

Business and human rights in Japan: Rights holders' perspectives

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Emi Sugawara, Osaka University of Economics and Law, examines business and human rights issues in Japan with a focus on the priority issues from rights holders' perspectives

The United Nations Working Group on Business and Human Rights conducted a research visit to Japan from 24 July to 4 August. Japan was the eighteenth country to be visited by the working group under its mandate to disseminate, promote and implement the United Nations Guiding Principles on Business & Human Rights.

The working group is also mandated to exchange and promote good practices and lessons learned from the implementation of the guiding principles and assess and make recommendations thereon.

One purpose of the working group's visit to Japan was to examine business and human rights issues in the country. During the visit, the working group travelled all over Japan to Tokyo, Osaka, Aichi, Hokkaido and Fukushima, and engaged with the government and business sectors, civil society and various rights holders.

On 4 August, the final day of the visit, the working group announced its preliminary findings. (1) Its final observations and recommendations to the government of Japan and business communities will be presented at the UN Human Rights Council session in June 2024.

Issues from the perspective of rights holders

First, the working group's statement highlighted issues for business and human rights in Japan from minority stakeholders' perspective. Systemic challenges in the country/region emerge as human rights issues in business activities;⁽²⁾ however, in Japan, these challenges, especially discrimination and abuse against minorities, have not been fully prioritised as business and human rights issues.

The working group's statement emphasised the need to re-examine issues from the perspectives of women, LGBTQ+ people, people with disabilities, Indigenous peoples, Buraku communities, labour unions, technical intern trainees, migrant workers and children and youth as minority stakeholder groups.

The employment of “Technical Intern Trainees” has been characterised as modern slavery. Many companies have made this a priority issue. Nevertheless, some Japanese companies believe “however, in prioritising human rights risk assessments by ‘severity’, the issues of gender and unconscious bias seem to be relatively hard to raise compared to forced labour, child labour and risks to the right to life”.

Human rights violations against Korean residents

One important issue in Japan that was not sufficiently addressed in the working group’s statement was human rights violations committed against Korean residents. Korean residents in Japan are formerly colonised peoples and their descendants. Many Koreans migrated to Japan from Korea under Japanese nationality due to Korea’s status as a colony.

However, after World War II, their Japanese nationality was rescinded by a unilateral notice from the government, but they continued to reside in Japan, where they had already established a base for their livelihood. Even today, discrimination and violations against Korean residents in Japan are serious, and discrimination and harassment in employment and the workplace, hate speech and hate crimes continue.

Focus on downstream and entire supply chain

Second, the working group drew attention to “health, climate change and the natural environment” by highlighting issues in Japan from the perspective of local communities, the environment and human rights. In Japan, little attention is given to downstream effects, such as the human rights of consumers and local communities, and so the focus on human rights and the environment is weak.

Although directly addressing the Fukushima Daiichi Nuclear Power Plant accident is greatly significant, I would like to focus on Per- and polyfluoroalkyl substances (PFAS) issue. PFAS is a general term used for more than 10,000 organic fluorine compounds, of which Perfluorooctanesulfonic acid (PFOS) and Perfluorooctanoic acid (PFOA) are subject to regulations under international treaties because of their impact on health and precautionary principles.

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However, according to the Environment Ministry’s panel of experts,⁽³⁾ the extent to which these substances affect the human body is not clearly understood. During the working group’s hearing process, local communities from multiple locations raised grievances about

facing water pollution caused by PFOS and PFOA.

Corporate activities that utilise PFOS and PFOA have been conducted in these regions. Recognising that this problem is related to local communities' rights to health, it is necessary for governments and companies to take measures and engage and communicate with communities to address this issue.

The third point concerns companies' responsibility to respect human rights holders in their supply chains. The guiding principles clearly state that companies have a responsibility to respect human rights not only within their corporate activities but also in the entire supply chain.

Regarding the Tokyo Electric Power Company (TEPCO), in addition to the human rights issues of rights holders who were affected by the accident at the Fukushima Daiichi Nuclear Power Station, human rights violations against workers responsible for decontamination work were addressed.

TEPCO's responsibility has been questioned for exploitative labour practices, such as low wages and forced labour, in its five-tier subcontracting structure, as well as for making workers hesitant to use the complaint system for fear of retaliation.

The working group also pointed out the media's responsibility for reporting violations on human rights in Japan.

As guardians of freedom of expression, the media play a role in delivering the voices of right holders. However, the media have failed to fulfil their responsibility to respect human rights in response to human rights violations in the supply chain, considering issues such as sexual harassment and violence against children and youth by Johnny & Associates in the entertainment industry.

The need for a National Human Rights Institution

The working group has pointed out that Japan's civil society calls for a National Human Rights Institution (NHRI) in response to such serious concerns raised by the rights holders.

NHRIs monitor and advise the government's business and human rights policies, including the National Action Plan, and are also responsible for responding to grievances from rights holders about human rights violations by companies and conducting investigations.

The NHRI, an agency independent of the government at the national level, is needed as a remedy for business and human rights issues, even though some initiatives have emerged, such as Japan Platform for Migrant Workers towards Responsible & Inclusive Society (JP-MIRAI)⁽⁴⁾ and Japan Center for Engagement & Remedy on Business & Human Rights (JaCER)⁽⁵⁾.

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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