

Business and human rights in Japan: An overview

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Professor Emi Sugawara from Osaka University of Economics and Law, Faculty of International Studies, walks us through the critical development of Japan's policies concerning business and human rights

Recently, policy trends related to business and human rights have been characterised by their rapid and overwhelming nature. Since the United Nations Guiding Principles on Business and Human Rights (UNGPs) was endorsed in 2011, 26 countries, including Japan, have formulated a national action plan on business and human rights (NAP).

As national legislations have emerged to mandate human rights due diligence and information disclosure, the EU's proposal on the Directive on Corporate Sustainability Due Diligence draws attention. The effective abolition of forced labour in global supply chains was also discussed at this year's G7 summit hosted by Japan.⁽¹⁾ Additionally, the crackdown against the opposition to military rule in Myanmar, Russia's aggression against Ukraine, and a just transition to climate change are also important issues in the context of business and human rights.

How have business and human rights developed in Japan in response to this global trend?

Japanese companies have a long history of human rights initiatives, such as human rights training against Buraku discrimination.⁽²⁾ However, their focus was on eliminating discrimination in the workplace and hiring. Corporate Social Responsibility (CSR) has enlarged this focus, emphasising adherence to international standards, exemplified by the United Nations Global Compact launched in 2000.⁽³⁾ 2003 is said to be the first year of CSR in Japan, and after that, the creation of reports in accordance with the Global Reporting Initiative standards and the efforts to refer to the ISO26000 issued in 2010 spread.

With the introduction of the United Nations Sustainable Development Goals (SDGs) in 2015, the recognition of business and human rights has gradually spread across Japanese society. The Japanese government advocated for the formulation of NAPs in the 2016 SDGs Implementation Guiding Principles.⁽⁴⁾ It established a liaison committee comprising relevant government ministries and agencies, as well as Working Groups and an Advisory Committee for NAP consisting of stakeholders such as companies, labour unions, civil society, and academia.

In October 2020, the Japanese government launched the National Action Plan on Business and Human Rights (2020-2025) (J-NAP).⁽⁵⁾ In J-NAP, the following cross-cutting issues are discussed:

- Labour (promotion of decent work), including measures for foreign technical intern trainees;
- Promotion and protection of children's rights;
- Human rights associated with the development of new technologies;
- Rights and roles of consumers;
- Equality before the law (persons with disabilities, women, persons of diverse sexual orientation and gender identity, and other groups); and
- Acceptance of and coexistence with foreign nationals.

However, the J-NAP's priorities lie in promoting understanding and awareness of business and human rights in 'government', 'companies' and 'society', as well as respecting human rights in 'supply chains' and establishing effective 'remedy procedures'. Emphasis was placed on promoting understanding and awareness. The plan lacks specific details on priority issues, such as the issue of foreign technical interns, which has been criticised amid international concern regarding forced labour. Furthermore, Japanese government did not conduct a policy gap analysis, resulting in the majority of the 85 measures outlined in the J-NAP, being continuations of existing measures, lacking novelty and clear prioritisation.

Following the launch of J-NAP, the Japanese government conducted the first official survey, Questionnaire Survey on the Status of Efforts on Human Rights in the Supply Chains of Japanese Companies ⁽⁶⁾ in 2021, to understand the status of Japanese companies' business and human rights efforts. In response to the many voices of companies wishing to formulate guidelines in the questionnaire, in September 2022, Japan's Guidelines on Respecting Human Rights in Responsible Supply Chains ⁽⁷⁾ was formulated and released.

Based on international standards, the guidelines aim to provide companies with concrete and comprehensible explanations, and emphasises the need for dialogue with stakeholders, including workers, consumers, and local communities, in all processes involved in companies' efforts to respect human rights. However, the guidelines contain elements that do not fully align with the UNGPs, such as the concept of 'responsible exit' from conflict-affected areas and other situations. Although due diligence is emphasised, the guidelines lack sufficient details on remedies, and do not include the 'Remediation' specified in Principle 22 of the UNGPs.

On April 3, 2023, the Japanese government decided that, in addition to disseminating the guidelines so far, it would strive to promote human rights respect based on the guidelines in public procurement work.⁽⁸⁾ On the following day, April 4, 'Reference Material on Practical Approaches for Business Enterprises to Respect Human Rights in Responsible Supply Chains' was released.⁽⁹⁾ Thus, the Japanese government now requires companies to make efforts at a more practical level to realise respect for human rights throughout their businesses, including their supply chains.

On the other hand, what about companies and stakeholders? Before the formulation of J-NAP, NGOs created Japanese translations of UNGPs ⁽¹⁰⁾ and the United Nations NAP Guidance ⁽¹¹⁾ and the Guidance for Human Rights Due Diligence (Japan Federation of Bar Associations, 2015). ⁽¹²⁾ One notable characteristic of Japanese society is that companies and stakeholders have developed a gradual but constructive partnership through the NAP formulation process while deepening their awareness of the issues in their counter-relationship with the government.

For example, a platform for civil society organisations was established, ⁽¹³⁾ and companies, investors, labour unions, civil society, academia, and international organisations involved in NAP formulation have collectively voiced their request^{(1st(14) and 2nd (15))}. Multi-stakeholder initiatives addressing consultations and remedies related to business and human rights have also emerged, such as the Japan Platform for Migrant Workers towards Responsible and Inclusive Society (JP- MIRAI) ⁽¹⁶⁾ and the Japan Center for Engagement and Remedy on Business and Human Rights (JaCER).⁽¹⁷⁾

In response to the formulation of government guidelines, companies and stakeholders have also released materials focusing on how to respect human rights in business activities and supply chains. In December 2021, Keidanren (Japan Business Federation) published the Handbook for Management Respecting Human Rights; ⁽¹⁸⁾ in February 2022, the Center for International Economic Collaboration published guidelines for small and medium-sized enterprises, ⁽¹⁹⁾ and in July 2022, Japan Textile Federation published 'Guidelines for Responsible Business Conducts for the T&C'.⁽²⁰⁾

In August 2022, Japan Council of Metalworkers' Unions released action points to be taken by labour unions in human rights due diligence, ⁽²¹⁾ and in May 2023, Global Compact Network Japan announced the Manual for Practicing Human Rights Due Diligence.⁽²²⁾ Notably, the business and human rights initiatives of Japanese companies vary. According to the 2021 government survey, approximately 70% of companies have formulated human rights policies, and approximately 50% have implemented human rights due diligence. Furthermore, according to the FY22 Japan External Trade Organization (JETRO) survey ⁽²³⁾ involving 9,377 companies with a strong interest in overseas business, 64.8% of large companies have already established human rights policies, while 27.6% of SMEs have already formulated them.

In addition, as an issue in realising respect for human rights in overseas supply chains, more than 40% of the companies planning to implement or considering implementing human rights due diligence are uncertain about the specific actions to be undertaken. In a more in-depth survey of member companies of the Global Compact Network Japan, ⁽²⁴⁾ only 22% of companies are working on correcting their own QCD (quality, price, delivery) requirements and ensure decent work in the supply chain.

Regarding the establishment of consultation desks and complaint mechanisms, there is a disparity in efforts for overseas support and multilingual support compared to Japanese support, such as 37% (for workers in the company's group) and 19.3% (for workers at suppliers).

With such growing practical interest in dealing with business and human rights, ‘the dilemma of normalisation’, as pointed out by John Ruggie, ⁽²⁵⁾ is a severe concern in Japanese society. Human rights risk management differs from other risk management, which is relatively easy to standardise, because ‘it is an inherently dialogical process that involves engagement and communication’. Identifying the problem/risk through dialogue with the rights holder is more important, rather than how to deal with it.

Although there are some developments in public procurement, the Japanese government has consistently emphasised encouraging companies to take voluntary actions through the guidelines and promoting business and human rights in the supply chains considering the local context Japanese companies operate. However, the international community is now paying more attention to the progress of business and human rights in Japan than ever before.

In April 2023, the United Nations Special Rapporteur on the situation of human rights in Myanmar visited Japan and highlighted the involvement of Japanese companies in the worsening situation in Myanmar, pointing out their failure to consider the perspective of respect for human rights when expanding their business there in addition to the role of the Japanese government.⁽²⁶⁾ Furthermore, the United Nations Working Group on Business and Human Rights is scheduled to visit Japan in July and August.

In addition to the previously mentioned inadequate efforts, concerns have arisen regarding Japanese companies that have not sufficiently conducted due diligence even in the face of the suppression of democratisation in Myanmar, the Uyghur issue, and the invasion of Ukraine. As a response, in April 2023, a collaborative letter from Japanese NGOs calling for the introduction of mandatory due diligence legislation was released, and an NGO proposal for human rights due diligence legislation was announced. ⁽²⁷⁾

However, it is undeniable that the argument for making human rights due diligence obligatory is taking on a life of its own. When formulating business and human rights policies, considering a range of measures, including not only public procurement and non-financial disclosure but also international cooperation, trade and investment, sustainable finance, and sustainable consumption (smart mix), is essential.

Policy design changes depending on what kind of obligations are imposed on companies. As 2023 marks the midpoint of the J-NAP, it presents a unique opportunity to review Japan’s past business and human rights initiatives and reassess issues from both domestic and international perspectives.

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More About Stakeholder



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Professor Emi Sugawara leads a research project on business and human rights from the perspective of the parties concerned for improved policies