local residents and environmental organizations filed a suit against the Ministry of Environment for the disclosure of information. The court ruled that the information should be released, stating that an agreement between the Republic of Korea and United States, in the form of an annex not ratified by the National Assembly, cannot limit people's right to know. However, the Ministry of Environment has lodged an appeal in July 2016 and the information on pollution remains undisclosed.

2. Environmental pollution on air force shooting range in Boryeong

The Korean air force base in Boryeong was used as a U.S. military base for the past 20 years. Many local residents living near the base are suffering or have died from cancer, and people have pointed to the pollution from the air force base as the cause. Although the central and local governments conducted an environmental survey, the methods used and results of the survey were insufficient. In 2016, the private and public sector joint consultative group for the resolution of the issues of environmental damage caused

by the air force shooting range in Boryeong, which consists of the local government, local resident committee, environmental organizations, and private research institutes, decided to conduct a detailed investigation on environmental pollution and an epidemiological survey on residents' health. Even though the joint consultative group proposed that the Ministry of National Defense participate in the investigations and in seeking solutions, the Ministry refused and investigations are currently being conducted without the participation of the central government.

3. Groups at risk: irregular workers

In the Republic of Korea, irregular workers are often the victims of chemical leak accidents. In 2015, 20 irregular, fourth-level sub-contracted workers were victim to mercury poisoning in Gwangju Namyong Lighting Co. In 2016, five young workers in their 20s lost their eyesight and suffered from brain damage due to methanol poisoning. They were illegally dispatched by subcontractors supplying cell phone components to Samsung and LG. Furthermore, the victims of hydrofluoric acid leaks at a Samsung Electronics plant (1 person), argon gas leaks at a Hyundai Steel plant (5 persons), and sulfuric acid leaks at Korea Zinc's plant in Ulsan (2 persons) were mostly sub-contracted workers. However, no changes have been made to current legislation, and sub-contracted workers have not been able to participate in the process of accident investigation or establishment of measures to prevent recurrence.

4. Sprawl development in Gimpo

The environmental issues in the Geomuldae-ri and Chowonji-ri areas in Gimpo are prime examples of environmental injustice, as factories emitting hazardous substances were installed in areas that were easy targets for development and caused damages to the environment and residents' health. If the installation of hazardous facilities is concentrated in a certain area, there is a high possibility that the living environment will deteriorate and real estate prices will fall. The drop in real estate prices will allow more hazardous facilities to be easily established, which will then create a vicious circle that will perpetuate environmental injustice and intensify the damages to the community and local residents. The Special Rapporteur on hazardous substances and wastes visited this area during his mission to the Republic of Korea in October 2015 and heard what the local residents had to say about the change in the position of government agencies and corporations, and the situation in which there were not protected by existing laws

and policies. The Special Rapporteur urged the government to provide effective remedies to the residents and establish measures to prevent recurrence. Despite the fact that an environmental epidemiological survey was conducted from May 2014 to Oct. 2015 in the area, and the damages caused to the residents' health and soil pollution were confirmed, the central and local governments have only implemented temporary measures, for instance environmental crackdowns, rather than providing fundamental solutions such as remedies for residents or the separation of residential and industrial areas.

5. Air pollution in Dangjin

This year, the Ministry of Environment announced that companies emitted a large amount of air pollutants and contributed to Dangjin's air pollution in 2015.

6. Wolseong residents' exposure to tritium

At the end of 2015, the residents of Wolseong commissioned a local environmental group that monitors the Wolseong Nuclear Power Plant to conduct an investigation on local residents' exposure to tritium. According to the outcomes of the investigation, an average of 17.3Bq/l of tritium was detected in all 40 subjects. Among the subjects, there were nine children and adolescents (age 5 to 19).

Participating Organizations

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