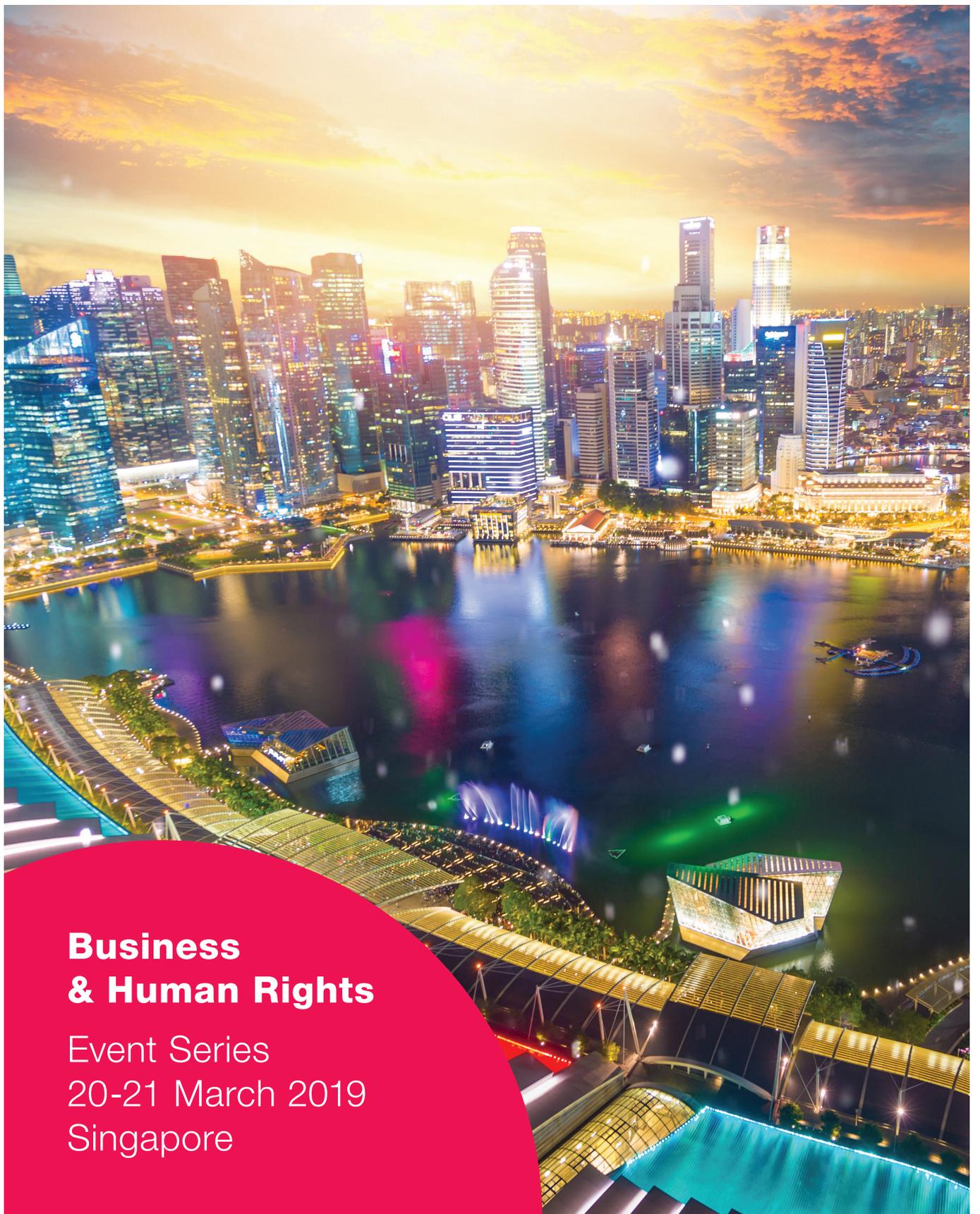


Insights Report



Business & Human Rights

Event Series
20-21 March 2019
Singapore

Events series

On 20 and 21 March 2019, the Global Business Initiative on Human Rights (GBI) and the World Business Council for Sustainable Development (WBCSD) convened in Singapore a unique series of practitioner dialogues on business and human rights.

These discussions brought together more than 30 business leaders and civil society representatives to explore:

- Key business and human rights priorities in Singapore and Southeast Asia
- The role of top-level corporate leaders in driving action
- Real-life approaches to implementing human rights due diligence processes
- Emerging trends and developments in policy, law and regulation
- Opportunities for cross-stakeholder dialogue and collaboration

Business and human rights in Southeast Asia

Southeast Asia is home to a number of vibrant and rapidly growing economies, and a large, increasingly mobile population that is ethnically, linguistically and culturally diverse. Recent decades have been characterised by a strong focus on economic development. Now, focus on human rights and human development is growing rapidly.

Awareness of business-related human rights challenges, in particular, is increasing amongst business, government and civil society, driven by international pressure (particularly from foreign investors and multinational companies operating in or sourcing from Southeast Asia) as well as growing demands for better conditions at a local level. Key challenges facing companies include modern slavery, health and safety, working conditions, pollution, civil and political rights, land rights, community impacts and access to remedy for victims of human rights abuses.

There is increasing momentum behind efforts to address business and human rights challenges. Whilst many companies in the region are at the early stages of their human rights journeys, there are a growing number which are serious about addressing challenges and are innovating to find effective ways to build internal know-how and engage with business partners and other stakeholders to address complex and systemic challenges. Governments are also stepping up their engagement with business and human rights-related challenges and are working to develop policy and legal frameworks to address priority issues.

The increased energy and focus on these issues created a timely opportunity for GBI and WBCSD member companies and others to come together to share experiences, insights and practices.

Key themes and insights

Companies are seeing the business benefits of engaging with human rights challenges – and are increasingly taking steps to integrate human rights due diligence processes.

Workers and consumers are also increasingly demanding human rights for workers: This push from the ground up is a new development that has emerged in recent years. It is increasing the pressure on companies to engage with human rights-related challenges. It is also increasing the pressure on governments to demonstrate leadership, set stronger standards and ensure both new and existing regulations are enforced. Workers and consumers around the world are also increasingly aware of other areas of a company's human rights performance (i.e. beyond workers' rights) and in some instances are protesting controversial decisions made at the top levels of the business. Practitioners observed that social media plays an important role in individuals' increased willingness to stand up for a cause, by providing a powerful platform for social validation.

Companies in the region are at different stages of their human rights implementation: Some companies have a sophisticated understanding of their human rights responsibilities and are working to strengthen and scale the policies and processes they use to manage human rights risks. Many others are much newer to engaging with these challenges. They are increasingly aware of the value of doing so – and of the risks to people and the business of not doing so – and are looking for opportunities to build their know-how and capacity and accelerate their work.

Several participants shared their companies' human rights journeys: For example, one multinational company began by undertaking a human rights impact assessment at group level and used this to develop a human rights strategy and priorities. It has since advanced this work in a number of areas, including to build internal know-how and capacity, train and work with business partners to address key risks, and incorporate a human rights lens into key areas of business decision-making. Another company began its human rights work by focusing on modern slavery, in response to the company's – and its customers' – growing awareness of these risks in its industry. It developed and implemented a process to identify modern slavery-related risks in its supply chain. It then established an internal board to oversee its efforts to address challenges that had been identified. It also worked collaboratively with peers at an industry level to take steps to prevent and mitigate the risk that workers in its supply chain could be in a situation of modern slavery.



Key practical insights

The UN Guiding Principles on Business and Human Rights are a key reference: They set a challenging standard but are pragmatic. By working towards meeting the expectations set out in the UNGPs, companies can position themselves to meet stakeholders' expectations as well as emerging legal and regulatory requirements.

Tone from the top is key: Strong buy-in at senior leadership level is needed to ensure that efforts to manage human rights-related challenges are properly prioritised and resourced, and to create a strong mandate for those leading this work. Participants emphasised the need for strong internal support in order to implement human rights due diligence processes.

Human rights strategies should reflect key risks and challenges: Participants noted the value of taking time to understand the company's key human rights risks and challenges before developing a strategy on human rights. Importantly, companies should prioritise their salient risks – that is, those that present the greatest risk to people. Where relevant laws or stakeholders' expectations point towards other, less salient, human rights risks, companies should ensure that sufficient focus is also being given to their most salient risks.

Training and capacity building will be needed: Managing human rights-related challenges effectively requires companies to build knowledge, buy-in and coordination across a broad range of teams, functions and business units. Training programmes can help build basic familiarity with the company's human rights responsibilities. However, more tailored capacity building is likely to be needed – particularly amongst the company's leadership and key implementation teams. Cross-functional committees can help boost coordination and ensure different parts of the business are working together.

Human rights due diligence should be ongoing: Companies should implement human rights due diligence processes to identify and address human rights-related risks. These processes may focus at different levels – for example, a corporate level risk mapping exercise can help a company identify its salient human rights challenges. Processes to assess human rights risks at a country, product, site/project or business partner can generate more in-depth information about the company's human rights risks. Importantly, human rights due diligence should not be a one-off activity, but an ongoing process – recognising that a company's human rights risk landscape will change over time as its business and operating context evolve.

Human rights risks in the value chain are a priority for many companies: A number of participants emphasised the need to prioritise risks in business relationships – particularly in their supply chains. Different industries face different challenges here. However, approaches to engaging more deeply with business partners (and their workers) discussed include questionnaires and audits, worker voice apps, supplier training programmes and site visits (including both visits to suppliers' sites, and arranging supplier visits to the company's own facilities). Participants noted the limitations of audits and questionnaires.

Companies have a role to play when things go wrong: Companies are expected to establish grievance mechanisms and to play a role in resolving grievances and ensuring affected people have access to remedy. In these situations, good communication is critical. It also creates an opportunity to engage meaningfully with affected people and build trust.

An initial focus by companies (and their stakeholders) on labour rights or environmental challenges should broaden over time to encompass the full range of human rights.

Companies in Southeast Asia are increasingly focused on sustainability and ESG: Participants observed that the terms ‘sustainability’ and ‘ESG’ (environment, social and governance) are being increasingly used by companies, governments and civil society organisations in Singapore and Southeast Asia. This is a positive development and reflects growing interest in addressing the adverse impacts of business activity and encouraging responsible business conduct. However, participants also observed that there is a much stronger focus on, and comfort with, the ‘E in ESG’ – that is, with environmental challenges. Participants noted the importance of strengthening comfort and practice addressing social (human rights) risks and issues as well. Focusing on the linkages between different types of risk can be one way to start this conversation. For example, environmental challenges are often also linked to social risks, such as where pollution or waste water management adversely affect communities and their wellbeing.

Modern slavery and workers’ rights can provide an entry point to human rights: Some companies (and other organisations) in Southeast Asia begin working to address human rights-related issues by focusing on modern slavery and other workers’ rights challenges. In part, emerging laws such as the UK and Australian Modern Slavery Acts are driving this focus. Even where a company operating in Southeast Asia is not directly required to comply with modern slavery legislation, it may experience pressure from customers that are required to comply. However, it is important for companies (and their leaders) to recognise that companies’ responsibilities go beyond working conditions and encompass all adverse human rights impacts. It is important that – over time – companies broaden their focus to include all human rights issues. While relevant legal frameworks may not (yet) require this, doing so positions the company well to meet their responsibility to respect human rights and meet stakeholders’ expectations.

Some companies and organisations in Southeast Asia can be uncomfortable talking about human rights – although the situation is shifting.

Companies can progress efforts to address these issues by using more operational language: Participants observed that it can be more effective to break down human rights concepts into more operational language – particularly when discussing these issues with colleagues and business partners. For example, talking about passport retention, dormitory conditions, health and safety, and privacy – can be more effective than talking about human rights. These terms are not only less sensitive, they are also clearer and likely to be more familiar, particularly to colleagues.

Companies see significant value in working collaboratively to address human rights challenges in Southeast Asia.

Companies can benefit from working together in multiple ways: Working together helps companies accelerate their efforts to implement respect for human rights – regardless of whether they are just getting started, or already have sophisticated policies and processes in place. Opportunities to share insights, experiences and practices with others – and to learn from them in turn, help speed up companies’ journeys and avoid each company reinventing the wheel. Companies also benefit from working collectively, including at an industry level, to solve specific problems, increase their visibility of the value chain and build leverage to influence key business partners or other stakeholders. Examples of collaborative sectoral efforts relevant to Southeast Asia can be found in the electronics, rubber and tourism industries.

Broader coalitions for change can be effective when tackling complex systemic challenges:

Multi-stakeholder collaboration can be key to addressing complex and systemic challenges, such as modern slavery, that no one stakeholder can solve alone. By working together, companies, governments and civil society organisations can develop a stronger understanding of the problem and build (and implement) more effective solutions. For example, the progress made in recent years to address modern slavery and related challenges in the fishing industry in Thailand reflects the engagement of a broad range of stakeholders, including the Thai government, EU officials, local companies, foreign companies, civil society organisations, media and news outlets and investors.

Southeast Asian governments are increasingly focused on addressing business and human rights challenges, including through national and regional policy frameworks.

Government appetite to implement the UNGPs is growing across the region: The governments of Thailand, Malaysia and Indonesia are currently developing National Action Plans (NAPs) on Business and Human Rights. NAPs typically set out the steps the government proposes to take to advance implementation of the UNGPs – including through policy, regulatory and other measures. One participant observed that the Thai government has taken a particularly strong approach, undertaking an exemplary consultation process and considering a broad range of issues, including relating to land rights, migrant workers and human rights defenders, as well as risks concerning strategic lawsuits against public participation (SLAPPs).

An increasingly engaged electorate is helping drive government leadership: Younger voters are more aware of, and interested in, business and human rights-related challenges. Social media is also driving and empowering stronger voter engagement with these issues and improving access to information about adverse impacts connected with business activity. These developments are raising government awareness of voters’ views, which in turn has likely contributed to the stronger focus on human rights by political leaders in Malaysia, Thailand and elsewhere. However, these positive developments have been accompanied by a shrinking space for civil society in some parts of the region. That said, participants observed that there has been a noticeable shift in the political environment; people are no longer satisfied with ‘business as usual’.

Governments in Southeast Asia are also facing increasing international pressure:

Foreign investors are a powerful force for change in the region, bringing a strong interest in ensuring that business and human rights-related risks are being managed effectively. Trade and human rights are increasingly linked, with the EU reviewing the human rights records of some countries in the region as part of trade negotiations, which generated surprise across the region. Multinational companies are also exerting pressure, flowing from their own need to manage the risk of being linked to adverse human rights impacts (including regarding modern slavery) in their value chains. Southeast Asian governments are increasingly aware of the human rights-related risks in key industries, and the implications of this for their future economic development.



The legal landscape is evolving, and companies are increasingly required to comply with mandatory human rights reporting and due diligence requirements.

The business and human rights legal landscape is evolving: One participant observed that this evolution can be understood through several distinct phases. Initially, international standards and ‘soft’ law. These were followed by increasing use of litigation to strengthen corporate accountability. At present, mandatory reporting and human rights due diligence requirements are increasingly being introduced. The next phase may focus more strongly on corporate criminal liability. There is a clear trend towards the ‘hardening’ of expectations regarding companies’ human rights responsibilities. While the majority of mandatory reporting and human rights due diligence requirements have been developed by Western governments, it is likely that these will be more widely taken up in the coming years. Further, growing pressure for companies to manage human rights challenges across their value chains is driving the integration of human rights requirements into contractual agreements. The ‘web of liability’ is also increasing, with lawyers and civil society organisations making innovative use of existing legal frameworks to promote accountability for business-related human rights impacts.

Southeast Asian companies should consider both international and local developments: Companies in Southeast Asia would be well-advised to track developments around the world – such as emerging regulation in Europe, the US and Australia, even if they are not directly subject to these requirements. By following the regulatory direction of travel around the world, companies can ensure they’re well-placed to meet any new (local) requirements that they may be required to comply with in future. More immediately, companies in the value chains of Western companies required to comply with European, US and Australian laws are likely to face stronger expectations from these companies, as they work to provide assurances to their own stakeholders that they know and are responding effectively to human rights impacts in their value chains. Companies should also be mindful of the changing legal environment in Singapore and Southeast Asia. Whilst there may be few explicit ‘business and human rights’ regulatory requirements in place, there are (increasingly) domestic requirements relevant to companies’ human rights performance – including corporate laws, CSR laws, stock exchange reporting requirements and mining regulations, among others. Implementation of these laws may be patchy, but this situation may shift as pressure on governments to address these challenges increases.

Companies should aim to meet the standard set out in the UNGPs: Business and human rights-related regulation tends to be narrower in focus and expectation than the UNGPs. For example, it may focus primarily on reporting and disclosure or on a specific human rights issue, such as modern slavery. However, companies would be well-advised to take a holistic approach to implementing respect for human rights as set out in the UNGPs to ensure a consistent and coherent approach to legal compliance and – importantly – to meet growing stakeholder expectations, which are increasingly set by reference to the UNGPs. Companies should be aware that there are ongoing discussions about whether emerging regulatory requirements are effective, and stakeholders may expect companies to do more than comply with legal requirements. Emerging regulatory requirements are also likely to increase the role of corporate lawyers in companies’ human rights programmes. This presents a potentially powerful opportunity to leverage the influence of in-house legal teams with senior management. Some companies have found it helpful to build a stronger collaborative relationship between their legal and corporate responsibility teams, and a shared understanding of the companies’ human rights responsibilities and priorities.

Looking forward

Demonstrated leadership – by companies and by governments – is needed to help accelerate efforts to address business and human rights challenges in Southeast Asia.

Human rights challenges are an increasing priority for companies and other stakeholders:

Awareness of the human rights challenges confronted by companies operating in Southeast Asia is growing rapidly, as is pressure for companies and governments to take effective steps to address these. However, many companies feel more comfortable moving together. There is a real need – and an opportunity – to profile those companies in the region which are serious about meeting their human rights responsibilities and support them to take a leadership role. Visible leadership from companies is needed to scale engagement across the business community – and to support stronger engagement by government. Pressure from foreign investors is helping create broader conditions for change, but local voices and leadership are also needed. A focus on business resilience and the value respect for human rights creates for workers, communities and consumers may offer a strong case for action.



Event organisers

- [Ron Popper](#), CEO and [Catie Shavin](#), Director, Global Business Initiative on Human Rights
- [Kitrhona Cerri](#), Director Social Impact, and [Davide Fiedler](#), Manager, World Business Council for Sustainable Development

SINGAPORE DIALOGUES ON BUSINESS AND HUMAN RIGHTS

LEADERSHIP ROUNDTABLE

CEO ACTION FOR BUSINESS AND HUMAN RIGHTS

A breakfast roundtable to discuss key regional business and human rights priorities and the role of top-level corporate leadership in driving action to advance respect for human rights.

BUSINESS WORKSHOP

HOW BUSINESS CAN MANAGE HUMAN RIGHTS RISKS

A full-day practical workshop for business representatives to discuss key regional business-related human rights challenges and real-life approaches to implementing human rights due diligence processes.

Keynote address: Key regional trends and developments

- Simon Tay, Chairman, Singapore Institute of International Affairs

Regional human rights priorities and challenges for business

What business practitioners need to know about key standards

Practical approaches to human rights due diligence

- Tony Khaw, Director, Corporate Social Responsibility, NXP
- Russell Vickers, Senior Director, Compliance – APAC, Hilton
- Samantha McCrea, Partner, Environmental Resource Management

Dealing with issues and demonstrating progress

MULTI-STAKEHOLDER WORKSHOP

KEY BUSINESS AND HUMAN RIGHTS TRENDS IN SINGAPORE AND SOUTH EAST ASIA – AND AT AN INTERNATIONAL LEVEL

A practical discussion for business, government and civil society representatives to explore key legal requirements, as well as emerging trends and developments in policy frameworks.

Keynote address: Regional trends, developments and priorities

- Thomas Thomas, CEO, ASEAN CSR Network

Key business and human rights legal and policy developments

- Sumi Dhanarajan, Associate Director – APAC, Forum for the Future
- Sean Lees, Business and Human Rights Specialist, UNDP Asia-Pacific

MULTI-STAKEHOLDER ROUNDTABLE

BUILDING DIALOGUE AND COLLABORATION FOR BUSINESS AND HUMAN RIGHTS

A multi-stakeholder roundtable to support dialogue between business, government and civil society representatives on key regional challenges and priorities, and opportunities for collaboration and solution-building.

About the organisers



Global Business Initiative on Human Rights

The Global Business Initiative on Human Rights (GBI) is a business-led organisation that seeks to advance corporate respect for human rights through peer learning and by engaging globally to share insights from business practice. GBI has 19 member companies, representing diverse industries and headquartered in different parts of the world.

www.gbibr.org



World Business Council for Sustainable Development

The World Business Council for Sustainable Development (WBCSD) is a global, CEO-led organisation of over 200 leading businesses working together to accelerate the transition to a sustainable world. WBCSD members come from all business sectors and all major economies, representing a combined revenue of more than USD \$8.5 trillion and with 19 million employees.

Through its Human Rights project, WBCSD is working to inspire and support business action to address human rights issues with a view to mainstreaming corporate respect for human rights throughout the value chain.

www.wbcasd.org

<http://humanrights.wbcasd.org/>



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