



CII-ITC Centre of Excellence
for Sustainable Development



SASAKAWA PEACE FOUNDATION



Confederation of Indian Industry

Business and Human Rights Landscape in India for Japanese Companies

Understanding how India's landscape on Business and Human Rights could impact Japanese companies operating in India

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Report Lead: Swati Tewari, Senior Counsellor, CII-ITC Centre of Excellence for Sustainable Development

Supported by: Banajyotsna Baruah, Manager, CII-ITC Centre of Excellence for Sustainable Development

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Executive Summary

India and Japan support human rights through country-specific diverse initiatives, policies, legal frameworks, and regulations. Both countries, as member states of the United Nations Human Rights Council, have committed to developing National Action Plans (NAPs) on Business and Human Rights. Implementation around the NAP is, however, different for both countries, as Japan adopted its NAP in 2020, while India's NAP is yet at the drafting stage.

This report provides a comparative analysis of the business and human rights landscape in the two countries, for Japanese companies operating in India, as well as for Indian enterprises. Though India's NAP is at the drafting stage, actions around business and human rights are visible through other related policies and disclosure frameworks already prevalent in the country, such as the National Guidelines on Responsible Business Conduct (NGRBC), and the Business Responsibility Reporting Framework (BRSR). With focus on Pillar 2 (Corporate responsibility to respect human rights) of the United Nations Guiding Principles (UNGPs), the report aims to compare the NAPs of the two countries. It also looks at other policy instruments and frameworks relating to human rights, which businesses operating in India need to align with, respect, and protect.

Providing a sectoral lens, the report examines four key sectors which have a high concentration of Japanese companies in India, and which contribute significantly to India's GDP. These sectors are Electronics, Automobiles, Fast Retailing, and Finance and Insurance. The report identifies complexities around supply chain vulnerabilities for these four sectors, which, due to their complex and long supply chains, employ a large informal workforce. Discrimination, poor working conditions, and forced and child labour are some cross-cutting potential human rights risks identified across these four sectors.

The report also examines the preparedness of Japanese companies for the requirements of that country's NAP, as well as for the business and human rights landscape in India. It is observed that while Japanese companies are committed to the protection of human rights through an established human rights policy, there is scope to build more awareness on business and human rights within companies and in their supply chains, in a phased manner. Companies have good initiatives in place to nurture the well-being of their employees, some of which can also be extended to their contractual workforce. The next recommended step is to conduct Human Rights Due Diligence (HRDD) for better preparedness for potential local human rights risks, and to also fulfil any upcoming requirements for local policy frameworks.

Introduction

Businesses play an important role in the development plan of a country and have a tremendous impact on the lives of its people. They have incredible potential, and, with it, great responsibility, for the protection of human rights affected by their activities. It is widely recognised that businesses from any industry, in any country, and of any size, can have positive and negative impacts on human rights at any stage of their value chains. Thus, business has a key role in respecting and protecting human rights and must do everything possible to address any adverse impacts that could result from business operations and relationships right through the value chain.

Managing supply chain risks spread across geographies is a complicated exercise. There are plenty of global cases of businesses held responsible for human rights violations at their sourcing partner's end, operating in a different geography. The use of guidance like the United Nations Guiding Principles (UNGPs) on Business and Human Rights can provide a structured approach to businesses which operate in different geographies or have a vast value chain network.

The UNGPs, for the first time, have linked business activities to the risk of adverse human rights impacts, and provide an internationally accepted framework for enhancing standards and practices regarding business and human rights. In 2014, the United Nations Human Rights Council (UNHRC) called on all member states to develop their own National Action Plans (NAP) to promote the implementation of the UNGPs and respond to human rights violations.

Although individual national governments are free to draft their NAP as per local conditions, every country's NAP must address the three pillars of UNGP: Protect, Respect, and Remedy. These three pillars are articulated as:

1. State's duty to protect human rights – The State is obligated to respect, protect and fulfil human rights and fundamental freedoms.
2. Corporate responsibility to respect human rights – Business enterprises, as specialized organs of society performing specialized functions, are required to comply with all applicable laws, and to respect human rights.
3. Access to remedy for victims of business-related abuses – Rights and obligations, when breached, need to be matched with appropriate and effective remedies.

A country's NAP on Business and Human Rights demonstrates its commitment towards implementation of the UNGPs, and towards aligning its practices to ensure uniformity in the global human rights landscape. NAPs steer the human rights agenda at the country level rather than at the organisational level, thus enabling action around policy interventions. NAPs enable governments, multilateral institutions and civil society to work together to align international standards and good practices to the local context, prioritising a country's demography and subsequent needs and vulnerabilities with prevalent legislations. NAPs call for wider transparency and disclosure of practices.

National Action Plans (NAP) are policy documents in which a State articulates the priorities and actions it adopts to support the implementation of regional or national obligations and commitments relating to business and human rights. The UN Working Group on Business and Human Rights defines a National Action Plan as an 'evolving policy strategy developed by a State to protect against adverse human rights impacts by business enterprises, in conformity with the UNGPs.'

Given the prevailing economic globalisation, countries understand the significance of having regulations in place to safeguard rights-holders who could be impacted through business operations. Thirty countries have already published their NAPs, and 16 countries are in the process of developing their plans. In addition, several countries are enacting legislations making corporates responsible for undertaking due diligence in their supply chains, covering environment and human rights. In March 2021, the European Union (EU) announced mandatory legislation on corporate due diligence to identify and address risks across supply chains. France introduced its duty of vigilance law in 2017, applicable to French companies. The UK is discussing the adoption of similar legislation.

In Asia, several countries are gearing up to align with the global business and human rights landscape. Japan, Thailand and Pakistan have already published their NAPs, while India is in the process of finalizing its plan. In 2019, India released the Zero Draft of its NAP which encapsulates the current policy and regulatory ecosystem around human rights. The Ministry of Corporate Affairs (MCA), responsible for drafting the country's NAP, has undertaken rigorous consultations with various stakeholders to finalise it.

India already has in place National Guidelines on Responsible Business Conduct (NGRBC), a comprehensive guidance for businesses to act in a responsible manner. Principle 5 of the NGRBC focusses exclusively on business and human rights, and it is likely that the NAP will align with the NGRBC. The guidance also has a connected disclosure framework – Business Responsibility Sustainability Reporting (BRSR). This framework is mandated for the top 1000 listed companies in India from FY 2022-23. It provides a principle-wise indicator list on which businesses must disclose their performance.

Japan formulated its NAP in October 2020, with the Ministry of Foreign Affairs as the nodal point. The Government of Japan expects Japanese businesses to fulfil their responsibilities in terms of respecting human rights and to resolve issues with effective grievance mechanisms, aiming to foster an environment where business enterprises that implement such measures will be fairly evaluated.¹ The key focus areas of Japan's NAP include Labour (promotion of decent work), Promotion and protection of children's rights, Human rights associated with new technologies, Rights and roles of consumers, and Acceptance of, and co-existence with, foreign nationals.

For India, the NAP currently under development takes its cue from the NGRBC and BRSR, with reference to Principle 5 (Business should respect and promote human rights), which is linked to Principle 2 (Corporate responsibility to respect human rights) of the UNGPs. Other principles of the NGRBC bring attention to specific stakeholders/ rights-holders.

¹Ministry of Economy, Trade and Industry, Government of Japan 2020 '*Business and Human Rights: Towards a Responsible Value Chain*' (online)
https://www.meti.go.jp/english/policy/economy/biz_human_rights/index.html#:~:text=In%20October%202020%2C%20the%20Japanese,corporate%20activities%20and%20human%20rights (Accessed: 05 December 2021)

Business and Human Rights in India

Business and Human Rights Landscape in India

The business and human rights policy landscape in India has been evolving ever since the country's adoption of the UNGPs on Business and Human Rights in 2011. There is growing focus and emphasis on enabling the role of the government and businesses towards preventing, mitigating and addressing human rights risks and impacts through the UNGP **'Protect, Respect and Remedy'** framework. Since its endorsement, many countries have embarked on the process of developing their respective NAPs and have taken steps to mainstream the subject through policy initiatives and legislative reforms.

In India, the development of the NAP on business and human rights is currently underway. **The nodal Ministry anchoring the NAP is the Ministry of Corporate Affairs.** Other ministries involved in consultation for the NAP include those of Social Justice and Empowerment, Labour and Employment, and Environment, Forest and Climate Change, as also other relevant ministries and departments.

While the process of developing the NAP on business and human rights began in 2018, India acknowledged the significance of corporate responsibility much earlier, in 2011, through its National Voluntary Guidelines on Social Environmental and Economic Responsibilities of Business (NVGs), to encourage businesses to adopt responsible business practices. The NVGs require a business to present an annual Business Responsibility Report (BRR), which was made mandatory for the top 500 listed companies by the Security and Exchange Board of India (SEBI) in 2015. These BRR reports were analysed for a few years by consulting companies, the Indian Institute of Corporate Affairs (IICA), Corporate Responsibility Watch (CRW) and top academic institutions like IIM-Bangalore. A common conclusion drawn from the analysis pointed to the need for better quality disclosures.

In February 2019, the NVGs were updated and published to incorporate the Sustainable Development Goals (SDGs), the Paris Agreement on Climate Change, and two International Labour Organisation (ILO) core conventions: 138, on the minimum age of employment of children, and 182, on the worst forms of child labour. The new principles that emerged are called the National Guidelines on Responsible Business Conduct (NGRBC). Corresponding to these new principles, India revised its disclosure and reporting framework to Business Responsibility and Sustainability Reporting (BRSR), which will be mandatory for the top 1000

listed companies from the financial year 2022 - 23. The committee responsible for the BRSR framework has made some recommendations² for future reporting. These include:

- BRSR will soon bring a thematic/ sector-based focus into the framework.
- A BRSR-Lite version is available for SMEs. In future, disclosures for SMEs may have a cluster format, rather than be required from stand-alone units.
- BRSR will be rolled out in a phased manner for non-listed companies, as per their size, from large, to medium, to small. The aim is to ultimately ensure full coverage of all companies for reporting.
- The Ombudsman process is to be developed, to look at concerns and grievances on reported data. The idea is to look at the right to information and improve the quality of reporting.

The BRSR framework is based on nine principles of the NGRBC³. These are principles which explicitly promote business action towards human rights. They emphasise the organisation's responsibility to respect and promote human rights through due diligence across its value chain, and to identify risks and formulate mitigation strategies to avoid adverse impacts. There is focus on the well-being of employees across the value chain, with businesses encouraged to offer social benefits and upgradation of skills to their employees, in addition to the statutory requirements of equality, freedom of association, prohibition of child labour and involuntary or forced labour, and violence at the workplace.

Further, to ensure that appropriate systems are in place, the NGRBC discuss the establishment of policies and procedures to safeguard right-holders, including the provision of an effective grievance redressal system. There is also focus on a governance structure within the organisation to implement and monitor the procedures in a sustainable and transparent manner. Promoting human rights in the value chains of companies is a key focus area of the NGRBC. Figure 1 provides an over-arching structure of the NGRBC approach to business and human rights.

² Ministry of Corporate Affairs, Government of India 2020 *Report of the Committee on Business Responsibility Reporting* (online) https://www.mca.gov.in/Ministry/pdf/BRR_11082020.pdf (Accessed 08 December 2021).

³ Ministry of Corporate Affairs, Government of India 2019 *National Guidelines* (online) https://www.mca.gov.in/Ministry/pdf/NationalGuideline_15032019.pdf (Accessed 10 December 2021).

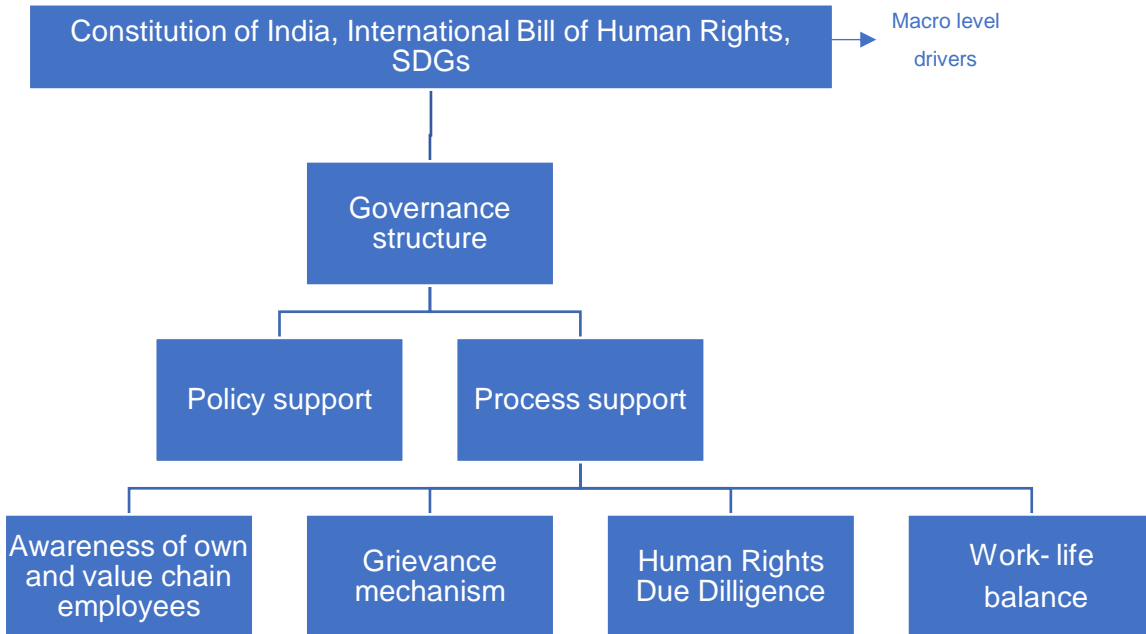


Figure 1: Prepared by CII-CESD

Looking at the human rights performance of a business will enable consumers and investors to assess its engagement with its value chains and stakeholders towards the protection of human rights.

The guidance on developing NAP⁴ recommends that governments follow a five-phase process:

- Phases 1 - 3 for the development of the initial NAP through initiation, assessment and consultation and drafting
- Phases 4 and 5 for the on-going implementation, monitoring and updating of the NAP .

India published a Zero Draft of its NAP in February 2019 and moved on to the assessment and consultation stage of the development of the plan in February 2020. The MCA, the nodal ministry for this exercise, invited public comments and inputs to inform the NAP development.⁵ While the final NAP has not been formalised yet, Draft Zero is being used as the basis to assess activities in the business and human rights space in the country.

⁴ UN Working Group on Business and Human Rights, *Guidance on National Action Plans on Business and Human Rights*, (online) https://www.ohchr.org/sites/default/files/Documents/Issues/Business/UNWG_NAPGuidance.pdf (Accessed 12 December 2021)

⁵ Institute for Human Rights and Business 2020 *India's Business & Human Rights National Action Plan* (online) <https://www.ihrb.org/other/governments-role/commentary-indias-national-action-plan> (Accessed: 11 December 2021)

Global NAPs – A comparison

This section compares the approach of three Asian countries (India, Japan, and Thailand) and two European countries (Sweden and Germany) to their NAPs. Though a formal NAP is still under development in India, the landscape around business and human rights has evolved responsibly in the last few years, built around the NGRBC. It is likely that India's NAP will align with its NGRBC, mainly on Pillar 2 (Corporate responsibility to respect human rights) of the UNGPs.

Among the five countries compared, Sweden was the first to start its NAP development process. All these countries have included the timelines around the implementation of NAP, review, and monitoring. Each country has identified government departments to serve as the nodal authorities to develop, implement, monitor, and review the plan. It is important to note that each NAP development process included multi-stakeholder consultations, ensuring that diverse views were taken into consideration.

Pillar 2: Corporate responsibility to respect human rights

Coverage of human right issues: The NAPs of all five countries cover most human rights issues and relevant stakeholders. India's NGRBC and Thailand's NAP give special attention to the environment. Japan's focus on human rights issues raised by the development of new technology and the acceptance of foreign nationals in the country stands out.

Policies and procedures: The NAPs of all five countries emphasise the responsibility of corporates to develop policies and procedures to mitigate potential human rights risks across their operations and call for a governance structure to implement these policies. Human rights policy and human rights due diligence come across as cross-cutting areas for corporate-level action in all the NAPs.

Capacity-building: The NAPs emphasise that individual companies need to create awareness around human rights among their own employees. India's NGRBC call for extending this awareness to the employees of a company's supply chain partners too. All countries put the responsibility of creating employee-level awareness on business and human rights on the companies themselves, except Japan, which puts this duty on the government.

Provisions for SMEs: All five countries, in their NAPs, stress on creating better awareness and capacity-building of SMEs. It is important that extra initiatives are taken for SMEs, as these companies are hard-pressed for all kinds of resources. Increased dialogue and engagement with SMEs is important, and this can be done through training programs, seminars, etc. as detailed in the different NAPs.

Grievance mechanism: All the NAPs examined stress on the deployment of appropriate grievance mechanisms. While India provides for a transparent and accessible grievance redressal mechanism for employees and external stakeholders, including consumers, Thailand suggests complaint channels that are confidential, convenient and have fast access for tracking, both for employees and for persons affected by a company's operations. Germany discusses establishing a grievance procedure or actively participating in external procedures which are fair and balanced, with a predictable procedure that is accessible to everyone, along with the creation of options for filing complaints anonymously. Sweden lays down that the grievance mechanism should be transparent, include negotiations and discussions with employee representatives, and provide secure and anonymous systems for handling complaints for external stakeholders impacted by a company's operations.

Actions post NAP monitoring: While Sweden has implemented certain actions stemming from its NAP, Germany has taken a bold step in passing a mandatory human rights due diligence law, post the review of its NAP. The German 'Act on Corporate Due Diligence in Supply Chains' comes into force in 2023.

Pillar 3: State remedy procedures

All countries intend to leverage existing state-level remedy mechanisms, and their NAPs identify the state-level authorities and bodies responsible for providing remedy. Sweden and Germany go a step further, bringing in national contact points as an extra-judicial grievance mechanism. Thailand additionally suggests an internal grievance mechanism in collaboration with other countries, to establish a process to discuss international problems arising from businesses with global operations and setting up a fund for the timely rehabilitation of victims. In India, the National Human Rights Commission took special steps during the Covid pandemic by issuing guidelines to the states for the protection of migrant workers. It rolled out 12 advisories for the protection of vulnerable groups in India, which were severely impacted by the pandemic.

Comparative Table: Comparison between India’s Zero Draft of NAP, NGRBC and BRSR, and the NAPs of Japan, Thailand, Germany, and Sweden

Theme	India	Japan	Thailand	Germany	Sweden
Responsibility and Development					
Year of publishing	Under process, Zero Draft published in December 2018	October 2020	October 2019	December 2016	August 2015
Anchor/Nodal Authority	Ministry of Corporate Affairs	Ministry of Foreign Affairs	Ministry of Justice - Department of Rights and Liberties Protection	Federal Foreign Office	Ministry of Foreign Affairs
Stakeholder consultations, stakeholders included	Relevant ministries, National Human Rights Commission (NHRC), Securities and Exchange Board of India (SEBI), domain experts, and industry associations.	10 consultations held with different Ministries, the Japanese Trade Union Confederation, the Japan Federation of Bar Association, civil society, academia, and the Japan Business Federation.	6 consultations held between the Thai BHR Network, and the Government, wherein local communities shared their recommendations.	12 expert hearings held, where 40 experts from NGOs, trade unions, businesses, and federal ministries, with the German Institute for Human Rights (DIMR) and Eco-sense as consultants. Additionally, 3 plenary conferences were held.	4 public consultations held, with the participation of over 100 representatives from companies, ministries, public institutions, labour unions, and civil society organisations.
Implementation and Review Process					
Implementation	Under development	2020 – 2025	Implementation stage divided in two parts: 1. Short-term activities to be achieved by FY 2020 2. Long-term activities to be achieved by 2022.	2016-2020	2015-2017

Review and Monitoring	Under development	FY 2020 to 2025	Review phases divided into two phases: 1. For short-term activities, 2019– 2020 2. For long-term activities, 2021–2022	Interim review survey undertaken between 2018 and 2020 to assess the extent of compliance of companies based in Germany with the due diligence obligations set out in the NAP.	2017-2018
Future actions resulting from review and monitoring of the NAP				Passing of mandatory human rights due diligence law. The 'Act on Corporate Due Diligence in Supply Chains' will enter into force in 2023 to initially cover companies with 3,000 or more employees, and from 2024 onwards, companies with 1,000 or more employees.	Legislation regarding sustainability reporting, online course for embassies, increased commitment to sustainable business by Business Sweden, launch of the Global Deal, and increased focus on human rights in the governance of state-owned companies.
Pillar 2, Corporate Responsibility to respect human rights					
Pillar 2 Scope	Responsibility of businesses to •Respect human rights within their operations. •Ensure that policies, procedures and structures are established to demonstrate respect for human rights.	All Japanese industries, regardless of size and sector, to recognise and respect human rights through policy commitments, and undertake human rights due diligence based on the UNGPs and other international standards. Further, all businesses to provide remediation of adverse impacts, and establish effective grievance mechanisms.	Protection of workers by putting in place human rights policies, labour welfare provisions, elimination of discrimination, and provision of internal channels for raising grievances effectively. Protection of community rights through compliance with laws, standards and principles	Ensuring protection of human rights across supply chains. Transparency in communication regarding corporate impacts on human rights. Enterprises operating in conflict zones to stabilise and develop such areas.	Business activity must not cause, contribute or be linked to human rights abuses. Businesses should not operate in conflict-affected areas and should act to prevent such abuses. Further, businesses should address adverse human rights impacts

	<ul style="list-style-type: none"> • Conduct human rights due diligence to identify, prevent and mitigate and account for how adverse impacts have been addressed. 		<p>related to the environment, natural resources, community and land, and monitor their subsidiaries to comply.</p> <p>Protection of defenders of human rights.</p> <p>Ensuring human rights in cross-border operations.</p>		with which they are involved.
Specific human rights issues addressed in NAP	<p>Protection of stakeholders:</p> <ul style="list-style-type: none"> • Environment • Rights of workers • Specific groups: women, children, diverse gender identity, persons with disability, Scheduled Castes and Scheduled Tribes • Human rights defenders and/or whistle-blowers • Consumers 	<ul style="list-style-type: none"> • Promotion of decent work in line with the ILO core conventions • 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, women, persons of diverse sexual orientation and gender identity, and other groups) • Acceptance of, and co-existence with, foreign nationals 	<p>Key priority areas:</p> <ul style="list-style-type: none"> • Labour • Community, land, natural resources, and environment • Human rights defenders • Cross-border investment and multinational enterprises 	<ul style="list-style-type: none"> • People in vulnerable situations such as migrant workers and employees doing precarious work • People affected by, or at risk of, labour exploitation • Protection of whistle-blowers • Equal rights for men and women 	<ul style="list-style-type: none"> • Address human rights in the workplace. This includes the right to participate in collective bargaining and the right to form or join free trade unions. • Defend and strengthen women's rights, including access to the labour market and combat all forms of discrimination • Prevent human rights abuse, including exploitation of children
Human rights policy	Yes	Yes	Yes	Yes	Yes
Capacity-building	Focus on training and awareness of a company's own	Responsibility of the government to undertake	Training and awareness of employees on human rights for better	Sessions such as 'practice days' offered to SMEs to provide	Conduct structured, meaningful and regular dialogue with

	employees, and also the employees of its supply chain partner.	human rights awareness for businesses.	knowledge, and on responsible business conduct.	support, information, and exchange with other enterprises on responsible supply chain management.	company employees and trade unions, and with the company's key stakeholders in the community.
HRDD	Yes	Yes	Yes	Yes	Yes
Grievance Mechanism	Mechanism for employees, external stakeholders, and consumers.	Follow legitimate process to provide remedy.	Mechanism for employees and communities.	Establish own mechanism or participate actively in external procedures.	Mechanism for employees and external stakeholders.
Provision for SMEs	Special mention on how SMEs can adopt NGRBC. From the reporting viewpoint, a BRSR -lite version available for SMEs.	Human rights education and awareness-raising seminars for SMEs organized.	Incentives for entrepreneurs and labour, consistent with the activities of the establishment, support and organise programmes on human rights protection.	Training and advice on social responsibility given to 3000 SMEs.	Central government will enhance collaboration with regional CSR networks and take steps to strengthen the dialogue with SMEs.
Pillar 3 State-level Remedy Procedures					
Theme	India	Japan	Thailand	Germany	Sweden
State remedy procedures (Pillar 3)	<ul style="list-style-type: none"> State-based judicial and quasi-judicial bodies State-based non-judicial bodies Access to information State-based complaints mechanisms 	<ul style="list-style-type: none"> Judicial frameworks, Japan Legal Support Centre Non-judicial remedies, consulting services, objection procedures Alternative Dispute Resolution Act 	<ul style="list-style-type: none"> Collaborating with other countries to establish an international grievance mechanism Establish a process to negotiate and discuss international problems resulting from business operations Setting up a fund for timely rehabilitation of victims 	<ul style="list-style-type: none"> Civil Procedure Code, Regulatory Offences Act Surviving dependants allowed to make pecuniary claim Imposition of sanctions on enterprises breaching criminal law National Contact Point as an extra judicial grievance mechanism in 	<ul style="list-style-type: none"> Judicial bodies: general courts, administrative courts, and specialised courts such as labour court and market court Different ombudsmen to monitor compliance with human rights National Contact Points which are a tripartite collaboration

			<ul style="list-style-type: none">• Regular training and communication for impact prevention	implementing the UNGPs	between the State, the business sector and employee organisations
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India's NAP development process: Insights into stakeholder consultations

India's NAP on Business and Human Rights is yet to be published. However, the Zero Draft affirms the country's commitment towards the realisation and adoption of a human rights approach for businesses. The human rights approach needs to be formulated by incorporating the obligations of international conventions, including the UNGPs. The three pillars of the UNGP emphasise on embedding the human rights approach in all mechanisms across the country. India's NAP is expected to demonstrate how the principles under the three pillars are already being implemented, what the gaps are, and how can they be addressed.

In 2018, the MCA organized several meetings/multi-stakeholder consultations with relevant Ministries of the Government of India, the National Human Rights Commission (NHRC), the Securities and Exchange Board of India (SEBI), domain experts, and other relevant stakeholders, including representatives from industry associations, to deliberate on issues pertaining to business and human rights. The NHRC has a core group on business environment and human rights. Additionally, there are other nine core groups, each for a vulnerable section of society, such as bonded labour, elderly persons, children, women, and ex-prisoners, among others. The core group serves as a bridge between these vulnerable groups and business; its members are representatives from NGOs and activists. These groups were also consulted in the interactions on NAP.

The MCA also conducted regional consultations in Kolkata, Mumbai, Bengaluru, and New Delhi to apprise participants about the NAP under the UNGPs and seek active ministerial participation to develop and finalize India's plan. Among other topics, these consultations involved discussions on the following key issues:

- The evolution of deliberations on business and human rights in India post the endorsement of the UNGPs by the UNHRC.
- The existing framework on business and human rights in India, including initiatives under the Companies Act, 2013 (CA 2013), 2011 NVGs, and the 2018 NGRBC.
- Preparation of the NAP in India in consultation with relevant stakeholders.
- Promotion of the concept of corporate responsibility to respect human rights.
- The 2018 NGRBC that seek to align with the UNGPs.
- The coherence between the 2018 NGRBC, the UNGPs and the SDGs.
- Incentivizing corporates to comply with the NGRBCs that are based on the UNGP framework.

Further, issues pertaining to the business responsibility reporting framework of SEBI, whistleblowing and protection of whistle-blowers, non-financial reporting framework, harassment of women at the workplace, fair wages, et al were also discussed⁶.

These discussions led to the formation of the Zero Draft of the NAP in 2018. The zero draft takes into consideration issues that were discussed during the afore-cited multi-stakeholder consultations and the comments/inputs of relevant ministries and government bodies.

In March 2020, the MCA drafted an outline of the NAP with four sections and requested public comments on the outline and content of the NAP. This outline, along with the suggestions that emerged, is presented in figure 2.

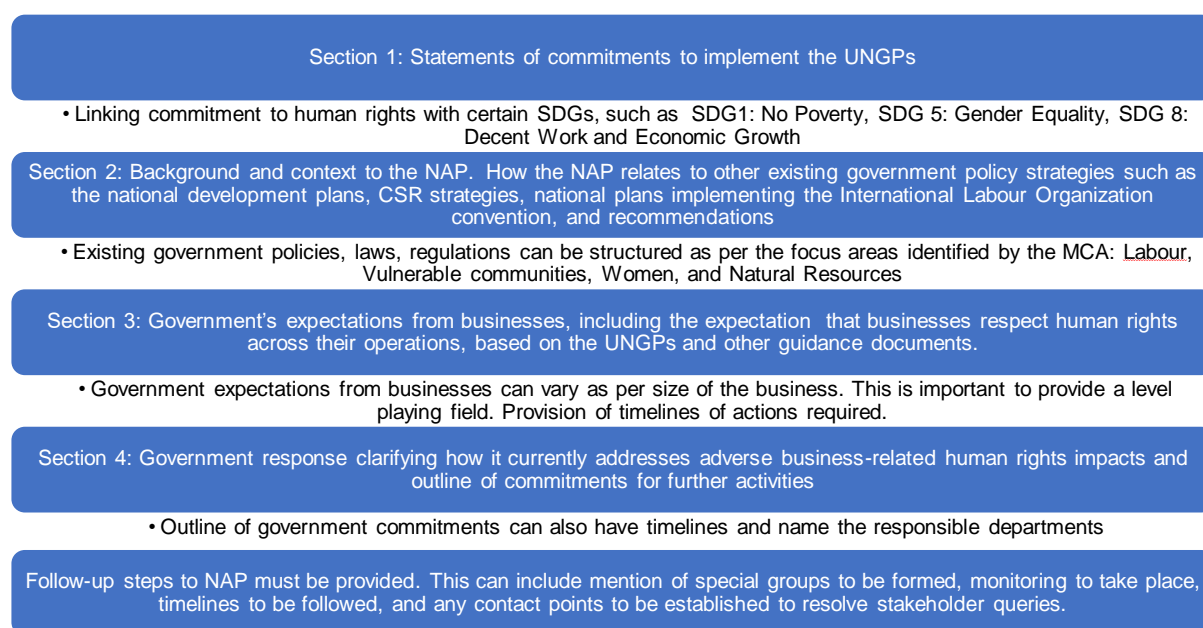


Figure 2: Proposed NAP outline seeking public comments. Inputs provided by CII on the outline

Overall suggestions on the three pillars of UNGPs, forming the base of India's NAP

These suggestions are a compilation and analysis of suggestions offered by the Confederation of Indian Industry, civil society organizations and business and human rights experts.

Pillar 1: State Duty to Protect

- **Responsible Procurement Practices:** Within Pillar 1, the states can encourage businesses that invest in sustainability by prioritizing them for procurement. Businesses which follow responsible business practices and adopt the NGRBC can become the sourcing partners for the state's requirements. The NGRBC

⁶ Ministry of Corporate Affairs, Government of India 2020 *National Action Plan on Business and Human Rights* (online) https://www.mca.gov.in/Ministry/pdf/ZeroDraft_11032020.pdf (Accessed: 20 December 2021)

include the principle on protection of human rights, and thus enable businesses to act in a responsible manner.

- **Protection around new ways of work:** The Covid-19 pandemic has led to a more digitized way of working. The regulatory ecosystem needs to be advanced to address the challenges that have arisen from digitisation, the gig economy and platform workers, and the NAP needs to look at protecting the rights of such workers. It can cover how current laws and policies cover such rights and platforms, and what more needs to be done.
- **Coherence with existing laws:** The NAP can create coherence with several existing laws and legislations of the country, to avoid any conflict or duplication.
- **Bringing the human rights lens to environment, climate change and biodiversity:** Issues of environment degradation, climate change and biodiversity losses are deeply linked with human rights. Thus, it is important that laws governing these areas also consider the human rights aspect. The NAP can provide guidance in this regard.

Pillar 2: Corporate Responsibility to Respect: This is aligned with core elements of Principle 5 of the NGRBC and BRSR.

- **Capacity-building:** The NAP needs to emphasise on generating awareness on human rights, especially from a business angle, and focus on capacity-building within organisations through regular training for all stakeholders.
- **Managing supply chain risks:** The NAP can provide guidance on managing human rights risks in supply chains. Since most human rights risks arise in deep pockets of supply chains, actions like mapping supply chains, and implementing the proceedings of the NGRBC in a phased manner starting with tier 1 companies, can be proposed.
- **Managing human rights risks in SMEs and adoption of NAP by SME:** The NAP can propose a separate narrative for dealing with human rights risks in SMEs. India has a high proportion of SMEs, mostly in the informal sector, many of which serve as suppliers to big companies in India and globally. A large number of them use a contractual workforce. Hence the vulnerabilities existing around human rights in SMEs need special mention. However, the success of implementation rests on the support of the government and sourcing companies linked to these SMEs by way of capacity-building, raising awareness, and providing incentives.
- **Protection of vulnerable categories specific to India:** The NAP can provide protection for vulnerable groups i.e. people or communities most at risk by the adverse impacts caused by businesses/state directly or indirectly, and where human rights are violated. The guidance given to business is to recognise the difference between

stakeholders and rights-holders. The rights-holders as cited in the NGRBC are a list of vulnerable groups that are relevant in the Indian context, such as:

- Scheduled Tribes, Scheduled Castes, *Dalits* (economically and socially disadvantaged), *Adivasis* (indigenous groups)
- Differently abled groups
- Informal sector workers
- Children who are vulnerable
- Women/gender which is cross cutting.

Companies are advised to identify any impact caused by their activities within these categories. Guidance is provided for where the adverse impact is systemic, where it is severe, and where it impacts the rights of the most vulnerable groups.

- **Corporate-level grievance mechanism:** While many companies have grievance redressal mechanisms in place as a requirement of local legislation, their effectiveness and applicability to human right issues is questionable. The structure and process of the mechanism may also differ. The NAP can provide a standard structure for grievance mechanisms for companies to consider, to ensure its accessibility and efficiency consistently across organisations.
- **Human Rights Due Diligence (HRDD):** the NAP can propose specific guidance on HRDD. This is an area less understood in the country, and is challenging to implement, especially for SMEs. A planned approach on HRDD and guidance to SMEs will be useful.
- **Disclosure and Transparency:** A proposal for public disclosure specific to human rights can be considered. Alignment with BRSR must fit in this area.

Pillar 3: Remedy

- Access to remedy poses a major challenge in the effective implementation of the NAP. The limitation of the NHRC to accept complaints against non-state actors such as companies is a big gap. The lack of human rights-specific grievance mechanisms at the operations-level could be another stumbling block for rights-holders to access remedy mechanisms. Setting up multi-stakeholder committees within industrial MSME clusters could be a crucial missing piece in the implementation of Pillar 3⁷ of the UNGPs in the NAP.

⁷ Institute for Human Rights and Business 2020 *India's Business & Human Rights National Action Plan* (online) <https://www.ihrb.org/other/governments-role/commentary-indias-national-action-plan> (Accessed: 11 December 2021)

Potential Human Rights Risks in key sectors

In February 2022, Japan became the fifth largest overseas investor in India, with over USD 36.2 billion in cumulative investments since 2000. Key sectors attracting this investment include Automobiles, Electronics System Design and Manufacturing (ESDM), Medical Devices, Consumer Goods, Textiles, Food Processing and Chemicals⁸.

With strong bilateral relations between India-Japan, geopolitical realignments in Asia, excess global liquidity in the market and a new, incentive-based manufacturing regime in India (PLI schemes), the economic relationship between the two countries stands on strong ground, and will boost future investments, with increased trade volumes.

The **Production Linked Incentive Scheme (PLI)** was introduced in India in 2020 with the aim to develop capacities in local supply chains, introduce new downstream operations, and incentivize investments in high-tech production. The scheme offers various benefits, including financial incentives, to draw interest from foreign manufacturers/ investors. Several Japanese companies are also applicants to, and are seeking benefits, under the PLI scheme.

Japan is the only country that has dedicated country-focused industrial townships across India. Known as Japanese Industrial Townships (JITs), they accommodate 114 Japanese companies, as of February 2022. The Neemrana and Sri City industrial townships are host to many Japanese companies.

The presence of Japanese companies in India is steadily increasing. As of October 2020, 1455, Japanese companies are operating in India, more than one-third of them in the manufacturing sector. Figure 2 provides details on the regional concentration of Japanese companies. It is seen that the concentration is highest in the Northern Region, particularly in the states of Haryana and Uttar Pradesh. This is followed by South and Western India, with major concentration in the states of Karnataka, Tamil Nadu, Maharashtra and Gujarat.

What is a JIT?

Japanese Industrial Townships (JITs) are ready-to-move-in facilities, with fully developed land available for allotment in designated townships. They offer special Japan desks for translation, and facilitation support, among other facilities.

⁸ Press Information Bureau 2022 *Press Release* (online) <https://pib.gov.in/PressReleaseDetailm.aspx?PRID=1798204> (Accessed: 20 February 2022)

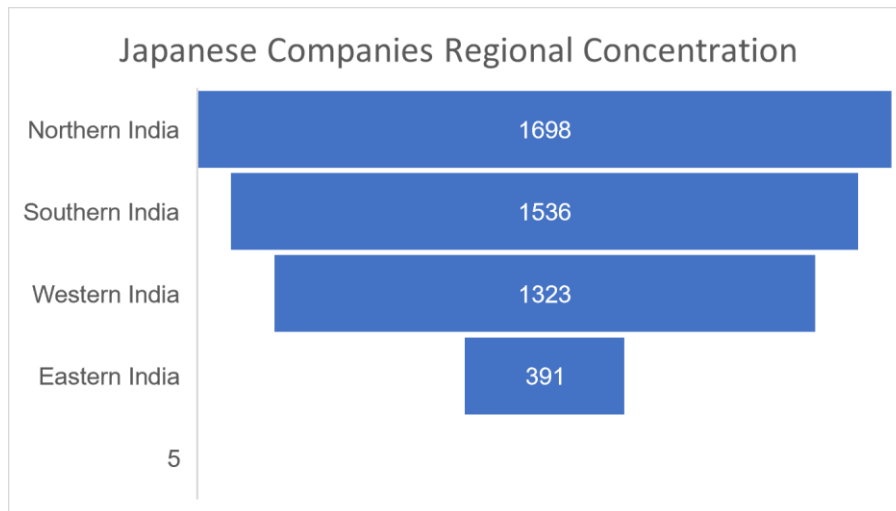


Figure 3 source: https://www.in.emb-japan.go.jp/PDF/2020_co_list_en.pdf

As Japanese investment in the country increases, it also brings several social benefits, including considerable employment generation, development and enhancement of the skills pool, and improvement of livelihoods. In tandem with investment, these companies also need to adopt risk mitigation strategies, especially associated with human rights risks, in the country, and in their respective sectors. While every country has mechanisms to protect, respect and remedy against human rights violations, human right issues can vary from country to country, and from sector to sector.

India-specific human rights risks

India is a heterogeneous country, with huge diversity across income levels, caste, religion, language, education levels, et al. India also experiences mass migration depending on employment opportunities, across regions. As a result, different regions of the country experience different human right issues, though there are some common cross-cutting issues across regions. These are also closely linked with the SDGs, such as SDG 1 (No Poverty), SDG 3 (Good Health and Well-Being), SDG 4 (Quality Education), SDG 5 (Gender Equality), SDG 8 (Decent Work and Economic Growth), and SDG 10 (Reduced Inequalities). The cross-cutting issues include:

- Informal and unregulated workforce, and absence of social security benefits.
- Prevalence of child labour and other forms of forced labour in deep pockets of the supply chains.
- Prevalence of specific vulnerable categories such as scheduled tribes and scheduled castes, and associated caste-based discrimination.
- Wages and working hours.
- Gender-based discrimination.
- Waste, pollution, and related environmental challenges.

These risks, together with sector-specific risks, accentuate the challenges that businesses operating in India face. This report has selected four sectors, based on the higher concentration of Japanese companies in them, to better understand sector-specific risks. These sectors are Electronics, Automobiles, Fast Retailing, and Finance and Insurance. Beyond the high concentration of Japanese companies in these sectors, they contribute significantly to India's GDP, generate considerable employment, both formal and informal, and have extensive supply chains spread across different regions of the country. A list of Japanese companies operating in India in these sectors is provided in Annexure 1.

Electronics and Consumer Appliances

About the sector

The electronics industry is divided into industrial electronics and consumer electronics, with higher growth in the latter, due to its popularity amongst consumers, and government initiatives to increase domestic production.

The use of consumer electronics has increased with the digital wave pushed by the COVID pandemic. As a result, the consumer electronics sector remains resilient, with growing demand for smart devices and appliances. The consumer electronics (durables) sector contributes about 32% of the total Indian electronics industry. The Indian consumer electronics market is expected to reach USD 118.4 billion in 2025,⁹ predicting India's

Consumer Electronics refers to any electronic devices designed to be purchased and used by end users or consumers for daily and non-commercial purposes. Consumer electronics or home electronic are intended for everyday use, typically in homes, for entertainment, communication, and home-office activities. The consumer electronics industry is evolving day by day with adoption of modern devices and consumer technologies, with consumers looking for smarter and more efficient devices.

consumer electronics and appliances market to be the fifth largest in the world.¹⁰ The sector has received support from the Indian Government in the form of reduction in import bills, and the PLI scheme for white goods.

Electronics System Design and Manufacturing (ESDM), which is part of the electronics sector, is the world's fastest-growing industry. India's share in the global electronic systems manufacturing industry has grown from 1.3% in 2012 to 3.6% in 2019¹¹. ESDM manufacturing clusters are situated in Madhya Pradesh, Andhra Pradesh, Punjab, Kerala, Tamil Nadu, and

⁹ International Journal of Current Research 2020 *A Study of Consumer Electronics Industry in India* (online) <http://journalcra.com/sites/default/files/issue-pdf/37738.pdf> (Accessed: 04 January 2022)

¹⁰ Inverted 2021 *Growth of Indian Consumers Electronics Industry* (online) <https://inverted.in/blog/growth-of-indian-consumer-electronics-industry> (Accessed: 06 January 2022)

¹¹ Invest India *Electronic Systems* (online) <https://www.investindia.gov.in/sector/electronic-systems> (Accessed: 17 January 2022)

Uttar Pradesh. ESDM is one of the sectors receiving attractive investments from Japanese companies.

Potential Human Rights Risks

Who is a contract worker in India?

Contract workers/ labour are those who are hired in or in connection with the work of an establishment by or through a contractor, with or without the knowledge of the principal employer. The arrangement got legal recognition when the Contract Labour (Regulation and Abolition Act), 1970 of India (CLRA) was enacted 'to regulate the employment of contract labour in certain establishments and to provide for its abolition in certain circumstances.'

The production and manufacturing of electronics is highly concentrated in southern India, largely due to easy accessibility to the Chennai port. India's electronics sector employs a significant number of migrant workers, both from surrounding as well as distant areas. In fact, the worker composition in the sector is mainly represented by contract workers.

- Involuntary labour: Bonded labour is prevalent in the electronics sector in India. This is attributed to the presence of migrant workers who leave their homes to seek employment, and often end up getting recruited by agents with fake promises.

- Freedom of association and collective bargaining power: The presence of unions is sparse. Fearing job termination, workers are wary of forming unions. Though many companies promote the setting up of workers committees to deal with day-to-day concerns and grievances, it must be noted that a workers' committee is not as strong a forum as a union to voice workers' concerns.
- Discrimination: Discrimination arises because most of the workers are contract workers. There are significant differences in the employment benefits offered to permanent employees versus contractual employees. These include difference in wages, employment benefits such as bonus or medical cover, and entitlement for leave. Other forms of discrimination around gender and caste are also observed.
- Excessive working hours: There is regular violation of the nine-hour workday mandated by law. There are also cases where workers are forced to work on Sundays with compensatory time off in lieu of overtime wages. Although contract workers are entitled to annual leave, they find it difficult to get approval.
- Health and safety: The electronics sector deploys processes and chemicals which can be hazardous to worker health if adequate safety precautions are not taken. While

wearing PPEs is a compliance and mandated by companies, sometimes workers fail to adhere to the requirements, leading to either penalty by the company or injury. Another aspect of health-related issues is tied with excessive working hours and travel time. Workers have to travel long distances to reach the manufacturing location, which leads to physical and mental fatigue.

Automobiles, auto-components

About the Sector

In 2020, India was the fifth-largest auto market in the world and is expected to become the third largest in terms of volume by 2026. India produced 22.7 million vehicles in FY2021, of which 4.1 million vehicles were exported.

The automobile sector in India comprises of four segments: two wheelers, passenger vehicles, commercial vehicles, and three wheelers. Of these, the two-wheeler segment has the highest production volume. The sector contributes 7.1% to India's gross domestic product (GDP) and employs a workforce of 37 million.¹² With the Electric Vehicle (EV) wave growing globally, the Indian EV market is expected to grow at CAGR of 44% between 2020-2027 and is expected to hit 6.34 million-unit annual sales by 2027. The EV industry is anticipated to create five crore direct and indirect jobs by 2030¹³.

Several government schemes including PLI, the National Mission for Electric Mobility, FAME India, and other schemes are giving a good boost to the automotive sector in India, resulting in higher production volume, sales, and employment opportunities.

India hosts four large auto manufacturing hubs: Delhi-Gurgaon-Faridabad in the North, Mumbai-Pune-Nashik-Aurangabad in the West, Chennai- Bengaluru-Hosur in the South and Jamshedpur-Kolkata in the East. Of these, Maharashtra, followed by Delhi and Tamil Nadu, are the top manufacturing states.

Potential human rights risks

With over 19 million people employed by the automobile industry, direct and indirectly, there are major challenges in ensuring rights both within the manufacturing units as well as across the supply chains of their component providers. Automobile companies source components and materials from global and local suppliers. Some automobile companies are believed to

¹² Invest Briefing 2021 *India's Automotive Ecosystem: A Primer for Investors* (online) <https://www.india-briefing.com/news/indias-automotive-ecosystem-a-primer-for-investors-23333.html/> (Accessed: 22 January 2022)

¹³ Invest India *Automobile* (online) <https://www.investindia.gov.in/sector/automobile> (Accessed: 22 January 2022)

have more than 20,000 suppliers. As a result, human right issues are prevalent in deep pockets of extensive supply chains. The use of contract workers across automotive supply chains is also widely prevalent.

- **Health and Safety:** Health and safety-related issues are present across the sector - in raw material extraction, processing, manufacturing, and assembly of vehicles. This is due to lack of training and awareness on health and safety. Many incidents also occur because safety protocols and the use of personal protective equipment (PPEs) are not rigorously enforced.
- **Child labour in supply chains:** Child labour is prevalent in material extraction and processing. Various materials used in the manufacturing of automotive parts have a history of child labour involvement in mining, extraction, and processing. For instance, mica, which is majorly mined in India, is used in several auto parts, including paints, brakes, and coatings. Several public reports have highlighted the prevalence of child labour in mica mines in the states of Jharkhand and Bihar.
- **Forced labour in supply chains:** This is prevalent in deep pockets of the supply chain where contract labour is widely used. Most contract workers are migrants, who are vulnerable to threats, violence, wage discrimination and other issues for job security.
- **Discrimination:** Worker-level discrimination can take many forms: gender, race, ethnicity, disability, religion, etc.
- **Gender-specific leadership roles:** Women are under-represented in the workforce and in leadership roles, due to the gender bias in the industry, organisational cultural norms, and lack of management support.
- **Working hours and wages:** This issue is mostly seen in SMEs which are part of supply chains. Workers have to work excessive working in order to meet difficult targets.
- **Climate change and environment degradation:** Issues associated with air pollution and increasing air emissions, contributing to climate change and environment degradation, are unique to the automotive sector. Automobiles contribute hugely to air pollution due to vehicular emissions, raising a major health concern.

Apparel

About the sector

The global apparel industry has expanded over the years with clothes being produced in bulk throughout the year and at the cheapest possible price. Affordable fashion has been a boon to this industry, led by retailers such as H&M, Zara, Uniqlo, forever 21, and Wills Lifestyle, to name a few.

India is the world's second largest exporter of textiles and apparel and has a massive raw material and manufacturing base. The sector is divided into two major segments: one, the production of textiles and fabric from raw materials, and two, the transformation of these fabrics into clothing and other accessories. It is the second largest employer in the country, providing direct employment to 45 million people, including a large number of women and rural folk¹⁴.

India's readymade apparel production is mostly cotton garments, which account for 58% of the total production, followed by non-cotton clothes (25%), and blended clothes (16%)¹⁵. The sector contributes to 2% of India's GDP and 5% of its global trade¹⁶. The highest contributors to FDI in this sector in India from 2016 to 2021 are Japan, Mauritius, Italy and Belgium.

The manufacturing base is strengthening, with some regions producing specialised niche products, making it convenient for international players to source and work in India. The top five apparel manufacturing hubs for ease of doing business as ranked by the Department for the Promotion of Industry and Internal Trade (DPIIT), formerly the Department of Industrial Policy and Promotion (DIPP), of the Ministry of Commerce and Industry, are Andhra Pradesh, Telangana, Haryana, Jharkhand, and Gujarat. Other emerging hubs are Karnataka, West Bengal, Tamil Nadu, Rajasthan, Uttar Pradesh, Maharashtra, Odisha, Punjab, and Delhi. Region-wise, 95% of knitwear and woollens are produced in Northern India, and 80% of hosiery and silk is produced in Southern India. Western India mostly produces cotton apparel, and Eastern India is more diverse with woollen, jute and cotton industries.

Potential human rights risks

In the last decade, the emergence of the 'Fast-Fashion' business model has raised issues such as non/late payments, excessive working hours, poor working conditions, violence, and abuse in a number of factories and supply chains of the apparel sector.

A study by the Fair Wear Foundation depicts some general trends observed in the sector across India in recent years, such as increased employment of inter-state migrant workers, larger percentage of contract workers, and displacement of factories from urban to rural areas, which are now drawing incentives.

Some of the major human rights risks observed and reported in this sector are:

¹⁴ Ministry of Textiles Government of India *MOT Annual Report 2019-20* (Online) http://texmin.nic.in/sites/default/files/AR_MoT_2019-20_English.pdf (Accessed: 25 January 2022)

¹⁵ Media Business 2019 *India Country Report 2019* (Online) https://media.business-humanrights.org/media/documents/files/documents/CS_INDIA_20198029.pdf (Accessed: 27 January 2022)

¹⁶ Ministry of Textiles Government of India *MOT Annual Report 2019-20* (Online) http://texmin.nic.in/sites/default/files/AR_MoT_2019-20_English.pdf (Accessed: 29 January 2022)

- **Sexual Harassment:** Sexual harassment is prevalent in the garment factories used by many international fashion companies. These factories do not have specific laws governing sexual harassment at the workplace, and, even if they do, many workers are not fully aware of their rights, or fear retaliations if they complain. The abuse takes different forms, such as comments, jokes, winking, propositions, inappropriate touching, and even insults. A Human Rights Watch (HRW) report states that verbal abuse is very common in this sector.
- **Discrimination:** Given the prevalence of caste and gender-based inequalities, discrimination is largely faced by migrant workers from poor, low caste, and tribal families. These workers usually get low wages but are expected to meet the high production targets set by their contractors, who, in turn, receive their targets from apparel companies.
- **Long working hours and work pressure:** Work pressure in this sector is very high due to large work orders. This results in long working hours and verbal abuse if the work is not completed on time. Overtime is often not voluntary, and workers are forced to work longer hours to complete targets, usually without compensation. Often workers take loans to supplement their income, and then struggle to repay them.
- **Job insecurity:** There is constant job insecurity among the workers, who perennially fear dismissal from the job. The grounds for dismissal are minor mistakes in work, non-completion of targets, reporting late even by a few minutes, et al.
- **Bonded, forced and child labour:** Children below 14 years are employed in various stages of the supply chain as they offer cheap labour. They are also frequently subjected to mental as well as physical abuse.
- **Lack of unions:** The level of unionisation is very low, especially among migrant workers, who have little or no knowledge of trade union activities and of workers' committees. The committees prescribed by law exist only on paper and do not perform their duties effectively. The lack of social dialogue through healthy employer-employee relations, including the presence of trade unions in factories, is noted as the single most important reason for low wages and poor working conditions.
- **Health and safety risks:** Some common occupational and health problems found in workers in this sector include headaches and exhaustion, mental stress, or depression due to work pressure. Other health risks include respiratory diseases, posture-related ailments, eye strain, infections from unclean water, and urinary tract infections due to too few toilet breaks. While workers such as tailors are provided protective equipment, those working in the ironing and cutting sections do not get similar protective gear.

Finance Services

About the sector

The finance sector in India is undergoing rapid expansion with the growth of existing financial service companies, and new firms entering the market. The sector comprises commercial banks, insurance companies, non-banking financial companies, co-operatives, pension funds, mutual funds, and other smaller financial enterprises. The banking regulator has recently allowed new entities such as payment banks to be created, thereby drawing more players into the sector.

India is today one of the most vibrant global economies on the back of its robust banking and insurance sectors. It is expected to be the fourth largest private wealth market globally by 2028. The relaxation of foreign investment rules has received a positive response from the insurance sector, with many companies announcing plans to increase their stakes in joint ventures with Indian companies¹⁷.

Potential Human Rights Risks

Financial services companies may not directly cause human rights violations, but their investments in portfolios or projects that are open to such impacts could exacerbate their risk potential, if appropriate due diligence is not undertaken for the social aspects.

Financial institutions must ensure that their investee companies, directly or through their operations across their supply chains, do not adversely impact any human rights, or fall within regions identified as hotspots for human rights violations. India has a large vulnerable population in the form of indigenous tribes, women, children, caste-based minorities, et al. Most of these categories populate the interior regions of the country. With more infrastructural projects, increasing boundaries of urban landscape, and an unending quest for mineral-rich regions, these categories are often impacted. These people can be displaced or face loss of livelihoods or physical torture due to projects which encroach on their space. Financial service companies that fund such projects must apply the human rights due diligence lens to their lending to ensure that the rights of all stakeholders impacted by the financed projects are protected.

¹⁷ Indian Brand Equity Foundation *Financial Services in India* (Online) <https://www.ibef.org/industry/financial-services-india.aspx> (Accessed: 10 February 2022)

Key human right issues which need to be looked at by finance service companies in their investment portfolio are:

- Social impacts caused by large infrastructure projects: There can be several levels of social impact caused by infrastructure projects. These are around displacement of local people, lack of adequate compensation, forced relocation, loss of livelihoods, lack of prior consent, and threat to cultural heritage and biodiversity.
- Human rights issues during the development of projects: Projects hire a good number of local and migrant people on a temporary basis in the setting-up and development stages. The lack of contractual agreements and the very nature of temporary jobs bring up issues such as extended working hours, unfair wages, health and safety concerns, and the use of child and forced labour.
- Risks of corruption and bribery: The finance sector is often linked with cases of bribery and corruption. The risk of bribery and corruption increases if several parties, including political interests, are involved. If the lending mechanism is complicated, it can lead to lack of transparency in money flow channels.
- Discrimination in lending practices: The vulnerable population, including minorities, face problems in getting appropriate loans at nominal interest rates. Most of them are poor and marginalised and are either unable to afford higher lending rates or face discrimination.
- Data and customer privacy: Finance services companies deal with sensitive information about their clients, including account details, customer identification, contact details, client investments, etc. Protecting this data for every customer can pose a challenge. There have been several cases globally where customer data was leaked. The lack of stringent technology measures can make financial services companies an easy target for phishing attacks and other hacks.

Financial institutions can aggravate risks through funding projects and corporate activities that have human rights vulnerabilities. They have the responsibility to undertake due diligence to ensure that the businesses/ projects they associate with, or invest in, are both environmentally and socially compliant and sustainable.

Overarching Human Rights Vulnerabilities

All the four sectors studied have extensive supply chains. Often, corporates have little control over, or awareness of, the numerous contracted and sub-contracted units across their supply chains. This raises the risks to human rights across these entities.

Employment of informal workers and migrant workers is rampant in the country, and leads to major labour-related non-compliances, such as no fixed wages, sometimes even below the minimum wage, no benefits of leave, insurance and provident fund, as well as unpaid overtime work. Further, the accommodation provided is usually squalid, overcrowded and lacking basic amenities.

The occupational health and safety requirements of ensuring proper ventilation, light, drinking water, clean washrooms and breaks during working hours are often neglected due to the lack of monitoring or overview of the sub-contracting processes given out to various entities. Additionally, the workers, lacking awareness of their rights, and fearing retaliation, do not raise grievances or question their employers.

To avoid the human rights vulnerabilities caused by business activities across their supply chains, corporates need to identify potential stakeholders across operations, and ensure that human rights policies are communicated across their vendor base, with an established monitoring mechanism.

Impact of business and human rights landscape on Japanese companies

In January – February 2022, CII conducted a survey to understand the impact of India's upcoming National Action Plan (NAP) on Business and Human Rights on Japanese companies operating in India. The survey was designed with the following objectives:

- To understand the company's actions to protect and respect business and human rights.
- To understand actions taken on Pillar 2 (Corporate responsibility on business and human rights) of the United Nations Guiding Principles.
- To understand the impact of Principle 5 of the NGRBC, Zero Draft on India's NAP and BRSR on Japanese companies operating in India.

CII reached out to around 125 Japanese companies operating in India, of which nine responded to the survey. The respondent companies represented sectors such as consumer goods, services, automobiles, printing ink, construction, trading, machine tools and industrial manufacturing. Six of the nine companies are members of the United Nations Global Compact.

Key findings and recommendations

- Flow of information on business and human rights is restricted.
- A majority of the workforce in companies is contractual - this can be attributed to the fact that most of the respondents belong to manufacturing sector.
- There is broad awareness on business and human rights, more at the global level. Country-level awareness can be improved by putting more focus on understanding the requirements of local issues. For example, building more awareness around the BRSR.
- Awareness-building can be done in a phased manner, by building capacity at the top management level first, and then percolating down to the middle, lower, and finally, worker level.
- Companies have systems in place on human rights, including policy initiatives around well-being of employees, and extension of this policy to supply chains. Human Rights Due Diligence requires more focus and is an area which must be looked at for building leadership commitment.

Workforce structure

To understand companies' actions on business and human rights, it is important to know their workforce structure and diversity. It has been noted that in India, most sectors employ a

contractual workforce. Workforce diversity in terms of gender and the differently abled is limited. Responses from the survey demonstrate that the engagement of women is noticeably low as compared to men, and there is no representation of differently abled persons (no data provided on this indicator by the respondents). Figure 4 indicates that a majority of employees are on a contractual basis, with permanent employees forming only 22% of the total workforce, versus 78% contract workers. Workplace diversity and inclusivity align with goals 5 and 8 of the SDG.

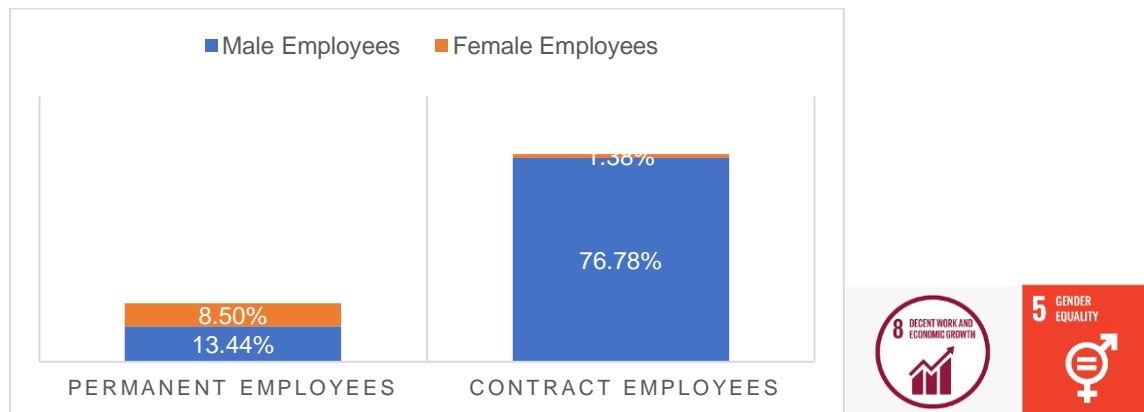


Figure 4: Workforce Structure

Awareness on business and human rights landscape

Awareness on the business and human rights landscape is assessed through a company’s understanding and alignment with the UNGPs, awareness of either or both Japan’s NAP and India’s upcoming NAP, and alignment with/endorsement of national and international declarations on human rights.

The survey showed that 34% of the respondents, representing the consumer goods, automobile and trading sectors, are aware of the UNGPs, but are not aligned with Pillar 2, while 33% of the respondents, from sectors such as services, ink manufacturing, and machine tools, are not aware of the UNGPs. A further 33% of the respondents, from the construction and automobiles sector, are aware of the UNGPs and align with Pillar 2 (Corporate responsibility towards business and human rights) through processes such as recruitment and compensation, as seen in figure 5. As for being a member of, or endorsing national and international frameworks, most of the respondents follow the ILO Labour Standards, followed by the UN SDGs, UNGPs, UN Global Compact and the NGRBC, and applicable provisions within their business activities.

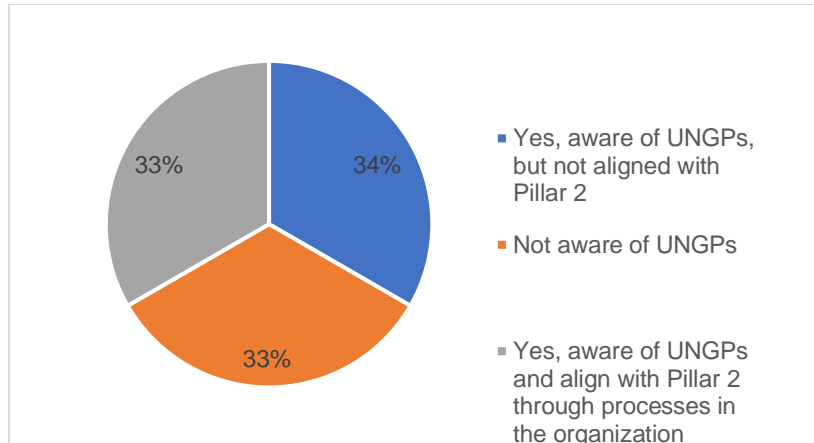


Figure 5: Awareness on UNGPs

Most of the respondents, around 78%, are not aware of Japan’s NAP, while 22% are aware, but have not participated in the NAP development process in any manner. Around 67% of the respondents said they are aware of India’s upcoming NAP, while 33% are not.

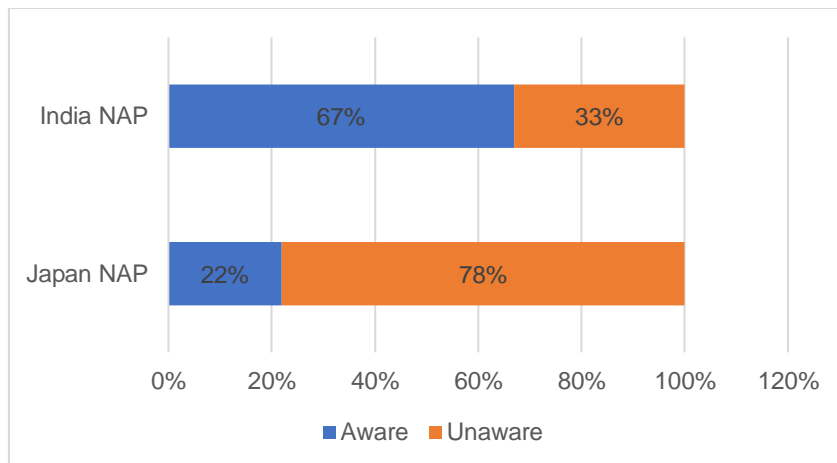


Figure 6: Awareness on NAP, for Japan and India

Organizational practices on business and human rights

An organization must be aware of human right issues which are specific to its sector, and in its operating context. For Japanese companies operating in India, the operating context is India, followed by the regional context where the unit is located. It is important that these companies understand country-specific, followed by region-specific human rights risks, if any. None of the respondents provided details on risks associated with the operating context. In terms of sectoral human rights, the following emerged as the top risks:

- Working hours, hours extending beyond the mandated nine-hours a day
- Minimum wage

- Health and safety
- Low gender diversity
- Low employment of the differently abled.

Policy, coverage, applicability, and resource deployment

Principle 5 of the NGRBC and the BRSR guide companies towards having a human rights policy in place, which applies equally to both the permanent and the contractual workforce. While all the respondents have a human rights policy, 67% said it is publicly available. While all the respondent companies have policies applicable to permanent employees, only 44% extend these to their contractual workforce too.

A human rights policy must be designed to cover key human right issues which the company faces, and it must apply to all relevant stakeholders, beyond employees. For the survey, the coverage question was designed to include the main human rights areas covered by Japan’s NAP, and the key areas mentioned in the NGRBC. Figure 7 shows that 78% of the respondents have covered labour issues in their human rights policy, followed by coverage on freedom of association, and child rights. The coverage of human rights issues also provides scope for alignment with the SDGs. Most of the policies are aligned with SDGs 5 - Gender equality, 8 - Decent work and economic growth, and 10 - Reduced inequalities.

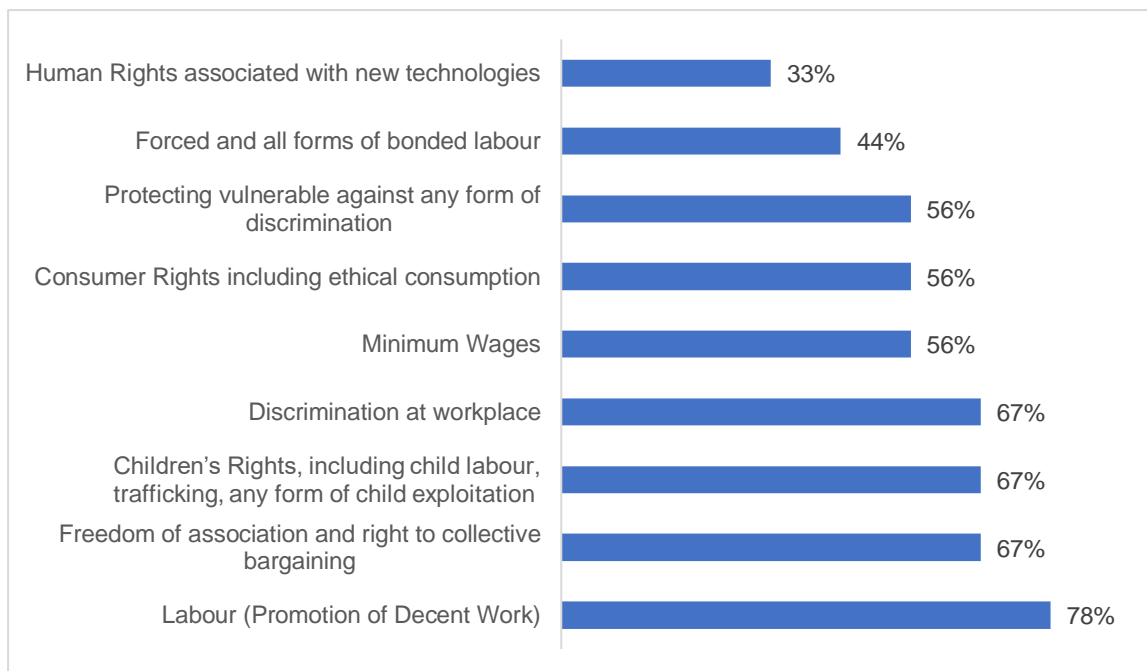


Figure 7: Coverage of human right issues in human rights policy



Extending the human rights policy to external stakeholders, especially suppliers, is important. In India, a number of human right issues are prevalent in the supply chains of companies because most suppliers operate in the informal sector and recruit contractual workers. Hence a company must ensure that its human rights policy extends to its suppliers, at the very least, its tier-1 suppliers. This would enable the company to monitor the human rights risks associated with its suppliers and take corrective action. Figure 8 indicates that 44% of the companies in the survey have extended their policies to their supply chain, whereas 56% have not done so.

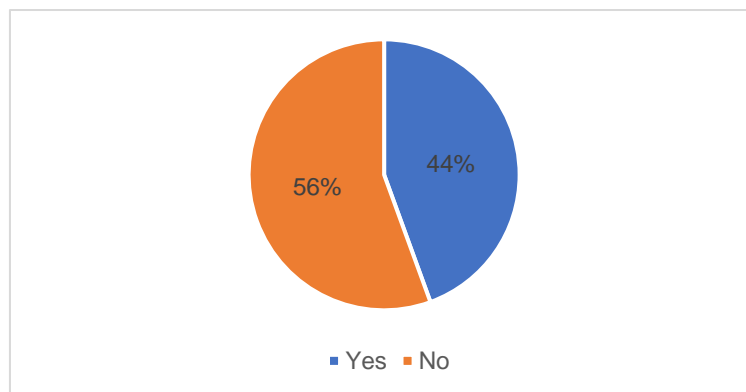


Figure 8: Extension of human rights policy to supply chain

To ensure that human rights are integrated across the organization, manpower deployment, with final authority resting with the senior management, is important. Human rights must be taken care of from two angles: one, the local and home country compliance requirements a company is expected to fulfil, and two, what more a company can do, beyond compliance, to protect the rights of the people are impacted by its operations. Thus, human rights authority must be at the top management level, with a managerial-level dedicated team and focal point to help a company take a structured approach towards integrating human rights across various functions. Figure 9 suggests that for 44% of the respondents, the ultimate authority on human rights rests with senior management. For 22%, a board-level member is responsible for key strategy and planning, while for another 22%, this task is managed by the Chairman / CEO. Also, 67% respondents said they had a dedicated focal point for looking into human rights.

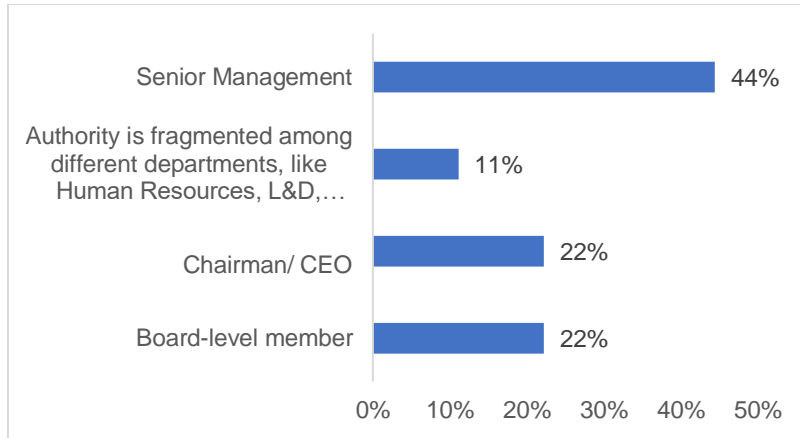


Figure 9: Ultimate authority on human rights

Processes and mechanisms around human rights

The well-being of employees takes into consideration measures such as health insurance, life insurance, disability insurance, maternity and paternity benefits, child day-care facilities, provident fund, bonus, right to leave, appropriate working hours, and wellness programs. These measures are linked to the Principle 3 of BRSR and SDG 3, i.e., Ensure healthy lives and promote well-being for all, at all ages.

Figure 10 suggests that measures like health, life and disability insurance, and in fact almost all other well-being measures, are most applicable to permanent employees, and least applicable to contractual workers.

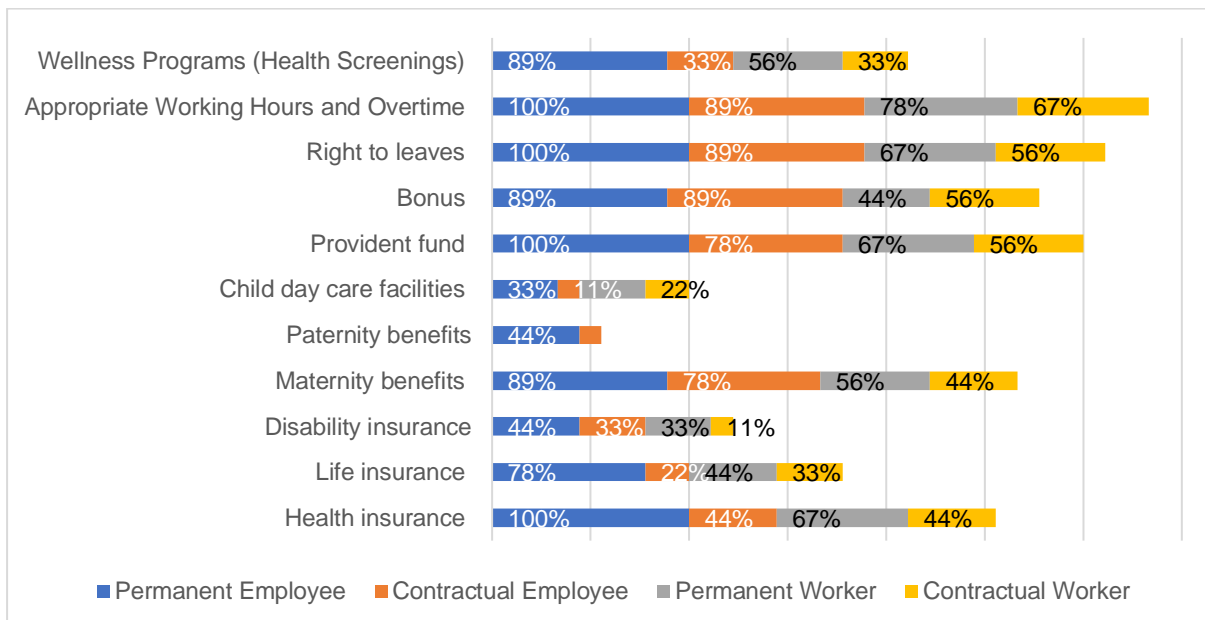


Figure 10: Measures for well-being of employees



Making a workplace inclusive requires companies to make their infrastructure adaptable to meet the needs of the differently abled. Principle 3 of the NGRBC (Businesses should respect and promote the well-being of all employees, including those in their value chains) and SDG 8.5 (Achieve productive employment and decent work for persons with disabilities) also guide companies towards making their premises inclusive. In the survey, 78% of the respondents indicated that their office premises are accessible to differently abled people.

Making employees aware about human rights is important to ensure the effectiveness of processes and mechanisms. Training can range from basic awareness to issue-specific training, as well as training on sustainable procurement and effective use of grievance mechanisms, or general training on the evolving business and human rights landscape in the country. Figure 11 suggests that a far larger number of permanent employees, both in an organization and in its supply chain, are offered training and awareness programs on business and human rights, while contractual workers and contractual employees have the least access to such training.

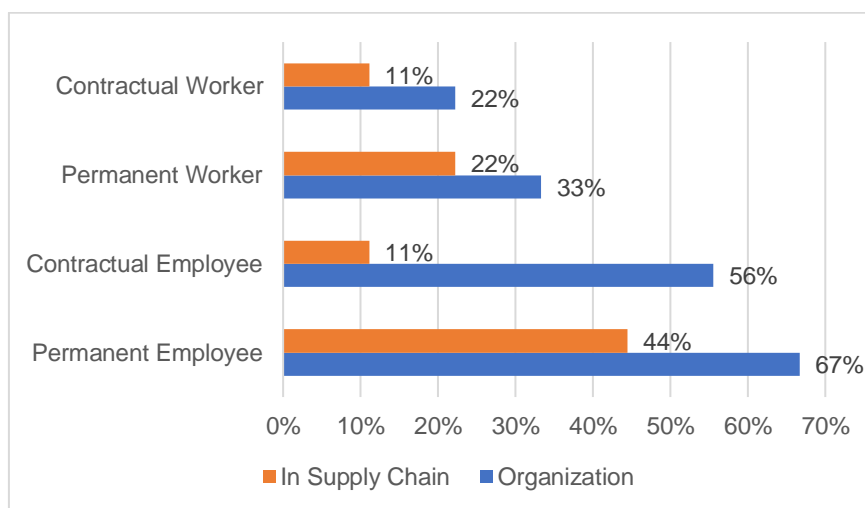


Figure 11: Training and awareness among various categories of employees

Human rights due diligence (HRDD) is an integral part of the UNGPs and is covered in NAPs across countries. HRDD helps companies identify and act upon actual and potential human rights risks, provide remedy for violations, and monitor, review, and report progress in this area. Conducting human rights due diligence also aligns with Principle 5 of the NGRBC. Less than half the respondents, 44%, conduct HRDD. Creating an effective grievance mechanism can be part of the HRDD process or done on its own. All except one respondent have a grievance redressal mechanism in place.

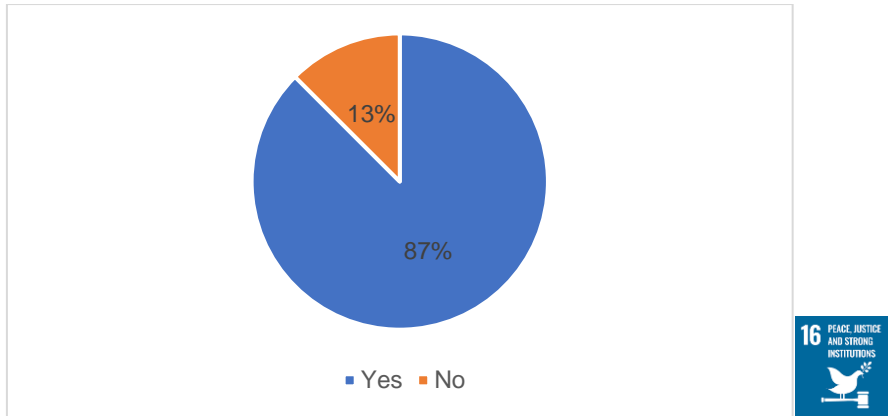


Figure 12: Existence of grievance redressal mechanism

The respondents have different channels to handle grievances, such as:

- Committee to register grievances
- Reporting to department head or human resource function
- Hot-line, Door of Courage - a dedicated e-mail id to report any compliance issue
- Defined committees and online tools.

Annexure 1: Japanese players in Key Sectors in India

Sector	Companies
Electronics and consumer appliances	Panasonic, Sony, Hitachi, Mitsubishi Electric, Toshiba Corporation, Fujikura, Canon Inc, Pioneer Corporation, Nikon Corporation, Casio, Fujitsu, Olympus, Fujifilm, Clarion, Sharp, Sanyo, Daikin Airconditioning, Akai, Sansui, Ricoh, Omron Corporation, Seiko, JVC, and Hoya Corporation
Automobiles, auto-components	Maruti Suzuki, Toyota, Honda, Nissan, Yamaha, Kawasaki Motors, Mitsubishi, Bridgestone, and Isuzu Motors
Apparel	Fast Retailing Co. Ltd, which owns the Uniqlo brand, entered the Indian market in October 2019. Wacoal India, a joint venture with the Periwinkle Group, entered India in 2016 with 12 exclusive stores in five major cities: Mumbai, Delhi, Kolkata, Chennai, and Bengaluru. Muji, a lifestyle brand that includes apparel, entered the Indian market in 2016.
Finance services	Max Life Insurance, Cholamandalam MS General Insurance, Reliance Nippon Life Insurance, IFFCO Tokio General Insurance, Edelweiss Tokio Life Insurance Company, Universal Sompo General Insurance Co. Ltd, Bussan Auto Finance India, MUFG Bank, and Mizuho Bank

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Sasakawa Peace Foundation (SPF)

The Sasakawa Peace Foundation (SPF), established in 1986 through endowments from the Nippon Foundation and the Japan motorboat racing industry, has worked since its inception to advance international exchange and cooperation. The SPF leverages the unique freedom arising from its status as a private foundation to explore innovative solutions and approaches to address a wide range of issues facing the world today, in partnership with a diverse community of both domestic and international collaborators. Please read the annual report (https://www.spf.org/en/global-image/units/upfiles/163062-1-20211217100523_b61bbe2533e41f.pdf) for more details.

CII-ITC Centre of Excellence for Sustainable Development



The CII-ITC Centre of Excellence for Sustainable Development (CESD) is a not-for-profit, industry-led institution that helps businesses become sustainable organisations. It is on a mission to catalyse innovative ideas and solutions in India and globally, to enable business, and its stakeholders, in sustainable value creation. The CESD leverages its role of all-inclusive ecosystem player, partnering industry, government, and civil society. It has been a pioneer of environment management systems, biodiversity mapping, sustainability reporting, integrated reporting, and social and natural capital valuation in India, thus upgrading business in India to sustainable competitiveness.

The CESD operates across the country and in parts of South and South East Asia, the Middle East, and Africa. It has institutional partnerships with, and membership of, the United Nations Global Compact, the Global Reporting Initiative, the International Integrated Reporting Council, the Carbon Disclosure Project, and development agencies in Canada, the USA, the UK, and Germany.

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