

Research on human rights impacts of Japanese investments in Southeast Asia

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Content

- I. Overview of Japanese investments in Southeast Asia
 - A. History of business relationships within Southeast Asia
 - B. Current status of Japanese investments in Southeast Asia
 - C. Relevant human rights norms/international standards of Japanese companies
 - i. Legislations
 - ii. Soft laws
 - iii. National Action Plan (NAP)
 - iv. Companies' policies
- II. Human rights impacts of Japanese investments in Southeast Asia
 - A. Key issues
 - i. Labour rights
 - ii. Land rights & environmental impacts
 - iii. Complicity
 - B. Key sectors
 - C. Ranking of Japanese companies on human rights, compared with other Asian companies
- III. Company Responses
 - A. Japanese company response rates on human rights concerns
 - B. Analysis on Japanese companies' responses on human rights concerns related to operations in Southeast Asia
- IV. Notable initiatives and developments on business and human rights
- V. Conclusions

I. OVERVIEW OF JAPANESE INVESTMENTS IN SOUTHEAST ASIA

A. History of [business relationships](#) within Southeast Asia

The history of relationship between Japan and Southeast Asia can be traced around 8th century. Since then, they have been developing business relationship continuously. In 15th century, Okinawa prefecture mainly initiated trade with Southeast Asia. At that time, trading ships brought ivory, spices and dyes from Malacca (Malaysia), Siam (Thailand), Luzon (Philippines) and Java (Indonesia). In 16th century, through Portuguese merchants, Japanese merchants began to trade directly with Southeast Asia which was supported by a leading ruler at that time. Later on, the trade in the region became more active and they exchanged Japanese silver and sulphur for raw silk and silk fabric in Southeast Asia. Because of such relations, there were more than 1,000 Japanese living in Manila in Philippines and Ayutthaya in Thailand with Japanese towns and settlements spreading all over Southeast Asia. It is said that as many as 10,000 Japanese lived there during this period. However, in 1633, the government at that time introduced the seclusion policy as a foreign policy, which slowed down the trade and Japanese community in the region.

It was later in the 19th century when trade with Southeast Asia resumed after Japan opened up again for foreign countries. Many Japanese people migrated to Southeast Asia to seek for a job and medicine, cloth and general merchandise were traded. During the WWI and WWII, the Japanese government attempted to integrate Southeast Asia region with Japan, which led to tremendous loss in Southeast Asia. After WWII, in 1951, Japan rejoined the international community, which led to resumption of diplomatic ties with Southeast Asia along with providing compensation and grants for economic cooperation. In particular, Japan sought for strengthening the relationship with ASEAN to achieve mutual benefit in the region.

In 1977, to ease the economic tension due to rapid investment of Japanese companies, Prime minister Fukuda published so called Fukuda doctrine while he was on the tour of the ASEAN member states for the first Japan-ASEAN summit meeting, to establish three diplomatic policies in terms of Southeast Asia as below:

1. Japan rejects the role of a military power;
2. Japan increases mutual confidence and trust;
3. Japan as an equal partner of ASEAN: mutual dependence. Japan has prioritised the relationship with ASEAN on the basis of this doctrine.

In 2003, Japan and ASEAN became strategic partners which led to enactment of AJCEP (ASEAN-Japan Comprehensive Economic Partnership Agreement) in 2008.

B. Current status of Japanese investments in Southeast Asia

Currently, Japanese investment has a huge impact in Southeast Asia not only through trade and direct investment but also various support through official development assistance (ODA). In 2019, the total amount of trade between Japan and ASEAN was approximately 23.3 trillion yen

which composes 15% of Japanese trade across the globe (see figure 1). The [statistics provided by the Ministry of Foreign Affairs of Japan](#) show that the amount of export was 11.8 trillion yen and import was 11.6 trillion yen, which declined from 2018 (see figure 2).

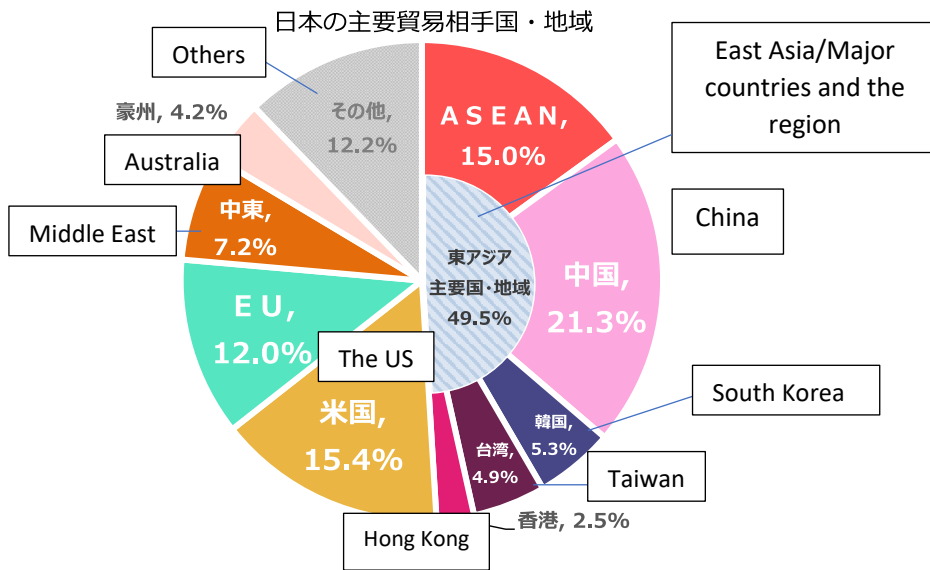


Figure 1: Japan's Major Trading Countries/Regions (2019)(Source: Ministry of Foreign Affairs)

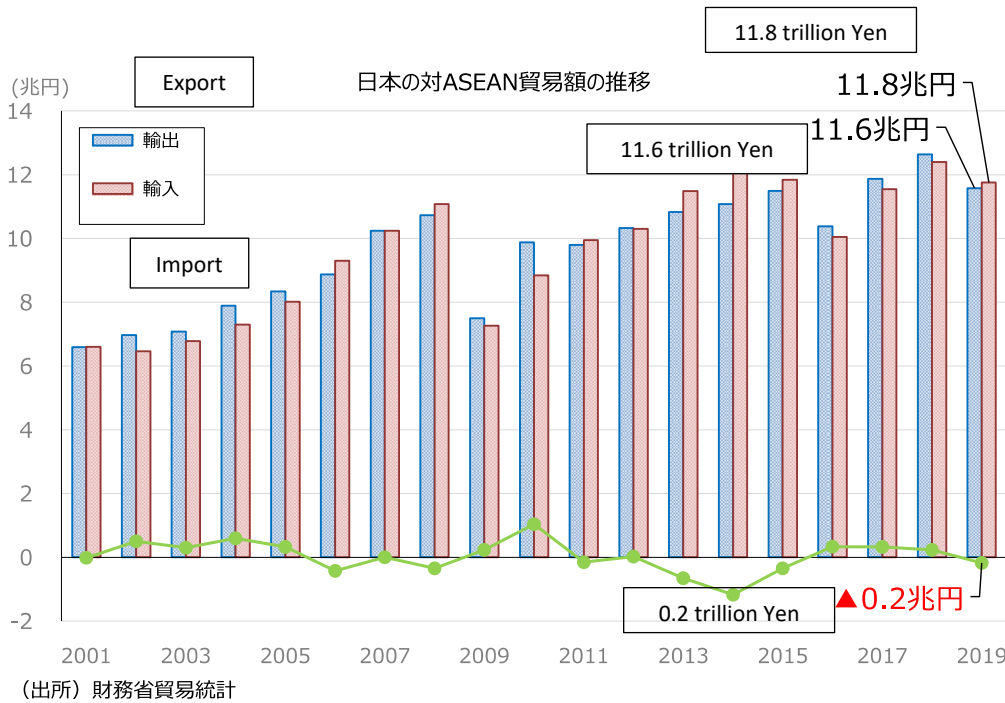


Figure 2: Trends in Japan's Trade with ASEAN (Source: Trade Statistics, Ministry of Finance)

Japanese direct investment in ASEAN plummeted in 2016 but restored and have continuously increased since then (see figure 3). Among ASEAN countries, Singapore is the largest destination followed by Indonesia, Thailand, Vietnam, Philippines, Malaysia and others (see figure 4). The manufacturing industry is the main sector, along with retail, real estate, and infrastructure.

In 2017, there Foreign Ministry reported that about 12,545 Japanese companies were operating in the ASEAN. According to a [survey conducted by JETRO](#) in 2019, which was answered by 3,563 Japanese companies, China remains the most popular country to invest in, although the number has dropped by 7.3% from 2018. Meanwhile, 41% considered Vietnam because of its market size and growth, Japanese-friendly society, and cost of labour.

Interests in other countries like Thailand, Singapore and Philippines have also increased. One of the major reasons for such considerations was to avoid risks due to trade war between the US and China by transferring its supply chains from China to ASEAN countries.

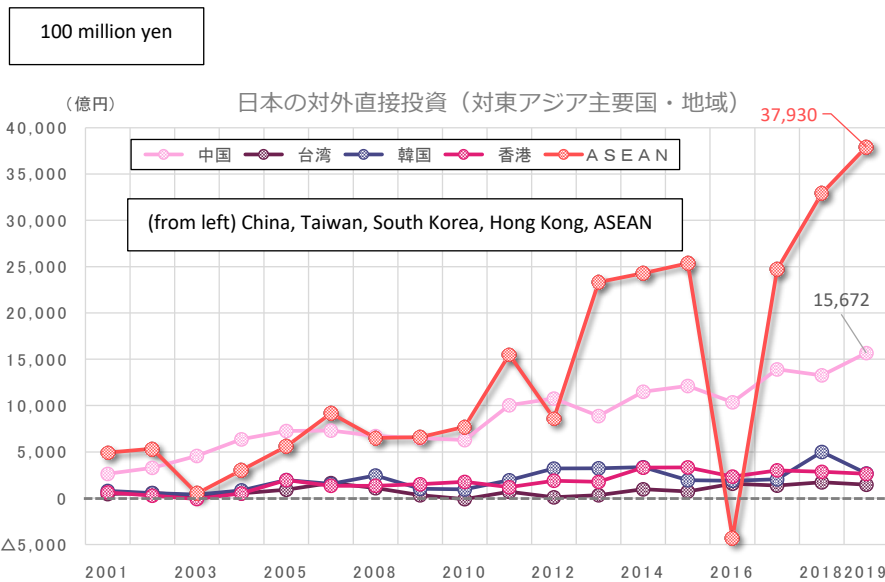
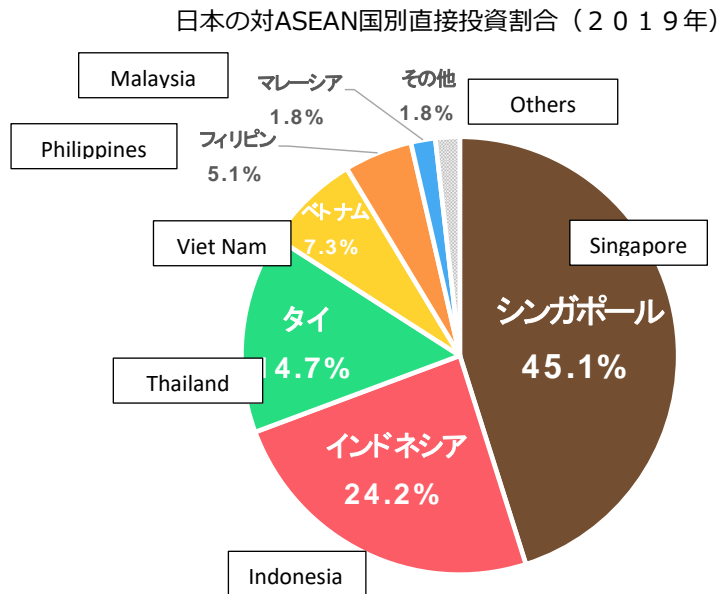


Figure 3: Japan's Foreign Direct Investment (in major East Asia countries and the region)



(出所) 財務省統計

Figure 4: Percentage of Japan’s Foreign Direct Investment in ASEAN by Country (2019) (Source: Trade Statistics, Ministry of Finance)

As for official development assistance (ODA), 15.4% out of 137 billion USD was given to ASEAN countries by Japan from 1999 to 2018 (see figure 5). The Ministry of Foreign Affairs (MoFA) of Japan says it supports ASEAN’s efforts to overcome its challenges and further promote integration, and emphasizes support for the development of high-quality infrastructure and industrial human resources to strengthen regional connectivity and infrastructure basis. In July 2020, at the [Mekong Foreign Ministers’ Meeting](#), “Grass roots Mekong SDGs Initiative” was announced to promote the Sustainable Development Goals (SDGs). It also highlights that an issue of environment and involuntary replacement in the context of environment and social safeguard would be dealt by Japan International Cooperation Agency (JICA) safeguard. In the future, it will also focus on the stability and security in the region, rule of law, reducing regional and domestic inequality, poverty reduction, health, women rights, environment and climate change.

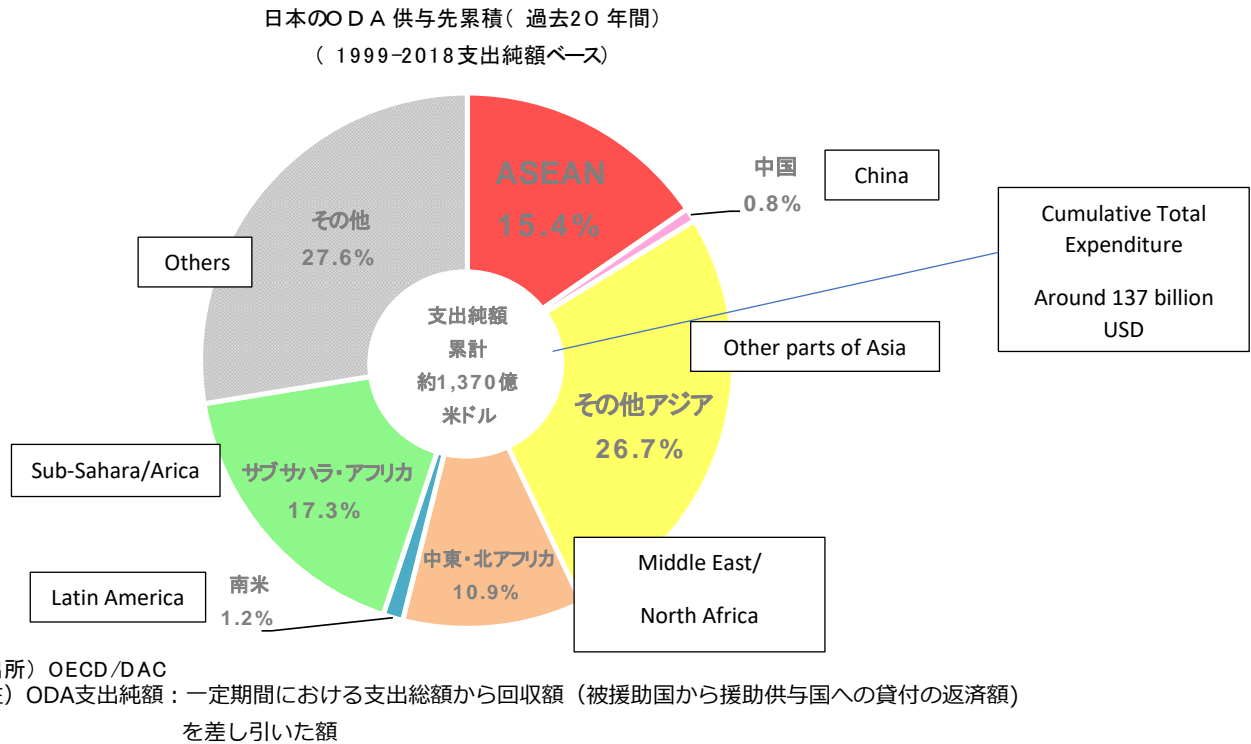


Figure 5: Japan's Cumulative ODA Recipients over the last 20 years (1999-2018 based on expenditure) (Source – OECD/DAC)

*ODA expenditure: Amount recovered from total expenditure over a given period (repayment of loans from recipient countries to donor countries)

C. Relevant human rights norms/international standards of Japanese companies

i. Legislations

Japan has ratified most of the essential international conventions including International Labour Organization (ILO) treaties but not ratified ILO 105 (forced labour) and ILO 111 (discrimination (employment and occupation) among ILO core labour standards as well as all optional protocols and individual communication procedures of international human rights treaties. Both have been repeatedly pointed out in general statements and Universal Periodic Review (UPR) processes. Furthermore, Japan has yet to establish a National Human Rights Institution (NHRI) in line with the Paris Principles.

The constitution enacted in 1946 ensures fundamental human rights and the treaties it concluded will be faithfully observed; however, the treaties are seldom referred to in policies.

There is some relevant legislation in the labour law arena. Labour Standards Acts ensure general labour rights such as the prohibition of forced labour and intermediary exploitation, child labour under 15 years old, industrial safety and health and working hours and holidays.

The Equal Employment Opportunity Act is set to achieve gender equality concerning recruitment, employment, assignment, promotion, demotion, and training workers.

Under the Corporate Law and Civil Act, those who damage other's property should be compensated.

As for foreign workers, in Japan, there is no specific policy on migrants, but foreign technical intern trainee programme has been criticised for causing exploitation due to lack of effective mechanism although they should be protected by relevant labour laws like Japanese citizens. In the report "[Trafficking in Persons Report 20th Edition](#)" published by the US government in June 2020, Japan was downgraded to tier 2.

As a member of the Organisation for Economic Co-operation and Development (OECD), the Japanese government provides a National Contact Point which is supervised under three ministries, namely the Ministry of Foreign Affairs, the Ministry of Health, Labour and Welfare and the Ministry of Economy, Trade and Industry.

Japan introduced Environmental Assessment system in 1972, at first for public enterprises and gradually expanded to cover other business operations. In 1993, Environment Basic Act was enacted which confirmed improving Environmental Assessments. Then in June 1997, the Environmental Assessment Act was enacted, which was then amended in 2011. In addition to that, the Ministry of Environment has published the guidance on Environmental Due Diligence reflecting OECD due diligence guidance in August 2020.

There is a noticeable lack of legislations governing Japanese companies' impacts on human rights as they invest abroad.

ii. Soft laws

[Japan's Corporate governance code](#) was established by the Tokyo Stock Exchange in June 2015, which was revised in June 2018 and currently under the third review. This aims to serve as a standard setting for listed companies to achieve sustainable corporate growth and mid-long term corporate value improvement.

While no specific principles stating human rights is included, Principle 2.3 notes companies should take appropriate measures to address sustainability issues including social and environmental matters, ensuring diversity, including active participation of women is stated at Principle 2.4, and whistleblowing is mentioned in Principle 2.5. However, there is no mechanisms for penalty or grievance for not complying with these principles.

Keidanren, the biggest business federation in Japan, amended its Charter of Corporate Behaviour in November 2017 in which asks its members to conduct business that respects the human rights of all persons in Article 4. In [the guideline of implementing the charter](#) (only available in Japanese), it encourages corporates to understand international human rights in line with international human rights covenants, OECD Guidelines for multinational enterprises and UNGP followed by human rights due diligence. Other than this, Article 2 describes responsible procurement and Article 10 includes promoting the application of this charter to its supply chains as a role of high level commitment of companies.

The Japan International Corporate Agency (JICA) published its [Guidelines for Environmental and Social Considerations](#) which cover internationally established human rights standards, which mentions specific groups such as women, indigenous peoples, persons with disabilities and minorities when implementing international cooperation projects.

[Guidelines on Corporate Global Conduct](#) was published by the Japan Overseas Enterprises Association, which require corporates to engage in business activities in ways that respect internationally proclaimed human rights and to ensure that their business activities do not lead to complicity in or aiding of human rights abuses.

iii. National Action Plan (NAP)

The Japanese government published [the National Action Plan on Business and Human Rights \(2020-2025\)](#) (NAP) on 16 October 2020 (only available in Japanese as of March 2021). In addition to coverage of the general principles of the UN Guiding Principles on Business & Human Rights (UNGPR), it identified the following six topics as cross-cutting areas: labour (promotion of decent work), promotion and protection of children's rights, human rights associated with the development of new technologies, rights and roles of consumers, equality before the law (persons with disabilities, persons with diverse sexual orientation and gender identity and other groups) and acceptance and coexistence of foreign nationals.

iv. Companies' policies

According to [a survey](#) conducted by Keidanren in 2020, among responding companies, 65% have already published their human rights policies. Many refers to the UNGP and other relevant international human rights instruments as standards they commit to.

The number of [signatories of Principles for Responsible Investment \(PRI\)](#) has reached to 91 as of March 2021. The [members of Global Compact Network Japan](#) are 389 as of March 2021. Most major banks commit to the Equator Principles as well but usually only for project finance of large cases.

II. HUMAN RIGHTS IMPACTS OF JAPANIES COMPANIES IN SOUTHEAST ASIA

A. Key issues

This section will discuss the most prevalent human rights issues linked to Japanese business in the region and map out the most vulnerable groups impacted and the key industries alleged to be most responsible for such impacts. The data gathered for this section is mainly sourced from the Resource Centre’s website, which contains substantial and relevant data sources, but may not fully capture the whole breadth of human rights impacts in each of the countries in the region.

Data listed and analyzed in this section are based on items extracted from the Resource Centre’s website within the period of January 2010 to February 2021.

These items include articles and stories containing allegations of human rights violations linked to Japanese companies, businesses enterprises and investors. The human rights violations in this study are limited to those that happened within the jurisdiction of southeast Asian nations or those affecting nationals of such nations. In some of these items, Japanese companies were approached by the Business & Human Rights Resource Centre to request for responses to the allegations linked to them. Those items will be discussed in more detail in the succeeding section on company responses. [SEP:SEP]

This is a [working table](#) of data gathered thus far from the Resource Centre’s website listing down relevant articles/stories with their corresponding human rights issues, affected vulnerable groups and industries involved. There are 69 relevant items extracted from the Resource Centre’s website in the period mentioned. The human rights violations alleged in these items were perpetrated in or committed against nationals of 8 countries in southeast Asia. Listed below are the 8 countries and the number of items which correspond to them.

Country	Number of items
Myanmar	14
Indonesia	11
Vietnam	6
Malaysia	4
Philippines	4
Thailand	2

Laos	1
Cambodia	1

On the other hand, there are 25 items alleging human rights violations linked to Japanese companies that are not country-specific but generally impact the region.

i. Labour rights

Of all of the alleged violations linked to Japanese businesses in southeast Asia, over half (59%) relate to labour rights. The majority of these alleged labour rights violations (68%) involve migrant workers who were placed under Japan’s Technical Intern Training Programme (TITP). Migrant workers are an ever-present feature of global supply chains. They work in all sectors and all geographies. Low-skilled migrant workers are however amongst the most vulnerable to exploitation and abuse. Compounding this, they are also often among the least able to assert their rights. A [report](#) stated that for many, a lack of viable options to sustain a livelihood at home increases their willingness to accept risks inherent to migrating for work abroad.

Japan’s TITP

Since 1993, Japan has operated a foreign trainee programme, under which persons from developing countries are employed as technical interns by companies in Japan for a maximum of three years, ostensibly to obtain skills that they can utilize after returning to their countries. At the end of 2013, there were approximately 155,000 foreign trainees, most of whom were from China or Vietnam (the running total since 1993 was more than 800,000). Human rights advocates [report](#) that abuses are rife in the system. In 2015, the Resource Centre followed [reports](#) that accuse companies and the government of exploiting foreigners as cheap labour.

Although trainees are covered by Japan’s labour laws, there are numerous reports of abuses, including long working hours under poor conditions, low and unpaid wages, and violations such as trainees being confined or being banned from contacting other trainees. In 2013, Japan’s Health, Labour and Welfare Ministry conducted on-site inspections and found around 80% of 2,300 businesses employing trainees to have violated labour regulations, including safety violations and failure to pay minimum legal wages. The Japan Times published an [article](#) that many of the employers — mostly small businesses — are said to utilize trainees as low-cost manual labourers — positions that they have difficulty filling with Japanese workers.

United Nations (UN) bodies raised concerns on Japan’s TITP. In [20 August 2014, the UN Human Rights Committee noted](#):

“despite the legislative amendment extending the protection of labour legislation to foreign trainees and technical interns, there are still a large number of reports of sexual abuse, labour-related

deaths and conditions that could amount to forced labour in the technical intern training programme (arts. 2 and 8). In line with the Committee's previous concluding observations (see CCPR/C/JPN/CO/5, para. 24), the State party should strongly consider replacing the current programme with a new scheme that focuses on capacity-building rather than recruiting low-paid labour. In the meantime, the State party should increase the number of on-site inspections, establish an independent complaint mechanism and effectively investigate, prosecute and sanction labour trafficking cases and other labour violations. ... 28. In accordance with rule 71, paragraph 5, of the Committee's rules of procedure, the State party should provide, within one year, relevant information on its implementation of the Committee's recommendations made in paragraphs ... 16 ... above."

In 26 September 2014, the [UN Committee on the Elimination of Racial Discrimination concluded](#):

"...8. While noting that some laws include provisions against racial discrimination, the Committee is concerned that acts and incidents of racial discrimination continue to occur in the State party and that the State party has not yet enacted a specific and comprehensive law on the prohibition of racial discrimination which will enable victims to seek appropriate legal redress for racial discrimination (art. 2). ...12. The Committee is concerned about reports of unequal treatment of migrants in employment and in access to housing. It is also concerned about reports that the rights of foreign technical interns are violated through the non-payment of proper wages, and that these people are subjected to inordinately long working hours and other forms of exploitation and abuse (art. 5). The Committee recommends that the State party reinforce its legislation in order to firmly combat racial discrimination against migrants in employment and access to housing and improve migrants' employment status, bearing in mind the Committee's general recommendation No. 30 (2004) on discrimination against non-citizens. The Committee also recommends that the State party take appropriate steps to reform the technical intern training programme in order to protect the working rights of technical interns. ...15. The Committee is concerned about the continued exclusion of non-citizens on the basis of race or nationality from accessing some public places and facilities of general use, such as restaurants, hotels, family public bathhouses and stores, in violation of articles 2 and 5 of the Convention (arts. 2 and 5). The

Committee recommends that the State party take appropriate measures to protect non-citizens from discrimination in access to public places, in particular by ensuring effective application of its legislation. The Committee also recommends that the State party investigate and sanction such acts of discrimination and enhance public awareness-raising campaigns on the requirements of the relevant legislation.”

In April 2017, several [Vietnamese interns working in Japan wrote letters to the authorities complaining of ongoing abuse at the hands of their employers](#). These abuses include violence, threats and intimidation, the withholding of wages, and pay under the legal minimum wage (e.g. approximately USD 4 an hour). Many “interns” also say they had been forced to borrow up to the equivalent of USD 10,000 by brokers in Vietnam before coming to Japan, effectively ensuring a situation of servitude.

The labour issues as alleged by the relevant items (some items allege more than one labour issue) on the Resource Centre’s website consist of the following:

Labour Issue	Number of items		
	Linked to TITP	Not linked to TITP	Total
Unpaid or low wages	7	1	8
Poor Working Conditions	3	3	6
Forced Labour	2	4	6
Harassment, Violence, Assault	5	0	5
Violations to Right to Organize	1	3	4
Debt Bondage	3	0	3
<i>Karoshi</i> (Death due to overwork)	3	0	3
Disappeared workers	2	0	2
Prejudice	1	0	1

Relevant items on attacks against labour unions were also extracted from the Resource Centre’s database on human rights defenders, such as the following:

[Serikat Buruh Kerakyatan \(Serbuk\)](#)

Five union leaders working at Honda Prospect Motor (HPM), were interrogated and threatened for initiating the SERBUK HPM. They were suspended with the reason that they had committed 'major offenses,' however, no details of those offenses were provided. After six months suspension, those five workers then were dismissed due to their organizational activities. After that, HPM Management allegedly also targeted the contractual workers who joined the union, by not extending their working contract.

[Federation of Indonesian Pulp and Paper Workers Union \(FSP2KI\)](#)

In the early morning of 8 August 2020, the Indonesian police allegedly used brutal means to disperse 50 members of the Federation of Indonesian Pulp and Paper Workers Union (FSP2KI) who were carrying out a peaceful blockade in front of PT. Tanjungenim Lestari Pulp and Paper (PTTEL) in Lampung Province. Reports allege that union members were assaulted and beaten while several women union members were sexually harassed by police officers during the dispersal. The workers had been taking action in front of the company gates for 65 days in solidarity with 38 members whose work contracts were discontinued by the outsourcing company PT. Kaliguma Transindo, when PTTEL ended the contract, and appointed PT Kamigumi Indonesia as the new outsourcing company.

[Bo Bo Nyein - Federation of Garment Workers Myanmar \(FGWM\)](#)

Bo Bo Nyein is the President of the Federation of Garment Workers Myanmar (FGWM) at the Very impressive Prospects (ViP) 2 factory in Yangon, Myanmar. He was fired in August 2020, together with other Union members of factories ViP 1 and ViP 2, after demanding the factory implement and follow protections for workers from the coronavirus. He was also reportedly stabbed by individuals hired by the factory. CCM Hockey, Evil Bikes, Pivot Cycles, Mizuno and Wilson Sporting Goods are named publicly as buyers from the ViP 1 and 2 factories. Labour groups say that despite months of direct outreach from the unions, the brands have refused to intervene or mediate.

ii. Land rights and environmental impacts

The second most prevalent human rights issue linked to Japanese businesses in Southeast Asia relates to land and community rights. These items involve large-scale projects, such as the development of industrial and special economic zones (SEZ), coal power plants, hydropower and the supply of timber. On top of abuses against local communities, some of these items naturally have detrimental effects on the environment as well, such as deforestation. These issues account for 26% of the total relevant items.

Threats, violence and harassment of local communities pervade in large-scale businesses. In Myanmar, [companies were urged to divest from Upper Yeywa dam project](#) where hundreds of Burma Army troops from five battalions carried out an offensive operation in Kyaukme, northern

Shan State, committing grave human rights violations against local civilians and displacing over 600 villagers. [Allegations of violence have also been associated with coal power plants such as those reported by civil society in the Philippines](#) and the [coal-fired power plant in Batang, Central Java, Indonesia](#). In the latter case, the Resource Centre recorded attacks on two human rights defenders who opposed the coal power project. For their opposition, the human rights defenders were allegedly subjected to violence, harassment and intimidation, as well as imprisonment on trumped up charges, specifically that of [Mr. Karomat](#) and [Abdul Hakim](#).

In the development of industrial areas and special economic zones (SEZ), the loss of livelihood and traditional ways of life are key issues. In [Myanmar's Thilawa SEZ, displaced villagers complained of loss of farmland, loss of livelihood opportunities and impoverishment](#). Similarly, [villagers affected by the Dawei SEZ experienced loss of traditional livelihoods, loss of lands related road infrastructure; skyrocketing land prices, along with negative effects on women's security](#). In the [Karen and Mon States, groups alleged that the proposed industrial development in Southeast Myanmar as "premature & flawed, potentially exacerbating conflict."](#)

In addition to air and water pollution of coal power plants, environmental issues linked to Japanese [companies also include the use of deforestation-linked timber for Japan's Olympic venues](#) and failure to stop trade in illegal timber. [Japan is the largest importer of rainforest plywood](#) in the world with around a quarter of all plywood on the Japanese market coming from the Malaysian state of Sarawak.

iii. Complicity

A few items, particularly those relating to Myanmar involve the issue of complicity to the perpetuation of human rights violations. The United Nations Independent International Fact-Finding Mission on Myanmar [stated](#) that two powerful military conglomerates, Myanmar Economic Holdings Limited (MEHL) and Myanmar Economic Corporation (MEC)—which own businesses across diverse sectors of the economy were directly involved in gross violations of international human rights law and serious violations of international humanitarian law, particularly the grave crimes committed against the Rohingya. These include the aforementioned item on the Upper Yeywa dam project, an [article](#) on a high-end commercial development linked to the Burmese military, and an [article](#) on the alleged complicity of Japanese brewery Kirin.

B. Key sectors

As far as key industries are concerned, relevant items on the Resource Centre's website showed a wide range of sectors linked to allegations of abuse. The key industries and number of relevant items that correspond to them are listed as follows:

Industry	Number of items
Financial	9
Construction	9
Energy	4
Agriculture	4
Food & Beverage	4
Automotive	2
Textile & Apparel	2
Extractive	1

Financial

Japanese financial services are tied to dirty energy and linked to deforestation. [Japanese banks have financed coal power plants such as the Vung Ang 2 coal-fired power generation project in Vietnam](#) financed by Japan Bank for International Cooperation (JBIC), Sumitomo Mitsui Banking Corporation (SMBC), Sumitomo Mitsui Trust Bank, MUFG Bank, Mizuho Bank, Mitsubishi Corporation, and Chugoku Electric Power Company; and the aforementioned coal plant in Batang, Indonesia financed by JBIC, Bank of Tokyo Mitsubishi UFJ, and Mizuho Bank. The high-end commercial development project in Myanmar was also backed by a mixture of public and private Japanese finance, with some of the country's biggest institutions – including JBIC, SMBC, Japan Overseas Infrastructure Investment for Transport and Urban Development (JOIN), Tokyo Tatemono, Fujita Corporation and Mizuho. Japanese financing has also been linked to palm oil and rainforest destruction; [tropical deforestation and associated social risks](#), with investors such as Askul, Fuji Oil, Itochu, Marubeni, Oji Paper, the Sumitomo group, along with the aforementioned Mitsubishi UFJ and Mizuho.

Construction

The construction sector has also been linked to allegations of violations, particularly on labour rights. For example, the construction company [Hiwada was alleged to have violated the rights of Vietnamese technical trainees who were forced to clean up the Fukushima nuclear site](#). Labour rights, including freedom of association, were also linked [companies supplying timber for the construction of the New National Stadium for Tokyo 2020](#). These companies included Shin Yang, Japan Kenzai, Itochu Kenzai and Zedtee.

The development of Infrastructure is also associated with rights abuse. There are 3 items related to the aforementioned Thilawa SEZ which involves the Myanmar Japan Thilawa Development Ltd. (MJTD). Similar allegations are linked to the Dawei SEZ. Lastly, the industrial development opposed by groups from Karen in Myanmar involves JICA.

Energy

There are cases showing Japanese energy companies being linked to environmental issues and land rights violations. The Bhimasena coal power plant which involves violence and threats against impacted communities, including two attacks on human rights defenders is a joint venture project of ITOCHU and J-Power. The Upper Yeywa dam project in Myanmar linked to abuses and complicity with the Myanmar military also involves Japanese business, such as Toshiba.

Agriculture

Japanese investment is further linked to abuses in the agricultural industry, particularly in palm oil plantations and the fisheries sector. [Japan sources palm oil from Malaysian suppliers which have been reported for labour rights violations](#). In the fisheries sector, a major source of seafood for Japan, a [report](#) alleges that forced labour is rampant. Other examples of abuse include a [Vietnamese technical trainee who was forcibly repatriated in Kanagawa in 2018](#). Further, a Japanese fishing company, [Watarai Company Ltd, was fined for underpaying Indonesian workers](#).

Food and Beverage

In the food and beverage industry, three items involve Japanese brewery, Kirin, and its alleged complicity with the Myanmar military accused of rights violations. As of today, however, Kirin has severed ties with the Myanmar military.

When asked for a response to the recent coup in Myanmar, [Kirin issued the following statement](#):

“...Kirin has announced today its decision to terminate its joint-venture partnership with MEHPCL. We will be taking steps as a matter of urgency to put this termination into effect and will do so in a responsible and transparent manner. We hope to find a way forward that will allow us to continue creating a positive impact on Myanmar’s economy and society through our operations at Myanmar Brewery Limited and Mandalay Brewery Limited.”

In addition, Suntory Beverage & Food was included in a [report](#) of companies showing limited progress on efforts to address forced labour.

Finally, labour violations are also linked to the automotive, textile and apparel industries.

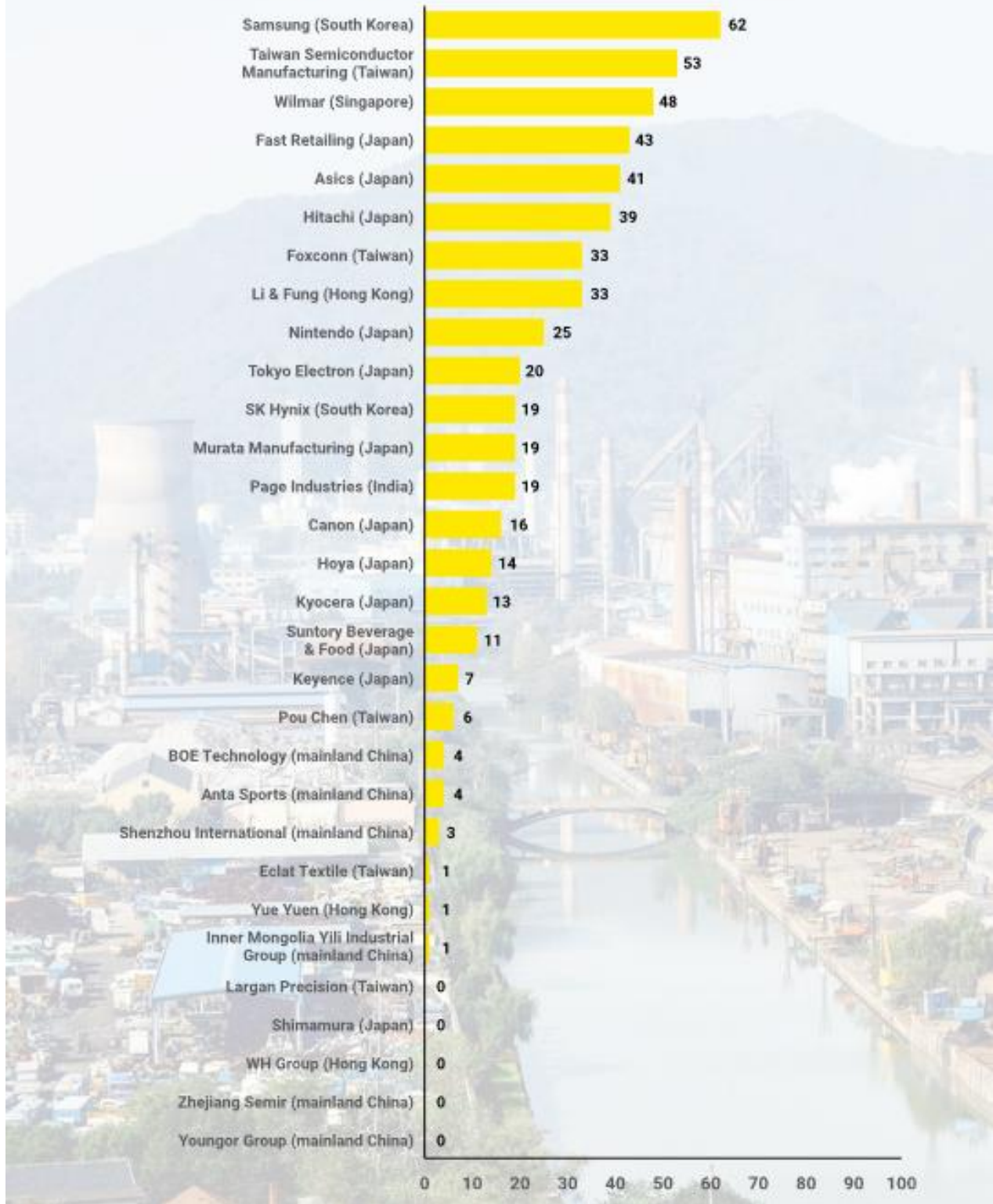
C. Ranking of Japanese companies on human rights, compared with other Asian companies

Our KnowTheChain benchmark evaluate corporate efforts to assess forced labour risks in their supply chains and publishes sector-specific benchmarks, in Information & Communications Technology, Food & Beverage, and Apparel & Footwear sectors, every two years.

Up to 2019, of the 119 companies evaluated by KnowTheChain, 30 are headquartered in Asia, out of which 12 were headquartered in Japan (12). On average, companies based in Asia scored 17/100, compared to companies based in Europe at 40/100 and companies based in North America at 39/100.

With an average score of 21/100, the 12 Japanese companies tend to score higher than their peers in mainland China and Taiwan, but lower than the two South Korean companies in the benchmark. Japanese companies disclose some good practices, and some showed improvements over the years. For example, since 2016 Fast Retailing has disclosed a list of the names and addresses of the majority of its suppliers, developed a responsible purchasing policy, and established a hotline for its suppliers' workers to contact the company directly. Asics is the highest scoring Japanese company on the Worker Voice theme due to its engagement with its suppliers' workers and with unions. However, there are a number of reports documenting labour rights violations regarding student interns and workers from countries including China, Cambodia, Myanmar, and Vietnam. Further, Japan's migrant workforce is projected to increase, as the government has approved the hiring of migrant workers, starting in April 2019, from countries including Nepal, China, Indonesia, Mongolia, Myanmar, Thailand, the Philippines, and Vietnam. With Japanese brands such as Fast Retailing growing internationally, companies must be vigilant in ensuring adequate protections for migrant workers are in place. Japanese companies score an average of only 8/100 on the theme of Recruitment, showing that there is additional work to be done to ensure companies sufficiently address the risks to and vulnerabilities of migrant workforces.

BENCHMARK SCORES OF COMPANIES HEADQUARTERED IN ASIA



III. COMPANY RESPONSES

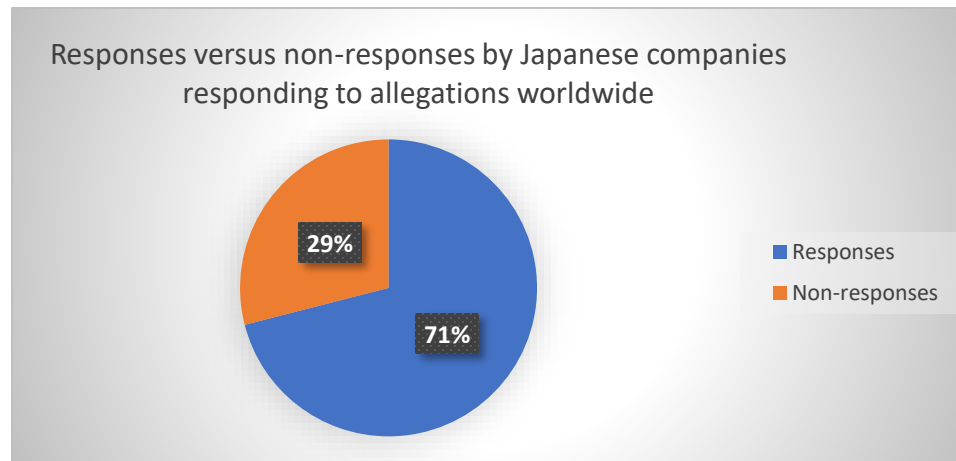
Since 2005, Business & Human Rights Resource Centre has invited companies to respond to allegations raised by civil society groups, before posting those allegations on its website (when we find no response by the company already in the public domain). The Resource Centre takes this approach to ensure that its coverage is fair as well as to encourage the companies to publicly address human rights concerns.

This section of the briefing identifies trends from the cases and company responses and non-responses of Japanese companies from 2008 to 2020: a total of 121 approaches to 51¹ companies about their human rights concerns worldwide, and 46 approaches specifically about their operations in Southeast Asia.

While a company’s response rate² to human rights concerns may or may not be a reflection of a company’s actual conduct, and while the quality of responses varies, it is an important indicator of a firm’s openness to engaging with human rights concerns being raised by communities and wider civil society. And in responding, the company provides a public statement that it can be held to.

A. Japanese company response rates on human rights concerns

The Business & Human Rights Resource Centre has sought responses from Japanese companies 121 times in the period. 86 responses were secured from these approaches, making the overall response rate from Japanese companies at 71%. This is close to our global response rate of 75%, and much higher than the response rate from Chinese companies (25%).

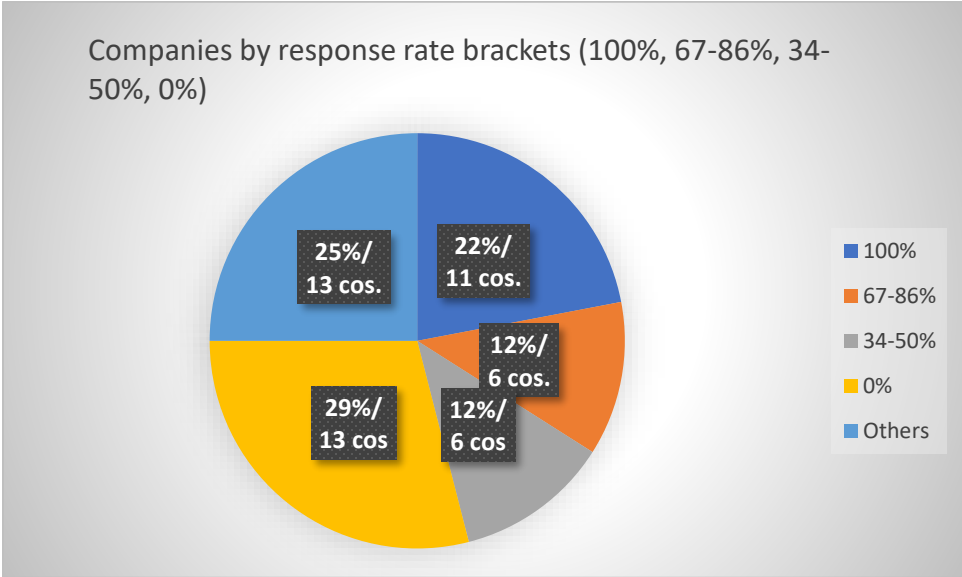


¹ The following companies are listed separately Sumitomo Forestry, Sumitomo Mitsui, Sumitomo Mitsui Trust Holdings, Sumitomo Mitsui Financial Group, Sumitomo Group, Sumitomo Mitsui Financial Group, Sumitomo Mitsui Banking (part of Sumitomo Group), Sumitomo Mitsui Financial Group.

² Factors that can affect the number of responses that we seek from a particular country include (but are not limited to): intensity of civil society organizations’ activities in that country; extent to which companies have already publicly responded to particular allegations; and the capacity of the Resource Centre to seek the responses.

Out of the 51 Japanese companies that were approached for more than once over the period, 11 companies provided responses to the Resource Centre in every engagements. These companies include: Fast Retailing/Uniqlo, Hitachi, Itochu, Kirin, Mitsubishi Group, Mizuno, Ricoh, Sharp, Sumitomo Group, Toshiba. Most of these brands are relatively more well-known internationally.

On the other hand, companies that have never responded to our request tend to be less well-known outside of Japan. These include: Bank of Tokyo-Mitsubishi UFJ, C.T. Machinery, Itochu Kenzai, Japan Kenzai, JXTG Holdings, Kansai Electric Power, Katsuya Co., Ltd., Kawasaki Heavy Industries, Komatsu, Kyushu Electric, Mitsui Fudosan, SMBC Nikko Securities, Sumitomo Mitsui Trust Holdings, Suzuki, Toyo Works Business Cooperative.



B. Analysis on Japanese companies’ responses on human rights concerns related to operations in Southeast Asia

Out of the total of 121 approaches to Japanese companies on human rights issues worldwide, 46 approaches (38%) were related to their operations in Southeast Asia. Of these 46 approaches, the approached Japanese companies provided responses 34 times (74%).

Most of these approaches were related to allegations that took place in Myanmar (21 instances), Indonesia (10 instances) and Thailand (6 instances).

In addition to recording the numbers of responses we secured from companies, we also analysed the company responses we received qualitatively on two dimensions, by going through each of these 32 responses by Japanese companies on concerns over their operations in Southeast Asia and answering the following questions: (1) Does the company admit, partially admit, deny, or commits to investigate further on the allegations? (2) Does the company give a detailed point-

by-point response that directly addresses the specific concerns raised, or only a general response?

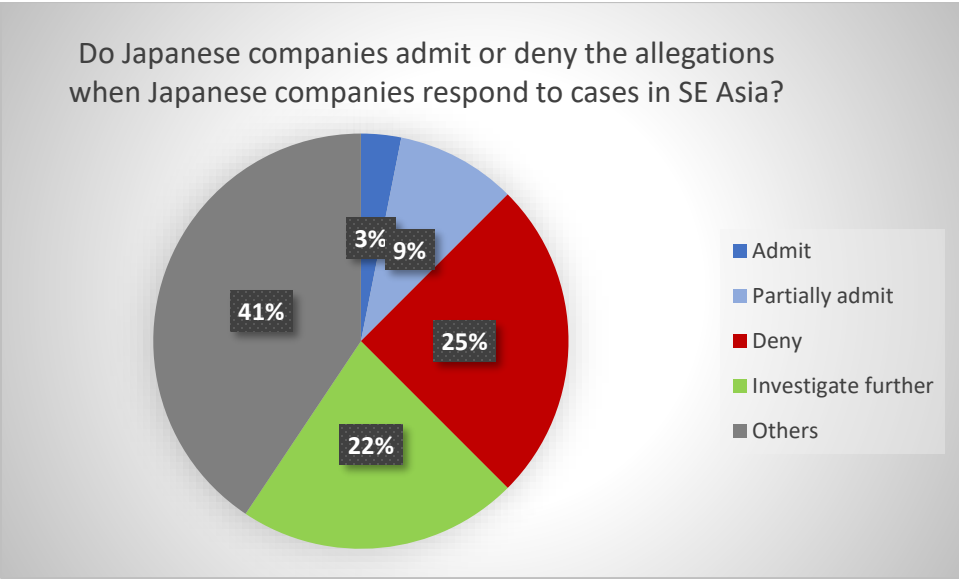
Question 1: Does the company admit, partially admit, deny, or commits to investigate further on the allegations?

Our data reveals that most Japanese companies responded by denying an allegation (eight instances), usually by reason that the company has no business relationship with the factory where the violation has taken place, for example.

In 2019, Fast Retailing was approached by the Resource Centre to respond to the call of labour groups for the payment of wages of workers due to the closure of a factory in Indonesia. Fast Retailing [responded](#) that it has since discontinued its business with the factory involved and is therefore under no obligation to financially compensate the employees. Nonetheless, Fast Retailing furthered that it “has offered to work with the relevant parties to facilitate re-employment for any workers who remain unemployed.”

Toshiba also denied responsibility by [responding](#) that it has no business relationship with an electronics supplier in Thailand. In the same allegation as with Toshiba, Sharp also [responded](#) by denying business transactions with the supplier.

Further, our data reveals the tendency of companies to respond by saying that an inquiry or investigation (seven instances) shall thereafter be conducted. Such a response usually comes with a rather general statement that the company is aware of its responsibility to uphold human rights.



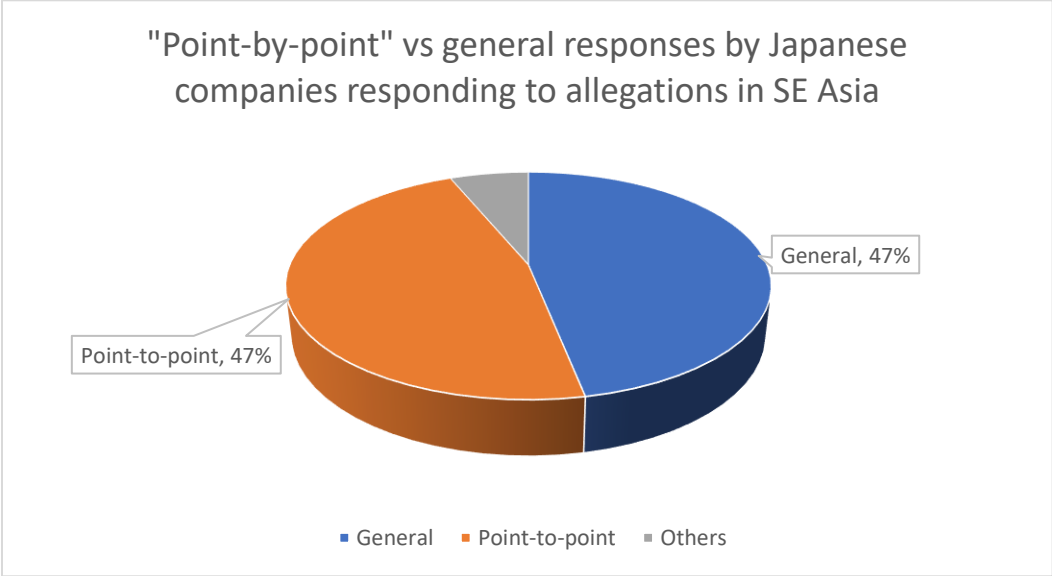
We acknowledge that whether the company admits or denies the allegations may not always reflect the actual occurrence or non-occurrence of the alleged human rights abuse. However, a

response from the company is an important component that steers the dialogue regarding the allegation, and are often used by grassroots NGOs in their campaign to seek for resolution of a dispute.

Question 2: Does the company give a detailed point-by-point response that directly addresses the specific concerns raised, or only a general response?

We assessed whether the companies sent us detailed “point-by-point” responses or merely general statements. By a “point-by-point” response, we define it as one in which the company addresses most or all of the concerns raised by the civil society in a detailed fashion. The “point-by-point” responses tend to be the stronger ones, as they usually provide more information to stakeholders and demonstrate the companies’ greater openness to dialogue. However, once again, it may not always reflect the accuracy of the information presented in the response.

Our data suggests that about half of the responses were point-by-point responses (15 instances) to allegations, and they tend to be in cases when the response is a denial of an allegation. In the other cases when companies provide a general response, the companies are more likely to neither admit or deny an allegation, but rather to commit to investigate further into the allegation.



IV. Notable initiatives and developments on business and human rights

Human Rights policies and initiatives by Japanese companies

In March 2019, Business Policy Forum, Japan sent out questionnaires to 4000 companies to inquire about the initiatives Japanese companies are taking concerning business & human rights (BHR). The responses from 373 companies were collated in the [Investigative Research on How “Business and Human Rights” Should Be for The New Era](#). Essentially, the research found that:

- 35.4 percent are “implementing in accordance with Guiding Principles”, while 21.2 percent have “never heard of it”;
- 10.5 reported to have “appropriate understanding and have integrated into business operations and implemented”, while 27.9 percent “don't know what you're supposed to do”;
- Companies with high sales are more proactive in the implementation of the Guiding Principles;
- The manufacturing sector posted a higher degree of promotion of the Guiding Principles
- Concerning the participation of top management on the Guiding Principles, 71.2 reported that their top management are “very aware and participating”, while 45.0 answered that their top management are “very aware but not participating”.
- Concerning the awareness of top management on the conduct of human rights due diligence, 27.1 percent of those who “very aware and participating” have “appropriate understanding and have integrated into business operations and implemented”, while 66.7 of those who are “faintly aware and not participating” stated that they “don't know what you're supposed to do”.

Overall, the study noted that while awareness to BHR and the Guiding Principles has advanced, the “level of penetration of the issue in Japanese companies still is not sufficient”. The study indicated that companies with higher sales and those with large sales percentage coming from abroad are more proactive to BHR. The trend is attributed to “globalization in areas of legislation in each country and the mainstreaming of the field of international business, as well as the responses to investors and ratings agencies”. Further, the promotion of human rights due diligence is higher to companies whose top management “recognizes its importance and participates in its promotion”. Finally, the study noted that the reason why companies fail to implement BHR is due to lack of sufficient access to information.

In 2019, Human Rights Now conducted a survey [Japanese Trading Companies: Measures for Human Rights Lag Far Behind International Standards](#) on Mitsubishi Corporation, Mitsui & Co., Itochu Corporation, Sumitomo Corporation, Marubeni Corporation, Sojitz Corporation, and Toyota Tsusho Corporation on their human rights policies and efforts.

The survey provides the following findings:

Out of the seven, Sumitomo is the only company that responded that the company has no established human rights policies, however, the company is a member of the United Nations Global Compact, “as such it is urgently required to adopt a human rights policy that demonstrates its commitment to human rights”.

Sojitz, Marubeni, and Itochu explicitly stated measures are in place “if international human rights standards and national standards are in conflict”.

The survey noted that all seven companies require their suppliers to respect human rights. However, only Mitsui, Mitsubishi, and Itochu responded that they regularly audit their suppliers. Itochu and Mitsui replied that they conduct third party audits. Marubeni responded that it is establishing an investigation system. On the other hand, Sumitomo, Sojitz, and Toyota responded in the survey that auditing is carried out only when deemed necessary.

Sojitz is the only company that responded that the company is conducting human rights due diligence; Mitsubishi, Mitsui, Itochu, and Toyota reported to have conducted it partially. Marubeni responded that the company is in the process of establishing a system, while Sumitomo responded that a human rights due diligence remains to be uncompleted.

The survey notes, however, that “overall, there are serious concerns from the survey that, even if the companies have human rights policies, their efforts are still limited to wishful thinking, leaving severe human rights violations overlooked.”

Notable BHR commitments & initiatives by other companies concerning their operations in Southeast Asia

In 2015, Fast Retailing Group, the company that carries the UNIQLO brand published a [Statement on Working Conditions in Cambodia Garment Factories](#) in response to an [investigation](#) by Human Rights Now on alleged labour rights violations by garment factories in Cambodia where companies such as Fast Retailing source their products from.

In the statement, Fast Retailing said it has enhanced its workplace monitoring. Further, the company stated that it will “introduce impromptu, unannounced monitoring at all garment factories currently engaged with UNIQLO”.

In 2019, the Ajinomoto Group published the [Ajinomoto Group Human Rights Due Diligence Impact Assessment Report 2019](#) that focused on shrimp and chicken farms. The report “highlighted the tendency for aquaculture and chicken farms, in the process where raw materials are produced, to restrict external access.” “Therefore, it is important to make sure that occupational safety and compliance, which is without mentioning, are thoroughly met, the grievance system has been introduced and that it is functioning.”

The report further noted the risks concerning migrant workers. The report recommended that it is “, it is important to develop the migrant worker policy as an action to disseminate responsible

recruitment practices for migrant workers and to further increase the effectiveness of impacting the supply chain.”

Also, in 2019, Kao Corporation, a chemical and cosmetics company, [announced](#) that it has participated in meetings with local NGOs and small oil palm farmers in Malaysia and Indonesia to address environmental and human rights issues.

Following the military coup in Myanmar in February 2021, [Kirin decided to terminate its joint venture](#) with the military-owned MEHL. Kirin characterized the overthrow of the democratic government as against its “against our standards and Human Rights Policy.”

VI. CONCLUSIONS

Japanese investment in Southeast Asia accounts for 15% of its global trade. In 2017, there are 12,545 Japanese companies in the ASEAN. This numbers support the palpable impact of Japanese businesses in Southeast Asia in the realm of human rights.

Essentially, this research dealt with (1) human rights issues that confronts Japanese companies as they operate in Southeast Asia; (2) the receptiveness of Japanese companies to address human rights concerns; and (3) the direction of Japanese companies in the aspect of business and human rights.

Our data reveals that of the alleged violations linked to Japanese businesses in Southeast Asia, over half relate to labour rights. Majority of these alleged violations involve migrant workers. Other issues are on unpaid or low wages, poor working conditions, forced labour, harassment, violence and assault, violations to right to organize, debt bondage, *karoshi* (death due to overwork), disappeared workers, and prejudice.

The second most prevalent human rights issue linked to Japanese businesses in Southeast Asia relates to land and community rights. These items involve large-scale projects, such as the development of industrial and special economic zones (SEZ), coal power plants, hydropower and the supply of timber.

When approached to respond to allegations of human rights violations concerning their operations, Japanese companies are largely responsive based on the Resource Centre’s company response mechanism figures. Overall, the response rate from Japanese companies is at 71%. This is close to our global response rate of 75%, and much higher than the response rate from Chinese companies (25%).

A large number of the requests for response from Japanese companies are on allegations occurring in Southeast Asia that is at 38%. However, Japanese companies still show a tendency

to couch their responses in less concrete terms such as by committing to undertake investigation coupled by a general statement on their adherence to human rights standards.

On a final note, there is a strong indication that Japanese companies are aware of their human rights obligations in the operation of their businesses. However, a challenge remains for Japanese companies to translate such awareness to policies that can effect tangible impacts on the ground.