

**Internalization of Business and Human Rights Norms -Case Study: Conflict Minerals Regulation and African Great Lakes Region-**

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**I. Summary**

This activity report summarizes the achievements and findings from my 5.5 months fieldwork in Rwanda, financially supported by GLTP 2018. My research interest has been a political process of institutionalization, especially that process which business actors as non-state actors participate in. My research project focuses on the institutionalization process of 'Business and Human Rights (BHR)' norm. The research question is 1) how this BHR norm has been developed and internationally institutionalized, and 2) considering the North-South power balance as its background, how this BHR norm and institution have influenced the South states which are mainly located in upstream of supply chains, and finally, 3) how the non-state business actors have involved to those processes. This time, focusing on the case of Rwanda, which successfully internalized the institution corresponding to increasing international demands for conflict minerals regulation, I conducted my fieldwork in Rwanda, mainly the capital city, Kigali. I am trying to theorize the process that business actors put the norm into practice, which causes frictions with the local situation.

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<概要> 「ビジネスと人権規範の内面化—紛争鉱物規制とアフリカ大湖地域を事例に—」

本報告書は、報告者が2018年度GLTPの助成を受けてルワンダにおいて実施したフィールド調査の成果をまとめたものである。報告者は、国際的な制度が構築されるプロセス、中でもそれに非政府組織である企業が参加する政治過程に学術的関心を持つ。特に関心を向けているのは、2011年に国連人権理事会において承認された「国連ビジネスと人権に関する指導原則」に代表される「ビジネスと人権」規範が、主にサプライチェーンの上流に位置するアフリカの国々にどのように受け止められ、その各国でどのように制度として内面化が進められているか、そしてその過程で企業がどのような役割を果たしてきたのか、という点である。今回は、国際的な紛争鉱物規制の取り組みの強い影響を受け、国際的な規制が要求する制度を国内で構築することに成功したルワンダを分析対象に取り上げ、ルワンダの首都キガリを中心に半年間の実地調査を行った。企業が規範を実践に移す過程で、その実践が現地の状況と齟齬をきたしてしまう構造の解明を試みている。

## **II. Research Activity**

### **1. Introduction**

My research interest has been a political process of institutionalization, especially that process which business actors as non-state actors participate in. My research project focuses on the institutionalization process of ‘Business and Human Rights (BHR)’ norm. The research question is 1) how this BHR norm has been developed and internationally institutionalized, and 2) considering the North-South power balance as its background, how this BHR norm and institution have influenced the South states which are mainly located in upstream of supply chains, and finally, 3) how the non-state business actors have involved to those processes.

Academically, these research questions on institutionalization are somehow orthodox in political science, but in terms of the focus on the role of non-state business actors, and BHR issues which have been mainly discussed by international human rights lawyers will put new findings and analyses. Not only that, this series of research will also have practical implications, such as lessons to promote BHR norms and practices globally, taking into account their negative impacts on the south states as well.

This time, focusing on question 2) and 3), using the case of Rwanda, which successfully internalized the institution corresponding to increasing international demands for conflict minerals regulation, I conducted my fieldwork in Rwanda, mainly the capital city, Kigali.

Human rights abuses by business actors are increasingly paid attentions by international society, and business actors are required to be responsible for their activities. The norms of BHR are directly related to various development goals in SDGs, especially Goal 8 (Decent Work and Economic Growth) and Goal 12 (Responsible Consumption and Production). My research under GLTP 2018 will contribute to a realization of decent work and an ethically responsible supply chain by promoting BHR norm diffusion and pointing out the need for correction of the negative impacts of business-oriented human rights norm diffusion.

### **2. Study Area**

The idea of BHR has been developed since the 2000s especially by international law experts, in response to increasing accusations against human rights abuses committed by business enterprises in the 1990s. BHR is symbolized by the establishment of the UN Guiding Principle of BHR (UNGP) approved by the UN Human Rights Council in 2011. UNGP clarified the responsibilities of business enterprises regarding human rights saying that wherever they operate in the world, they need to respect human rights recognized by international human rights law, especially in the Universal Declaration of Human Rights, International Covenant on Civil and Political Rights, International Covenant on Economic, Social and Cultural Rights, and ILO Core Labour Standards. Thus, international society started tackling business-related human-rights abuses and correcting the excesses of capitalism.

New-born ‘norms’ are supposed to experience their life cycle, launched by norm entrepreneurs, followed by increasing supporters, and internalized by many actors (Finnemore and Sikkink, 1998)<sup>i</sup>. Similarly, BHR was launched by norm entrepreneurs like constructivist John Ruggie. Today, an increasing number of states and business enterprises follow and internalize UNGP through legislation and policymaking. However, there is variation in the level of internalization among states and industries. Some

states quickly internalized the institution corresponding to the demands such as UNGP, and successfully maintained and strengthened their access to the international market. As a result, BHR norms expanded their coverage. On the other hand, other states are failing to internalize and losing their access to the international market. This sometimes causes socio-economic crises and the most vulnerable people suffer. This time, it is important to note that there is a power balance between the North and South in background. Although BHR norm development and institutionalization are supposed to benefit the South where many business-related human rights abuses are happening, it can be said ironically that the South is forced to follow BHR by the neo-colonialistic North. International society needs to be aware of these negative aspects as well.

Existing literature has already revealed those positive and negative sides (for example, Michida, 2014)<sup>ii</sup>, but there are few studies which have explored reasons for this variation. For instance, Bradford (2012)<sup>iii</sup> attributed the reason why some states in the South quickly responded to BHR to the political power of the North. However, it is necessary to see not only the nature of the norms and entrepreneurs but also the nature of influenced states and industries. This research aims to figure out the independent variables in the South local stakeholders' side, which cause this variation.

Also, in terms of research question 3), the role of non-state business actors in international institutionalization has been academically paid attentions by various scholars (for example, Green, 2013)<sup>iv</sup>. However, the influence of international business actors to local politics in the South is underresearched.

### 3. Methodology

This research use one case study focusing on one specific policy issue under the umbrella of BHR. The case regards the conflict minerals regulations which started to garner attention because of the conflict in the Democratic Republic of the Congo (DRC). Conflict minerals are mineral resources which have been illicitly exploited by various actors in conflicts and which have fueled violence and human rights abuses. The UN, the OECD, and several states (especially the US and EU) have both independently and interactively tried to regulate the mineral trade to prevent illicitly exploited minerals from flowing into the international market since 2001. This global regulation scheme materialized under UN Security Council resolutions, OECD guidance, and finally US domestic law in 2010. States and business enterprises are now required to adhere to this whole system of conflict minerals regulation. Developments of the norm and international institutionalization have continued since 2011 under the UNGP. In this process, non-state business actors have strongly involved.

However, in this conflict-minerals issue, the level of internalization varies in each state. For instance, Rwanda, which has been accused by international society of involvement in illicit conflict minerals for a decade, quickly established the first national mineral certification scheme in this African Great Lakes Region with the cooperation of business actors. As a result, Rwanda became the only state in this region to enjoy country-wide, relatively unrestricted access to international markets for its mineral exports, whereas neighboring countries' exports suffered significantly (Schütte et al., 2015)<sup>v</sup>. The DRC issued a presidential order to stop all mining operation in the Eastern DRC where armed groups are still active (Cuvelier et al., 2014)<sup>vi</sup>, in order to demonstrate its political will to solve this problem. However, these actions generated a huge socio-economic crisis among the population dependent on mining and delayed internalization in the DRC. This variation is political phenomena worth being researched to learn lessons of how to promote forthcoming norms without negative impacts.

Because of the financial and security restriction, the research project under GLTP 2018 concentrated on the analysis of Rwandan case only. I tried to get first-hand information on how and why Rwanda successfully internalized the institutions corresponding to international demands, and how the non-state business actors have involved in this process. Then I analyzed them. It is necessary to get the information on other states in the same region, but I also challenged to find implications which can be used to answer general questions about the internalization of BHR norms.

The research methods I used were a literature survey (looking at academic papers, official reports issued by certain organizations, newspapers, parliament records, etc.) and field research. To closely look at the process of institutionalization, I should see the discourse and practices both in the North which mainly located in downstream of supply chains, and in the South, which mainly located in upstream of supply chains, and their interaction. However, there are huge problems on a literature survey, especially regarding the South. First, the amount of information which I can access through online sources is limited. It is difficult to gain access to parliament records or administrative records in Rwanda and its neighbors. Also, information related to business is normally confidential. Second, some literature is heavily biased because the publishers (ex. governments, NGOs, industry groups) have important interests over the issue of conflict minerals.

To overcome these problems, I conducted open-ended interviews with local stakeholders in the Rwanda mining industry to see social and constructive impacts on local stakeholders. The number of interviewees was more than twenty, selected from cohorts of current and ex- officials, the third-party auditing organizations, and people in the mining business, who know current situation and past when that internalization happened. I could not contact to any politicians face to face, but it was complemented by some email exchanges with them and parliament records which record their comments at that transformation time. Also, I visited three mining sites near Kigali.

#### 4. Research Findings

In this following two sections; Research Findings and Discussion, I will try to be simple just to avoid duplication in other academic publishing.

Corresponding to research question 2) abovementioned in the introduction, I found that the government of Rwanda utilized the pressures and demands from international society to boost its internal mining industry. Since plenty deposit of minerals had been easily available in eastern DRC very next to Rwanda, Rwandan people had preferred trading and sometimes smuggling minerals from DRC to invest in internal mining sites. The chaotic situation brought by increasing international pressures was a good opportunity for Rwandan government to switch people's business interest from DRC minerals to Rwandan local minerals. Amid increasing accusation against Rwanda, the Rwandan government conducted several explorations of deposits with multinational extractive companies and found more than twenty potential sites. As a result, this boosted Rwandan mining production in the early 2010s. However, there are still remaining loopholes, and antipathy against de facto embargo by international society mainly the government of the US in the air among the officials and local actors in the mining industry.

Also, corresponding to research question 3) on the role of business actors, I found that although Rwandan government took its initiative in mineral traceability and certification, the involvement of the non-state business actors was not a trivial thing. In 2010, the US legislation which requires mineral traceability and certification brought panic to the Rwandan mining industry. Just two months later, the

Rwandan government signed MoU with ITRI (International Tin Research Institute) to develop its own mineral certification system without negotiation on the costs. It should be noted that, at that time, the Rwandan government had no option other than answer international pressures which mainly led by strong downstream states. Since then, ITRI Tin Supply Chain Initiative (iTSCi) is dominant not only in the Rwandan mining industry but also the international market. The Rwandan mining industry is paying a cost for implementation of iTSCi, and systematically, ITRI maintains power in decision-making Rwandan mining industry. In 2015, under the MoU with the Rwandan government, alternative traceability system, using digital data collection, Better Sourcing Program (BSP) was offered by RCS Global. However, BSP is facing difficulties to expand its share because of iTSCi's dominance in the international market.

## 5. Discussion

Abovementioned role of business actors in norms and policy diffusion is worth being discussed. Through this case study in Rwanda, the following scenario can be drawn.

With their own plenty technical knowledge and information, business actors much helped international organizations and states actors to develop their norms and put them into practices. However, simultaneously, business actors standardized those practice in the logic of efficiency and competition. To reduce the compliance cost, business actors try to globally standardize and follow the same procedures of cargo-tracking. On the other hand, whether they are efficient and fit to the local situation or not, the procedures which are supported by the small number of dominant business actors in industry win to be a global standard. Also eventually, since business actors are not the professional of BHR, the procedures or practices of norms themselves get to be recognized as norms. As a result, the norm is translated into the practice which cannot achieve what the norm meant to.

Causal relationship of the business logic and inefficient regulation is not yet confirmed, but also there are some mismatches between the reality in the mining industry and international regulatory practices. Through several site visits, I have learned the nature and reality of the mining sites, which lead to various difficulties to control mineral supply chains and cause some risks and loopholes in cargo-tracking. Mining sites are huge area consist of several hills and local people are living between mining tunnels. Although controlling all area is beyond the capacity of private companies, environment protection and local community empowerment are obliged for private companies.

## 6. Conclusion

Through this filed stay, I found that BHR norm has been diffused globally and strongly has influenced so much to upstream countries like Rwanda in a way of restricting their options. Also, I estimated that when BHR norm is transformed into practice level, seeking efficacy and competitiveness, it may be standardized and result in friction with the local situation, and in the worst case, the essence of BHR may be trivialized. Further analysis is needed for the theorization of business role in norm and policy diffusion.

### **III. Reflection to the GLTP in Africa**

#### **1. My motivation to participate in the GLTP**

At first, my motivation to participate in the GLTP was simply to obtain a research budget and pursue my PhD research project. For my research project, it is necessary to conduct a deep network building and repeated interviews. Financial and managerial support from GLTP enabled me to spend plenty of time in the field. This stay was so much helpful for me to develop my PhD research project.

However, not only that, participation in the GLTP was also beneficial for me to extend my research experience in the field to my career-building strategy. The reporting procedures of GLTP required me to rethink my research project and field stay from perspectives of my future career as an academia or a practitioner and my possible future contribution to society in Africa. Because of that, I could take my opportunity in the field for networking with local stakeholders, and officials in international organizations. I could find many role models in Rwanda to draw my future plan.

#### **2. Field experiences**

Research stay under the GLTP was so much fruitful for me both academically and practically. Especially, I'd like to express deep thanks to my local supervisor and his colleagues. Without his support, it was impossible for me not only to pursue my research project in Rwanda, but also to build a network with local professors, researchers, and some practitioners in the mining industry. He also offered me local literature lists related to my research project which is quite difficult to find for me as a foreigner. At the end of my stay, he invited me to his book launch conference "Home-Grown Solution" at the national library. This opportunity was also helpful for me to know the local academic atmosphere and local perspective, and to think about my future career plan. Thank to this networking with him, I could have a good relationship with local researchers for a future research project. His colleague also so much helped me to visit key persons in mining and several mining sites. Their assistance enabled me to access local first-hand information and to understand the reality in the mining industry.

Also, this field experience allowed me to deeply understand the nature of mining itself. I spent most of the time in Rwanda with geologists and businessman in the mining industry. They taught me their own logic and languages as mining stakeholders. This kind of information is only available in the field study, but not in a literature survey.

#### **3. Challenges**

There were various challenges in the field research. Despite the long preparation period before departure, it took much time to finalize any required procedures. Most of the appointments were delayed, and in the worst case, cancelled in last minute of appointment. It was also difficult to make my research objectives understood by local research cooperators, since most of them are businessman or geologists who are not familiar with political matters. I tried to explain carefully before the interviews.

Not only in research, but I also faced stressful moments so much in daily life. Talking about genocide issues is a kind of taboo in Rwanda. However, in a various moment, I frequently faced weird silence, unease feelings hidden in the veil of national unity, and horrible memories of local communities. Although I wanted and tried to understand what has happened in Rwanda and people's feeling against genocide, it was too much painful experience for me to live amid silence and veil of unity in a post-conflict society.

Although I had visited Rwanda two times before this stay, long stay at an unfamiliar city was mentally and physically tough for me. However, thanks to the existing network with local people I obtained in previous stays, I could finish my research in the field mentally healthily somehow. Throughout my stay in Rwanda, I was supported by many local people, including youths working in local markets, researchers, officials, and local stakeholders in the mining industry. Sometimes, joining to Japanese community consist of volunteers and embassy staffs made me relax, not only getting information on career development. Besides, my local supervisor and his colleagues not only supported me academically but also encouraged me so much who was getting tired in daily life at Kigali.

#### 4. How to make use of this experience to my future career development

This experience let me know my own character and competencies. Before this research stay, I did not decide my future career, whether to be a researcher or to be a practitioner such as an official in an international organization. However, throughout this stay, I could hear from various role models from both sides. This experience told me that I should choose career as a researcher. Even after I decide my career as a researcher, this experience and network in Rwanda may help me to develop my career, I think.

#### 5. Encouragement to other students

For other students who are planning to join the GLTP, I strongly recommend building the network as much as possible before your application and long-term field study. I faced so many difficulties in the field, but every time I could overcome those challenges with local cooperators.



**The author at mining site**



**Minerals after washing**



**Mining area**



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