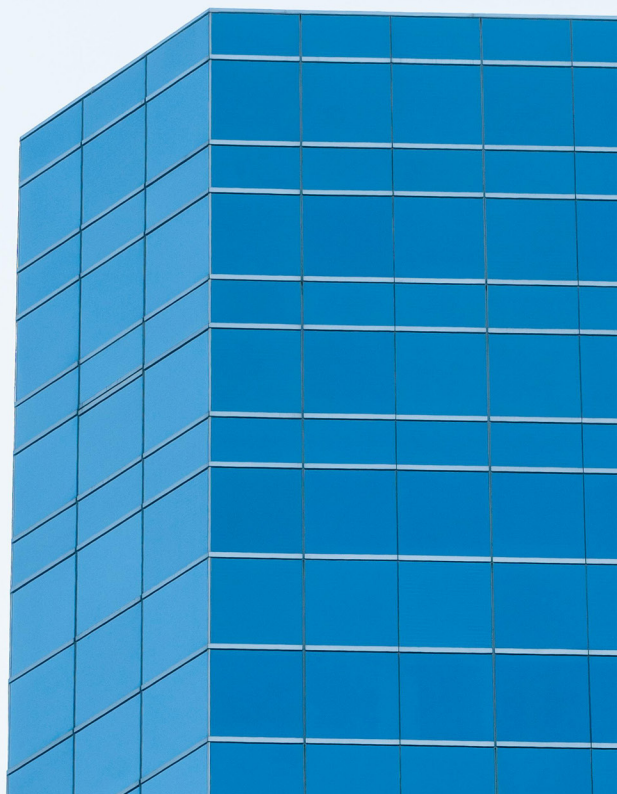

CHAMBERS GLOBAL PRACTICE GUIDES

Business & Human Rights 2025

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Japan: Law & Practice

Koichi Saito, Wataru Shimizu,
Suguru Yokoi, Ai Tanaka
and Mai Kurano
Anderson Mori & Tomotsune



JAPAN

Law and Practice

Contributed by:

Koichi Saito, Wataru Shimizu, Suguru Yokoi, Ai Tanaka and Mai Kurano
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Anderson Mori & Tomotsune is a full-service law firm with around 700 professionals best known for serving overseas companies in Japan since the early 1950s. It is proud of its long tradition of serving the international business and legal communities and its reputation as one of Japan's largest full-service law firms. Its combined expertise enables it to deliver comprehensive advice on all legal issues that may arise during a corporate transaction, including

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1. Introduction

1.1 Business and Human Rights: A Summary

There is no legal framework relating to business and human rights (“BHR”) that legally requires private sectors to conduct human rights due diligence (“DD”), but there is a soft law framework, such as the government guidelines, for human rights DDs.

As described below in **2.2.4 Transparency and Reporting Requirements**, the amendment of relevant regulations in January 2023 made it mandatory for listed companies to disclose sustainability-related information in their annual securities report.

Other human rights issues, such as child labour, forced labour, and unjustified discrimination, are prohibited and regulated under the existing legal framework, such as labour laws and regulations. However, these existing laws and regulations were not established or amended from the perspective of BHR.

Generally, in Japan, various human rights issues arise in the workplace, such as *karoshi* (death

from overwork), *karojisatsu* (suicide by overwork), harassment and discrimination, and poor treatment of non-regular employees, although these issues are to some extent regulated by the existing labour laws. These issues have not been recognised in the context of BHR. Also, discrimination against women, minorities, and socially vulnerable people also persists, especially in the workplace.

As a trend relating to BHR in Japan, people pay increasing attention to human rights violations in the form of harassment. In recent years, sexual abuse in the media industry has been attracting attention, and in 2025, concerning a television company that failed to take appropriate action when a celebrity sexually abused an employee, various companies have stepped down from sponsorship.

As described below in **2.2.1 National Action Plan**, in October 2020, the government launched Japan’s National Action Plan (NAP) on business and human rights (2020-2025). The government annually reports on the status of the implementation of the NAP, and the NAP is scheduled to be revised in 2025.

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In May 2024, the UN Working Group on Business and Human Rights (“*Working Group*”) submitted a [report](#) to the UN Human Rights Council on human rights issues in Japan. In the report, the Working Group reported that important advancements had been made in Japan, including developing a national action plan on BHR and issuing Guidelines on Respecting Human Rights in Responsible Supply Chains. However, it also pointed out that challenges remain concerning the business community’s capacity to understand and implement human rights DDs across value chains. The Working Group also expressed concern about the significant difficulties observed in addressing deeply embedded harmful gender and social norms, which was particularly evident in the workplace discrimination and harassment experienced by women, indigenous peoples, *Buraku** people, persons with disabilities, migrant workers and LGBTQI+ persons.

In 2025, Japan will implement Voluntary National Reviews (VNR) for the SDGs. The draft of VNR also mentions issues related to BHR. For example, it points out that the implementation of human rights initiatives by small and medium-sized enterprises (SMEs) is an issue that needs to be addressed.* *“Buraku” discrimination is a human rights issue in Japan stemming from historical social stratification. Certain groups associated with designated areas called “Buraku” have faced long-term economic, social, and cultural disadvantages, as well as discrimination in daily life, including barriers to marriage and employment.*

2. Legal Framework

2.1 International

First, Japan is a party to the International Bill of Human Rights, including:

- the Universal Declaration of Human Rights;
- the International Covenant on Civil and Political Rights; and
- the International Covenant on Economic, Social and Cultural Rights.

Second, Japan is a party to the following ILO core conventions as set out in the Declaration on Fundamental Principles and Rights at Work:

Abolition of Child Labour

- Minimum Age Convention, 1973 (No 138); and
- Worst Forms of Child Labour Convention, 1999 (No 182).

Elimination of Forced or Compulsory Labour

- Forced Labour Convention, 1930 (No 29); and
- Abolition of Forced Labour Convention, 1957 (No 105).

Freedom of Association/Collective Bargaining and Labour Relations

- Freedom of Association and Protection of the Right to Organise Convention, 1948 (No 87); and
- Right to Organise and Collective Bargaining Convention, 1949 (No 98).

Elimination of Discrimination at Work

- Equal Remuneration Convention, 1951 (No 100).

A Safe and Healthy Working Environment

- Promotional Framework for Occupational Safety and Health Convention, 2006 (No 187).

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Japan has not yet ratified the Discrimination (Employment and Occupation) Convention, 1958 (No 111), nor the Occupational Safety and Health Convention, 1981 (No 155). As for the former convention, the government explained that it had taken time to consider its consistency with domestic laws, and as for the latter, a bill to ratify the convention had been submitted to the National Diet, and the bill was now under discussion.

In addition, Japan has adopted, supported, and participated in major international frameworks relating to business and human rights, including the UN Guiding Principles on Business and Human Rights (UNGPs), the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP), the UN Convention on Children's Rights, and the OECD Guidelines for Multinational Enterprises on Responsible Business Conduct ("*OECD Guidelines*").

2.2 National and Regional

2.2.1 National Action Plan

In October 2020, the government launched Japan's National Action Plan (NAP) on business and human rights (2020-2025) in response to increased international attention on the need for business enterprises to respect human rights. The NAP lists a series of measures and policies relating to BHR that the government should implement. It also sets out expectations for business enterprises to promote the introduction of human rights DDs in the context of their business activities.

The government annually reports on the progress of implementation of the NAP. For example, the report on the third-year review (April 2023 to March 2024) released in May 2024 covers discussions on measures to promote the NAP held in government meetings over the course of a

year and on progress made, which includes the government's policy on human rights considerations in public procurement, and the progress on the dissemination and aware-raising activities especially among SMEs regarding the Guidelines on Respecting Human Rights in Responsible Supply Chains.

In May 2024, the Inter-Ministerial Liaison Conference on the Implementation of the NAP on Business and Human Rights approved the start of the NAP revision work for next year, which will be revised in 2025.

2.2.2 Corporate Human Rights Due Diligence Legislation

In Japan, human rights DD has not been legislated, and private sectors have not imposed any legal requirements on conducting human rights-related DD. However, in 2021, the Ministry of Economy, Trade and Industry (METI) and the Ministry of Foreign Affairs (MOFA) conducted a questionnaire survey for private sectors as one of the implementation measures of the NAP, and the result of the survey showed that private sectors strongly requested the Japanese government establish guidelines on human rights DD. In response to the results of the survey, the "*Guidelines on Respecting Human Rights in Responsible Supply Chains*" ("*Guidelines*") were established in 2022, and they were expected to serve as a soft law.

Following the release of the Guidelines, METI released "*Reference Materials on Practical Approaches for Business Enterprises to Respect Human Rights in Responsible Supply Chains*" ("*Reference Materials*"). The Guidelines suggested that the government prepare additional documents to share with the private sector more details on measures for human rights in a practical manner, including in-depth explanations and

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case examples. The Reference Materials provide practical guidance on how business enterprises should conduct human rights DD.

In addition, on 25 December 2023, the Ministry of Agriculture, Forestry and Fisheries released its *“Guidebook for Respecting Human Rights in Food Enterprises”* as a guideline on human rights DD for the food industry. This guideline points out that the food industry is responsible for implementing measures for human rights because it has extensive supply chains that cover production, manufacturing, distribution, and retailing.

As mentioned in **1.1 Business and Human Rights** : A Summary, the Working Group toured Japan in 2023 and surveyed to assess the measures implemented by the government and the private sector. Based on their interviews with companies, the Working Group pointed out in their report published in 2024 that most private sector actors, including in the financial sector, indicated that it would be desirable to make it mandatory to conduct human rights DD. The Working Group said that it would level the playing field and enhance the consistency between government policies and UN policy on BHR.

2.2.3 Modern Slavery Legislation

Japan does not have a specific legal framework addressing modern slavery, such as bans on the import of products made with children or forced labour. However, Article 18 of the Constitution of Japan prohibits involuntary servitude. Child and forced labour are also prohibited and regulated under the Labour Standards Act (Act No 49 of 1947). Companies that violate these prohibitions face penalties, including fines.

Technical Intern Trainee Programme

Japan has been criticised by the international community for human rights violations related to its technical intern trainee programme. During the 4th Universal Periodic Review, held in February 2023, UN member states recommended that Japan improve the treatment of migrant workers, including foreign technical intern trainees.

For the proper implementation of the training of and the protection of technical intern trainees, the Act on Proper Technical Intern Training and Protection of Technical Intern Trainees (Act No 89 of 2016) was enacted, which stipulates prohibitions and penalties for violation of human rights for foreign technical intern trainees. However, even after the enactment of this Act, the working and living conditions of migrant workers, including technical intern trainees, have remained poor, and the need for improvement has been pointed out.

The serious issue of payment and debt incurred by technical intern trainees before they migrate to Japan has been highlighted as an example. The Technical Intern Training Programme was originally designed to enhance technical interns’ skills and contribute to international society by enabling them to apply those skills in their home countries. However, in practice, the programme is increasingly viewed as a way to address labour shortages by employing foreign workers. This has created a disconnect between the programme’s original purpose and its current implementation.

ESD Programme

In response to these issues, the Act was amended in June 2024 to adopt a new programme called the *“Employment for Skill Development (ESD)”* programme. The ESD programme aims to develop and secure human resources in

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industrial fields with labour shortages rather than international cooperation through skills transfer. Also, a basic policy for the ESD programme and field-specific operation policies for each ESD industrial field will be established. The field-specific operation policies will set out the expected number of acceptances for each field. An accreditation system by the Employment-for-Skill-Development Organisation (ESDO) for the ESD Plan prepared for each foreign national will also be established.

Children and Families Agency

With regard to human rights violations against children, the Children and Families Agency (CFA) was established in April 2023. The basic principle of this Agency includes the protection of children's basic human rights and equal education for all children. In June 2024, the Child Sexual Abuse Prevention Law (the Japan DBS Law) was enacted and promulgated to prevent sexual violence against children, with the CFA playing a central role. This Act requires private sectors, such as schools and licensed nursery schools, as well as cram schools and swimming schools, to confirm the history of sexual crimes of their employees and prospective employees.

2.2.4 Transparency and Reporting Requirements

Due to an amendment to the Cabinet Office Order on Disclosure of Corporate Affairs (Ministry of Finance Order No 5 of 1973), it has become mandatory for listed companies to disclose sustainability information in their annual securities report. Specifically, a new section titled “*Approach and Initiatives Relating to Sustainability*” has been added to the “*Business Overview*” section of the annual securities report, requiring listed companies to report on four items: “*governance*”, “*strategy*”, “*risk management*” and “*metrics and targets*”. Companies obliged

to submit an annual securities report under the Financial Instruments and Exchange Act (Act No 25 of 1948) (FIEA) must include such information. Companies that disclose information based on the Act on Promotion of Women's Active Engagement in Professional Life (Act No 64 of 2015) and the Act on Childcare Leave, Caregiver Leave, and Other Measures for the Welfare of Workers Caring for Children or Other Family Members (Act No 76 of 1991), are required to disclose the ratio of female managers, the ratio of male employees taking childcare leave, and the gender wage gap between men and women in the annual securities report as part of the “*Status of Employees*.” For other items, companies will disclose relevant information when they determine it is important.

If false statements are made or material facts are not stated in the annual securities report, the company will incur civil liability under the FIEA and may additionally be subject to criminal penalties and the payment of surcharges.

In September 2023, the Financial Services Agency (FSA) highlighted changes to the Corporate Governance Code, emphasising the importance of understanding the relationship between financial and non-financial information and its contribution to enhancing corporate value. Regarding diversity, the FSA indicated that it was necessary to consider investments in human capital in accordance with the company's characteristics and growth stage. It also emphasised the importance of considering resilience in relation to various risks that companies face, including those within their supply chains.

2.2.5 Indigenous Rights Legislation

In April 2019, the Act on Promoting Measures to Achieve a Society in which the Pride of Ainu People is Respected (Act No 16 of 2019) was

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enacted to promote measures to protect Ainu traditions and culture. This Act clearly states that the Ainu people are Indigenous people of the northern part of the Japanese archipelago, in particular Hokkaido, and that it is prohibited for any person to discriminate against the Ainu people or commit any other act that infringes upon the rights or interests of an Ainu person for being Ainu. In addition, this Act stipulates subsidies for the promotion of Ainu culture and exceptional allowances for Ainu people in logging or fishing. However, this Act does not stipulate any penalties for the violation of its prohibition against discrimination or specific exceptional allowances for the use of land.

Japan has received recommendations from the United Nations Committee on the Elimination of Racial Discrimination to recognise the people in Okinawa as indigenous people and to guarantee their rights. However, no legislation has been enacted so far on this issue.

2.2.6 Other

There is no comprehensive anti-discrimination law in Japan. However, regarding discrimination based on gender, race and origin, religion, disability, and age in the workplace, the Labor Standards Act and other labour laws and regulations stipulate a prohibition on discriminatory treatment and measures to eliminate discrimination.

The Act on Equal Opportunity and Treatment between Men and Women in Employment (Act No 113 of 1972) aims to promote equal opportunity and treatment between men and women in employment in accordance with the principles of the Constitution of Japan. This Act prohibits discrimination based on gender and any disadvantageous treatment due to marriage, pregnancy, and childbirth in the workplace. It also requires

employers to take measures in employment management concerning sexual or other types of harassment.

Under the Act on Childcare Leave, Caregiver Leave and Other Measures for the Welfare of Workers Caring for Children or Other Family Members (Act No 76 of 1991), rules are established governing childcare leave. In addition, since 1 April 2025, companies that regularly employ more than 300 employees are required to disclose the status of male employees who take childcare leave at least once every year.

Under the Act on the Promotion of Women's Active Engagement in Professional Life, employers with more than 100 employees are required to monitor the status of female employees' activities, including the percentage of female employees and their length of service, analyse issues to be improved, set numerical targets, and formulate and publish an action plan. Such employers are also obliged to implement measures based on the plan and make efforts to achieve the targets.

Under the Act on Comprehensively Advancing Labour Measures, Stabilising the Employment of Workers, and Enriching Workers' Vocational Lives (Act No 132 of 1966), employers must take measures to prevent power harassment in the workplace.

The Act to Facilitate the Employment of Persons with Disabilities (Act No 123 of 1960) prohibits discrimination against persons with disabilities and stipulates that employers must take reasonable measures to consider them.

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2.2.7 Soft Law on Business and Human Rights

As stated in 2.2.2 Corporate Human Rights Due Diligence Legislation, METI published “*Guidelines on Respecting Human Rights in Responsible Supply Chains*” in September 2022. METI also released the Reference Materials on Practical Approaches for Business Enterprises to Respect Human Rights in Responsible Supply Chains in April 2023 to provide practical guidelines on how business enterprises should conduct human rights DD. These guidelines would function as soft laws regarding human rights initiatives, including human rights DD. The Working Group has pointed out that the current response to BHR is limited to a soft law approach rather than legislation and that consideration should be given to legislation.

In addition to the guidelines published by METI at the Inter-Ministerial Committee for Japan’s National Action Plan on Business and Human Rights in April 2023, it was decided that the government would work to ensure that companies bidding for government contracts respect human rights. Specifically, the government has decided that the bidding instructions and contracts for public procurement should include a clause that “*the bidder/contractor shall endeavour to respect human rights in accordance with the Guidelines on Respecting Human Rights in Responsible Supply Chains.*”

Although it is not a government guideline, the Japan Textile Federation, one of Japan’s industry associations, has published its “*Guidelines for Responsible Corporate Behaviour in the Textile Industry*”. This document has been prepared considering the characteristics of the Japanese textile industry, which is made up of many small and medium-sized enterprises and is meant to ensure that the Japanese textile industry takes

action to respect human rights and fulfil its social responsibilities.

Further, the Center for International Economic Collaboration published its “*Human Rights Due Diligence Guidelines for Small and Medium-sized Enterprises*” in December 2022. SMEs generally have limited resources and information, and it is often difficult for them to take sufficient actions in relation to protecting human rights. In fact, the Working Group pointed out a gap between the large and the small and medium-sized companies in terms of understanding and implementing the UN Guiding Principles on Business and Human Rights. These guidelines explain specific examples and workflows to enable such companies to immediately promote action on human rights and are written in clear language.

2.2.8 Regulatory Change

As stated in 2.2.1 National Action Plan, the Inter-Ministerial Liaison Conference on the Implementation of the NAP on Business and Human Rights approved the start of the NAP revision work for next year. This revision is in progress with the relevant authorities and is scheduled to be released by the end of 2025.

3. Corporate Liability

3.1 Criminal and Civil Corporate Liability

As mentioned in 2.2 National and Regional, some human rights laws prescribe criminal penalties (mainly fines for corporate entities) and administrative penalties for human rights violations.

Extra-contractual (tort) liability may arise for human rights violations in private law.

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As stated in **2.2.4 Transparency and Reporting Requirements**, with regard to the disclosure of sustainability information, false statements, etc, are subject to criminal penalties and surcharges as well as civil liability under the FIEA.

Forced labour and child labour are prohibited under the Labor Standards Act, and penalties are stipulated for violations.

While there have been no actual cases involving business and human rights litigated in Japan, companies could face lawsuits if human rights violations are discovered within their group companies or supply chains or if their due diligence is deemed insufficient. Additionally, investors may file lawsuits if a company makes false claims regarding its sustainability practices, such as reporting actions on human rights issues that it is not genuinely addressing.

3.2 Director and Officer Liability

There is little discussion or precedent on this issue, so further discussion is needed. However, under the Companies Act (Act No 86 of 2005), directors have a duty to establish and operate an internal control system. It is possible to argue that the implementation of a human rights DD is a part of process of establishing and operating an internal control system, and it could be a breach of a director's duty of care if it is not conducted properly.

In addition, the Tokyo Stock Exchange publishes Japan's Corporate Governance Code, which establishes fundamental principles for effective corporate governance in listed companies. This code stipulates that *"the board should recognise that dealing with sustainability issues such as (...) the respect of human rights (...) are important management issues that can lead to earning opportunities as well as risk mitigation."* It

is worth considering that such a statement can also be the basis for director liability.

3.3 Parent Company Liability

In principle, the parent company and subsidiary have separate legal personalities and operate business independently. However, as stated in **3.2 Director and Officer Liability**, directors are obliged to establish and operate an internal control system that includes the management and monitoring of subsidiaries. In general, for example, when a subsidiary is involved in a scandal, it is thought that the parent company or the parent company's directors will be held responsible if there is active direction from the parent company's directors or if they were substantially involved in the decision-making process, which would be a breach of the duty of care of the parent company's directors.

A February 2018 Supreme Court decision recognised that where a parent company has established a compliance consultation system that includes employees of its subsidiaries, the parent company may have certain obligations to respond appropriately to users/whistleblowers who make reports.

4. Enforcement and Litigation

4.1 Enforcement Activities

Companies violating the laws protecting human rights mentioned in **2.2 National and Regional** may be subject to criminal or administrative penalties. However, as per **3.1 Criminal and Civil Corporate Liability**, such laws and regulations are not actively enforced in the context of BHR.

Rather, in Japan, some BHR issues are covered only by soft law, and in such areas, sanctions or other enforcement activities by national law

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enforcement agencies are not imposed, although there may be some reputational damages for the violators.

4.2 Case Law

The following are the leading cases relating to business and human rights in Japan.

Transgender

A national public officer with transgender identity requested that the national government take measures to allow them to use workplace facilities based on gender identity, but the National Personnel Authority (NPA) rejected the request. The officer then took the case to the court, seeking to overturn the NPA's decision. In July 2023, the Supreme Court decided that the NPA's decision was unreasonable, that it had exceeded the limits of its discretionary powers, and, therefore, was illegal.

Technical Intern Trainees

Regarding the issue of technical intern trainees, a business operator forcibly took away the passports of its technical intern trainees and forced them to work long hours for wages below the statutorily required minimum wage. In September 2010, the Fukuoka High Court confirmed that technical intern trainees fall under “workers” under the labour laws, including the Labor Standards Act, and are therefore protected under such labour laws. The court ordered the business operator to pay the unpaid wages to the technical intern trainees. Furthermore, the court confirmed the liability of not only the business operator but also the supervising organisation for confiscating passports and ordered them to pay compensation.

A Choice of Different Surnames

The use of pre-marriage surnames is becoming more common in business settings in Japan.

However, the Civil Code requires that married couples have the same surname. Several lawsuits in various regions have challenged the constitutionality of this provision, but thus far, the Supreme Court has not issued any rulings supporting these claims. The Japan Business Federation, known as Keidanren, has proposed allowing married couples the option to have different surnames. This issue is currently being discussed in the National Diet.

Same-Sex Marriage

Several lawsuits have been filed in various locations claiming that the provisions of the Civil Code and the Family Registration Law that do not allow same-sex marriage are unconstitutional. So far, five high courts (in Sapporo, Tokyo, Nagoya, Osaka, and Fukuoka) have ruled that the provisions of the Civil Code that do not allow legal marriage between same-sex couples are unconstitutional, and a case in Sapporo is currently being reviewed by the Supreme Court.

4.3 Grievance Mechanisms

The Human Rights Organisation in the Ministry of Justice have established a system for investigating and providing relief. This system accepts a wide range of consultations regarding human rights violations, and the Legal Affairs Bureau staff or Human Rights Organisation will take measures to investigate and provide relief. The Ministry of Justice shows an example of power harassment involving violence from a superior to a subordinate. In this case, in addition to confirming the facts and giving guidance to the relevant superior, the Human Rights Organisation requested that the company should take measures to prevent a recurrence.

In addition, the Labour Bureau of the Ministry of Health, Labour and Welfare accepts consultations on labour issues.

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Furthermore, the Human Rights Protection Committee of the Japan Federation of Bar Associations has established a system for filing petitions on human rights issues. When the Committee receives a petition from a victim of human rights violations, it can carry out an investigation. If it concludes that a violation has occurred or that there is a risk of one occurring, it takes actions that do not have legal enforcement. These actions may include issuing warnings, making recommendations to the violator, and expressing its opinions on the matter.

However, the Working Group pointed out that the lack of an independent national human rights institution was preventing victims of human rights violations from accessing effective remedies and emphasised the necessity of establishing one.

5. Business and Human Rights in Action

5.1 Best Practices

As described in 2.2.7 **Soft Law on Business and Human Rights**, the Guidelines and Reference Materials released by METI provide practical guidance on how business enterprises should conduct human rights DD. Also, some industry associations and NGOs have published practical guidance on BHR-related “*best practices*.”

Also, as a more specific example of best practice for companies, the ILO and JETRO have published “*Responsible Business Conduct and Human Rights Due Diligence: Good Practices of Japanese Companies*”.

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