



**The government of Japan and business enterprises should take responsible actions in line with the United Nations Guiding Principles on Business and Human Rights in light of the final report of the visit to Japan by the UN Working Group on Business and Human Rights**

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Human Rights Now  
<https://hrn.or.jp/>

On May 28, 2024, The UN Working Group on Business and Human Rights (hereinafter "UN WG") published the report "Visit to Japan - Report of the Working Group on the issue of human rights and transnational corporations and other business enterprises" (hereinafter "final report") on the website of the UN Human Rights Council,<sup>1</sup> based on the results of the investigation visit to Japan conducted from July 24 to August 4, 2023.

The UN WG conducted interviews and field surveys with government officials, members of the business community, civil society, industry associations, trade unions and academia, workers, researchers, lawyers, and other stakeholders in Tokyo, Osaka, Aichi, Hokkaido, and Fukushima as part of the above-mentioned country visit to Japan. On the last day of the mission, an "End of Mission Statement" was released as a preliminary finding.<sup>2</sup> The final report is positioned as a report to the UN Human Rights Council on the final findings of the investigation, including the results of additional investigations that continued after the country visit. The final report will be presented to the UN Human Rights Council during its 56th regular session which will be held in Geneva, Switzerland from June 18 this year.

Human Rights Now ("HRN"), an international human rights NGO based in Tokyo, once again extends its appreciation to the UN WG which had been actively visiting sites around Japan in the past year and has continued to engage in dialogue with stakeholders and other activities since then. HRN also issued a statement based on the End of Mission Statement when it was published.<sup>3</sup> In light of the recently released final report, HRN reiterates the following request to the Japanese government and companies: in accordance with international human rights standards based on the United Nations Guiding Principles on Business and Human Rights<sup>4</sup> (hereinafter referred to as the "UN Guiding Principles") and international human rights standards, the Japanese government must fulfill its duty to protect human rights, and companies must fulfill their responsibility to respect human rights.

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<sup>1</sup> <https://undocs.org/en/A/HRC/56/55/Add.1>

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<https://www.ohchr.org/sites/default/files/documents/issues/development/wg/statement/20230804-eom-japan-wg-development-japanese.pdf>

<sup>3</sup> <https://hrn.or.jp/news/24295/>

<sup>4</sup> Japanese translation:

[https://www.unic.or.jp/texts\\_audiovisual/resolutions\\_reports/hr\\_council/ga\\_regular\\_session/3404/](https://www.unic.or.jp/texts_audiovisual/resolutions_reports/hr_council/ga_regular_session/3404/) (United Nations Information Center)



## 1. The State Duty to Protect, etc.

The UN Guiding Principles have three pillars. The first pillar is "the State duty to protect human rights", and the second pillar is "The corporate responsibility to respect human rights". Traditionally, the guarantee of human rights, including international human rights treaties, has been an obligation of the state. However, with the globalization of corporate activities, the impact of corporations on society has increased significantly, and corporations are now expected to recognize their responsibility to respect human rights and to fulfill their social responsibility to protect human rights together with the state. Nevertheless, it is the state that has the primary obligation to establish and enforce legal policies that require companies to respect human rights. Additionally, the third pillar is "access to remedy for human rights violations," which is essential for both the first and second pillars.

A notable aspect of this final report lies in paragraph 85, where recommendations are directed towards the Japanese government regarding the improvement of various "systems" and their "operation," addressing both the first pillar, "the State duty to protect human rights", and the third pillar, "Access to Remedies." As mentioned above, given that the UN Guiding Principles state that the state has the primary duty to protect human rights, it is clear that the Japanese government's efforts to address various human rights issues are inadequate, as has been frequently recommended in the reviews of various international human rights treaty bodies.

The Japanese government should take each of the recommendations from the UN WG seriously and immediately reflect them in their policies.

Specific recommendations are as follows:

1. Clearly state that the review of the Japanese government's "National Action Plan on Business and Human Rights"<sup>5</sup> (hereinafter referred to as the "NAP") scheduled for 2025 shall include a gap analysis of business and human rights policies. In the review, clarify the method of implementation, etc., and ensure meaningful participation of stakeholders (paragraph 85(a)).
2. Continue training and awareness-raising activities on the UN Guiding Principles and the NAP (paragraph 85(b)).
3. Expand the definition of "human rights" to encompass environmental impacts and international instruments in relation to the "Guidelines on Respecting Human Rights in Responsible Supply Chains"<sup>6</sup> regarding human rights due diligence established by the Japanese government in 2022 ("Guidelines") (Paragraph 85(c)).
4. Adopt national legislation mandating human rights due diligence (Paragraph 85(d)).
5. Require systematic and meaningful reporting on human rights criteria and, in particular, call for their full cooperation with judicial and non-judicial grievance mechanisms and a reversal of the burden of proof (paragraph 85(e)).
6. Increase awareness about and build capacity on the Guiding Principles among all actors in society, including civil servants, members of the judiciary and legislators, to build their capacity to fulfill their respective obligations to protect, investigate, punish and redress business-related human rights abuses. Allocate sufficient resources to this end (paragraph 85(f)).
7. Improve access to judicial and non-judicial remedies (e.g., establishing an independent National Human Rights Institution without further delay, enhancing the visibility,

<sup>5</sup> <https://www.mofa.go.jp/files/100104121.pdf>

<sup>6</sup> <https://www.meti.go.jp/press/2022/09/20220913003/20220913003-a.pdf>



- institutional capacity and expertise of the OECD National Contact Point<sup>7</sup> (paragraph 85(g)).
8. Ratify the ILO Convention No. 111 (Discrimination (Employment and Occupation) Convention), ILO Convention No. 155 (Occupational Safety and Health Convention), ILO Convention No. 29 (Protocol of 2014 to the Forced Labour Convention), ILO Convention 169 (Indigenous and Tribal Peoples Convention); ratify the Migrant Workers' Rights Convention (International Convention for the Protection of the Rights of All Migrant Workers and Members of Their Families); and ratify the Optional Protocols to the Individual Communication Procedures of each international human rights convention (paragraph 85(h)).
  9. Strengthen measures to implement the principle of equal pay for work of equal value to close the gender pay gap and promote the equal representation of women in leadership positions, including by adopting mandatory quota initiatives for the representation of women in the private sector (paragraph 85(i)).
  10. Officially prohibit and sanction discrimination, including by amending existing anti-discrimination legislation to enhance its comprehensiveness and effectiveness and by incorporating a clear and inclusive definition of discrimination, accompanied by efforts to address targeted discrimination against minorities, including by prohibiting businesses from asking questions that could lead to discrimination in job screenings and increasing efforts to address sexual harassment and violence in workplaces and online, in line with international standards (paragraph 85(j)).
  11. Provide comprehensive training to employers on respecting and implementing individualized support and reasonable accommodations for persons with disabilities (paragraph 85(k)).
  12. Ensure accessibility for persons with disabilities in official documents, such as the NAP, to promote their full inclusion and participation in society (paragraph 85(l)).
  13. Include explicit human rights protections in the revision of the technical intern training programme based on international human rights standards, including abolishing recruitment fees, conducting mandatory on-site human rights training at businesses employing technical interns, simplifying the application system, increasing flexibility to switch jobs, ensuring safe working and decent living conditions, providing opportunities for Japanese language learning and vocational training and guaranteeing the enforcement of equal wages for work of equal value as required under Japanese law (paragraph 85(m)).
  14. Intensify labor inspections by the Labor Standards Inspection Office and other agencies to enhance victim identification for forced labor and trafficking in persons (paragraph 85(n)).
  15. Expand the scope of the Hate Speech Elimination Act to include all persons, regardless of their origin and residence status, to address such issues as hate speech in the workplace or any hate speech that might affect employment opportunities (paragraph 85(o)).
  16. Ensure that government entities and the private sector uphold the rights of Indigenous Peoples to free, prior, and informed consent, in accordance with international standards, such as the United Nations Declaration on the Rights of Indigenous Peoples (paragraph 85(p)).
  17. Carry out a survey on discrimination against Buraku people and regularly conduct comprehensive surveys on the status of the Ainu people to adapt relevant programmes and policies accordingly (paragraph 85(q)).

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<sup>7</sup> <https://www.mofa.go.jp/mofaj/gaiko/csr/housin.html>



18. Raise awareness of the applicability of labor laws to all workers, irrespective of their migration status, including by guaranteeing equal access to employment opportunities, without discrimination, reasonable wages and safe working conditions (paragraph 85(r)).
19. Step up efforts to address climate change, keeping in mind human rights considerations for a just transition (paragraph 85(s)).
20. Recognize the heroic efforts of those involved in the clean-up efforts following the Fukushima Daiichi nuclear disaster, take steps to reduce multiple subcontracting structures, ensure that workers are properly and retroactively compensated, recognize workers' health concerns as work-related illnesses, ensure safe working conditions and accurate recording of radiation exposure, and guarantee continuous medical check-ups and care for exposed workers (paragraph 85(t)).
21. Continue to make all information related to the treatment of water released from the Fukushima Daiichi Nuclear Power Station publicly available (paragraph 85(u)).
22. Address the presence of PFAS in the water supply and its effects on people, including by ensuring that PFAS provisional target values are based on the latest scientific evidence and compliant with environmental standards (paragraph 85(v)).
23. Incorporate explicit references to the UN Guiding Principles, the NAP and the Guidelines in its Development Cooperation Charter and relevant official development assistance policies (paragraph 85(w)).
24. Promote the use of the Children's Rights and Business Principles<sup>8</sup> for human rights due diligence (paragraph 85(x)).
25. Provide guidance to businesses on a responsible exit, in line with the UN Guiding Principles (paragraph 85 (y)).

## **2. Corporate Responsibility to Respect Human Rights, etc.**

Paragraph 86 of the final report contains a total of 10 recommendations for corporations and industry associations under the second pillar, "Corporate responsibility to respect human rights", and the third pillar, "Access to remedy". The recommendations are diverse in content, but many of them are particularly concerned with discrimination and harassment (paragraphs 86 (a), (b), (c), (f), and (j)), and clearly indicate that from the perspective of business and human rights, discrimination and harassment against sexual and social minorities in Japan are serious and urgent issues in light of international standards. In this regard, it is evident that the UN WG has conveyed a strong message:

The UN WG remains concerned however that systemic human rights challenges in Japan are not being sufficiently tackled as part of State and private sector initiatives in the business and human rights space. There is an urgent need to fully dismantle structures of inequality and discrimination against at-risk groups, such as women, older persons, children, persons with disabilities, Indigenous Peoples, minority groups, including Buraku communities, technical interns, migrant workers and LGBTIQI+ persons. There is a clear need to accelerate the realization of the UN Guiding Principles through inclusive and candid multi-stakeholder dialogue.

This is a strong message from the UNWG, which can be clearly read in its emphasis on the need to "accelerate the realization of the UN Guiding Principles through inclusive and candid multi-stakeholder dialogue" (paragraph 84).

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<sup>8</sup> Japanese Translation: <https://www.unicef.or.jp/csr/pdf/csr.pdf> (United Nations International Children's Emergency Fund)



Furthermore, in Japan, the prevalence of in-house labor unions and the notable decline in unionization rates have led to a situation where the recommendation to “promote freedom of association, the right to organize and the right to collective bargaining of their workers, in addition to fostering meaningful stakeholder engagement, in particular with those in vulnerable situations, including when operating transnationally” (paragraph 86(i)) is particularly pertinent. This suggests that, in addressing corporate responsibility to respect human rights, labor unions can play a new role. Beyond traditional collective bargaining, they can transcend company boundaries to collaborate with workers from partner companies. Through stakeholder dialogues and other means, they can help promote and ensure that businesses fulfill their responsibilities to respect human rights.

### **3. The Human Rights Situation in Japan Viewed through the Lens of "Business and Human Rights"**

As part of the process leading to the above recommendations, an analysis and discussion of the human rights situation in Japan from the perspective of "business and human rights" is described (paragraphs 28-82).

In this section, we first identify the "at-risk groups" as (1) women (paragraphs 30-33), (2) LGBTQI+ persons (paragraphs 34-35), (3) persons with disabilities (paragraphs 36-39), (4) social minority groups (such as ethnic Korean, Chinese, and Buraku people) and indigenous peoples (such as Ainu people) (paragraphs 40-48), (5) children (paragraph 49), and (6) older persons (paragraphs 50-51).

Also, the report lists several “thematic areas of concern”: (1) health, climate change and the natural environment (paragraphs 53-57), (2) decontamination and decommissioning work and treated water related to the Fukushima Daiichi nuclear power plant accident (paragraphs 58-61), (3) PFAS (per- and polyfluoroalkyl substances) (paragraphs 62-63), (4) suppression of labor unions (paragraphs 65-66), (5) overwork (paragraph 67), (6) migrant workers and the technical intern training programme (paragraphs 68-72), (7) media, entertainment and animation industries (paragraphs 73-76), (8) business activities in conflict-affected areas such as Russia and Myanmar (paragraphs 77-79), (9) forced labor including that which concerns ethnic minority Uyghurs (paragraph 80), (10) international cooperation projects involving development agencies such as JICA (the Japan International Cooperation Agency) and JBIC (the Japan Bank for International Cooperation) (paragraph 81), and (11) public procurement (paragraph 82).

Given that the UN WG has highlighted these "at-risk groups" and "thematic areas of concern" as those with high human rights risks, it is crucial for companies, as part of their commitment to respecting human rights, to give special emphasis on these groups and themes in investigations and identification, and position these as essential factors to be considered in prioritization during the implementation of human rights due diligence. Even after receiving this final report, if a company fails to properly understand and identify human rights risks in these high-risk groups and themes, or fails to take appropriate action to prevent, mitigate, and remedy human rights risks after identification, their responsibility to respect human rights should be rigorously questioned.

In addition, the government is required to fulfill its obligation to promptly implement effective measures to ensure that companies appropriately address human rights risks related to these "risk groups" and "topics of concern", including legislation on human rights due diligence and the establishment of a National Human Rights Institution.



## 4. Conclusion

In light of the final report, HRN urges the Japanese government and corporations to take seriously the numerous recommendations from the UN WG in terms of compliance with the UN Guiding Principles and to immediately make every effort to implement them.

In particular, the Japanese government should humbly accept the significant fact that a total of 25 recommendations were made and incorporate gap analysis and evaluation indicators with international human rights standards for all items in the review of the NAP in 2025.

It was also reaffirmed that there is an urgent need to establish a National Human Rights Institution independent of the government to provide leadership in promoting human rights policies in Japan and to strengthen cross-agency efforts so that the NAP will not end up as a “pie in the sky”.

Furthermore, considering international developments such as the adoption of EU Directives mandating human rights and environmental due diligence for certain-sized companies in May this year, from the perspective of developing a "level playing field" for corporations to fulfill their responsibility to respect human rights, there is an urgent need for Japan to legislate mandatory human rights due diligence for businesses.

Corporations should examine the human rights risks in their value chains for all of the individual serious human rights issues identified by the UN WG as "high risk" and immediately take action to effectively remedy the harm if it is clear that they are involved in human rights violations. If the corporation's capacity to identify human rights risks in its own business and value chain is limited, the UN Guiding Principles also expect the corporation to promote cross-industry initiatives and proactively engage with stakeholders, including affected stakeholders.

Notably, the media and entertainment industries were pointed out by the UN WG in its End of Mission Statement for serious human rights violations and human rights risks, yet nearly one year later, it is still pointed out that their efforts to respect human rights are insufficient. The final report even points out that the media and entertainment industries have a "culture of impunity" for human rights violations and that this culture is encouraged by the media and entertainment industries. The industries must take this seriously. This also means that the Japanese government and Japanese society, which has tacitly condoned such conditions in the media and entertainment industries, cannot afford to ignore this issue any longer.

While the UN WG made some stern remarks, it also noted that "Advancing the implementation of the UN Guiding Principles in Japan is critical not only for consolidating the country's reputation as a leader in promoting the business and human rights agenda regionally and globally, but also for enhancing the positive human rights impact and competitiveness of Japanese businesses at home and overseas." (paragraph 83).

Will Japan and Japanese companies meet international expectations and become regional and global leaders in "business and human rights", or will they become a country and companies that create and promote exploitation, violence, discrimination, oppression, and war? We are at that very crossroads.

Now is the time to seriously face the gap with international standards. The time has come for us to overcome this.