



Assemblée générale

Distr. générale
1^{er} mai 2024
Français
Original : anglais

Conseil des droits de l'homme

Cinquante-sixième session

18 juin-12 juillet 2024

Point 3 de l'ordre du jour

**Promotion et protection de tous les droits de l'homme,
civils, politiques, économiques, sociaux et culturels,
y compris le droit au développement**

Visite au Japon

Rapport du Groupe de travail sur la question des droits de l'homme et des sociétés transnationales et autres entreprises*

Résumé

Le Groupe de travail sur la question des droits de l'homme et des sociétés transnationales et autres entreprises s'est rendu au Japon du 24 juillet au 4 août 2023. Il se félicite des importantes avancées que le Japon a réalisées, parmi lesquelles figurent l'élaboration d'un plan d'action national relatif aux entreprises et aux droits de l'homme et la publication de lignes directrices pour le respect des droits de l'homme dans des chaînes d'approvisionnement responsables. Néanmoins, il constate que des obstacles restent à lever pour que les entreprises puissent comprendre en quoi consiste une diligence raisonnable en matière de droits de l'homme et puissent exercer celle-ci sur l'ensemble de leurs chaînes de valeur. En outre, le Groupe de travail relève avec préoccupation qu'il est très difficile de remettre en question certaines normes sociales et normes de genre profondément ancrées, comme il ressort très clairement de la discrimination et du harcèlement que subissent sur le lieu de travail les femmes, les personnes autochtones, les burakumin, les personnes handicapées, les travailleurs migrants et les personnes LGBTQI+, entre autres groupes de population. Il considère que les projets et mesures des pouvoirs publics et des entreprises qui visent à promouvoir la diversité et l'inclusion et à protéger les droits des groupes à risque sont essentielles pour aller de l'avant.

* Le résumé du présent rapport est distribué dans toutes les langues officielles. Le corps du rapport, annexé au résumé, est distribué dans la langue de l'original seulement.



Annexe

Rapport du Groupe de travail sur la question des droits de l'homme et des sociétés transnationales et autres entreprises sur sa visite au Japon

I. Introduction

1. Pursuant to Human Rights Council resolutions 17/4, 26/22, 35/7 and 44/15, the Working Group on the issue of human rights and transnational corporations and other business enterprises, represented by Working Group members Pichamon Yeophantong and Damilola Olawuyi, visited Japan, at the invitation of the Government, from 24 July to 4 August 2023. During the visit, the Working Group assessed the efforts made by the Government and business enterprises, in line with the United Nations Guiding Principles on Business and Human Rights, to identify, prevent, mitigate and account for the adverse impacts of business-related activities on human rights.

2. During the visit, the Working Group met with the then-Special Adviser to the Prime Minister of Japan on International Human Rights Issues and the Ambassador for Human Rights and International Peace and Stability. The Working Group also met with representatives of the following Government ministries, agencies and State bodies: Ministry of Foreign Affairs; Ministry of Economy, Trade and Industry; Ministry of Justice; Institute of Developing Economies-Japan External Trade Organization; Ministry of Health, Labour and Welfare; Cabinet Office; Consumer Affairs Agency; National Contact Point for Responsible Business Conduct; Ministry of Agriculture, Forestry and Fisheries; Financial Services Agency; Japan International Cooperation Agency; Japan Bank for International Cooperation; Ministry of Finance; and Ministry of the Environment. The Working Group met with representatives of local governments, including the Osaka Prefectural Government, the Tokyo Metropolitan Government and the Sapporo Government, and the Japan Association for the 2025 World Exposition. In addition, the Working Group held meetings with members of the National Diet (parliament).

3. During the Working Group's meetings in Tokyo, Osaka, Aichi, Hokkaido and Fukushima, the Working Group met with representatives of the following businesses and industry associations: Ajinomoto; Akao Nenshi K.K; Asahi Group Holdings; Fast Retailing Group and Uniqlo; Fuji Oil Group; Fujitsu; Global Compact Network Japan; Johnny and Associates (now Smile-Up); Keidanren (Japanese Business Federation); Kirin Group; McDonald's; Mitsubishi Corporation; Mitsubishi UFJ Financial Group; National Conference of Association of Small Business Entrepreneurs; Rakuten; Sony Group Corporation; Suntory; Takase Kanagata Molding Systems; Tokyo Electric Power Company; and Consumer Goods Forum. The Working Group also met with civil society representatives, including human rights defenders, journalists, academics, workers and representatives of trade unions, as well as with representatives of international organizations operating in Japan, such as the International Labour Organization (ILO).

4. The Working Group is grateful for the open and constructive discussions that it had with government officials, members of the business community, civil society, industry associations, trade unions and academia, workers, lawyers and other stakeholders on the progress, opportunities and challenges in the implementation of the Guiding Principles in Japan.

5. For the present report, the Working Group builds on its preliminary assessment from the end-of-mission statement on such salient issue areas as diversity and inclusion, discrimination and harassment, labour-related abuses, including sexual violence, the regulation of finance and value chains, as well as the impact on the right to health, the right to a clean, healthy and sustainable environment and climate change.

6. The Working Group drew on written submissions from businesses, civil society, international organizations, industry associations and other stakeholders, received in

response to the call for input issued before the visit. In addition, it considered the insights derived from the stakeholder consultations held during the country visit and from the wealth of information, including reports, academic studies, statements and briefing notes, that were shared with the Working Group before, during and after the visit. It also built on relevant work done by the Working Group, the Office of the United Nations High Commissioner for Human Rights (OHCHR), the Organization for Economic Co-operation and Development (OECD) and ILO.

II. Context

A. State duty to protect human rights

7. In addition to being the second country in the Asia-Pacific region to develop a national action plan on business and human rights, in 2020, Japan released the Guidelines on Respecting Human Rights in Responsible Supply Chains in 2022. Amid these positive developments, the Working Group's visit provided the Government an opportunity to share its ongoing efforts and growing leadership in promoting responsible business conduct at the national, regional and global levels. As recognized in its national action plan, 2020–2025, raising awareness about business and human rights can contribute not only to “the protection and promotion of human rights for society as a whole”, but also serve to “enhance trust in and the reputation of Japanese business enterprises and contribute to ensuring and enhancing the international competitiveness and sustainability of Japanese business enterprises”.¹

8. The Working Group welcomes the Government's efforts in implementing the current national action plan and developing a second one. The Working Group also commends efforts to develop the national action plan through multi-stakeholder consultation processes. The Working Group further acknowledges the Government's work to promote business and human rights overseas by, for example, pushing for the inclusion of relevant language in the Hiroshima Leaders' Communiqué of the Group of Seven² and deepening dialogue on the Guiding Principles beyond the Group of Seven countries.

9. However, the Working Group observed a general lack of domestic awareness of the Guiding Principles and the national action plan, especially outside Tokyo. There is considerably more work to be done to ensure that all relevant actors, including local governments, businesses and business associations, trade unions, civil society, community representatives and human rights defenders, fully understand their rights, duties and responsibilities under the Guiding Principles and the national action plan. Thus far, these actors seem not to have been sufficiently engaged in the development and implementation of the national action plan, with many stakeholders at the local level indicating no knowledge of the plan's existence. The Working Group also heard from diverse stakeholders about how the lack of transparency vis-à-vis the implementation status of the plan had contributed to practical barriers in realizing the Guiding Principles and, more broadly, in human rights protection in Japan. The national action plan review process thus provides an opportunity for the Government to fully engage with all relevant stakeholders. It also presents an excellent opportunity to assess and enhance the accessibility of the plan, given that it has yet to be made available to persons with visual challenges.

10. The Government also has an opportunity to strengthen efforts so that State-owned enterprises³ lead by example. The Working Group highlights its reports on State-owned enterprises and development finance institutions for further guidance in this regard.⁴

¹ See <https://www.ohchr.org/sites/default/files/Documents/Issues/Business/NationalPlans/Japan-NAP.pdf>, p. 4.

² See https://www.mofa.go.jp/policy/economy/summit/hiroshima23/documents/pdf/Leaders_Communique_01_en.pdf?v20231006.

³ State-owned enterprises are understood here as commercial entities wholly or majority owned or controlled by the State to provide public goods or services.

⁴ [A/HRC/32/45](#) and [A/HRC/53/24/Add.4](#).

11. While the publication of the Guidelines is a positive development, the Working Group received reports that the public consultation period was not adequate,⁵ concerns about the Guidelines' voluntary nature and the limited definition of human rights without explicit mention of international instruments or the environment or climate change as dimensions of human rights due diligence and uncertainty over how the Guidelines would be practically enforced among State-owned enterprises. The Working Group was pleased to learn of additional positive initiatives, such as the release of the Guidebook for Respecting Human Rights in Food Enterprises. Adopting mandatory human rights due diligence measures to supplement voluntary guidelines would however enhance the smart mix of measures in Japan and its position as a leader in addressing business-related human rights issues, in particular in the Asia-Pacific.

B. Corporate responsibility to respect human rights

12. Business stakeholders reported emerging positive practices, such as initiatives to provide employees with continual human rights education and the development of operational-level grievance mechanisms, including reporting hotlines. They acknowledged however that considerable gaps remained, including with regard to the treatment of migrant workers and technical interns, the culture of overwork and businesses' ability to monitor and reduce human rights risks in the upstream and downstream of value chains.

13. The Working Group observed three overarching issues. Significant gaps persist in understanding and implementing the Guiding Principles among different businesses. Especially pronounced are the discrepancies between large businesses, in particular transnational corporations that have an advanced comprehension of the Guiding Principles and small and medium-sized enterprises that constitute 99.7 per cent of the total number of companies in Japan and which, according to the 2018 baseline study, provide 70 per cent of all employment.⁶ The low level of awareness of the Guiding Principles among small and medium-sized enterprises led stakeholders to underscore the need for the Government to provide tailored guidance and capacity-building to small and medium-sized enterprises. Noting how businesses strongly articulated the need for more robust civil society participation in such efforts, the Working Group welcomes initiatives by the Sapporo Government and LGBTQI+ civil society groups to engage local small and medium-sized enterprises in raising awareness about LGBTQI+ rights and promoting an inclusive society, including through the Sapporo Rainbow Pride event.

14. Business representatives also spotlighted how increased efforts were required to encourage the uptake of the Guiding Principles by general trading companies and retailers. Given the diversity of the products that they trade and sell, these businesses are especially well-positioned to exercise their leverage in a variety of sectors and encourage national brands and suppliers along their value chains to apply the Guiding Principles.

15. Moreover, businesses and industry associations communicated the need for the Government to be more active in discharging its duties under the Guiding Principles. They requested more practical guidance from the Government, in particular the Ministry of Economy, Trade and Industry, the Ministry of Health, Labour and Welfare, the Ministry of Foreign Affairs and the Ministry of Justice, on such exigent issues as how to conduct heightened human rights due diligence, establish and operate grievance mechanisms, exit responsibly and conduct human rights due diligence along value chains. Most businesses whose representatives the Working Group met with during the visit, including from the financial sector, also indicated the desirability of mandatory human rights due diligence measures, which can assist with levelling the playing field and allow for greater coherence of the Government's policies and standards with the Guiding Principles. Absent more robust human rights due diligence requirements, the members of the business community suggested

⁵ Other publicly available information includes, for example, https://media.business-humanrights.org/media/documents/WBA-BHRRRC_public_comment.pdf; and https://media.business-humanrights.org/media/documents/CSO_statement_for_Guidelines_on_Respect_for_Human_Rights_in_Responsible_Supply_R9zQR83.pdf.

⁶ See <https://www.mofa.go.jp/files/000455152.pdf>.

that small and medium-sized enterprises in particular would have little incentive to adopt the Guiding Principles.

16. The need for timely, tailored and needs-driven capacity-building measures was a recurring message conveyed by members of the business community. Some stakeholders noted, for example, the growing demand for auditor training on human rights and on how small and medium-sized enterprises could better conduct stakeholder engagement. The Working Group spotlights its reports on capacity-building alongside the important role that civil society can play in meeting this demand.⁷

C. Access to remedy

1. State-based judicial mechanisms

17. During the visit, the Working Group identified salient areas of concern regarding access to justice and effective remedies, including obstacles to access to courts in Japan. One critical issue is the low awareness among judges about the Guiding Principles and broader human rights issues in the context of business activities, including those concerning LGBTQI+ persons. The Working Group also learned from stakeholders how lengthy court proceedings could hinder access to remedy and received testimonies about cases where plaintiffs did not receive adequate financial or other forms of compensation due to a lack of adequate sanctions and application of court decisions.

18. The Working Group heard about the work of the State-funded Japan Legal Support Center in providing legal services to Japanese citizens and foreign nationals lawfully residing in Japan with limited financial resources. The Working Group welcomes such initiatives by the Ministry of Justice to facilitate access to remedy, including through human rights promotion and protection activities and the digitalization of civil proceedings.⁸

2. State-based non-judicial grievance mechanisms

19. While recognizing the critical roles of the human rights bodies of the Ministry of Justice in investigating instances of human rights abuses⁹ and the labour offices of the Ministry of Health, Labour and Welfare in receiving workers' complaints, the Working Group remains deeply concerned by the lack of a national human rights institution in Japan. Many stakeholders noted that this absence created a significant gap in government efforts to promote respect for human rights among businesses and enforce corporate accountability.

20. Indeed, although the Human Rights Bureau of the Ministry of Justice can investigate allegations of human rights violations, this function does not fulfil the role of a national human rights institution. National human rights institutions are crucial to enhancing remediation of business-related human rights abuses, facilitating inter-agency coordination on human rights issues and promoting business and human rights training for private sector actors, auditors, judges and public defenders.¹⁰

21. The absence of a national human rights institution can substantially encumber access to justice and effective remedy, in particular among people at risk, and create barriers to seeking remedy based on international human rights standards. It also negatively affects the global image of Japan.¹¹ Considering the emphasis in its national action plan on promoting the business and human rights agenda in the international community,¹² the Working Group views the establishment of a national human rights institution as a vital step towards achieving this goal.

⁷ [A/HRC/32/45](#) and [A/HRC/53/24](#).

⁸ See <https://www.moj.go.jp/content/001404170.pdf>.

⁹ *Ibid.*

¹⁰ See [A/HRC/47/39/Add.3](#).

¹¹ Of the 38 OECD countries, Japan is one of only eight that do not have a national human rights institution. See <https://ganhri.org/membership/>.

¹² See <https://www.ohchr.org/sites/default/files/Documents/Issues/Business/NationalPlans/Japan-NAP.pdf>.

22. Japan established its National Contact Point under the OECD Guidelines for Multinational Enterprises on Responsible Business Conduct, in 2000, with the mandate to handle disputes related to business and human rights and, more generally, to promote responsible business conduct. However, the Working Group received complaints that the National Contact Point lacked visibility and impact,¹³ with only 15 cases having been taken up in its 23 years of existence. To address these issues, the National Contact Point must be deemed independent and credible by all stakeholders. The revision of the national action plan constitutes an excellent opportunity to enhance its visibility, impact and independence.

23. The creation of a human rights ombudsperson can also help victims to gain access to remedies.¹⁴ The Working Group notes as a positive practice the establishment of specialized ombudspersons, such as those for children and persons with disabilities.¹⁵

3. Non-State-based grievance mechanisms

24. The Working Group emphasizes the importance of effective non-State-based grievance mechanisms for addressing business-related human rights issues in Japan. A 2021 survey by the Ministry of Economy, Trade and Industry and the Ministry of Foreign Affairs indicated that only about 49 per cent of the 760 businesses surveyed had guidelines and procedures to provide remedy to victims and correct problems.¹⁶ Although most large businesses that met with the Working Group had operational-level grievance mechanisms in place, some workers still feared reprisals (e.g. losing their jobs) for reporting workplace misconduct.

25. The 2020 revision of the Whistle-blower Protection Act, which became effective in June 2022, requiring businesses with over 300 employees to establish a system for internal whistle-blowing disclosures, is a positive step. However, stronger protections and enforcement are needed. A report found that 70 per cent of businesses with over 1,000 employees had internal hotlines for whistle-blowers, compared with 57.4 per cent of businesses with 301 to 1,000 employees and 36 per cent with 101 to 300 employees.¹⁷ The Working Group notes that, while the scope of protection has been expanded to include company directors and employees within one year of their retirement, the definition of whistle-blowers in the Act remains narrow and excludes those who are self-employed (e.g. actors, artists and television personalities), contractors and suppliers, as well as their attorneys and family members, unless they are acting with the whistle-blower's approval and are making the disclosure on behalf of the whistle-blower in accordance with their consent. Furthermore, while the Act prohibits retaliation, there are currently no criminal or administrative penalties against businesses that do not have internal hotlines or that retaliate against whistle-blowers, although those employees who are or were engaged in dealing with whistle-blowing disclosures, including those managing hotlines, are subject to a penalty should they fail to respect whistle-blowers' confidentiality. The Working Group highlights the importance of ensuring that the Consumer Affairs Agency has sufficient resources and access to information to carry out its mandate effectively. To foster an environment where whistle-blowing is respected, there is a need to combat retaliation and reward those who speak up. The Working Group underscores the importance of raising awareness and takes note of the efforts of the Consumer Affairs Agency to share videos about the Act through the media.

26. Positive practices that the Working Group observed include establishing grievance mechanisms open to all stakeholders and setting up dedicated grievance mechanisms for the value chain. The Engagement and Remedy Platform by the Japan Center for Engagement and Remedy on Business and Human Rights is a notable example, accumulating know-how and offering a non-judicial platform for its members to achieve redress based on the Guiding Principles. Another example is Ajinomoto's multi-language hotline for migrant workers,

¹³ See also <https://www.oecdwatch.org/ncp/ncp-japan/>.

¹⁴ See [A/75/224](#).

¹⁵ See [A/HRC/53/24/Add.2](#).

¹⁶ See <https://www.meti.go.jp/press/2021/11/20211130001/20211130001-1.pdf> (in Japanese).

¹⁷ See <https://www.tdb-di.com/2023/11/sp20231130.pdf> (in Japanese).

which operates in eight languages and is run in collaboration with a non-governmental organization.¹⁸

27. The Working Group was also pleased to learn about some State agencies' grievance reporting hotlines and commends in particular the establishment of the Japan Platform for Migrant Workers towards Responsible and Inclusive Society, which includes a grievance mechanism available in nine languages to migrant workers and provides expert consultation services.

III. At-risk groups

28. While this section is focused on women, LGBTQI+ persons, persons with disabilities, Indigenous Peoples, minority groups, including Buraku communities, children and older persons, it is important to stress that this is not an exhaustive list of at-risk stakeholder groups in Japan. The Working Group was also informed about issues in relation to, for instance, the exploitation of sex workers and discrimination against homeless people.

29. The crux of the challenges faced by at-risk stakeholder groups is the lack of diversity and inclusion in the labour market, on the one hand, and the prevalence of discrimination, harassment and violence in the workplace and society at large on the other. Indeed, ongoing disparities in these groups' ability to gain access to employment opportunities, fair wages and a living income are closely linked to structural inequality, workplace discrimination and related problems, including poverty and social exclusion.¹⁹ While personal attributes, such as ethnicity, race, age, gender and sexual orientation, should not prejudice an individual's job opportunities or perception of their work competencies, this is often the case in reality.²⁰ Indigenous Peoples, ethnic minorities, migrant workers and women, many of whom work in lower-paid and informal economy jobs, generally receive lower wages than the rest of the population. Beyond the moral imperative to ensure inclusion, inequality can be economically and politically damaging.²¹ To achieve sustainable growth and leave no one behind, as promised in the 2030 Agenda, it is important for government policies and business activities to champion inclusion and social justice by first reaching at-risk peoples, who are often those left the furthest behind.²²

A. Women

30. The Working Group expresses its concern about the persistent gender wage gap in Japan, as it was ranked 125 out of 146 countries in the 2023 gender gap index.²³ Full-time female workers earn only 75.7 per cent of their male counterparts' wages.²⁴ Moreover, women are frequently restricted to roles involving assistance, temporary employment, or part-time work, resulting in limited career advancement opportunities and fewer benefits. Women account for 68.2 per cent of non-regular workers,²⁵ earning only 80.4 per cent of what their male counterparts earn. The Working Group commends the Government's requirement for large businesses to disclose their gender wage gaps²⁶ as a positive step forward.

¹⁸ See <https://www.ajinomoto.com/sustainability/news/ajinomoto-co-inc-started-operating-a-multi-language-hotline-for-migrant-workers>.

¹⁹ See <https://www.un.org/esa/socdev/rwss/2016/full-report.pdf>.

²⁰ Ibid.

²¹ Thomas Piketty, *Capital in the Twenty-First Century* (Belknap Press, Cambridge, MA); and Joseph Stiglitz "The price of inequality", *New Perspectives Quarterly*, Vol. 30, No. 1.

²² See https://sdgpulse.unctad.org/inclusive-growth/#Ref_P56NBYW5.

²³ See https://www3.weforum.org/docs/WEF_GGGR_2023.pdf.

²⁴ See <https://www.mhlw.go.jp/english/database/db-l/ordinary2020.html>.

²⁵ See https://www.gender.go.jp/kaigi/senmon/keikaku_kanshi/siryo/pdf/ka22-1.pdf (in Japanese).

²⁶ Through the 2022 revisions to the Ministerial Ordinance on the Act on Promotion of Women's Participation and Advancement in the Workplace.

31. The participation of women from minority groups in the labour market likewise serves as a revealing indicator of discrimination. In contrast to the average annual earnings among women, which stands at about 3 million yen, Buraku women earn only about 2 million yen and Ainu women receive less than 1.5 million yen,²⁷ despite performing the same job with equal productivity. Resident Korean women also reported fewer job opportunities compared with Korean men and Japanese women.

32. The approval of the fifth basic plan for gender equality, formulated on the basis of the Basic Act for Gender Equal Society, demonstrates the Government's commitment to increasing the representation of women in executive management. Keidanren's goal to increase the proportion of women executives to 30 per cent by 2030 further reflects positive efforts from businesses. However, the current underrepresentation of women in executive management, at merely 15.5 per cent of employed individuals,²⁸ remains a concerning trend that demands greater attention from the Government and the private sector. Reports of women being denied promotions and worrying cases of sexual harassment highlight the need to promote gender diversity in leadership and decision-making roles.

33. The Government's introduction of one of the world's most generous paternity leave provisions marks another positive step in addressing gender inequality in the workplace. Nevertheless, the low uptake (17.13 per cent in 2022) falls significantly short of the Government's goal of achieving a 50 per cent ratio by 2025.²⁹ Concurrently, addressing concerns about instances of pregnant women facing job dismissals requires immediate attention.

B. LGBTQI+ persons

34. Throughout the visit, the Working Group was informed of instances of discrimination against LGBTQI+ persons. The Working Group is particularly concerned about such practices as demanding that transgender individuals disclose their legal names and pretransition photos on job applications. Furthermore, there are notable issues surrounding hate speech targeting LGBTQI+ communities, in particular online. While the Working Group acknowledges the Government's enactment of a law, the Act to Promote Public Understanding of Diversity of Sexual Orientation and Gender Identity, the Law lacks a clause prohibiting discrimination against LGBTQI+ individuals and lacks a clear definition of discrimination.

35. Despite these challenges, there have been positive developments, such as the Supreme Court's ruling on restroom access for transgender individuals and an increasing number of local governments implementing partnership systems for same-sex couples. Notably, the Tokyo Metropolitan Government and the Sapporo Government actively engage with the private sector to encourage the utilization of partnership certificates. These initiatives ensure that LGBTQI+ employees can avail themselves of various benefits. Indicating a growing awareness and appreciation for LGBTQI+ issues in the private sector, the Pride Center in Osaka is supported by several businesses. Another emerging positive practice is the Sapporo Government's LGBT-Friendliness Index System,³⁰ which evaluates and registers businesses promoting LGBT-friendly initiatives based on specific indicators. Although public awareness of the system remains limited, it represents an important initiative for greater inclusion.

²⁷ See <https://www.nta.go.jp/publication/statistics/kokuzeicho/minkan/gaiyou/2022.htm#a-01> (in Japanese).

²⁸ See <https://stats.oecd.org/Index.aspx?QueryId=54753>.

²⁹ See <https://www.weforum.org/agenda/2023/10/could-japans-paternity-leave-policy-help-narrow-the-gender-gap/>.

³⁰ See <https://www.city.sapporo.jp/shimin/danjo/lgbt/sihyo.html> (in Japanese).

C. Persons with disabilities

36. A pressing challenge in Japan concerns the inclusion of persons with disabilities in the labour market and workplace. The Working Group heard with concern the experiences of persons with disabilities who were exposed to workplace discrimination and lower salaries. Moreover, the Working Group has received concerning reports indicating instances of “false employment” and “proxy employment”, whereby businesses provide a venue for work for persons with disabilities to fulfil another business’ employment obligations, but these individuals are often segregated from other employees, working with other persons with disabilities only, thus contributing to further workplace inequality.

37. The Act for the Promotion of Employment for Persons with Disabilities, *inter alia*, sets legal employment quota rates for persons with disabilities. The legal quota for the private sector from April 2024 is 2.5 per cent and 2.8 per cent for State entities.³¹ There are persons with disabilities and intractable diseases who are not considered eligible in this system, however. Expanding the narrow and exclusive criteria used to calculate the quota is essential for promoting employment opportunities for persons with disabilities.

38. The Working Group also found that the current provision of personal assistance services for persons who require more intensive support, does not adequately support persons with disabilities during commuting and working hours. Feedback received by the Working Group indicates that the system is complicated to use, posing challenges for employers and exacerbating the marginalization of workers with disabilities.

39. The Ministry of Health, Labour and Welfare reported a record high of 4,138 persons with disabilities experiencing abuse, including while working in companies, in 2022.³² Discriminatory practices, such as denial of the opportunity to travel with infants or rejection by real estate agents due to landlords’ unwillingness to rent to persons with disabilities, compound the challenges that they face. It is especially important to consider the intersectionality of disability and gender, as women with disabilities often face aggravated discrimination.

D. Minority groups and Indigenous Peoples

40. The recognition of the Ainu people as Indigenous Peoples and the passing of the Ainu Measures Promotion Act of 2019 mark a positive move towards acknowledging their rights. However, the absence of a comprehensive census of the Ainu population, one that is predicated on an Ainu definition of their own Indigenous identity, renders discrimination against them invisible and uncounted, with Ainu people still facing discrimination in various domains, including education and the workplace.

41. The Working Group was informed of a lawsuit against the central and prefectural governments seeking to reclaim the Ainu people’s fishing rights. Article 28 of the Act on the Protection of Marine Resources prohibits, with limited exceptions, the harvesting of freshwater salmon by all Japanese citizens, including the Ainu people. However, this measure does not adequately consider the Ainu people’s traditional salmon fishing rights as an Indigenous People whose way of living has historically involved the hunting and harvesting of salmon from rivers. The measure only permits harvesting for cultural and ritual purposes, failing to support the Ainu’s traditional livelihood from salmon fishing. The Working Group is concerned that this situation limits Ainu rights and instead benefits businesses permitted to take salmon from the sea, warranting re-examination by the Government.

42. The absence of free, prior and informed consent from the Ainu people for various development projects, including those in the renewable energy sector, is likewise troubling. The Working Group notes with apprehension the adverse impact of these projects on the Ainu people and their rights. Stakeholders have brought to the Working Group’s attention

³¹ <https://www.mhlw.go.jp/content/001064502.pdf> (in Japanese).

³² See <https://barrierfreejapan.com/2023/12/20/japans-ministry-of-health-labor-and-welfare-reports-3079-cases-of-abuse-against-disabled-confirmed-by-local-governments-in-2022-highest-recorded-number/>.

issues of grave concern, including the leasing of State-owned forests to businesses to construct large-scale windmill complexes and resort developments without the Ainu people's consent. Although prior notification of project details to local residents is required for certification under the feed-in tariff and feed-in premium programmes, this is different from obtaining free, prior and informed consent from the Ainu people as Indigenous Peoples. Furthermore, the Ainu Measures Promotion Act allows Ainu people to collect forest products only for the purpose of promoting the Ainu people's culture. While the Working Group acknowledges the law's recognition of the Ainu people as the nation's Indigenous People, it is unfortunate that the Government does not recognize the Ainu people's collective rights to forest management and hunting.

43. The Working Group has also received reports of a surge in hostile and distorted views on the Ainu people, which may be categorized as hate speech, in printed materials and on the Internet. Noting the Government's efforts to promote cultural education about the Ainu people through tourism, for example, the Working Group is concerned about reports received of racial harassment and psychological stress faced by Ainu workers at the National Ainu Museum and Park.

44. Equally concerning to the Working Group are the cases of discrimination against ethnic Korean and Chinese workers, including repeated acts of hate speech by employers.³³ Certain hate speech-related cases filed by victims reportedly took many years to go through the Japanese court system, and, according to testimonies received, even when the plaintiffs won, there was no financial compensation, undermining access to remedy.³⁴ It is worth noting that many of the ethnic Korean workers who continue to suffer discrimination and harassment are third-generation (or longer) residents in Japan, and their mother tongue is Japanese. Relatedly, a survey published in 2017 by the Ministry of Justice showed that, of those who suffered discriminatory treatment at work, 25 per cent were refused employment because they were foreigners, 19.6 per cent received lower wages and 12.8 per cent experienced poorer working conditions than their Japanese counterparts.³⁵

45. Furthermore, the Working Group learned about human rights issues surrounding Buraku people, who are still subject to various types of discrimination in their daily lives. Such discrimination severely affects their ability to gain access to the labour market and enjoy equal employment opportunities. While Japan approved the Act on the Promotion of Elimination of Buraku Discrimination of 2016, the Working Group was alerted to a pattern of hate speech used, in particular online and in the publishing industry, and of workplace discrimination (e.g. through invasive job screening questionnaires). While some Buraku people have successfully won lawsuits against discrimination, the Working Group was notified of how long court proceedings in Japan make it challenging to gain access to remedies effectively.

46. Despite requests under the Act on the Protection of Personal Information, the Personal Information Protection Commission issued an opinion that information contained in the family register, which may be used to discriminate against Buraku people, is not within the scope of "sensitive personal information" covered by the law. Similarly, the Act on the Promotion of Efforts to Eliminate Unfair Discriminatory Speech and Behaviour against Persons Originating from Outside Japan of 2016 (also known as the Hate Speech Elimination Act) does not define discrimination or include penalty provisions or remedy. Furthermore, it only covers "foreigners" legally residing in Japan. As such, it does not cover discrimination against Buraku people. The Working Group was pleased to note however that, during a meeting of the Cabinet Committee of the Upper House, the Secretary-General of the Personal Information Protection Commission orally agreed that Buraku falls under the definition of

³³ See, for example, <https://www.bbc.com/news/business-55345080> and <https://www.asahi.com/ajw/articles/14714919>.

³⁴ See <https://www.business-humanrights.org/en/latest-news/japan-lawsuit-against-leading-real-estate-fuji-corp-over-alleged-distribution-of-documents-containing-racist-expressions-constituting-hate-speech-company-comments-compensation-orders-unacceptable/>.

³⁵ See https://www.moj.go.jp/JINKEN/stophatespeech_chousa.html (in Japanese).

“social status”,³⁶ which is within the scope of “sensitive personal information” covered in the Act and, as such, the Working Group hopes that this opinion will be added to the guidelines for the Act’s implementation.

47. The Working Group did learn of positive practices, which include coordination committees comprising businesses that work with affected stakeholders to reduce discrimination through, for instance, providing training programmes to employees. Other examples include initiatives by local governments to raise awareness and fight discrimination, the consultation channels of the Ministry of Justice and the guidance of the Ministry of Health, Labour and Welfare on establishing a human rights focal point for businesses with 80 or more employees. As indicated by the fair recruitment and human rights awareness promoter scheme, employers are required to ensure “fair recruitment selection based on the understanding and recognition of human rights issues, such as [Buraku] issues”.³⁷

48. The Working Group underlines that, without adequate regulation or laws that prohibit discrimination, it is extremely difficult for victims of discrimination to file complaints or gain access to remedy. Discrimination against Indigenous Peoples and ethnic Korean, Chinese and Buraku people falls under the scope of the International Convention on the Elimination of All Forms of Racial Discrimination, to which Japan has acceded. Furthermore, the Working Group specifically reiterates the role that social media and technology businesses should play in promoting respect for human rights across their platforms and preventing harm.³⁸

E. Children

49. The Working Group was informed about child labour concerns both in Japanese value chains and in Japan.³⁹ While the Labor Standards Act provides for special protective provisions concerning work for those under 18 years of age, the legal framework does not define child labour, and the Government does not currently have an action plan on the eradication of child labour. Moreover, stakeholders indicated a low level of understanding of children’s rights in general and the impact of businesses on these rights specifically. Given that the Government enacted the Basic Act on Children’s Policy and the General Principles for Child-Related Measures, having also created the Children and Families Agency in 2023, this presents a timely opportunity for increased awareness-raising and mainstreaming children’s rights into the context of business and human rights. This could include, for example, marketing and advertising that respects and supports children’s rights and raising awareness of how children are also stakeholders for business. In this regard, the Working Group welcomes initiatives by Japan International Cooperation Agency and Japanese businesses to eradicate child labour within high-risk areas like cocoa value chains.⁴⁰

F. Older persons

50. Japan has one of the fastest ageing and declining birth rates in the world, resulting in a growing labour shortage.⁴¹ Among OECD countries, Japan has one of the highest rates of older persons’ participation in the labour force.⁴² According to the Ministry of Internal Affairs and Communications, the number of workers 65 years of age and older represented

³⁶ Recording available on <https://www.webtv.sangiin.go.jp/webtv/index.php> (in Japanese) by navigating to 7 December 2023 and selecting the video of the Cabinet Committee.

³⁷ See <https://kouseisaiyou.mhlw.go.jp/system.html> (in Japanese).

³⁸ See, for example, communication OTH 125/2022 and associated communications. All communications mentioned in the present report are available from <https://spcommreports.ohchr.org/Tmsearch/TMDocuments>.

³⁹ See, for example, [https://acejapan.org/wp/wp-content/uploads/2020/08/ACE_Report_Child_Labour_in_Japan\(E\).pdf](https://acejapan.org/wp/wp-content/uploads/2020/08/ACE_Report_Child_Labour_in_Japan(E).pdf).

⁴⁰ See https://www.jica.go.jp/Resource/english/news/press/2022/20221012_42.html.

⁴¹ See <https://www.mhlw.go.jp/churoi/roushi/dl/R050313-1.pdf> (in Japanese).

⁴² See <https://www.oecd.org/els/emp/Working-better-with-age-Japan-EN.pdf>.

an all-time peak of 9.12 million in 2022.⁴³ A study by the Ministry of Health, Labour and Welfare also indicated that 39 per cent of businesses in Japan had hired someone over the age of 70 in 2022.⁴⁴

51. The Working Group heard concerns of discriminatory employment practices targeting older persons. Over 70 per cent of those employed at age 65 or older are non-regular workers,⁴⁵ which can lead to situations of homelessness among older persons due to precarious job contracts. Contracts for people between 60 and 65 years of age, in many cases, provide for reduced wages for the same work, and there is a lack of protections for older persons who are prone to illness or injury.⁴⁶ Crucially, approximately one fourth of work-related injuries or deaths occurred among workers 60 years of age or older, making older persons the most affected group.⁴⁷ Structural issues, such as the ability of employers to set a mandatory retirement age and poor-quality jobs for older persons, are hindering efforts to extend the years of work for older persons in productive and high-quality jobs.⁴⁸ All of this spotlights the need for dedicated policy attention on the labour rights of older persons, in particular considering that Japan does not have general age discrimination legislation, unlike other OECD countries.

IV. Thematic areas of concern

52. In this section, the Working Group delves into key thematic areas of interest to it, by probing specific cases that are emblematic of the many serious concerns repeatedly raised by stakeholders. This allows for a grounded analysis of the progress made and the myriad challenges that remain for realizing the business and human rights agenda of Japan.

A. Health, climate change and the natural environment

53. During the visit, the Working Group observed weak levels of awareness of the interconnection between human rights and the environmental impact of business activities. The Working Group stresses that businesses have the responsibility to respect human rights, which include the right to a healthy, clean and sustainable environment.

54. The Working Group urges the Government and businesses to do more to secure a transition to a zero-carbon economy,⁴⁹ especially given that Japan is the world's sixth largest emitter of carbon dioxide and, despite government efforts to decarbonize the power sector, coal remains a substantial part of the country's energy mix.⁵⁰ The Working Group recalls its report on the extractives sector, a just transition and human rights.⁵¹

55. The Working Group observed some promising efforts, specifically by civil society, to ensure corporate accountability and respect for the right to a clean, healthy and sustainable environment. For instance, environmental non-governmental organizations have filed shareholder proposals with major Japanese businesses listed in the prime market of the Tokyo Stock Exchange, calling for more disclosure of their climate change policies.⁵² Climate

⁴³ See https://www.stat.go.jp/data/topics/pdf/topi138_02.pdf (in Japanese).

⁴⁴ See <https://www.weforum.org/agenda/2023/08/japan-working-age-labour-shortage/>.

⁴⁵ See <https://www.stat.go.jp/data/topics/topi1322.html> (in Japanese).

⁴⁶ See <https://www.oecd.org/els/emp/Working-better-with-age-Japan-EN.pdf>; and <https://social.un.org/ageing-working-group/documents/eleventh/Inputs%20MS/Japan-Right-to-work.pdf>.

⁴⁷ See <https://www.tokyo-np.co.jp/article/201402> (in Japanese).

⁴⁸ See <https://www.oecd.org/els/emp/Working-better-with-age-Japan-EN.pdf>; and <https://www.oecd-ilibrary.org/sites/bae148a3-en/index.html?itemId=/content/component/bae148a3-en>.

⁴⁹ See communications JPN 2/2023, OTH 89/2023 and OTH 86/2023.

⁵⁰ See <https://www.elibrary.imf.org/view/journals/002/2022/100/article-A004-en.xml>.

⁵¹ [A/78/155](#).

⁵² See <https://www.business-humanrights.org/en/latest-news/japan-environmental-ngos-file-shareholder-proposals-to-major-japanese-companies-in-tokyo-prime-market-calling-for-greater-disclosure-of-climate-change-policies/>.

lawsuits have also been brought against power companies and the Government,⁵³ although, as of January 2024, rulings were either pending or unsuccessful.⁵⁴ Noting various government and private sector environmental, social and governance initiatives,⁵⁵ the Working Group highlights its report on this topic.⁵⁶

56. The Working Group welcomes the environmental due diligence initiatives of the Ministry of the Environment, which include reference to the Guiding Principles and human rights.⁵⁷ Noteworthy efforts by some businesses include establishing supplier codes of conduct that incorporate an environmental or value chain lens on the practice of human rights due diligence.⁵⁸ The Government has committed to carbon neutrality by 2050,⁵⁹ taking steps to increase transparency, including by requiring non-financial information disclosure from businesses on sustainability-related initiatives.⁶⁰ To attain a just transition, the Working Group spotlights the need for increased policy coherence at the national level.

57. Concerns persist about the effectiveness of existing Government mechanisms to address environmental issues raised by stakeholders. The Working Group expresses serious apprehension in particular over reports of inadequate public consultation in environmental impact assessment processes, especially for large-scale development schemes. One case raised by stakeholders is the Jingu Gaien District Urban Redevelopment Project, which could result in adverse human rights impacts.⁶¹ The Working Group emphasizes that meaningful consultation, in particular with at-risk and minority groups who are likely to be disproportionately affected by climate change, is required under the Guiding Principles.

1. Fukushima Daiichi nuclear disaster

58. The Working Group met with stakeholders affected by the Fukushima Daiichi nuclear disaster. While the Tokyo Electric Power Company⁶² has established a human rights policy, a procedure for human rights due diligence and a grievance mechanism, in 2021, affected stakeholders, including workers, informed the Working Group of problematic labour practices relating to the power station's decommissioning, clean-up and decontamination efforts. The Working Group listened with deep concern reports from interlocutors about instances of forced labour, predatory subcontracting practices and unsafe working conditions. Some of the same concerns had also been raised by special rapporteurs, in 2018,⁶³ and by non-governmental organizations on several occasions,⁶⁴ but remain unresolved. The Working Group also heard about the issues hospital workers and schoolteachers faced in the aftermath of the disaster, highlighting the continued need for remedies for all stakeholders affected.

59. In terms of forced labour, the Working Group was informed that some workers of subcontractors of the Tokyo Electric Power Company were forced to work on the decontamination and the decommissioning of the nuclear power station to pay off debts. The

⁵³ See <http://climatecasechart.com/non-us-case/citizens-committee-on-the-kobe-coal-fired-power-plant-v-japan/>; <http://climatecasechart.com/non-us-case/yokosuka-climate-case/>; and <https://climatecasechart.com/non-us-case/market-forces-v-smbc-mufg-and-mizuho/>.

⁵⁴ See <https://blogs.law.columbia.edu/climatechange/2022/06/01/climate-litigation-in-japan-citizens-attempts-for-the-coal-phase-out/>.

⁵⁵ See <https://www.jbic.go.jp/en/information/press/press-2021/1028-015365.html>; <https://www.mufg.jp/english/csr/society/esg/index.html>; and <https://www.mizuhogroup.com/investors/esg>.

⁵⁶ A/HRC/56/55.

⁵⁷ See <https://www.env.go.jp/content/900497033.pdf> (in Japanese).

⁵⁸ See <https://mneguidelines.oecd.org/case-studies-on-environmental-due-diligence-english-version.pdf>.

⁵⁹ See https://www.meti.go.jp/english/policy/energy_environment/global_warming/roadmap/.

⁶⁰ See <https://www.fsa.go.jp/en/newsletter/weekly2023/524.html>.

⁶¹ See <https://www.icomos.org/en/get-involved/inform-us/heritage-alert/current-alerts/125573-heritage-alert-jingu-gaien>.

⁶² The Nuclear Damage Compensation and Decommissioning Facilitation Corporation was established by the Government of Japan and holds over 50 per cent of the Company's shares.

⁶³ See <https://news.un.org/en/story/2018/08/1017232>.

⁶⁴ See https://www.greenpeace.org/static/planet4-japan-stateless/2021/03/ff71ab0b-finalfukushima2011-2020_web.pdf; and https://www.greenpeace.org/static/planet4-japan-stateless/2019/03/b12d8f83-frontfksm_en.pdf.

Working Group also learned that the Company had five subsidiary layers of subcontractors, with workers on lower tiers of the subcontracting ladder reportedly receiving lower wages while performing the same job.⁶⁵ Other workers were promised certain wages and hazard pay, but once they were on the job, they were paid considerably less. When some workers attempted to file a class action lawsuit to claim their hazard pay, they lost the case because their labour contracts with subcontractors did not stipulate the payment of hazard allowances.⁶⁶ The Working Group also heard with distress from workers whose colleagues had died from workplace accidents and about workers who were afraid to speak up due to the retaliatory practice of dismissing those who had voiced concerns.

60. The Working Group was deeply concerned to learn about workers who had developed cancer-related illnesses after their clean-up and decontamination work but had been denied financial compensation or medical assistance by the Company's subcontractors, as employment records did not accurately reflect radiation exposure. Specifically, the Working Group heard of cases where workers were required to submit materials proving a causal relationship between exposure to radiation and the onset of cancer. This places an unreasonable burden on individuals and goes against the principles outlined in the Guiding Principles. Business entities, not individuals, are responsible for ensuring a safe working environment and shouldering the burden of proof.⁶⁷

61. In addition to operational health and safety issues related to the disaster, the Working Group repeatedly heard serious concerns about the discharge of treated water through the advanced liquid processing system from the Fukushima Daiichi Nuclear Power Station, commencing in August 2023. On this issue, several special rapporteurs have also expressed concern.⁶⁸

2. Per- and poly-fluoroalkyl substances

62. The Working Group heard several cases of water contaminated with per- and poly-fluoroalkyl substances (PFAS) in Tokyo, Osaka, Okinawa, Kanagawa and Aichi, reportedly linked to business operations. The Working Group notes the link between PFAS and negative health effects, as previously highlighted by several special procedure mandate holders.⁶⁹ In January 2023, the Ministry of the Environment established an expert group to discuss comprehensive PFAS measures based on scientific evidence and to contribute to the safety and security of the people by disseminating easy-to-understand information.⁷⁰ The expert group has since published guidance for the Government to, inter alia, continuously monitor rivers and groundwater, conduct general human exposure assessments, including blood concentration surveys, on a large scale and review the current PFAS provisional target values based on the latest scientific evidence.⁷¹ In response, the Ministry of the Environment prepared a policy to prevent negative health effects and ensure proper PFAS management,⁷² including plans to enhance scientific knowledge on the negative effects of PFAS on human health. The policy is not slated to involve large-scale studies of PFAS blood concentration among residents in affected areas, however. To date, the Working Group understands that there is limited government initiative to conduct health studies of people living near PFAS-contaminated water sources.⁷³ This is despite an academic study indicating that western Tokyo residents have been exposed to four harmful PFAS chemicals.⁷⁴

⁶⁵ The Working Group notes that these predatory subcontracting practices also occur across other industries in Japan.

⁶⁶ See <https://jp.reuters.com/article/idUSKBN0GY091/> (in Japanese).

⁶⁷ See A/HRC/38/20/Add.2 and A/HRC/47/39/Add.2.

⁶⁸ See <https://www.ohchr.org/en/press-releases/2021/04/japan-un-experts-say-deeply-disappointed-decision-discharge-fukushima-water>.

⁶⁹ See communication USA 6/2023 and associated communications.

⁷⁰ See <https://www.env.go.jp/water/pfas/pfas.html> (in Japanese).

⁷¹ See <https://www.env.go.jp/content/000150418.pdf> (in Japanese).

⁷² See <https://www.env.go.jp/content/000182770.pdf> (in Japanese).

⁷³ A pilot study in 2021 by the Ministry of the Environment covered just 119 residents across Japan.

⁷⁴ See <https://plaza.umin.ac.jp/khh/TamaPFAS20230921.pdf> (in Japanese); and <https://efsa.onlinelibrary.wiley.com/doi/abs/10.2903/sp.efsa.2020.EN-1931>.

63. The Working Group notes that the Tokyo Metropolitan Government has taken positive steps, including conducting groundwater surveys, suspending some intake wells and setting up a hotline.⁷⁵ Another positive practice is a PFAS consultation clinic established by a private hospital in Tokyo.⁷⁶ Despite this, additional measures are needed at the national level to address PFAS contamination and its negative health effects in all affected regions. Given that PFAS contamination in many of these cases is allegedly linked to business operations, the Working Group highlights the business responsibility to address this issue, under the Guiding Principles and the “polluter pays” principle.

B. Labour rights

64. The Working Group also examined a range of labour rights-related issues, such as overwork, occupational health and safety and the ability of workers to unionize.

1. Labour unions

65. The Working Group received information concerning arrests and prosecutions targeting labour union members, including in Osaka. These members faced legal action under charges of the alleged forcible obstruction of business and attempted extortion, stemming from their participation in daily union activities focused on advocating for corporate compliance with laws and regulations. In other instances, employees were denied entry to work for unionizing.

66. The Working Group notes the essential role of labour unions in promoting fair and lawful workplace practices, which help to ensure that business enterprises respect human rights, as outlined by the Guiding Principles. Therefore, the Working Group reiterates the importance of labour unions being able to carry out their activities in a legitimate manner.

2. Overwork

67. Stakeholders notified the Working Group about long-standing challenges associated with *karoshi* (death by overwork). The Working Group welcomed the efforts made by the Government to address these issues, evidenced by the enactment of laws aimed at raising awareness, capping overtime hours and preventing workplace harassment. The Working Group remains concerned however by reports of increases in compensation claims involving work-related illnesses, in particular in relation to mental health.⁷⁷ The Working Group is also apprehensive about exceptions to the overtime cap, notably for medical doctors who may be legally compelled to work up to 1,860 overtime hours per year.

3. Migrant workers and the technical intern training programme

68. The Working Group met with foreign workers under the technical intern training programme, their employers and businesses whose value chains involve the use of workers from the programme. Those workers were the second largest category of foreigners in Japan in 2022.⁷⁸ While the stated purpose of the programme is human resource development, these workers also play an indispensable role in addressing the country’s labour shortage and stimulating the economy.

69. The Working Group heard cases of foreign workers being fired after suffering from workplace accidents, and thus having their medical treatment discontinued. Reports were also received of workplace violence, cramped living conditions, difficulties opening and gaining access to bank accounts in Japan, the payment of exorbitant fees to agencies in workers’ home States and workers performing the same duties for lower wages than their Japanese counterparts. In 2022, 7,247 employers in the technical intern training programme

⁷⁵ See <https://www.metro.tokyo.lg.jp/tosei/hodohappyo/press/2023/04/28/18.html> (in Japanese).

⁷⁶ See <https://www.tokyo-np.co.jp/article/234470> (in Japanese).

⁷⁷ See <https://www.mhlw.go.jp/content/11402000/001113802.pdf> (in Japanese).

⁷⁸ See <https://www.moj.go.jp/isa/content/930004452.pdf>.

were found liable for illegal practices, including breaches of safety rules and unpaid wages.⁷⁹ While the Technical Intern Training Programme Act of 2017 prohibits forced labour, the Working Group notes the existence of reports indicating cases of technical interns and other foreign workers being forced to work by having their passports confiscated⁸⁰ and employees being forced to come to work or work overtime against their will.⁸¹

70. The Working Group was nonetheless alerted to positive practices, such as recipient unions assisting workers with understanding their rights and acting as grievance mechanisms. The Working Group heard of the work undertaken by associations of small and medium-sized enterprises in encouraging responsible hiring practices and management and how several large businesses had supplier codes of conduct that forbade recruitment fees for foreign technical workers and required their suppliers to repay the fees to employees.⁸²

71. Equally noteworthy is how the human rights bodies of the Ministry of Justice can provide human rights counselling services in multiple languages to foreign nationals and carry out awareness-raising activities.⁸³ The Technical Intern Training Organization can also conduct inspections, and it provides native language counselling to technical interns. However, stakeholders expressed concerns that the counselling can be superficial and that the effectiveness of on-site inspections is questionable.

72. The expert panel reviewing the technical intern training programme submitted its final report in November 2023, listing human rights protections for foreign workers as one of the objectives for the review.⁸⁴ The expert panel suggested, *inter alia*, that employer changes should be allowed under certain conditions, that requirements for supervisory bodies should be tightened and that the roles of related organizations should be clarified to strengthen human rights protection. Based on the expert panel's final report and other opinions, the Government decided to review the technical intern training programme and subsequently proposed a new system to the Diet. However, the Working Group stresses that it continues to be crucial to conduct differentiated assessments on the salient human rights issues for each of the sectors covered in the programme. Should Japan achieve sustained economic growth, the country's foreign labour force is expected to increase to approximately 4.5 million people by 2040.⁸⁵ In view of this estimate, the Government must take steps now to establish frameworks that will ensure the universal enjoyment of human rights. The Working Group highlights the guidance of OHCHR on this topic.⁸⁶

C. Media and entertainment industry

73. The Working Group observed deeply troubling issues within the media and entertainment industry, especially in the idol and animation sector. The animation market in Japan has seen a significant increase in profits, reaching 2.74 trillion yen (approximately \$20 billion).⁸⁷ But despite this growth, the annual starting salaries of animators stand at a mere 1.5 million yen (roughly \$10,000).⁸⁸ This disparity is particularly worrying considering that, in 2023, approximately 30.8 per cent of those employed in the industry worked as freelancers or independent contractors, who were reportedly not receiving protection under the current labour laws.⁸⁹ This enables excessively long working hours and perpetuates unfair

⁷⁹ See <https://english.kyodonews.net/news/2023/08/09167237d52f-over-7200-japan-firms-employing-foreign-trainees-broke-law.html>.

⁸⁰ See, e.g. <https://www.state.gov/wp-content/uploads/2022/10/20221020-2022-TIP-Report.pdf>.

⁸¹ *Ibid.*

⁸² See e.g. https://www.sony.com/en/SonyInfo/csr_report/sourcing/Sony_Supply_Chain_CoC_E.pdf.

⁸³ See <https://www.moj.go.jp/content/001412238.pdf>.

⁸⁴ See https://www.moj.go.jp/isa/policies/policies/03_00033.html?hl=en (in Japanese).

⁸⁵ See <https://www.jil.go.jp/press/documents/20240311.pdf> (in Japanese).

⁸⁶ See <https://bangkok.ohchr.org/wp-content/uploads/2023/01/Report-on-temporary-labour-migration-programme-final-250123.pdf>; <https://www.ohchr.org/sites/default/files/Documents/Issues/Migration/GlobalCompactMigration/IrregularMigrants.pdf>; and <https://www.ohchr.org/sites/default/files/Documents/Issues/Migration/PrinciplesAndGuidelines.pdf>.

⁸⁷ See https://aja.gr.jp/download/2022_anime_ind_rpt_summary_en (in Japanese).

⁸⁸ See https://www.jftc.go.jp/cprc/katsudo/bbl_files/258th-bbl.pdf (in Japanese).

⁸⁹ *Ibid.*

subcontracting relationships. However, animation production companies, along with their subcontractors, face no penalties. Furthermore, creators often sign contracts that inadequately protect their intellectual property rights, creating an environment ripe for exploitation. Combined with a major labour shortage, it is imperative that businesses in this sector, including anime production committees, address these issues and exercise leverage to enhance decent work for animators and prevent the potential collapse of this industry. Similarly, in the idol industry, the Working Group was informed about young talents being coerced into signing contracts obliging them to comply with every demanding requirement of producers, advertisers and agents, while also subjecting them to exorbitant penalties for non-compliance.

74. This alarming environment fosters a culture of impunity and exacerbates sexual violence and harassment, such that these issues within the broader media and entertainment industry remain inadequately addressed. The Working Group was informed about the sexual harassment and abuse of female journalists and the lack of remedial action taken by broadcasting stations, which, at best, send them on leave, transfer them to another department or advise them to consult a doctor. According to the Ministry of Health, Labour and Welfare, more than 20 per cent of actors have experienced sexual harassment at work.⁹⁰ Key businesses, such as broadcasting stations, publishing companies and advertising giants, are failing to uphold their responsibility to respect human rights by preventing sexual abuse and using leverage in their business relationships to address human rights risks.

75. The Working Group remains profoundly alarmed by allegations of sexual exploitation and abuse involving several hundred talents signed with Johnny and Associates (recently renamed Smile-Up). As noted in the Working Group's end of mission statement, media companies in Japan have been implicated in covering up such scandals for decades. While the Working Group welcomes the various actions taken by businesses associated with Smile-Up to take on greater accountability, it is still important to carefully consider the human rights implications of disengagement and exercise leverage as a first step, in line with the Guiding Principles.

76. Since the Working Group's visit, Smile-Up has extended offers of compensation through a remediation committee to 282 victims and provided monetary compensation to 201 out of 206 victims who accepted such offers.⁹¹ This is still a long way from meeting the needs of the victims who have requested timely remediation, including those whose compensation claims are under appeal.⁹² While the Working Group acknowledges Smile-Up's efforts, it is concerning for the Working Group to receive regular reports about the difficulties faced by victims in seeking mental health-care assistance through Smile-Up's Mental Care Consultation Desk. Moreover, although Smile-Up has purportedly been offering lawyers or clinical psychologists to be present during interviews at no cost, victims with whom the Working Group has engaged reported not having received this offer. It is also unacceptable that the monetary compensation offered by Smile-Up does not cover legal fees, leaving victims to bear these costs themselves.

D. Regulating value chains and finance

77. The Working Group met with representatives of businesses, government agencies and State-owned enterprises operating in high-risk contexts, including conflict-affected areas. Throughout these meetings, it became clear that these stakeholders needed guidance, including on responsible exit that incorporated human rights considerations.

78. Stakeholders informed the Working Group of the need for updated legislation and improved implementation related to transparency and information disclosure, as well as for grievance mechanisms for human rights disputes outside of Japan.

⁹⁰ See <https://www.asahi.com/ajw/articles/15005538>.

⁹¹ See <https://www.smile-up.inc/s/su/group/detail/10012?ima=2647> (in Japanese).

⁹² Ibid.

79. In many instances, it is difficult to establish⁹³ to what extent Japanese businesses and State-owned enterprises operate in conflict-affected areas, including in Myanmar⁹⁴ and the Russian Federation, because they usually do not disclose information fully on their business dealings, citing commercial confidentiality.⁹⁵ This hinders the public's right to information and reinforces the need for legislation on transparency and disclosure. Furthermore, it is unclear whether Japanese businesses operating in conflict-affected areas are conducting heightened human rights due diligence.⁹⁶ Businesses operating in conflict-affected areas should engage in heightened human rights due diligence to investigate the possibility of their complicity in human rights abuses.⁹⁷ The Working Group has previously urged businesses to "act in line with the [Guiding Principles] to avoid contributing to human rights violations or becoming complicit in crimes if they continue to operate in Myanmar".⁹⁸ The Working Group stresses that terminating business relationships should be considered a last resort and calls upon Japanese businesses to exercise their leverage to identify, prevent, mitigate and address adverse human rights impacts, as stated in the Guiding Principles.⁹⁹ In addition, the Working Group notes that stakeholder engagement across value chains can serve as the foundation for respect for human rights.

80. The Working Group also heard concerns of risks related to forced labour along Japanese supply chains, such as operations linked to forced labour of ethnic minority Uyghurs,¹⁰⁰ or trafficking in persons, including children, for purposes of forced labour in tobacco farms in Malawi.¹⁰¹ In fact, in 2023, Japan ranked second in the world in terms of the scale of its economic involvement, through its imports, in supply chains at risk of modern slavery, which includes issues of child labour discussed above.¹⁰² A survey conducted by the Institute of Developing Economies-Japan External Trade Organization in 2018 showed that only 29 per cent of Japanese businesses had established policies on labour, health and safety and the environment for their suppliers and required compliance.¹⁰³ Suggesting an improvement, a 2021 survey by the Ministry of Economy, Trade and Industry and the Ministry of Foreign Affairs showed that 52 per cent of the 392 businesses surveyed indicated that they were conducting human rights due diligence.¹⁰⁴ Opportunities for further improvement notwithstanding, the Working Group welcomes efforts by Japanese businesses to address forced labour in supply chains.¹⁰⁵

81. Regarding development finance, the Japan International Cooperation Agency and the Japan Bank for International Cooperation exemplify some of the positive practices in the field. However, the Working Group also received reports about the human rights impact of projects that had received financial support from development finance institutions, such as

⁹³ See <https://www.business-humanrights.org/en/latest-news/russia-japanese-trading-co-mitsui-mitsubishi-plan-to-retain-interests-in-sakhalin-2-energy-project/>.

⁹⁴ See <https://bangkok.ohchr.org/wp-content/uploads/2023/04/2023.04.28-End-of-Mission-Statement.pdf>; and <https://www.fairfinance.jp/media/eralapvo/ffgj-myanmar-en20220215.pdf>.

⁹⁵ See <https://bangkok.ohchr.org/wp-content/uploads/2023/04/2023.04.28-End-of-Mission-Statement.pdf>.

⁹⁶ See, e.g. <https://www.business-humanrights.org/en/latest-news/russian-invasion-of-ukraine-what-companies-have-to-say-about-their-human-rights-due-diligence/>.

⁹⁷ See A/75/212.

⁹⁸ See <https://www.ohchr.org/en/press-releases/2021/05/myanmar-time-business-take-stand-against-human-rights-violations-un-experts?LangID=E&NewsID=27087>.

⁹⁹ See <https://www.ohchr.org/sites/default/files/documents/issues/business/bhr-in-challenging-contexts.pdf>.

¹⁰⁰ See e.g. communication JPN 2/2020 and associated communications.

¹⁰¹ See e.g. communication JPN 1/2022 and associated communications.

¹⁰² See <https://cdn.walkfree.org/content/uploads/2023/05/17114737/Global-Slavery-Index-2023.pdf>.

¹⁰³ See https://www.ide.go.jp/library/Japanese/Research/Project/2018/pdf/2018110007_06.pdf (in Japanese).

¹⁰⁴ See https://www.meti.go.jp/english/press/2021/1130_002.html.

¹⁰⁵ See <https://knowthechain.org/company/sony-corp-japan/>.

the Japan Bank for International Cooperation, in countries like Myanmar¹⁰⁶ and Viet Nam.¹⁰⁷ The Working Group emphasizes the importance of stakeholder engagement, especially with at-risk groups, and refers to the findings and recommendations included in its reports on development finance institutions¹⁰⁸ and heightened human rights due diligence in conflict-affected areas.¹⁰⁹

82. The Working Group was pleased to learn that human rights language had been or would be included by all ministries in public procurement. The Working Group also commends the initiatives by local governments to include human rights in their public procurement strategies.

V. Conclusions and recommendations

83. **Advancing the implementation of the 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. The Working Group commends the ongoing efforts of the Government, businesses and civil society to build capacity and raise awareness of the Guiding Principles and the national action plan.**

84. **The Working Group 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 LGBTQI+ persons. There is a clear need to accelerate the realization of the Guiding Principles through inclusive and candid multi-stakeholder dialogue.**

85. **In addition to previous recommendations and guidance issued by OHCHR and other United Nations human rights mechanisms, the Working Group recommends that the Government:**

- (a) **When reviewing the national action plan:**
 - (i) **Pay special attention to business-related human rights abuses experienced by at-risk communities;**
 - (ii) **Strengthen access to remedy and corporate accountability, in line with the Working Group's previous guidance;¹¹⁰**
 - (iii) **Include a gap analysis of business and human rights policies;**
 - (iv) **Clarify the modalities for implementation, including the identification of clear responsibilities, time frames and human rights indicators to monitor and evaluate progress;**
 - (v) **Develop effective mechanisms to ensure the meaningful participation of relevant stakeholders, including victims and civil society actors, in monitoring and evaluating the progress made during the implementation;**
- (b) **Continue training and awareness-raising activities on the Guiding Principles and the national action plan;**

¹⁰⁶ See <https://www.hrw.org/news/2021/02/16/joint-submission-concerning-japanese-business-entities-operating-myanmar>; and <https://www.jbic.go.jp/en/information/press/press-2018/1218-011714.html>.

¹⁰⁷ See https://www.banktrack.org/project/nghi_son_2_coal_power_plant; <https://www.mofa.go.jp/files/100138168.pdf>; and <https://www.jbic.go.jp/en/information/press/press-2018/0413-010921.html>.

¹⁰⁸ A/HRC/53/24/Add.4.

¹⁰⁹ A/75/212.

¹¹⁰ A/69/263.

- (c) **In relation to the Guidelines:**
 - (i) **Include businesses supported by public funds and explicitly cover risks and impacts in the end-use phase;**
 - (ii) **Expand the definition of “human rights” to encompass environmental impacts and international instruments;**
 - (iii) **Explicitly consider environmental and climate change impacts as an aspect of human rights due diligence;**
 - (d) **Adopt national legislation mandating human rights due diligence, in consultation with relevant stakeholders;**
 - (e) **Require systematic and meaningful reporting on human rights criteria and ensure victims’ access to remedy by, inter alia, requiring businesses’ full cooperation with judicial and non-judicial grievance mechanisms and a reversal of the burden of proof;**
 - (f) **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 fulfil their respective obligations to protect, investigate, punish and redress business-related human rights abuses. Allocate sufficient resources to this end;**
 - (g) **Improve access to judicial and non-judicial remedies by removing the barriers identified in the present report, ensuring effective protection and assistance for all victims of business-related human rights abuses, including by:**
 - (i) **Increasing the visibility of the Japan Legal Support Center;**
 - (ii) **Establishing, without further delay, a robust and independent national human rights institution in line with the principles relating to the status of national institutions for the promotion and protection of human rights (the Paris Principles) to better promote access to effective remedy and corporate accountability. It should be equipped with an explicit mandate and resources to address human rights abuses, including providing civil remedies, raising awareness, building capacity on business and human rights and protecting human rights defenders. It should also develop close collaboration with national human rights institutions of other countries and the OECD National Contact Point;**
 - (iii) **Creating a human rights ombudsperson to facilitate access to remedy;**
 - (iv) **Enhancing the visibility, institutional capacity and expertise of the OECD National Contact Point to provide meaningful remedial outcomes, including through raising awareness of the Contact Point’s mandate and procedures to affected stakeholders in overseas jurisdictions;**
 - (v) **Continuing efforts to increase the visibility of the Japan Platform for Migrant Workers towards Responsible and Inclusive Society and build trust among migrant worker communities in Japan;**
 - (vi) **Further strengthening whistle-blower protection in the next review of the Whistle-blower Protection Act, including by applying the Act to those who are self-employed, contractors, suppliers, workers’ family members and attorneys, establishing sanctions for businesses who retaliate against whistle-blowers and providing financial incentives or similar rewards systems for whistle-blowers;**
 - (h) **Ratify the ILO Discrimination (Employment and Occupation) Convention, 1958 (No. 111), Occupational Safety and Health Convention, 1981 (No. 155), Protocol of 2014 to the Forced Labour Convention, 1930 (No. 29), and Indigenous and Tribal Peoples Convention, 1989 (No. 169), the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families and the Optional Protocols to the Convention on the Elimination of All Forms of Discrimination against Women, the International Convention on the**

Elimination of All Forms of Racial Discrimination, the International Covenant on Economic, Social and Cultural Rights, the International Covenant on Civil and Political Rights and the Convention on the Rights of Persons with Disabilities;

(i) **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;**

(j) **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;**

(k) **Provide comprehensive training to employers on respecting and implementing individualized support and reasonable accommodations for persons with disabilities;**

(l) **Ensure accessibility for persons with disabilities in official documents, such as the national action plan, to promote their full inclusion and participation in society;**

(m) **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;**

(n) **Intensify labour inspections and enhance victim identification for forced labour and trafficking in persons;**

(o) **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;**

(p) **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;**

(q) **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;**

(r) **Raise awareness of the applicability of labour 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;**

(s) **Step up efforts to address climate change, keeping in mind human rights considerations for a just transition;**

(t) **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;**

(u) Continue to make all information related to the treatment of water released from the Fukushima Daiichi Nuclear Power Station publicly available;

(v) 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;

(w) Incorporate explicit references to the Guiding Principles, the national action plan and the Guidelines in its Development Cooperation Charter and relevant official development assistance policies;

(x) Promote the use of the Children's Rights and Business Principles for human rights due diligence;

(y) Provide guidance to businesses on a responsible exit, in line with the Guiding Principles.

86. The Working Group recommends that businesses and industry associations:

(a) Establish operational-level grievance mechanisms, following the Guiding Principles, and ensure that all criteria for effective non-judicial grievance mechanisms are interpreted in a gender-sensitive manner;¹¹¹

(b) Provide effective remedies for harm caused to individuals and communities;

(c) Increase the representation of women in corporate decision-making bodies;

(d) Step up efforts to address climate change, keeping in mind human rights considerations for a just transition;

(e) Take responsibility for the presence of PFAS in the water supply due to business activities and address the issue, as required under the Guiding Principles and the "polluter pays" principle;

(f) Eliminate questions that could lead to discrimination in job screenings and address all types of discrimination, exploitation, harassment, power abuse and other forms of violence in the workplace;

(g) Incorporate the Children's Rights and Business Principles when conducting human rights due diligence;

(h) Conduct heightened human rights due diligence when operating in conflict-affected areas or high-risk sectors;

(i) 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;

(j) Provide transparent and accessible communication channels and safe environments for employees and talents to report workplace sexual harassment without fear of reprisal.

87. The Working Group recommends that civil society actors continue:

(a) To raise awareness and build capacity on the respective duties and responsibilities of the State and businesses under the Guiding Principles;

(b) To document cases of human rights abuses, especially those committed against individuals and communities living in at-risk situations, and assist in facilitating access to judicial and non-judicial remedial mechanisms, including operational-level grievance mechanisms;

¹¹¹ See [A/HRC/41/43](#).

(c) To contribute to initiatives aimed at strengthening existing legal and policy frameworks on business and human rights and facilitate the participation of all stakeholders in such initiatives.
