



Business and Human Rights

Corporate Japan
Rises to the Challenge



Network Japan



Building a better
working world

Contents



1. Turning Points ————— 5

- Human Rights Over Time 6
- Spotlight on Corporations 7
- Road to Consensus 8



2. Dissecting the Corporate Responsibility ————— 9

- The Three Pillars of the UN Guiding Principles 10
- Three Pillars of Corporate Responsibility: Cause, Contribution and Linkage 11
- Addressing a Corporate Human Rights Impact: What to do 13
- Human Rights Due Diligence 15
- Learning from Leading Companies 16



3. Corporate Japan Rises to the Challenge ————— 21

- A Spirit of Cooperation and Coexistence 22
- Changing Times, Changing Management 23
- Rising to the Challenge: People-centred Global Business 24



4. From Dissemination to Implementation ————— 27

- Embedding the Principles 28
- Knowing and Showing 29



Toshio Arima

Chairman of the board,
Global Compact Network Japan

Japanese companies and human rights

When attending international conferences on CSR, I have heard people remark on the lack of attendance by Japanese companies, and moreover that it is unclear what Japanese companies are doing in respect of CSR. As someone that is well acquainted with Japanese companies' steady efforts in the CSR field, I find this regrettable. By way of example, I know of a Japanese company that conducts detailed surveys to gain greater insight into their overseas supply chain, and when they identify any human right issues, they discuss these with the supplier involved. By carefully explaining to the supplier how a lack of respect for human rights will negatively impact its own business, the company tries to address the issue together with the supplier.

There are 14 working groups currently active within the Global Compact Network Japan, over which I preside. One of these, the Human Rights Due Diligence Working Group, put together this booklet in collaboration with EY Japan to present examples of Japanese best practices.

I hope this booklet goes some way to helping people understand how Japanese companies are making efforts with respect to human rights.

I believe that Japanese companies can effectively address human rights-related issues by actively engaging in dialogue with their stakeholders around the world.

On 25 September, the United Nations adopted the Sustainable Development Goals. These 17 goals, agreed upon by all of the UN member nations and regions, form a common world language. The SDGs apply to both developed and developing countries and encourage the private sector to exert their power to solve the challenges facing us. By working towards these 17 goals and participating in global sustainable growth and development, Japanese companies can also unlock new business opportunities. In addition, Japanese companies can make great leaps in terms of engagement with a variety of international stakeholders. Each of the 17 goals concern human rights, either directly or indirectly. Thus I firmly believe that the SDGs provide an opportunity for Japanese companies to have a more dynamic exchange of opinions with overseas stakeholders.

Lastly, I would like to express my sincere appreciation to the participants of the HRDD WG and EY Japan. They have spent much time and energy on this great work.



Keiichi Ushijima

EY Japan
Climate Change and Sustainability
Services Leader

As business expands globally and markets become increasingly borderless, the diverse social and environmental challenges facing the international community are becoming ever more complex. These challenges are no longer the exclusive domain of governments: just as they affect corporate management - whether directly or indirectly - corporations are expected to play their part in seeking solutions. Further, technological advances have shed light on previously hidden social issues, and some companies have attracted critique when perceived as profiting at the expense of people or the environment. These issues are a wake-up call for those managers who have taken excessively short-term approaches and/or deemed regulatory compliance sufficient to meet social expectations. Companies that cannot respond appropriately to these social shifts and consequent changes in the business environment will increasingly find themselves shut out of markets. National borders have lost their significance other than as political boundary lines; for multinational corporations in particular, corporate social responsibility requires ethical approaches that transcend borders.

While environmental issues such as chemical pollution and global warming were placed at the forefront of the international community's agenda in the 1990s, global momentum around business and human rights picked up later in the 2000s. Significant milestones occurred in 2010 with the publication of ISO 26000 and the enactment of the Dodd-Frank Wall Street Reform and Consumer Protection Act in the US. Thereafter the "watershed moment" came in 2011 with the UN Guiding Principles on Business and Human Rights.

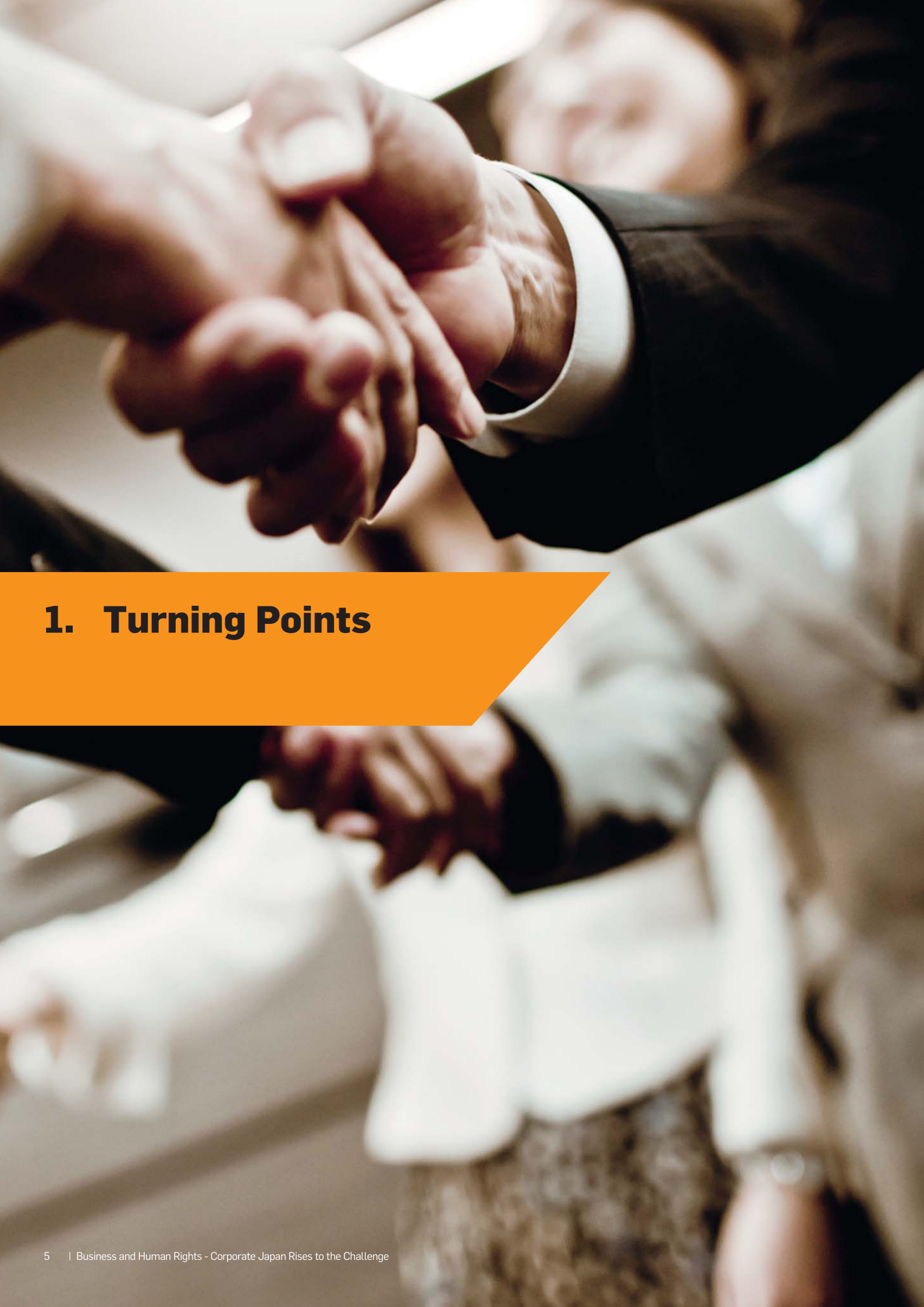
In Japan, human rights have historically been understood as referring to discrimination, particularly in the context of employment. However, as Japanese businesses become increasingly multinational, they are coming to recognize human rights issues in areas other than employment, such as within their supply chains. After the Great East Japan Earthquake in March 2011, global value chains were temporarily disrupted as many Japanese companies' manufacturing sites were crippled by the earthquake and tsunami. However, some companies were able to restart operations at their factories a mere two weeks later and to resume virtually all of their production in under two months. The traditionally long-term relationships that Japanese companies have fostered with their suppliers have been credited with not only reducing long-term costs and increasing quality, but also with building a resiliency that facilitated the swift restoration of global value chains after the dual disasters.

In this publication, in collaboration with Global Compact Network Japan, we review these issues from the perspective of Japanese companies; in particular we discuss the growing awareness of the UN Guiding Principles on Business and Human Rights and present approaches to their implementation that recognize respect for human rights as a management issue. I hope that by highlighting real-world examples of companies going beyond the theory and addressing these challenges in practice, this publication will provide our readers with some ideas that will be useful in their future endeavors.



Special thanks to the companies below for their cooperation in the development of this paper.

- Adecco Ltd.
- AEON CO., LTD.
- Ajinomoto Company, Incorporated
- ALL NIPPON AIRWAYS CO., LTD
- ASAHI GROUP HOLDINGS, LTD.
- Astellas Pharma Inc.
- CASIO COMPUTER CO., LTD.
- Cre-en Inc.
- Daiwa Securities Group Inc.
- DIC Corporation
- Fuji Electric Co., Ltd.
- Fuji Xerox Co., Ltd.
- Fujitsu Limited
- Hitachi, Ltd.
- ITOCHU Corporation
- INPEX CORPORATION
- Kirin Company, Limited
- KONICA MINOLTA, INC.
- LIXIL Corporation
- Mitsubishi Heavy Industries, Ltd.
- MITSUI & CO., LTD.
- NEC Corporation
- Nihon Unisys, Ltd.
- NORITZ CORP.
- NYK LINE
- Recruit Holdings Co., Ltd.
- Resona Holdings, Inc.
- Sojitz Corporation
- Sumitomo Corporation
- TOPPAN PRINTING CO., LTD.
- TOTO LTD.
- Ushio Inc.
- Yamaha Corporation
- YAMATO HOLDINGS CO., LTD.



1. Turning Points

Human Rights Over Time

There is an increasingly rare, but still lingering misunderstanding that human rights are somehow a “western” concept, first appearing in the French constitution or that of the American revolutionary states; while they received their familiar form in these documents, in reality, the idea that people had rights inherent to their status as a human being appears in the history of China, as well as Persia, Iraq and Afghanistan as early as the Code of Hammurabi of 1800 BC.¹

In Japan, human rights, or more accurately the Japanese word “jinken”, has traditionally taken on a slightly restricted meaning since its introduction in the 17th century, representing either the general concept of “consideration for others”, or more specific issues of workplace harassment and/or the rights of specific “discriminated communities”. (This is discussed in detail on page 23.) However, in recent years, concerted efforts by civil society groups have highlighted the true meaning of human rights, as the universal, fundamental principles and standards that aim to secure dignity and equality for all.

Of course, the most famous expression of human rights is the Universal Declaration of Human Rights (UDHR) of 1948³, which arose from the ashes of World War II amidst the pleas of “never again”. The text drew heavily on ideas from the Enlightenment in the West, however an influential Chinese member of the drafting committee told the UN General Assembly in 1948 that many influential western thinkers on rights were guided by Chinese ideas:

“In the 18th century, when progressive ideas with respect to human rights had been first put forward in Europe, translations of Chinese philosophers had been known to, and had inspired, such thinkers as Voltaire, Quesnay and Diderot in their humanistic revolt against feudalism”.⁴

The UDHR is the most translated document in the world. It contains 30 articles that set “a common standard of achievement for all peoples and all nations”. It was adopted in the General Assembly by a vote of the members in 1948, with 48 in favor, none against, and eight abstentions.⁵ As the UDHR defines the meaning of the words “fundamental freedoms” and “human rights” in the United Nations Charter, it is binding on all member states and moreover has entered into customary international law.

Following the UDHR, various legal instruments elaborating the rights and duties contained in the UDHR were drafted and adopted, such as the International Covenant on Civil and Political Rights (“ICCPR”) and the International Covenant on Economic, Social and Cultural Rights (“ICESCR”) in 1966. Together, these documents are known as the International Bill of Human Rights.⁶ International agreements between states, such as the Bill of Rights, are designed to be implemented in national legal systems: ratifying states have a duty to make sure that they are reflected and enforced in national law and practice.⁷

Regional conventions and charters of human rights have also been agreed and ratified, such as the 1950 European Convention on Human rights, 1969 American Convention on Human Rights and 1981 African Charter on Human and Peoples’ Rights.⁸

In the early 1990s, the concept of “Asian values”, emphasizing collectivism and non-democratic governance, was advanced by some Asian leaders as a contrast to so-called “Western” concepts of universal rights. This approach was in turn heavily criticized by other prominent Asian voices, who emphasized the diversity of Asian nations.⁹ However in 1993, the international community gathered at the Vienna World Conference on Human Rights and adopted the Vienna Declaration and Program of Action, which reaffirmed all States’ commitment to the UDHR.

Today the peak UN human rights body is the Human Rights Council, made up of 47 States periodically elected to the position. (Japan was most recently an elected member for the period 2013 to 2015.) This Council has many functions, including undertaking the Universal Periodic Review, whereby every single member state of the UN must undergo an assessment of their human rights situation every four years. It was this Council at which the UN Guiding Principles were unanimously endorsed in 2011, as we discuss on page 8.

Spotlight on Corporations

Human rights protection has traditionally been the remit of state governments. The key human rights treaties negotiated after the Second World War and during de-colonisation were by - and about - states. Since this time, however, the world has changed: globalisation, deregulated trade and the transfer of traditionally state-based services (such as security and the management of natural resources) to corporations has led to companies having an increased ability to affect the environment and the rights of individuals, both positively and negatively.

The notion that companies should not abuse human rights can be traced back to key moments in our history. Directors of a German company were found guilty of war crimes after the Second World War for constructing a plant next to the Auschwitz concentration camp with the intent to use inmates as slave workers.¹⁰ The Sullivan Principles were developed to promote corporate social responsibility during the anti-apartheid movement. In 1984, the McBride Principles formed a code of conduct concerning fair employment for US companies doing business in Northern Ireland.

Notwithstanding, even up to the 1990s, it was considered by many either that the protection of human rights could remain entrusted to state governments, or, as Milton Friedman famously wrote in 1970, that “the social responsibility of business is to increase its profits”.

However, civil society campaigns in the mid-1990s focused on allegations of human rights abuses by or on behalf of resource companies and the use of “sweat-shops” by apparel companies in developing countries. As many of the objectionable activities alleged were within the laws of the countries concerned, civil society expressed concern about the impact of official corruption and a “race to the bottom” as developing countries competed with lower regulatory standards to attract multinational corporations. In an environment in which governments were unable or unwilling to protect their peoples’ rights, they argued, companies must still uphold international standards.

The mid-to-late 1990s saw the emergence of industry codes of conduct, such as the Apparel Industry Partnership Code of Conduct in 1996. A watershed moment took place in 1999, when UN Secretary General Kofi Annan called for a “global compact” of shared values between business and the UN in order to “give a human face to the global market”.¹¹ This led to the establishment in 2000 of the voluntary initiative now comprising over 8,000 companies and 4,000 non-business participants, known as the UN Global Compact (“UNGC”). The first of the ten principles to which members of the UNGC commit states that “businesses should support and respect the protection of internationally proclaimed human rights”. This inclusion was particularly significant as a majority of the member companies from developing countries reported that their membership of the UN Global Compact was their first encounter with corporate social responsibility (“CSR”) practices.¹² It is worth noting that the inclusion of human rights in the UNGC principles marked a departure from standard conceptions of CSR that did not include human rights.

Following the launch and expansion of the UN Global Compact, key watershed moments have been the endorsement and widespread dissemination of the UN Guiding Principles on Business and Human Rights and the commencement of discussions aimed at a binding treaty. These are discussed in detail in the following pages.

In addition, domestic legislatures are increasingly creating binding law in relation to corporate respect for human rights. In the UK, the *Companies Act 2006* requires that company directors have regard to the impact of the company’s operations on the community and “quoted companies” must include information about human rights issues/policies in their strategic reports. Further, the UK’s *Modern Slavery Act 2015* provides that subject commercial organizations must prepare a slavery and human trafficking statement annually detailing, among other matters, their due diligence processes in relation to slavery and human trafficking in their operations and supply chains. In the United States, the *California Transparency in Supply Chains Act of 2010* requires certain businesses to disclose the efforts they are making, if any, to eradicate human trafficking and slavery from their supply chains.

For responsible companies, the avoidance of legal sanctions is a secondary motivation - first and foremost, corporate respect for human rights ensures that they, at a minimum, do not harm the individuals and communities that are impacted by their activities. Moreover, in 2015, leading companies know that respecting human rights

- brings commercial benefits, through increased investment, access to wider procurement and top-quality recruits as well as reputational benefits;
- allows them to better anticipate and manage operational and regulatory risks, and be well positioned to comply with future legal and regulatory requirements; and
- can avoid costly company-community conflicts by securing their ‘social license to operate’.¹³

Road to Consensus

The United Nations Guiding Principles on Business and Human Rights (“Guiding Principles”) represent a “watershed moment” in the field of business and human rights. The endorsement of the Guiding Principles by the United Nations Human Rights Council in 2011 was a groundbreaking event in the history of the UN: it was the first international document that clearly identified a “corporate responsibility to respect human rights” and was also unanimously endorsed by the Human Rights Council’s 47 member states representing all the regions of the world. With that endorsement, companies are now formally recognized as important actors in the context of the UN’s foremost human rights institution. However, behind the achievement of this international consensus is a story of over twenty years of painstaking work by those involved.

The former UN Commission on Human Rights, composed of 53 member states and the precursor to the current Human Rights Council, commenced discussions about the need to regulate the activities of transnational companies in the late 1980s. In 2003, the Commission debated a document received for its approval entitled the “Norms on the Responsibilities of Transnational Corporations and Other Business Enterprises with Regard to Human Rights”. The document contained language to impose new international obligations on companies in a broad range of areas from human rights (e.g. labor rights and the elimination of discrimination) to environmental and consumer protection. Due to the divergent views on the new framework between developing and developed countries, as well as business and civil society, discussion on the Norms at the UN reached a stalemate.

In 2005, Harvard professor John Ruggie was appointed the UN Secretary-General’s Special Representative for Business and Human Rights in a bid to break the impasse. To build meaningful consensus among stakeholders, he proposed a completely new approach — the Guiding Principles, which have become the authoritative global standard for States and business to prevent and address the risk of adverse impacts on human rights linked to business activity. The Guiding Principles themselves are not, however, a new legal framework; rather they are a set of principles which outline existing international human rights norms and standards relevant to business, and which clarify the responsibilities of companies in the area of human rights.

In developing the Guiding Principles, Professor Ruggie has been widely credited with what had been thought impossible — achieving broad support amongst states, business and civil society through a consultative process aimed at ensuring their support and understanding. A credit to these efforts, the Guiding Principles were ultimately endorsed by the Human Rights Council in June 2011.

The use of the term “endorse” by the Human Rights Council in expressing its support (in this case unanimous support) of the Guiding Principles is significant. When reports or guidelines prepared by appointed UN experts are submitted to the Human Rights Council for consideration, the Council carefully selects the terms it uses in order to differentiate the level of support the document receives. For instance, if few countries are in support, the Council would not “welcome” or “support” a document, but rather “note” or “take note

of” it. On the other hand, the term “endorse” is the UN’s strongest expression of support. UN intergovernmental bodies rarely “endorse” reports or guidelines prepared by appointed UN experts; the fact that the Human Rights Council unanimously endorsed the Guiding Principles is reflective of the significant and broad-ranging support from relevant stakeholders, including governments, business communities, investors and civil society that the Principles enjoy. This unanimous endorsement by the Human Rights Council strongly legitimized the Guiding Principles as international standards which encapsulate a near-consensus within the international community, and made them a key factor in shaping the focus of discussions about business and human rights among states, business communities and civil society.

Nevertheless, not all countries were fully satisfied that the Guiding Principles went far enough. For instance, during the June 2011 session at which they were endorsed, Ecuador, an elected member of the Council at that time, recognized their importance but repeatedly emphasized the persisting need for a stronger legal framework to appropriately regulate activities of transnational corporations and provide a remedy to the victims of corporate human rights impacts around the globe. Taking into account such views, the Council decided to include the phrase “further progress can be made [on the Guiding Principles]”¹⁴ in its final decision to endorse the Guiding Principles, acknowledging the need to continue the discussion. The efforts of countries including Ecuador to advocate for discussions towards a treaty covering these issues came to fruition at the Human Rights Council in 2014, three years after the endorsement of the Guiding Principles. We discuss this in detail on page 29.

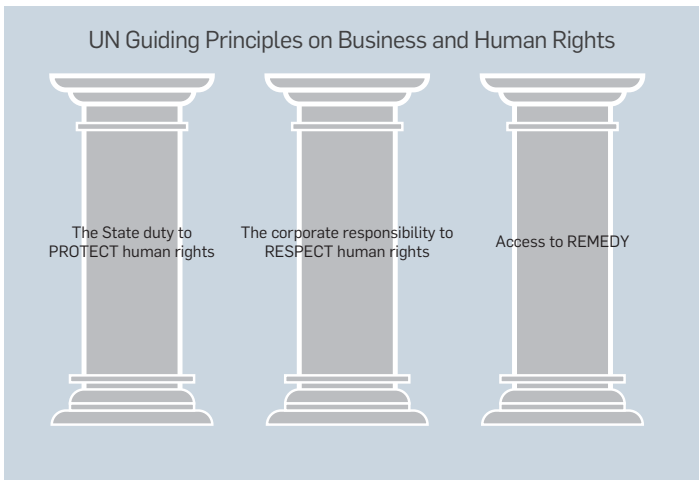


2. Dissecting the Corporate Responsibility

The Three Pillars of the UN Guiding Principles

The Guiding Principles on Business and Human Rights comprise a set of 31 principles grouped under three “pillars”, namely,

- Pillar 1: The state duty to protect human rights;
- Pillar 2: The corporate responsibility to respect human rights; and
- Pillar 3: Access to remedy.



Pillar 1 is primarily addressed to governments, and sets out the elements of the State’s duty to protect citizens from human rights abuses by corporations. It reflects the fact that the duty to protect individuals from human rights abuses lies with the State in which the abuse occurs.

The “duty to protect” requires the State to take appropriate measures to prevent, investigate, punish and redress human rights abuse by companies through effective policies, legislation, regulations and adjudication. An example of one of the principles of Pillar 1 is below.

Principle 2 States should set out clearly the expectation that all business enterprises domiciled in their territory and/or jurisdiction respect human rights throughout their operations.

Pillar 2 provides that corporations have a responsibility to respect human rights, whether or not they have a domestic legal obligation to do so. This pillar is known as the “corporate responsibility to respect” and exists independently of the State’s ability and/or willingness to fulfil their human rights duties. The responsibility to respect in pillar 2 is closely mirrored by the obligation of UN Global Compact companies to “support and respect the protection of internationally proclaimed human rights”.

The Guiding Principles provide that businesses should respect “internationally recognised human rights” which means, at a minimum, the rights expressed in the International Bull of Human Rights and the principles concerning fundamental rights set out in the International Labour Organisation’s Declaration on Fundamental

Principles and Rights at Work. The International Bill of Rights is comprised of the Universal Declaration on Human Rights, the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural rights.

The Principles expressly acknowledge that smaller companies may have more informal policies and processes than their larger peers. To assist them, the European Commission has published a *Guide to human rights for small and medium-sized enterprises*.¹⁵ Notwithstanding, the responsibility to respect human rights applies equally to companies regardless of factors such as their size or sector: small companies can still have severe impacts.

The responsibility of companies under the Guiding Principles is not limitless: Pillar 2 sets the boundary for corporate responsibility as those impacts that the company causes, contributes to, or to which the company is “directly linked”. These terms are discussed in detail on pages 11 to 12.

Moreover, the Guiding Principles provide express expectations of responsible companies, namely, that they

- establish and publish a human rights policy commitment that is approved at the most senior level of the business;
- undertake human rights due diligence (see page 15); and
- put in place processes to enable them to remediate any adverse impacts to which they contribute.

A common concern of responsible companies seeking to comply with the Guiding Principles is how to do so in difficult contexts, such as where local laws or customs conflict with human rights principles. In such cases, businesses should respect the Principles to the greatest extent possible, taking advice from specialists and stakeholders within the company and from credible independent experts. By so doing, companies can be an important force for incremental positive change in such contexts, rather than reinforcing an undesirable status quo.

Pillar 3 contains the duty and the responsibility, respectively, of States and companies to remedy adverse impacts. For example,

- States must take steps to ensure that those affected by corporate human rights abuses in their territory or jurisdiction, have access to remedy (Principle 25).
- Companies should establish or participate in effective operational-level grievance mechanisms for individuals or communities who may be adversely impacted by their activities (Principle 29).

Three Pillars of Corporate Responsibility: Cause, Contribution and Linkage

The Guiding Principles do not set companies a limitless responsibility for all human rights impacts suffered by those around them. Mere presence in, and/or paying tax in a given country, for example, does not mean that a company is responsible for human rights abuses that take place in that country.¹⁶

Rather, they set out three situations in which the company is sufficiently close to a human rights impact so as to be responsible for it, and therefore required to prevent, mitigate or remedy the impact. The three situations concern impacts that the company may

- I. cause, or
- II. contribute to through its own activities, as well as those which may be
- III. directly linked to its operations, products or services by its business relationships.

A company causes or contributes to an impact through its own activities. (“Activities” is understood to include both actions as well as omissions. For example, if a company’s failure to act legitimizes or encourages an abuse by another party, it would be considered to contribute to the impact.)

Causing an impact

“Causing” an impact is largely a question of common sense. Where a company forbids employees to marry or mandates their choice of religion, employs child labour or pollutes the land of nearby farmers and thereby destroys their livelihood, it causes a human rights impact.

Contributing to an impact

On the other hand, “contribution” requires slightly further explanation. The Guiding Principles do not go into great detail in relation to what is meant by “contribution” to a human rights impact. However, the OHCHR’s interpretive guide provides further insight.¹⁷

The Interpretive Guide provides that an enterprise “may contribute to the impact through its own activities — either **directly** (“b” in the below diagram) or **through some outside entity** (“a” in the below diagram).

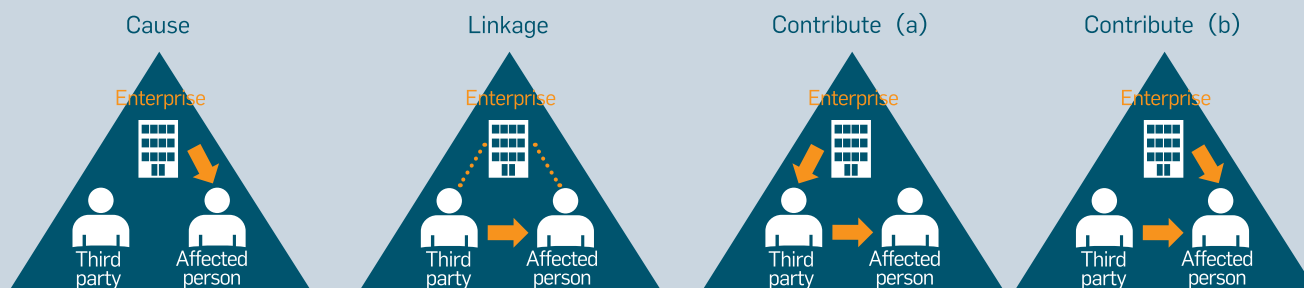
A. Complicity

Contribution to a human rights impact “through some outside entity” refers to the concept of “**complicity**”.¹⁸ It is worth noting that UN Global Compact companies also pledge to avoid being complicit in human rights abuses as Principle 2 of the Compact.

Complicity is defined under the laws of many States as “knowingly aiding or abetting an abuse”.¹⁹ In some States, the courts will find that a person or company is complicit if they “should have known” about an abuse, or were “willfully blind” to its occurrence.

In the context of the Guiding Principles, a broader, non-legal meaning can also apply, whereby the company is complicit if it **benefits** in some way from abuses committed by others. The most common examples include abuses carried out by government security personnel guarding corporate facilities, or where a company profits from the sale of products such as weapons or earth-moving equipment used by

UN Guiding Principles on Business and Human Rights (2011)



Source: Adapted from The Corporate responsibility to Respect Human Rights: An Interpretive Guide, p.16 (OHCHR, 2012)

governments to carry out human rights abuses. Ultimately, in practice, whether or not a company is complicit would be decided in the court of public opinion. The more a company can do to proactively “know and show” that it is not complicit in any abuses, the better.

B. Cumulative Impacts

Cumulative impacts refers to a scenario in which a human rights impact experienced by the affected person or group is the total, or cumulative, result of the actions of **both** the company **and a third party/ies**. Put another way, one company’s business activities contribute incrementally to a total human rights impact caused by the activities of multiple actors.

In this scenario, each company’s individual impact does not constitute a human rights impact on its own, but when combined with the impacts of other companies or actors in the same sector or region, human rights are negatively affected.²⁰

The most common examples of cumulative impacts arise in the context of environmental pollution leading to a human rights impact. This may occur, for example, where companies operating near a water source each pollute only a small amount, but their cumulative impact on the right to sanitation, for example, of the surrounding community, rises to the level of a human rights impact. A non-pollution example given in the OHCHR’s Interpretive Guide is where a company is one of several companies “targeting high-sugar food and drinks at children, with an impact on child obesity”.²¹

Directly linked to an impact

Companies may find themselves directly linked to an impact through their products, services or business relationships. The most common example of the latter is where a company’s supplier is abusing human rights, perhaps by forcing employees to work overtime or discriminating against migrant workers. Sometimes the company will find that it is unwittingly linked to an impact through its products. For example, GE found that its ultrasound technology was being used to selectively terminate female fetuses in parts of rural India.²²

Addressing a Corporate Human Rights Impact: What to do

In order to identify whether the company has or may cause, contribute to or be directly linked to an adverse human rights impact, it should conduct human rights due diligence of its existing and planned operations. This is discussed in detail on page 15.

Once the company identifies an issue, the action it takes depends on the company's relationship to the impact. The chart in the next page untangles Guiding Principle 19, which provides guidance as to the considerations companies should take into account.

Where the company is **causing** or may cause an impact, it will be within its power to cease or prevent the impact. Where the company is **contributing** to an impact, or **directly linked** to an impact, other actors are involved and the situation becomes more complex. For responsible companies such as those reading this publication, this kind of impact may be more likely than direct causation.

In this context, the Guiding Principles require that a company ascertains and uses its **leverage** to try to prevent or mitigate the impact. "Leverage" here means the company's ability to effect change in the wrongful practices of the other actors²³: for example, a supplier, a government, or, as in the GE example on page 12, the doctors wrongfully using the ultrasound equipment. If the company doesn't have a lot of leverage with the actor concerned, it should try to increase it.²⁴ Incentives or capacity building may be offered to suppliers; collaborative corporate action can pressure a government acting wrongfully.

However, difficult questions arise when a company finds it is **directly linked** to an impact and it cannot increase its leverage. Although a company doesn't have a responsibility to **remedy** an impact to which it is directly linked, the Guiding Principles require the company to undertake some soul searching and examine whether the business relationship is truly crucial, given the risks from continuing to do business with an entity that is abusing human rights. In some cases, the company will be unable to justify continuing its involvement with the supplier.

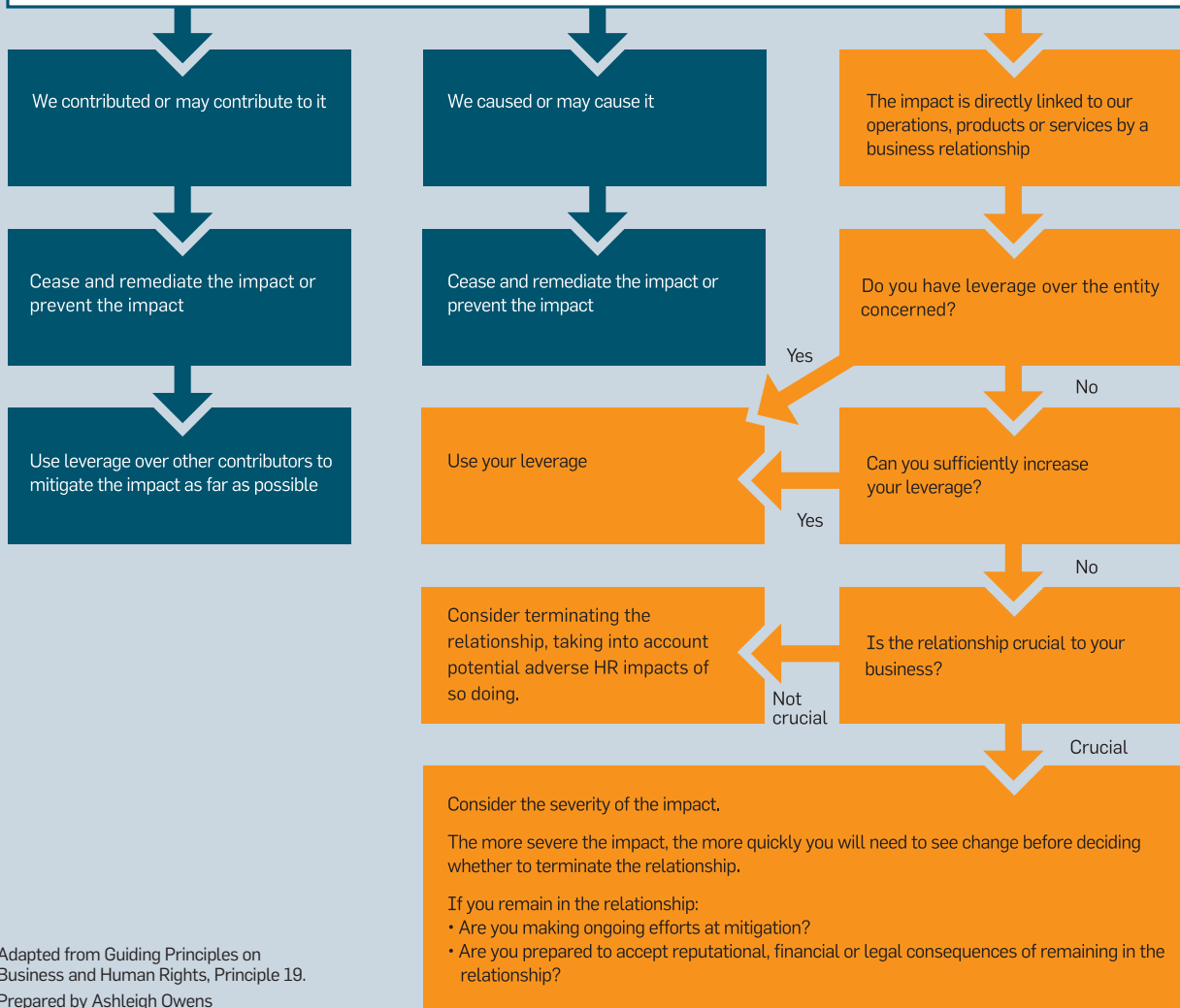
As regards **contribution**, in the case of actual or potential **complicity** in human rights impacts, further guidance can be found in the UN Global Compact's explanatory materials for Principle 2. Helpful suggestions include:

- making a human rights assessment of the situation in countries where it does, or intends to do, business so as to identify the risk of involvement in human rights abuses and the company's potential impact on the situation
- establishing clear safeguards to ensure that if financial or material support is provided to security forces, these are not then used to violate human rights; and
- privately and publicly condemning systematic and continuous human rights abuses.²⁵

Where the company is one of many actors contributing to a problem, and therefore a **cumulative impact** is at issue, the company needs to ensure that it is at least not part of the problem, and ideally, is part of a solution. In such circumstances it should:

- ensure that risk assessments the company undertakes include cumulative impacts;
- take unilateral action to cease or prevent its contributions to the cumulative impact (for example, where the company is one of many actors contributing to a water shortage, it should first seek to lessen its own usage, noting that so doing can lead to efficiency gains for the company); and/or
- establish or engage in collaborative initiatives to address cumulative human rights impacts.²⁶

What is your company's relationship to the human rights impact?



Adapted from Guiding Principles on Business and Human Rights, Principle 19.
Prepared by Ashleigh Owens

Human Rights Due Diligence

The Guiding Principles require that companies both “know and show” that they respect human rights. In today’s world, it is insufficient to simply state that the company intends to respect rights; responsible companies need to have in place policies and procedures to make sure that they do, and be forthcoming in communicating their progress to the public.

As such, included within the operational principles of pillar 2 of the Guiding Principles - that is, the “corporate responsibility to respect” - is the responsibility to “carry out human rights due diligence”. Human rights due diligence (“HRDD”) is “an ongoing management process that a reasonable and prudent enterprise needs to undertake, in light of its circumstances...to meet its responsibility to respect human rights.”²⁷ HRDD is arguably the central element of the Guiding Principles and offers the potential to move from post-abuse naming and shaming of corporate offenders to proactive, preventative action.²⁸

The due diligence process should be ongoing, drawing on internal and/or independent external human rights expertise and involve meaning consultation with stakeholders.²⁹ The process will vary in complexity with the size of the company, the risk of severe human rights impacts and the nature and context of operations. The key steps are as follows:

- *Identifying and assessing human rights impacts:* Taking proactive, ongoing steps to understand how existing and proposed activities may cause or contribute to actual or potential human rights impacts, as well as how the business’s operations may be directly linked to such impacts.
- *Integrating findings:* Integrating findings across relevant internal functions and processes.
- *Taking action:* As discussed in detail on page 14, the appropriate action will depend on the business’s relationship to the impact.
- *Tracking effectiveness of response:* Monitoring and auditing processes should track ongoing developments.
- *Communication:* Externally communicating how the business has addressed adverse impacts. Reporting and assurance is discussed on pages 30 to 31. UN Global Compact participants are required to submit an annual Communication on Progress that includes their activities in relation to respect and support for human rights.³⁰

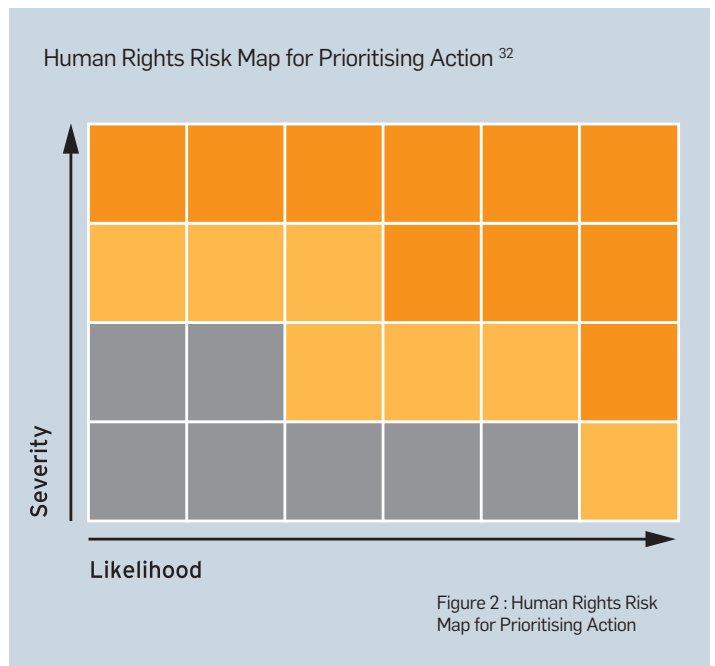
Nearly all companies will have in place some kind of risk assessment and management system. However, it is vital to be aware of the key difference between HRDD and more familiar risk management processes: in the latter, risk is most often assessed from the perspective of **risk to the company**, whether financial, reputational or otherwise. However, HRDD assesses risk from the **perspective of the affected stakeholders**, that is, from the perspective of those who may be adversely impacted. This is a subtle yet crucial distinction: a company may consider, for example, the risk of a certain indigenous successfully protesting aspects of its operations as very low; however, if that group is facing a human rights impact from the operations, HRDD would assess the risk as severe.

The drafters of the Guiding Principles were well aware that addressing

human rights impacts involves the prioritization of business’ limited time and resources. As such companies should prioritise action based on a consideration of

- (a) potential severity, noting that this is considered from the perspective of affected stakeholders; and
- (b) the likelihood of the impact occurring.³¹

The below figure gives guidance as to how to prioritise corporate action once actual and potential issues have been plotted on a graph in light of (a) and (b) above. As is clear from the chart, there is a bias in favour of acting even where there is a low likelihood of the impact occurring, if the impact would be severe.



Learning from Leading Companies

Human Rights Policies and Human Rights Due Diligence Programs

As discussed in detail on page 10, the Guiding Principles provide that companies should establish a human rights policy, undertake human rights due diligence, and put in place processes to remediate any adverse impacts that they may cause. This chapter examines elements of human rights policies and due diligence frameworks through the lens of four leading companies. A Japanese company operating globally is included within these four examples.

Human rights policies take many forms and there is no definitive template. Some companies choose to produce a stand-alone statement, while others integrate their position on human rights into the company's existing suite of standards literature; there are advantages and disadvantages to either choice. However, pursuant to the Guiding Principles, the policy should, at a minimum, contain

- (1) an explicit commitment to respect all internationally recognized human rights standards
- (2) information on how the company will implement this commitment, including through undertaking human rights due diligence; and
- (3) the scope of the policy, including the company's expectations of personnel, business partners and other relevant parties.

In addition to these core elements, a policy will often contain, for example, more than one of the following components:

- (1) the relationship of the policy to existing policies/guidelines;
- (2) reference to specific salient human rights issues;
- (3) reference to compliance with local laws and responses to local laws that are weak or contradictory;
- (4) reference to elements of the company's relationships with stakeholders; and
- (5) a description of remedial measures, including grievance mechanisms.

Many companies create two-part policies that first set out their commitment to respect human rights, and then detail concrete issues such as how they will respond to particular human rights issues and/or how they will avoid complicity when dealing with third parties (e.g. governments) who have the potential to bring about negative impacts. Leading companies formulate human rights policies after having gained a clear understanding of the potential impacts related to their industry, regions of operation, business partners and products.

When it comes to determining the scope of application of the policy, leading companies normally require that their suppliers as well as members of their business group comply with their policy and many will transpose this requirement into supplier contracts, or require that suppliers sign supply chain codes.

When local laws are weak or contradict international standards, the Guiding Principles require that companies strive to comply with the higher standard. Leading companies often make this explicit in their human rights policy. In practice, implementing this commitment

can present challenges as the company seeks to uphold international standards whilst maintaining positive relationships with host governments and/or operating in contexts in which international standards are rarely applied. There is, of course, no "silver bullet" in relation to this question. Leading companies build a record of good practices by engaging in dialogue with stakeholders and experimenting with new approaches. Above all, they use transparency as a strategy to maintain trustworthiness and accountability – proactively and honestly communicating on challenges they face.

The table on pages 17 and 18 summarizes the approaches taken by the four leading companies to these various essential and optional elements of a human rights policy.

A framework for systematic human rights due diligence

The table on page 19 shows a summary of certain aspects of the due diligence processes undertaken at four leading global companies. In all four examples the companies concerned created a framework for human rights due diligence designed to apply across their global operations. In terms of implementation, they began in priority areas, recognizing that it is not usually possible to immediately implement due diligence across all enterprises and regions. Priority areas are determined by identifying regions and/or business activities at risk of being negatively impacted by human rights issues, based on the severity and likelihood of the impacts.

For example, as **Company A** carries out human rights due diligence, it prioritizes countries that the FTSE4Good Global Index has identified as having human rights concerns. As a major player in the food industry, it has identified in advance which of its production and sales regions are high-risk zones for human rights, and is implementing more thorough due diligence in these regions. In addition, the company has established a department at its global headquarters to oversee evaluation of human rights impacts, installed an officer in each region who is responsible for these evaluations, and emphasized cooperation between headquarters and regional offices in the company-wide implementation of due diligence. The company's due diligence process is **summarized** below.

1. Identify both apparent and latent human rights risks
2. Evaluate human rights risks
3. Decide responses to identified issues at the regional and company-wide levels
4. Implement and track corrective measures, share information internally and externally

In addition, Company A works to raise awareness of human rights by widely sharing lessons from individual incidents within the company.

Company B is implementing due diligence primarily with regard to its suppliers. The company is a global leader in the consumer goods industry and markets a range of products worldwide. NGOs have previously demanded that it take responsibility for human rights abuses in its supply chain. From the perspective of both ensuring the company's sustainability and lessening its negative impact on human rights, the supply chain was the aspect of the business that demanded the most attention. In contrast to Company A, Company B has not established a human rights department or officer. Instead, it is implementing a cross-departmental program that

	Human Rights Policy Content	Company A	
Elements of a Human Rights Policy	Top commitment	How the company sees human rights	Commits to operate with respect for the rights of the people the company does business with and the people along the value chain
	The position of the policy within corporate standards	Does the policy have hierarchy over other standards, policies or corporate philosophies within the company?	Not specifically mentioned
	Reference to International Human Rights Standards	A reference to international human rights standards, namely the International Bill of Human Rights	OECD Guidelines for Multinational Enterprises The UN Guiding Principles on Business and Human Rights The Core Conventions of the International Labour Organisation (ILO) 10 Principles of the United Nations Global Compact
	Implementation: The process of conducting HRDD and education/training	How will the policy be implemented within the company's PDCA cycle? How will education/training be provided to persons covered by the policy?	Company commits to: Continuously improve operations; and Ensure practices are continuously upgraded if improvement is required Notes that if the Supplier fails to comply with the company's policies, it will impact the ability of the Supplier to work with the company
	Coverage/Application to business partners	To whom does the Policy Apply to? Do you expect business partners and businesses within your supply chain to Respect these Human Rights as well?	Suppliers and the company's parent, subsidiary or affiliate entities A "supplier acknowledgement" of the Supplier Code must be signed by an authorized representative of the Supplier and then returned to the requesting purchasing department
	Legal compliance and conflicts with laws	How will the company deal with situations where national laws conflict with human rights standards?"	Expects the supplier to adhere to all applicable laws and regulations and also strive to comply with international standards, industry standards and best practices.
	Stakeholder Relationship	Commitment to engage with stakeholders	Stakeholder engagement identified as of fundamental importance; results from stakeholder dialogues incorporated into human rights due diligence program.
	Grievance mechanism (Provision of Remedy)	How should violations or suspected violations of the policy be reported?	Lists contacts to whom human rights concerns can be reported
	Specific Human Rights Issues	Key human rights issues that the company has identified as particularly relevant to the company/industry	Addressed in detail in a separate Human Rights Impact Assessment Report (The company lists specific salient human rights issues on its website such as child labor, compliance violations, consumer privacy and anti-corruption)

Company B	Company C	Company D
Acknowledges that businesses only function in societies where human rights are protected and respected	Commits to promote respect for fundamental human rights	Pledges not to infringe on human rights and address negative human rights impacts throughout its business relationships and operations
Contains over-arching principles which are embedded into the company's policies and systems	Not specifically mentioned.	Expresses the company's mission and vision, and also supplements the code of conduct and CSR Policy
UN Guiding Principles on Business and Human Rights International Bill of Human Rights International Labour Organization's Declaration on Fundamental Principles and Rights at Work OECD Guidelines for Multinational Enterprise Founding signatory to the United Nations Global Compact	Universal Declaration of Human Rights	The International Bill of Human Rights The International Labour Organization's Declaration on Fundamental Principles and Rights at Work The UN Guiding Principles on Business and Human Rights
Will conduct due diligence to identify and address salient risks, as well as use leverage in relation to relationships and partnerships Manage risks by integrating responses to the company's due diligence into policies and internal systems, acting on the findings, tracking actions, and communicating with stakeholders about how impacts are addressed Acknowledges human rights due diligence is an ongoing process	(Company C publishes a separate report with a list of questions and answers related to human rights issues of: child labor, forced labor, working conditions and impact on communities)	Commits to developing and implementing human rights due diligence. Processes will include identifying and assessing potential and actual human rights impacts and taking action to mitigate risk. Will also track the effectiveness of the process, as well as develop and implement processes to communicate findings externally
Expects business partners to adhere to the company's business principles Will only work with suppliers who implement the Responsible Sourcing Policy	Subsidiaries and controlled affiliates in which the company owns more than 50 percent of the voting rights, or has the right to control the entity, are required to adopt and follow company policies	Applies to all officers and employees of the company and its subsidiaries, and also expects business partners as well as other parties involved in the company's products, services and operations to respect human rights
Where national law and international human rights standards differ, the company will follow the higher standard; where they are in conflict, the company will adhere to national law, while seeking ways to respect international human rights	Not specifically mentioned.	Adheres to national law and regulation in where operations take place, but will find ways to honor principles of international human rights when there are conflicts between national law and international standards
Recognizes the importance of dialogue with stakeholders and commits to communicate Refers to employees, workers, shareholders, investors, customers, consumers, the communities in which the company operates and civil society groups. Pays particular attention to individuals or groups who may be at greater risk of negative human rights impacts due to their vulnerability or marginalization Recognizes that women and men may face different risks	Recognize the importance of the promotion and protection of human rights throughout the world and the constructive role business and civil society can play in advancing these goals	Committed to engage in dialogue with and consult with relevant external stakeholders on addressing human rights impacts
Place importance on the provision of effective remedy wherever human rights impacts occur through company-based grievance mechanisms Encourage employees to speak up, without retribution, about any concerns they may have, including through grievance channels	Not specifically mentioned.	If the company identifies that it has causes or contributed to a negative human rights impact, it will provide for or cooperate in processes to provide remediation
Acknowledges high human rights risks in certain countries of operation, and responds to it by additional due diligence to assess and address them	Key salient issue is impacts on local communities caused by major infrastructure-project financing (Further salient human rights issues are listed elsewhere on the company's website, including human trafficking, conflict minerals, specific countries in which the company will not do business and the empowerment of women in the Middle East)	(Sustainability report notes the challenges surrounding procurement in emerging markets, including potential impacts on economies, environment and societies. Company D commits to maintain a dialogue with suppliers in emerging markets, including creating and sharing guidelines with them)

aims to ensure respect for human rights in all aspects of operations and by employees at all levels. Furthermore, in 2011 the company launched a country risk matrix in cooperation with an external organization. This matrix serves as a basis for evaluating suppliers. Suppliers are required to sign on to the company policy, implement self-evaluations, and undergo audits. Company B's procurement department is in charge of carrying out the program.

Company C's business strategy prioritizes operations and investment activities in emerging markets. Its human rights policy and procedures also center on enterprises and investment activities in emerging markets, including countries in which the rule of law is less developed. In the past, a product produced by Company C was used, contrary to its intentions, to carry out abuses of human rights in one such country. Based on this experience, even prior to the endorsement of the Guiding Principles, on Business and Human Rights, the company had begun to strengthen its human rights efforts. The company's human rights policy identifies each of its key stakeholder groups and sets out concrete programmes and processes to implement the company's responsibility to respect their rights. The human rights risk assessment template used by the company includes questionnaires tailored to each type of stakeholder, from employees to local community members to suppliers. The company's implementing procedures for its human rights policy make clear that the top-level executives in each region bear a heavy responsibility and that employees posted in developing and emerging countries must undergo training on respecting the human rights of customers and business associates in the region in which they will work.

Company D's leading human rights programme has its origins in lessons learned from past experience. The company was the target of a campaign demanding that the company take responsibility for human rights abuses caused by a supplier company. In 2013, Company D began to identify

and assess human rights risks in its operations in six ASEAN countries. It established its own group human rights due diligence guidance a year later. As the company prioritizes supply chain management in its global risk management strategy, it developed a global supply chain database and appointed procurement officers in each region of operation to oversee local procurement. Additionally, in order to give employees access to global perspectives and best practices, the company actively incorporates and shares the views of its CSR division members across its global operations. It leverages the challenges faced in specific regions as a means of awareness-raising and to strengthen future human rights due diligence methodologies.

In order for companies to meet the expectations set out in the Guiding Principles, an understanding of the context of the company's operations, and the risks inherent in these contexts, is essential. This understanding can be achieved by drawing on internal and expertise, monitoring developments in the region and industry - such as issues faced by peers - and engaging proactively and intelligently with stakeholders. Although there is no definitive formula for conducting human rights due diligence, above four companies have the following characteristics in common.

- (1) They commenced human rights due diligence in areas that they first determined as a priority based on an informed understanding of their business context and the risks inherent in their markets of operation;
- (2) They established a company-wide human rights due diligence program framework and implemented it in cooperation with relevant regions.

Establishing a unified, group-wide due diligence framework - that is also sufficiently flexible to be responsive to local contexts - is a key step.

	Company A	Company B	Company C	Company D
Due diligence priority areas	<ul style="list-style-type: none"> • Prioritizes countries identified by FTSE4Good Global Index as areas of concern for human rights 	<ul style="list-style-type: none"> • Due diligence focusses on suppliers 	<ul style="list-style-type: none"> • Program focuses on enterprises and investment activities in emerging markets 	<ul style="list-style-type: none"> • Analyzed and evaluated human rights risks in six of the ASEAN countries
Structural considerations	<ul style="list-style-type: none"> • Established department at global HQ to oversee evaluation of human rights impacts, and installed an officer in each region responsible for impact assessments • HQ and regional offices cooperate to implement company-wide due diligence 	<ul style="list-style-type: none"> • No specialized department: cross-departmental program, with rationale that this greater facilitates company-wide responsibility for respect for human rights 	<ul style="list-style-type: none"> • Compliance and business officers in each region are required to comply with a standard set of procedures for due diligence 	<ul style="list-style-type: none"> • Representatives from each corporate unit such as human capital, sales and procurement form a committee on human rights initiatives • The committee and each business unit jointly collaborate to promote human rights activities
Stakeholder Engagement	<ul style="list-style-type: none"> • Internal guidance for human rights due diligence developed jointly with a third party organization • On-site interviews with local management, as well as farm workers, trade union representatives and local communities are performed during human rights impact assessment • Input from external and internal stakeholders is incorporated in final impact assessment report 	<ul style="list-style-type: none"> • "Stakeholder engagement", including consultation and dialogue, is one of the company's five focus areas for human rights activities • Undertakes periodic engagement with third parties including a research institute and NPO to better understand its potential human rights impacts • Information from external sources such as governments and international agencies is incorporated into its due diligence process 	<ul style="list-style-type: none"> • Human rights policy identifies each of its key stakeholder groups and sets out concrete programmes and processes to implement the company's responsibility to respect their rights 	<ul style="list-style-type: none"> • Internal guidance for human rights due diligence developed jointly with a third party organization • Shares local business and human rights challenges and learning across the global operations as a means of awareness-raising



Sharing

36 Japanese companies from a variety of industries comprise the Global Compact Network Japan's Working Group on Human Rights Due Diligence. Themes guiding its activities include how Japanese companies should interpret human rights in light of trends in international business and human rights and how to approach due diligence based on the UN Guiding Principles on Business and Human Rights. Member companies participate in workshops and have dialogue with human rights experts with the aim of identifying strategies to address human rights challenges. Key focal points include exposing companies to international perspectives on human rights issues and how to harness ingrained elements of Japanese business culture, such as the importance of mutually beneficial relationships with business partners and surrounding society. The ultimate goal is for member companies to take what they learn from these sessions and make use of it in their own human rights due diligence activities.

A photograph of two men in a factory or industrial setting. The man on the left is wearing a blue work jacket and glasses, looking down at a white document he is holding. The man on the right is wearing a dark blue jacket and a white hard hat, looking at a tablet computer held in his hands. The background shows industrial equipment and a blue lamp.

3. Corporate Japan Rises to the Challenge

A Spirit of Cooperation and Coexistence

Japanese companies with deep historical roots have long counted socialization and mutually beneficial relationships among their management values. They grew together with their suppliers even if they had no capital ties, treating them as part of their business group while regularly sharing their technology and vision for management and policy. Executive managers of the companies atop these ecosystems also recognized their responsibility for the livelihood of their suppliers' employees.

One such example of this is the effort put into cultivating human resources at major Japanese auto and electronics makers – embodied by a belief passed down at those companies that “building things means building people.” They have also formed communities with the suppliers in their groups, which now number in the tens of thousands, sharing their company vision and technology as they work together to improve product quality.

Sumitomo Group, one of the former *zaibatsu* (lit. “financial clique”: Japanese business conglomerates that rose to prominence in the Meiji Era), has passed down the values described above during the four hundred years since its foundation in the form of Sumitomo's Business Philosophy. One principle of this philosophy is *jiri rita, kōshi ichinyo* (“benefit for self and others; private and public interests are one and the same”), which means that Sumitomo's business must not only benefit itself, but the country and broader society as well. In other words, companies should always emphasize the public good and stakeholders rather than just their own profits.

Another example is offered by Yamato Holdings, a group which has been in business for over a century. Its Company Precepts place central importance on people: the first precept is that “we ‘all’ represent the company,” meaning that “employees are regarded not simply as ‘human resources’, but as individuals who benefit the company. Above all, we respect the individual” Yamato is attempting to evolve beyond its mainstay distribution business to become a logistics and lifestyle support solutions provider. This business innovation is made possible by strong community ties through services closely tailored to each region and a people-centric corporate culture which espouses cooperation, solidarity and harmony.

So where does this mentality find its origins? The Japan of 400 years ago was a feudal society under a policy of *sakoku* (lit. “locked country”) which nominally isolated the country from the outside world. This bound farmers to their land, and regional communities formed around villages. This resulted in the formation of a collective identity which emphasized the good of the community over a respect for the diversity of individuals. Since merchants could not journey to faraway lands, they made their enterprise sustainable by building large networks of regular customers and commerce was built on a foundation of trust and reputation among the local community.

Japan thus entered the industrial age grounded in these commercial practices. The scarcity of both land and resources in Japan engendered a business model involving the earning of foreign currency through exports. After the war, the main proprietor of this model was the manufacturing industry, in which steel, automobile and electrical appliance makers exported high-quality, technologically-advanced goods. The large companies at the apex of these industries built large ecosystems including the small and medium enterprises in the periphery. Such ecosystems not only created a great deal of employment, but they went as far as playing a role in the social welfare of the community. Cities dependent upon such companies as the nucleus of their community are known as *kigyō jōkamachi* (lit. “company castle town”) in Japan.

Japan was lifted up out of the aftermath of the war on the backs of these companies, who were in turn supported by the small and medium enterprises under them. As such their executives minded their position atop the pile and assumed broad responsibilities, including for the well-being of even far-flung suppliers' families and the development of the community. Whether or not it was called “corporate social responsibility”, they took responsibility for ordinarily public (government) affairs as a matter of course.

Changing Times, Changing Management

In contradiction with the traditional concern for social welfare evident at Japanese corporations, we have seen at the same time lingering remnants of an historic domestic human rights issue known as the “*dōwa mondai*”: roughly, “the *dōwa* issue”. The roots of the *dōwa* issue date back to the Edo period in 16th century Japan, a time in which commercial activities prospered. Given its complexity, the issue illustrates the amount of time and understanding it requires to root out a pervasive discrimination issue.

One theory is that the *dōwa* issue originated in the class system that prevailed during the Edo period. Despite the official repeal of this class system in 1871 (during the Meiji era), social discrimination continued against people living in certain *buraku* (“settlements”) associated with lower social status in this class system. The areas incorporating these settlements became known as “*dōwa* areas”.

In 1922, the *Zenkoku Suiheisha* (lit. “national levelers’ association”) was formed to stand up for the rights of *burakumin* who were those individuals and families discriminated against for reason of their living in *dōwa* areas. Protests were held across Japan. Finally, in 1969, the “Special Operational Countermeasures on *Dōwa* Issues Law” was enacted in order to prohibit discrimination against the *burakumin* and improve conditions in *dōwa* areas.

In 1975 it came to light that a number of companies had bought a special booklet purporting to list the *dōwa* areas and had used it to reject job applicants that had grown up in those areas.³³ Thereafter in 1998 a large Japanese research company was exposed as having investigated the backgrounds of job applicants for 665 other companies.³⁴ Awareness about discrimination against *burakumin* grew among businesses and broader society to an extent that the Special Operational Countermeasures on *Dōwa* Issues Law was ultimately able to be repealed in 2002.

Meanwhile, from 1970s the waves of business globalization came to crash at the shores of Japanese companies as well. Trade frictions between the US and Japan in the 1980s prompted Japanese companies to seek recognition as corporate citizens in the US by establishing foundations and actively investing in activities which contributed to local communities. In a sense, this was an opportunity for an overseas trial run of Japanese business philosophy, namely, that a company should be a good corporate citizen before it is a commercial entity. These activities were formative for the current CSR research conducted in Japan.

Japan’s economy remained strong amidst these trade frictions, and businesses began to supplement their traditional export-oriented business model with new manufacturing bases in overseas markets. This period also saw the traditional relationships between large automobile and electrical appliance manufacturers and their suppliers begin to unravel, as overseas markets sought higher local content ratios from companies expanding their business there. Japanese companies’ intricate web of business relationships, referred to as *keiretsu* in Japanese, began to change.

From the second half of the 1990s, manufacturers began in earnest to relocate their factories to developing countries in which inexpensive

labor could boost price competitiveness. Although exporting the Japanese way of building things - “*monodzukuri*” - abroad represented an important contribution to employment and economic growth in foreign markets, for Japan, it led to a “hollowing-out” of the economy.

Today, the developing countries to which manufacturers worldwide moved their factories in search of inexpensive labor are in the midst of a transformation from the factories of the world to emerging markets. This transformation has brought with it a rise in wages, lessening the impact of the incentives that originally drove offshoring. Meanwhile, there remains a tendency for Japanese companies to pursue cost-cutting in a manner that is out of step with changes in the global business environment. The inability to adapt to such changes represents a risk from the perspective of business and human rights.

Although their cloistered domestic business relationships have certainly helped to create long-term value in terms of improved product quality and development, long-term cost savings and cooperation on environmental issues, the sheltered nature of Japanese companies can hinder their ability to adjust to changes in the external environment.

For example, despite the international community’s growing focus on workers’ rights and occupational health and safety in the supply chain, Japanese client companies were lax in their confrontation of the issue. However, revelations of child labor in the supply chains of well-known sporting goods manufacturers in 1997 sparked interest in supplier labor issues in Japan as well, setting off increased awareness around CSR more generally.

As such, a growing number of companies have begun to tackle labor issues in their overseas supply chains — an issue they originally considered to be the sole concern of the suppliers themselves — as part of a more enlightened CSR strategy that aims to reach standards above and beyond minimum legal requirements.

At the same time as they began to consider issues in their overseas operations, in the 2000s a domestic human rights issue demanded the attention of Japanese companies - namely, “*harasumento*” (“harassment”). The Japanese use of the term differs slightly to the original English. In addition to the globally understood issue of sexual harassment, the Japanese word also incorporates other specific categories of “*pawā harasumento*” (“power harassment”) that reflect pervasive concerns within the Japanese workplace, such as “alcohol harassment” (senior staff forcing juniors to drink alcohol at company events) and “maternity harassment” (workplace discrimination against pregnant women and the intimidation of those trying for a child). This type of harassment or workplace bullying, involving the misuse of power and authority by those in senior positions, has involved some cases so severe that victims have committed suicide. The number of reported cases of workplace bullying grew from 14,665 in 2004 (9.2% of all cases reported to the prefectural labor department) to 62,191 in 2014 (26%), and it holds the dubious honor of being the subject on which guidance is most sought from the Ministry of Health and Labor Welfare.³⁵ However, these figures should be read in the context of an increased awareness of harassment/workplace bullying at Japanese companies, and greater efforts to highlight and address the issue.

Rising to the Challenge: People-centred Global Business

Meeting Global Standards

As discussed herein, in recent years Japanese companies have been changing their traditional business model from an export-oriented approach to localizing their business in overseas markets. As they foster closer ties with these local markets, they have started to aim beyond regulatory compliance in each country, and are beginning to take cohesive action on human rights in harmony with international standards, taking steps to meet their responsibilities as global corporate citizens. Some examples of these efforts follow.

Aeon became the first Japanese retailer to obtain SA8000 certification in 2004. Today, in addition to respecting the fundamental human rights of its employees, Aeon views its suppliers as equal partners and continuously strives to also improve labor conditions and respect human rights in its supply chain.

Recognizing one of its most salient potential impacts, INPEX, a Japanese resource developer, began producing an annual Reconciliation Action Plan in 2013. INPEX develops crude oil and natural gas in Australia, and the Plan set out its goal of respecting the indigenous peoples and their cultures and building a stronger relationship of trust in Australia. The plan is a means for INPEX to conduct its business while respecting indigenous Australians, and to do so it provides for specific actions in three major areas: “relationships”, “respect”, and “opportunities”. The initiatives in the plan and their progress levels are revised and reported on every year.

Konica Minolta, a diversified manufacturer in business technologies, healthcare, and industrial businesses, joined the EICC (Electronic Industry Citizenship Coalition) in 2013. The company is utilizing the standards and tools of the EICC, (which align with internationally accepted human rights principles such as the Universal Declaration of Human Rights and the standards of the International Labor Organization (ILO)), to broaden the scope of its CSR activities across supply chains vital to its business. These activities involve not only production facilities and suppliers, but the broader distribution value chain as part of a joint initiative with DHL Supply Chain Ltd.

Casio Computer Company has been taking stock of potential human rights impacts since 2012, using ISO 26000 as a guide. In order to strengthen its due diligence, Casio sought the advice of experts and, in February 2014, created its own tool for checking the status of human rights, utilizing the Danish Institute for Human Rights’ Human Rights Compliance Assessment Quick Check as a reference.

In 2014, Fujitsu publicized the “Fujitsu Group Human Rights Statement,” which clarifies both its support of international human rights standards as well as its responsibilities as an information and communication technology (ICT) company, and sets out its commitment to performing human rights due diligence. The policy was prepared in adherence to the Guiding Principles on Business and Human Rights.

Recruit Holdings, whose main businesses are its Marketing Media Business, HR Media Business and Staffing Business, has developed a human rights policy and begun broad, human rights-themed stakeholder engagement coinciding with the global expansion of its business. Recruit offers “Opportunities for Life” to society through its

corporate philosophy of “a bright, vibrant future where people can choose their own life path.” In this way, the respect for human rights becomes embedded in the core of the company’s business, rather than simply being treated as a discrete matter of risk or management quality.

As we can see from the above examples, Japanese companies operating – or intending to operate – in the competitive global environment have begun to work on going above and beyond traditional Japanese practices and regulatory compliance, towards internationally competitive levels of management quality.

Creating a Market for Respect for Human Rights

Japanese companies have enjoyed world-leading longevity. There are more than 50,000 companies over 100 years old in Japan; 3,886 of them are over 200 years old.³⁶ To achieve this extraordinary longevity they were required to employ sustainable management practices by adjusting to various changes in local operating environments and striving to achieve harmony with local society. Thus a people-centric business philosophy and commitment to community spread from local outposts through entire corporate entities, resulting in the emergence from the bottom up, rather than the top down, of businesses geared towards solving various social and human rights issues.

Today, diversified values, globalized business and information technology’s magnification of the influence of civil society are all factors in the shift from profit-centric to people-centric management.

Japanese companies offer many examples of business models in which investment in long-term relationships with suppliers, customers, and civil society ultimately contribute to improvement in sustainable business and management quality, technological innovation and lower long-term costs.

Now in Japan we are seeing the early stages of efforts by some companies to create a market in which respect and support for human rights is a source of added value.

Itochu Corporation’s Pre Organic Cotton Program is a prime example of inclusive business. Genetically modified (GM) seeds and pesticides have been used heavily in India since the Green Revolution in the 1960s. However, the overuse of these pesticides has placed a heavy burden on the health and finances of cotton farmers, many of whom are poor. Itochu’s textile company launched its Pre Organic Cotton Program in 2008 with the aim of improving this situation through business. The Pre Organic Cotton Program guarantees the purchase of cotton grown during the two-year transition period from the start of organic farming methods until the acquisition of organic farming certificates, provides guidance on organic cultivation using non-GM seeds and supports the farmers’ transition to organics. In addition to reducing the negative environmental and health impacts from chemical fertilizers and pesticides, it reduces the financial burden on farmers. The program became the first activity (at the time of application) by a Japanese company to be approved as a response to the United Nations’ Business Call to Action (BCtA), an initiative that challenges companies to develop innovative business models that achieve both commercial success and development outcomes.

The Pre Organic Cotton Program also provides an insight into how a trading company can effectively incorporate CSR into its business model. Itochu branded the cotton purchased during the transition period (prior to formal certification as organic) as “Pre Organic Cotton” and mobilized the entire value chain, including apparel and retail. Rather than employing short-termism and pursuing cheap procurement, the company considered its “enlightened self-interest”: a business model prioritizing the improvement of the health and welfare of farmers and the farming environment provides dual benefits to the company in the form of a sustainable and stable long-term procurement option with commensurate boons to shareholder value.

The Ajinomoto Group is a major Japanese food manufacturer, whose Group Philosophy is to “create better lives globally by contributing to significant advances in Food and Health and by working for Life.” The Group’s business is premised on using its expertise to contribute to global sustainability, stable food resources and healthy living while recognizing the mutually reinforcing relationship between them.

The Ajinomoto Group’s Ghana Nutrition Improvement Project was launched in 2009 as part of initiatives to commemorate its centenary, and involves leveraging the enormous amount of knowledge around food and amino acids the Ajinomoto Group has accumulated since its founding to address the rights of children living in poverty. Specifically, it involves the development of affordable supplements to bolster the nutritional balance of weaning children in Ghana.

Over 4.1 billion people - across the world (roughly 60% of the population) have an annual income of less than USD3,000. Most of these low-income earners live in developing countries, including those still facing serious problems related to delayed growth and high infant mortality rates. Ajinomoto Group has conducted studies since 1995 to examine the effect of Lysine, an essential amino acid, on the improvement in nutrition, immunity and health of people in low income countries. In advancing the project in Ghana, Ajinomoto Group collaborated with Ghanaian government institutions, the University of Ghana, international NGOs and companies, and was able to harness this cooperation to cultivate a value chain that addresses the needs of stakeholders, from local manufacturing to awareness raising around nutritional issues, to the architecture of its distribution model.

Meanwhile, Astellas addresses the issue of access to healthcare in impoverished regions. This includes their endorsement of a clinical research fellowship program led by the World Health Organization, International Federation of Pharmaceutical Manufacturers & Associations and the Bill and Melinda Gates Foundation. The program aims to facilitate research into infectious diseases in developing countries; Astellas has taken on medical researchers from diseases endemic countries as fellows since 2011.

In the information technology field, IT product and service provider NEC has tackled the issue of personal information leaks, which is a common concern following recent developments in ICT and the increasing use of big data. NEC has developed technology to reduce the risk of individuals being identified without impairing the value of big data. The technology has garnered attention as a solution which can mitigate negative effects

on human rights without compromising the social benefits of cutting-edge technology.

Many Japanese companies have been hard at work studying the United Nations Guiding Principles on Business and Human Rights since their adoption in 2011. Perhaps the greatest challenge for Japanese companies is re-conceptualizing the definition of “human rights” to that understood at the international level. That being said, there are many points that can be learned from Japan’s sustainable management style such as a strong commitment to the community and the value ascribed to long-term relationships. Whether or not Japanese companies can leverage this management philosophy, built upon the people they cultivate, to meet global expectations in the field of human rights will be tested on the global stage.



Practicing

Global Compact Network Japan's Working Group on Human Rights Due Diligence holds an annual workshop - facilitated by EY Institute - which introduces members to the methodologies, tools and thought processes necessary to apply the UNGPs and implement human rights due diligence at their respective companies.

The workshops walk members through a series of human rights due diligence processes to address potential adverse impacts of their business activities and/or business relationships on the human rights of their stakeholders. This includes impact identification (step 1), impact analysis pursuant to considerations of likelihood of occurrence and severity (step 2), mapping /visualization and prioritization based on the former analysis (step 3), and development of remedial measures (step 4). The diversity amongst member companies, including their industry affiliation, facilitates a vigorous discussion in which members can brainstorm a wide variety of potential adverse impacts on human rights. This makes for an invaluable opportunity to promote awareness and spark the creativity of everyone involved.



4. From Dissemination to Implementation

Embedding the Principles

Incorporation of Guiding Principles in other laws, standards and guidelines

The Guiding Principles are not of themselves a legally binding document: aggrieved individuals or groups cannot bring corporations to an international court or tribunal for breach of the principles. However, although the Guiding Principles may be said to be “soft” law, they “harden” as they are incorporated in other laws, standards and guidelines.

The Guiding Principles have been incorporated into the updated Guidelines for Multinational Enterprises of the Organization for Economic Cooperation and Development, the human rights chapter of the Guidance on Social Responsibility from the International Organization for Standardization (ISO 26000) and the revised Sustainability Framework and Performance Standards of the International Finance Corporation (the private sector arm of the World Bank Group). The IFC documents influence the standards applied by private banks involved in project finance.

In the Asia Pacific region, the ASEAN Intergovernmental Commission on Human Rights is drawing on the Guiding Principles in its work: for example, the nexus between business and human rights was selected as a key issue in its 5-year work plan (2010-2015).³⁷ In China, the 2013 “Sustainable Business and Investment in the Global Context: Rights, Risks and Responsibilities” conference in Beijing attracted 200 participants for a practical business-to-business discussion on sustainable business and human rights. Further, the China National Textile and Apparel Council has published a report on grievance mechanisms in the industry using the Guiding Principles as a primary framework.³⁸

Corporate uptake continues to climb. The UN Working Group on Business and Human Rights conducted a survey in 2013 of 153 business representatives from 39 countries and found that

- the majority of the sampled businesses were aware of the Guiding Principles; and
- half of the sampled businesses have a public statement of human rights.³⁹

Many sector groups have published their own guide to applying the Guiding Principles in their respective industries, for example that of IPIECA (oil & gas sector), A4ID (legal profession) and UNEP Financial Initiative (finance sector). The European Commission has prepared sector guidance on implementing the Guiding Principles in the oil and gas, employment and recruitment and information and communication technology sectors.⁴⁰

The Leaders’ Declaration issued at the G7 summit held in Germany in June 2015 emphasized the commitment by the G7 nations to respect human rights. It called for efforts by governments to set up National Action Plans in line with the Guiding Principles (see next section) and encouraged enterprises to enhance transparency and accountability by implementing human rights due diligence and promoting labour rights and environmental protection in their global supply chains.

Knowing and Showing

National Action Plans on Business and Human Rights

A considerable number of governments across the world have either published or commenced drafting National Action Plans to implement the Guiding Principles. A National Action Plan is a government document expressing a commitment to the implementation of the Guiding Principles as well as specific measures the state will take in line with the three pillars of the Guiding Principles, namely the “state duty to protect human rights,” the “corporate responsibility to respect human rights” and “access to remedy.”

In 2013 the UK became the first government in the world to launch a National Action Plan on business and human rights. The plan outlines eight key expectations of UK companies including that they comply with all applicable laws and respect internationally recognized human rights wherever they operate, seek ways to honor the principles of internationally-recognized human rights when faced with conflicting requirements, consult people who may potentially be affected by their operations and emphasize the importance of behavior in line with the Guiding Principles to their supply chains in the UK and overseas. It also sets out what the UK government is already doing as well as its planned actions in the future to this end.

In the outcome document of the June 2015 G7 summit meeting, leaders of the G7 states also welcomed the efforts to set up “substantive National Action Plans.” Among the G7 states, the UK has already launched its National Action Plan and Germany, France and the US have initiated processes to draft theirs.

Overview of National Action Plan Processes
(As of March 2016)

Already produced	In the process of development or expressed commitment to the development	
UK	Argentina	Malaysia
The Netherlands	Azerbaijan	Mauritius
Italy	Belgium	Mexico
Denmark	Chile	Mozambique
Spain*	Czech Republic	Myanmar
Finland	Germany	Portugal
Lithuania	Guatemala	Slovenia
Sweden	Greece	Switzerland
Norway	Ireland	USA
Colombia	Jordan	

*Subject to approval by the Spanish Council of Ministers
Source: “State national action plans”, *The Office of the United Nations High Commissioner for Human Rights (OHCHR)*;
<http://www.ohchr.org/EN/Issues/Business/Pages/NationalActionPlans.aspx>

A Business and Human Rights Treaty?

There are also discussions underway about the possibility of a new international legal framework in the field of business and human rights. Three years after the endorsement of the Guiding Principles, the United Nations Human Rights Council made the decision in 2014 to initiate an open-ended consultation process to draft a binding treaty on this topic. The decision was supported by a majority of developing country member states of the Council (whereas many developed countries were opposed), reflecting the re-emergence of developing countries’ long-held contention that a new international legal framework is needed to more effectively prevent corporate-related human rights abuse and ensure victims have access to a remedy.

The inaugural session of the treaty consultation process was held from 6 to 10 July 2015 in Geneva. It was primarily a brainstorming session at which representatives from government, business, academia and civil society exchanged their initial thoughts. It is not yet clear how long the treaty drafting process will take, nor what will be its outcome. However, if a treaty is prepared, it is likely to require states who choose to become signatories to enact or strengthen domestic regulation concerning human rights and business. Japan and many other western developed countries do not support the idea of creating new international legal obligations in the area of business and human rights. However, the drafting process continues notwithstanding.

Of course, many states are choosing to tighten regulatory requirements even without such a treaty. As just one example, Eurozone companies over a certain size are required by law to disclose information on their activities related to human rights.⁴¹

Moreover, even where regulation is absent, it is becoming increasingly necessary for companies to collaborate with stakeholders to meet rising social expectations, including by developing human rights policies and implementing human rights due diligence. Indeed, despite the unanimous endorsement of the Guiding Principles at the UN, NGOs continue to highlight cases of human rights abuses by companies in which victims are left without remedy. As such, pressure on Japanese companies from the international community to adequately address any human rights impacts is likely to increase, and an increasingly tightly woven fabric of legal requirements may be imposed on them to do so, in particular if they operate in developing countries that ratify such a new treaty.

As a part of the drafting process, the UN and the international community will undoubtedly focus their attention on whether companies are making adequate progress on accountability in the area of human rights. If the weight of opinion is that the Guiding Principles are not sufficient in persuading companies and governments to take adequate measures, proponents of a binding treaty may be successful in garnering support for the tightening of regulations on businesses. Will companies be able to implement the Guiding Principles effectively? The international community is closely looking at how the private sector will address this challenge.

Disclosure

As we have seen in the previous sections, the Guiding Principles require that companies both “know” and “show” that they respect human rights. Companies aim to “know” about their respect for rights by conducting human rights due diligence (discussed on page 15). The requirement that companies also “show” their respect for rights provides a measure of transparency and accountability, as well as encouraging companies to publically share successes and challenges for the benefit of their peers.

Principle 21 of the Guiding Principles states that companies should communicate externally on how they address human rights impacts and where operations or operating contexts pose risks of severe human rights impacts, companies should report *formally* on how they address these impacts. The same principle provides further guidance on corporate communications, noting that they should:

- (a) be of a form and frequency that reflect an enterprise’s humanrights impacts and that are accessible to its intended audiences;
- (b) provide information that is sufficient to evaluate the adequacy of an enterprise’s response to the particular human rights impact involved; and
- (c) in turn not pose risks to affected stakeholders, personnel or to legitimate requirements of commercial confidentiality.

In this way, the Guiding Principles provide civil society, investors and others with the tools to measure progress by business in meeting their responsibility to respect human rights.

What does this mean for Japanese companies? Many Japanese companies lag slightly behind their global peers when it comes to trumpeting their CSR achievements. Many will say that they are generally reluctant to report publically on work in progress, preferring to wait until a project is completed to a high standard before releasing information publically.

However, the necessity for corporate transparency and best practice sharing is drawing increasing international focus and civil society initiatives that rank companies on the basis of publically available information are proliferating. Examples include the Access to Medicine Index⁴², Behind the Brands’ Scorecard⁴³, the Corporate Human Rights Benchmark⁴⁴, and the Ranking Digital Rights initiative, which released in November 2015 a ranking of 16 major Information and Communication Technology (ICT) companies on how they respect users’ rights to free expression and privacy.⁴⁵

Moreover consumers and long-term investors increasingly seek more detailed information from companies on how they address their responsibility to respect human rights. Indeed, the new Reporting Framework is supported by sixty-seven investors representing USD\$3.91 trillion assets under management. As such, many companies are seeing the benefit in increased disclosure, even of work in progress.

Human Rights Reporting Framework

In order to assist companies with disclosure, and to streamline the process, the world’s first comprehensive guidance for companies to report on how they respect human rights, namely, the Human Rights Reporting Framework, was released in London in February 2015. The framework consists of eight overarching questions (each with one or more supporting questions) and four information requirements. To address “reporting fatigue”, questions are cross-referenced with initiatives including GRI G4 and the Integrated Reporting Framework. Companies are asked to focus on their “salient” human rights impacts, that is, those rights that are at risk of the most severe potential negative impacts.

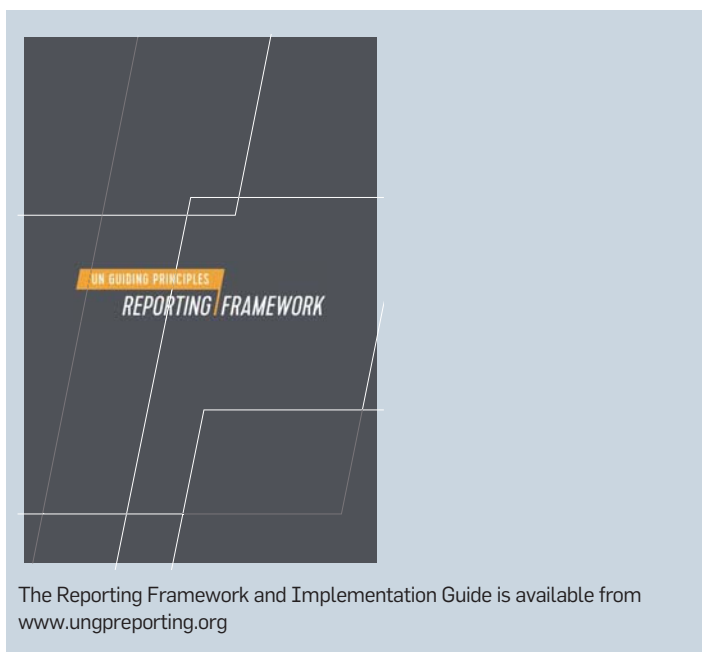
The key focus of the new Reporting Framework is to “demonstrate ongoing improvement”. The Framework’s reporting principles expressly acknowledge that respect for human rights is “not a finite process that can be reported as completed”. Noting that many companies will not be able to report against all of the criteria immediately, the Framework sets a minimum threshold of 12 questions “designed to be attainable by any company that has begun to address human rights within its business”, and encourages companies to “work towards answering all of the supporting questions and improving the quality of their responses over time”.

In light of this and with support as necessary, Japanese companies should be able to begin highlighting the excellent work that is underway in Japan.

Several leading multinational companies are already utilising the Framework. In April 2015, Ericsson issued the first report from an ICT company based on the Framework.⁴⁶ In June 2015, Unilever became the first company to produce a detailed, stand-alone report using the Framework.⁴⁷ In its press release the company noted that “we have a long way to go and we cannot do this alone - but being honest about the challenge we face is crucial to making progress.”

Three other early adopters - H&M, Nestle and Newmont - are also partnering with non-profit Shift to apply the Framework to their reporting. According to the latest report from Shift, over 30 companies in total have begun using the Framework, whether for their external reporting process or as a tool for improving their internal human rights management systems. Examples of the latter include utilising the framework to inform the drafting of a human rights policy; to structure an internal gap analysis; to support training for suppliers and as a tool in building awareness amongst senior leadership.

The drafters of the Reporting Framework expect that it will both assist individual companies to report beyond minimum legal requirements and, more broadly, contribute towards the dissemination of corporate best practices in respect for human rights. In the context of the ongoing inter-governmental discussion around a legally-binding international instrument on business and human rights, reporting initiatives such as this one play a key role in highlighting the effectiveness of the Guiding Principles and improving public recognition of responsible corporate activities. Furthermore, as more stock exchanges and socially responsible investors express their interest in the Reporting Framework, it moves ever closer to becoming the standard for human rights disclosure.



Independent Assurance

The Guiding Principles note that, “independent verification of human rights reporting can strengthen its content and credibility”.⁴⁸ Another word for independent verification is “assurance”. Independent firms have long provided assurance services over corporate reporting, including over assertions made by companies concerning their environmental and social impacts. Assurance of human rights related assertions draws on this experience, but also requires additional expert knowledge of the human rights field.

Concurrent with the drafting and release of Human Rights Reporting Framework, discussions have been ongoing with various stakeholders to develop a *Human Rights Assurance Framework* based on the Reporting Framework. In June 2015, consultations took place to discuss the key components and desired overall direction of the Assurance Framework. At the time of writing, the final text of the Assurance Framework is envisaged to be released in early 2016.

The final Assurance Framework will be the basis upon which independent external assurance providers express their assurance opinions as to whether a company has adequately prepared its human rights reporting in accordance with the Framework. The *Vision for Human Rights Assurance* (“*Vision*”) released by RAFI in April 2015 sets out the purpose of and key challenges envisaged for human rights assurance. It states, among other things, that meaningful assurance will need not only to verify whether a company’s reported human rights policies and processes exist, but also to consider whether they are “effective”. Providers will start with “limited assurance” but move towards “reasonable assurance” where possible.

Providers of assurance opinions will need to give “fuller and more insightful information on the assurance process and findings”, that is, a reasonable level of information about the assurance process, the key issues identified and recommendations made to the company. The opinion should also reflect any material omissions or misstatements in the company’s report. To this end, the *Vision* notes that assurance providers must be those companies/individuals with demonstrated knowledge, skills and capacity to conduct a human rights assurance, with general assurance skills and technical expertise in the relevant industry.

A first draft of practitioner guidance for assurance providers was prepared for multistakeholder consultation in autumn 2015, and the guidance is expected to be published in 2016.

Implementing

In 2008, the Japan Federation of Bar Associations (“JFBA”) published its Guidelines on Corporate Social Responsibility (“CSR Guidelines”). Following the adoption of the UN Guiding Principles, which require companies to treat respect for human rights as a legal compliance issue wherever they operate, the JFBA published, in 2015, the Guidance on Human Rights Due Diligence (“Guidance”) as an extension of the CSR Guidelines. Global Compact Network Japan’s Working Group on Human Rights Due Diligence held dialogue with the JFBA throughout the drafting process, providing input in particular in respect of the content addressing the introduction of a CSR clause. Guaranteeing the protection of human rights in the supply chain. As a result, the objective of introducing a CSR clause was clearly defined within the Guidance, as the promotion of continuous cooperation and healthy relationships between buyers and suppliers. This clarified the importance of creating mutually beneficial relationships within the Japanese business scene. Based on this input, the Guidance clearly sets out the objective of such a CSR clause — namely, to promote cooperation and joint improvement efforts between both buyer and supplier. This highlights that at the core of these efforts are Japanese companies’ traditional strengths in the creation of a spirit of cooperation and coexistence.

The Working Group is currently making use of the Guidance in collaboration with the JFBA to develop case studies including issues related to migrant workers and land expropriation.

Bibliography

1. Keyser, P, Popovski, V and Sampford, C 2015 "What is 'access to international justice and what does it require?" in P Keyser, V Popovski and C Sampford (eds), *Access to International Justice*, Routledge, New York, pp. 1-17
2. Mori, M and Hirasawa, Y 1995, "DOWA EDUCATION: Educational Challenge Toward A Discrimination-free Japan," Buraku Liberation Research Institute, Osaka, Japan. HURIGHTS OSAKA website, http://www.hurights.or.jp/archives/human_rights_education_in_asian_schools/section2/1998/03/dowa-education-and-human-rights.html
3. "The Universal Declaration of Human Rights (UDHR)," OHCHR website, http://www.ohchr.org/EN/UDHR/Documents/UDHR_Translations/eng.pdf
4. Twiss, S 2008 "Confucian Ethics, Concept-Clusters, and Human Rights," in H Rosemont, M Chandler and R Littlejohn, *Polishing the Chinese Mirror: Essays in Honor of Henry Rosemont, Jr.* (New York) Global Scholarly Publications, ACPA Series of Chinese and Comparative Philosophy, pp. 60-65. National University of Singapore website, <https://courses.nus.edu.sg/course/ellbaozm/Papers/Rosemont.pdf#page=68>
5. "Yearbook of the United Nations 1948 – 1949", p 535, The Yearbook of the United Nations website, <http://www.unmultimedia.org/searchers/yearbook/index.jsp>
6. "Core International Instruments" OHCHR website, <http://www.ohchr.org/EN/ProfessionalInterest/Pages/CoreInstruments.aspx>
7. UN Global Compact Human Rights & Business Learning Tool website, <http://human-rights-and-business-learning-tool.unglobalcompact.org/>
8. Popovski, V 2014, "State Negligence before and after Natural Disasters as Human Rights Violations" in C Hobson, P Bacon and R Cameron (eds), *Human Security and Natural Disasters*, Routledge, New York, pp. 94-111
9. Amartya Sen's "Democracy as a Universal Value" in *Journal of Democracy*, 1999 10 (3) pp. 3 – 17
10. *The United States of America vs. Carl Krauch et al.* (The IG Farben Trial), US Military Tribunal Nuremberg, Judgment of 30 July 1948. Prof. Dr. Gerhard Werle website, <http://werle.rewi.hu-berlin.de/IGFarbenCase.pdf>
11. UN Press Release SG/SM/6881, 1 February 1999, "Secretary-General Proposes Global Compact on Human Rights, Labour, Environment, in Address to World Economic Forum in Davos"
12. McKinsey & Co, *Assessing the Global Compact's Impact*, 2004, p.5.
13. UN Global Compact, *A Guide for Business: How to Develop a Human Rights Policy* (2015 update by A Owens of EY Japan). United Nations Global Compact website, https://www.unglobalcompact.org/docs/issues_doc/human_rights/Resources/HR_Policy_Guide.pdf
14. General Assembly resolution 17/4 *Human rights and transnational corporations and other business enterprises*, A/HRC/RES/17/4, para 4
15. "Guide to human rights for small and medium-sized enterprises" The European Commission website, http://ec.europa.eu/enterprise/policies/sustainablebusiness/files/csr-sme/human-rights-sme-guide-final_en.pdf
16. Ruggie, J.G. 2008, *Protect, Respect and Remedy: a Framework for Business and Human Rights*, Report to the Human Rights Council, UN doc A/HRC/8/5, para 77
17. OHCHR 2012, *The Corporate responsibility to Respect Human Rights: An Interpretive Guide*, United Nations, New York and Geneva
18. Guiding Principles, Principle 17, Commentary
19. Guiding Principles, Principle 17, Commentary
20. Owens, A 2014, "Cumulative Human Rights Impacts", Human Rights and Business Dilemmas Forum, Global Compact and Maplecroft. Human Rights and Business Dilemmas Forum website, <http://human-rights.unglobalcompact.org/dilemmas/cumulative-impacts/>
21. OHCHR 2012, *The Corporate responsibility to Respect Human Rights: An Interpretive Guide*, United Nations, New York and Geneva, p. 17.
22. GE's explanation of the problem and the steps they took at: http://files.gecompany.com/gecom/citizenship/pdfs/ge_ethical_ultrasound_use_india_casestudy.pdf
23. Guiding Principles, Principle 19, Commentary.
24. Guiding Principles, Principle 19, Commentary.
25. the explanatory materials to "Principle Two: Human Rights" United Nations Global Compact website, <https://www.unglobalcompact.org/what-is-gc/mission/principles/principle-2>
26. Ashleigh Owens of EY Japan has prepared detailed guidance on addressing cumulative impacts for the UN Global Compact's Business Dilemmas website, <http://hrbdf.org/dilemmas/cumulative-impacts>
27. OHCHR 2012, *The Corporate responsibility to Respect Human Rights: An Interpretive Guide*, United Nations, New York and Geneva, p. 17, p. 6
28. Harrison, J 2012, 'An evaluation of the institutionalisation of corporate human rights due diligence', *University of Warwick School of Law Legal Studies Research Papers*, no. 2012-18. Available from SSRN, p. 3.
29. Guiding Principles, Principle 17.
30. The UNGC's guidance note, United Nations Global Compact website, www.unglobalcompact.org/.../human_rights/.../HR_COP_Reporting_Guidance.pdf
31. European Commission 2013, *Oil and Gas Sector Guide on Implementing the UN Guiding Principles on Business and Human Rights* (written by Shift and IHRB), p. 43. Shift Project website, http://shiftproject.org/sites/default/files/ECHRSG.OG_.pdf.
32. Adapted from European Commission 2013, *Oil and Gas Sector Guide on Implementing the UN Guiding Principles on Business and Human Rights* (written by Shift and IHRB), p. 43. Available from http://shiftproject.org/sites/default/files/ECHRSG.OG_.pdf
33. Tomonaga, Kenzo. Osaka Prefecture Human Rights Association, 2005. Buraku chimei soukan jiken hakkaku kara genzain eno kiseki [The tracks up until this day after the Buraku list booklet incident]. website, <http://www.jinken-osaka.jp/pdf/souzou/14/04.pdf>
34. Japanese Trade Union Confederation. Saiyou senkou ni kansuru jittai haaku no tame no ankeeto [A survey to fully understand the process of recruiting]. website, http://www.jtuc-rengo.or.jp/rentai_katsudo/jinken/recruitenq/
35. Sankei West. 2015. "Handan mayou gure-zo-nn" pawaharasemina- ha kyanseru machi "ijime, iyagarase" ga sodann toppu. (The difficulties of judging within the grey zone: power harassment seminars are popular and have long wait lists, bullying is the top in the list for consultations) website, <http://www.sankei.com/west/news/151006/wst1510060001-n1.html>
36. The University of Pittsburgh's "Shashi: The Journal Of Japanese Business And Company History", available at: <http://shashi.pitt.edu/ojs/index.php/shashi>
37. Carbone, R 2013, *The Implementation of Human Rights in ASEAN: The Example of Corporate Social Responsibility (CSR)*, Centro Einstein di Studi Internazionali website, www.centroeinstein.it/publicazioni-gratuite?...human-rights-in-asean
38. Presentation by Liang Xiaohui, China National Textile and Apparel Council and Peking University, to the UN Forum on Business and Human Rights 2013 side event, "Responsible supply chain management in alignment with the UN Guiding Principles", 3 December 2013
39. The questionnaire was carried out for the UN Working Group on Business and Human Rights by the International Chamber of Commerce (ICC), the International Organisation of Employers (IOE), the Global Business Initiative on Business and Human Rights (GBI) and the University of Denver. The results were submitted to the UN Human Rights Council on 28 April 2014 (See Doc A/HRC/26/25/Add.1, website, http://www.ohchr.org/EN/HRBodies/HRC/RegularSessions/Session26/Documents/A-HRC-26-25-Add1_en.doc).
40. The European Commission guides may be downloaded from the European Commission website, https://ec.europa.eu/anti-trafficking/publications/european-commission-sector-guides-implementing-un-guiding-principles-business-and-hum-0_en
41. European Union Non-Financial Reporting Directive (2014/95/EU)
42. "the Access to Medicine Index", website, www.accesstomedicineindex.org/
43. "Scorecard", Behind the Brands, website, www.behindthebrands.org/en-us/scorecard
44. "Corporate Human Rights Benchmark (CHRB)", website, <http://www.ihrb.org/our-work/corporate-human-rights-benchmark.html>
45. "Ranking Digital Rights", website, <https://rankingdigitalrights.org/>
46. "Ericsson Sustainability Report 2014: Technology for Good programs benefit four million globally", website, <http://www.ericsson.com/news/1910657>
47. "HUMAN RIGHTS REPORT 2015", Unilever, website, https://www.unilever.com/Images/slp-unilever-human-rights-report-2015_tcm244-437226_1_en.pdf
48. Guiding Principles, Principle 21, Commentary



Contacts

Global Compact Network Japan

Harks Roppongi Bldg., 6-15-21, Roppongi, Minato-ku, Tokyo,
106-0032, JAPAN

Tel:+81-3-5412-7235

Fax:+81-3-5412-5931

Email: gcjnoffice@ungcjin.org

URL: <http://www.ungcjin.org>

No reprints without permission. Not for sale.

© 2016 Global Compact Japan Network all rights reserved.

This material has been prepared for general informational purposes only, and Global Compact Network Japan will not be liable for any loss or damages arising from the use of this material. Please refer to your advisors for specific advice.

About EY

EY is a global leader in assurance, tax, transaction and advisory services. The insights and quality services we deliver help build trust and confidence in the capital markets and in economies the world over. We develop outstanding leaders who team to deliver on our promises to all of our stakeholders. In so doing, we play a critical role in building a better working world for our people, for our clients and for our communities.

EY refers to the global organization, and may refer to one or more, of the member firms of Ernst & Young Global Limited, each of which is a separate legal entity. Ernst & Young Global Limited, a UK company limited by guarantee, does not provide services to clients. For more information about our organization, please visit ey.com.

About EY Japan

EY Japan refers to the member firms of EY in Japan. EY Japan consists of the 13 memberfirms of EY in Japan, these including Ernst & Young ShinNihon LLC., Ernst & Young Tax Co., Ernst & Young Transaction Advisory Services Co., Ltd. and Ernst & Young Advisory Co., Ltd. Each of these firms is a separate legal entity. For more information, please visit ey.com/jp/en/.

