

Proposed List of Questions by JFBA to CESCR in connection with “the Reply from the Government of Japan to the List of Questions from CESCR Regarding the Consideration of the Third Periodic Report of the Government of Japan under articles 16 and 17 of the Covenant”

Japan Federation of Bar Associations

11 March, 2013

This is a list of proposed questions prepared by JFBA based on the reply from the Government of Japan furnished in response to the list of issues. This will be of use for the Committee members to make questions for the State party representatives during the dialogue with them at the forthcoming meeting of the Committee.

Article 2: Non-Discrimination

**Question 2**

1. The government reply indicates that increasing numbers of disabled people are now employed, and employment rate of disabled people rose from 1.8% to 2.0%. What is the status of achievement in regard to employment rate of disabled people by industry and the size of the company.
2. Please explain “the situation where disabled people, even when employed, receive pay below the legal minimum wage” for reasons connected to their disability. Additionally, please present measures for improving the current situation.
3. Those who are severely disabled are not treated as “workers”, even when they engage in certain amounts of light work, and are paid a distinctly lower “labour charge” which is way below the minimum wage. Please state the current status and measures to be taken in order to improve the situation.
4. The Basic Act for Disabled Persons has been amended as indicated in the Government reply. However, did it establish a system which has a legally binding force? Has the Government set up a mechanism or organization to monitor individual cases of discrimination against disabled people?

**Question 3**

Does the Government have a plan to change the interpretation of “descent” against the discrimination of Buraku? This is included in the definition of discrimination as

described in the Article 1 Clause 1 of International Convention on the Elimination of All Forms of Racial Discrimination following the recommendation from the Committee.

Article 3: Equality between Men and Women

**Overall Suggestions**

What is the state of progress with regard to collection and provision of information which is one of the priority policies in the Third Basic Plan for Gender Equality? Please report the state of progress including the issue of violence against women.

Article 6 Right to Work

**Question 8**

The number of families receiving public assistance is on the increase and, in particular, more and more families whose head of household is neither elderly nor disabled (Head of household being in the age group where they can work) are receiving public assistance. This encompasses 55,000 families in 2000, and 220,000 families in 2010, thus the numbers has grown considerably in recent years. (Research conducted by the National Institute of Population and Social Security Research). Is it not the case that there is no sufficient measure for unemployment?

**Question 9**

Fixed-term employment under five years of contract is not protected in the amended Labour Contract Act. Is there any measure against it? Is there not a danger that companies may slip through regulatory nets by setting a blank period within five years?

Article 7 Right to Just and Favourable Conditions of Work

**Question 11**

Are there not cases in which those who retire at the age of 60 may not continue to be employed even when they wish to? How can the livelihood of those over 60 years of age be secured under such circumstance?

**Question 14**

With the enactment of the “Partial Amendment of the National Pension Act etc. for Strengthening Financial Base and Supporting Minimum Pension for Public Pension System,” in August, 2012, 250,000 part-time workers are to be newly covered under the health plan of their company. However, there are 8,880,000 part-time workers according to the labour force survey conducted by Ministry of Internal Affairs and Communications in 2012. What is the reason that all part-time workers are not covered under such a health plan? What plans does the Government make to expand the coverage?

**Question 15**

The amount of benefit paid for elderly persons’ basic pension is lower than the benefit for public assistance. Does the State Party consider that basic pension is sufficient as a social security? It has been claimed that there is a move towards lowering public assistance. Should the State Party increase pension benefit in line with public assistance instead?

**Question 16**

1. Please indicate to what extent Act on the Prevention of Abuse of Elderly Persons and Support for Persons Giving Care to Elderly Persons, which came into effect in 2005, and Act on Social Welfare Service, which came into effect in 2008, have effectively promoted the prevention and the report of the elderly abuse.
2. Please present the measures that the local government take when they receive reports of elderly abuse, as well as presenting any past records of handling reports of elderly abuse at the local government.

Article 10 Right to Family, Mother and the Child

**Question 16**

1. Does the number of cases of abuse reported by welfare service workers reflect the actual situation? Is there a system in place to ensure that a person who reports cases of abuse within the institution will not be maltreated by the employer?
2. “Support for the carer” has been instituted in the law, but has there been effective implementation of the system?

**Question 17**

The number of cases for human trafficking was the lowest in 2010, and has been increasing since Action Plan has been instituted in 2009. Please indicate how the State Party examines the causes of the increase of human trafficking, and the effectiveness of the measures that the State Party has taken to eliminate human trafficking.

Article 11: Right to an Adequate Standard of Living

**Question 20**

1. Please indicate what considerations have been made with regard to the provisional housing for the victims of the Great East Japan Earthquake and Fukushima Daiichi Nuclear Power Plant Incident.
2. Please indicate what considerations have been made to help people put their lives back in order after these disasters.

**Question 21**

Please provide information on the extent of how much public rental housing has been supplied, and how much private rental housing has been promoted.

**Question 22**

Does the State Party have a plan to require the local government to submit report when they provide adequate alternative housing for people facing forced eviction, and/or when they secured housing through the use of public assistance? Please clearly state the reason why in such a case there is no reporting requirement.

Article 12: Right to Highest Attainable Standard of Physical and Mental Health

**Question 23****1. Prevention of Accidents****(1). Revisions for the Countermeasure against Nuclear Power Accidents**

Please indicate the measures to reflect the will of the local government authorities in the surrounding area (all municipalities within 80 km of the nuclear power plant) and will of the people living in the area when making a nuclear operator disaster plan.

**(2). Please provide information on the following points for the revision of safety**

regulation:

- I. Measures to exclude stakeholders from the members of Nuclear Regulatory Authority.
  - II. Measures to ensure the neutrality and impartiality of the officials of the Secretariat of Nuclear Regulatory Authority.
  - III. Policy on the application of special exemption concerning backfit (adapt existing nuclear power plant to the safety regulation defined in the new guideline)
- (3). Does the State Party have a concrete plan to move away from nuclear power?
- (4). Does the State Party have a plan to review its export policy on the nuclear power?

## 2. Right to Health

- (1). Please provide information on the following points with regard to the monitoring and disclosure of information about environmental radioactive contamination.
  - I. Presence or absence of continuous monitoring of the radioactive contamination by the government and its details
  - II. Disclosure of information to the victims regarding the change in the level of radioactive contamination in the mid to long-term, and its details
- (2). Health Checks and Health Management of the Public [related to Article 9, Article 12 Clause2(b) of the Covenant]

Please provide information on what considerations have been made with regard to the following points when conducting health checks and health management of the victims:

- I. As much as possible, target population should be surveyed face to face and interviewed in detail.
- II. Detrimental effects of radiation exposure should not be limited to cancer and leukemia, and no remarks should be overlooked.
- III. Thyroid gland tests should not be limited to ultrasound examinations, but blood and urine should also be tested.
- IV. For pregnant and nursing mothers, breast milk should be tested, and a follow-up study on new-born should be conducted.
- V. Appropriate comparative group should be selected.
- VI. The victims should be guaranteed to have medical checks and health management by several medical institutions.

- (3). Please provide information on the following points in regard to health checks and health management of workers who were engaged in radiation-exposed labour:
  - I. Specific measures to accurately and swiftly provide information to workers on the long-term risks of working in a radiation-exposed environment and security measures against exposure.
  - II. Health management of workers who were engaged in radiation-exposed labour, in particular, their long-term health management
  - III. Implementation of assistance measures such as free medical care and subsidiaries for the medical costs of those who were engaged in radiation-exposed labour
  - IV. Follow-up investigations for those who were engaged in radiation-exposed labour, yet have not been measured exposed dose, or those whose contact information is missing.
  - V. The establishment of criteria for industrial accident compensation for illness related to the radiation-exposed labour
- (4). Please provide information on the following points in regard to decontamination
  - I. Appropriate measures to prevent further pollution of the environment and countermeasures against exposure of workers.
  - II. Appropriate standards for decontamination service providers, and in particular, points such as the prevention of environmental contamination, occupational safety and health management of the workers, effectiveness and cost of decontamination, technical and economic capacity of the decontamination service providers.
  - III. Target levels of additional exposure dose as a long-term target to deal with the environmental contamination caused by radioactive substances released due to the nuclear power plant accident.
  - IV. Removal of the designation of the Special Decontamination Areas (Restricted Areas and Deliberate Evacuation Areas) after the decontamination of the area.
  - V. Numerical targets for additional exposure dose for children in their living area by the end of March, 2014, and plans for continuous monitoring and decontamination as needed.
  - VI. Appropriate testing and assessment of the capacity and performance of incineration facilities for radioactive waste.
- (5). By what standard and through what method will the designation of the Restricted Area and designated Evacuation area be lifted?

- (6). Please indicate the standard of, and method of compensation for those who evacuated voluntarily without direction from the Government.

#### **Question 24**

1. With regard to the receipt of the insurance premium in FY 2009, more than 20% of households were in arrears. This fact was reported according to the “Financial Situation regarding National Health Insurance (municipality) for the FY 2009,” (Ministry of Health, Labour and Welfare, 4 Feb, 2011). Please clearly indicate whether the Government’s measures contained in the Government’s reply have yielded swift and sufficient results to resolve such situations.
2. Please clearly state the reason in the case of Government’s measures not having yielded swift and sufficient results.

#### **Question 25**

1. “Survey on the Necessary Numbers of Doctors at the Hospital etc,” conducted by Ministry of Health, Labour and Welfare (Sept, 2010) reported an insufficient amount of doctors by 14%, with marked shortage of doctors in rural areas. Has the Government’s measures resulted in a significant improvement to resolve such situations?
2. Has there been a significant improvement in emergency and obstetric care where patients often face difficulties when receiving medical attention, and are turned away from one medical facility to another.

#### **Question 26**

1. The annual number of suicides in Japan has fallen below the 30,000 level for the first time in 15 years. Has the government examined whether the Government’s measures to reduce such rates were effective or not?
2. Does the Government consider the continued decline of suicide rates in the same way as Finland and France, through which such decline was met with success.

#### Article 13 & 14: Right to Education

#### **Overall Suggestions**

1. In relation to the Article 13 of the Covenant, the financial burden on the

household in private education in Japan is higher than international standards. According to the third periodic report by the Government, it is considered that students who receive education should bear a reasonable burden to cut the government expenditure. This is not the principle of the Covenant, and, in fact, is a setback for the realization of its principle. Since the State Party has withdrawn the reservation regarding Article 13, does the State Party intend to reduce the financial burden on the household in private education, and increase the public funding?

2. Tuition for the High School (upper secondary education) has been made free, yet the current government declares that they will set a certain limit for those who are able to receive tuition free of charge according to household income. Retrogressive measures of reducing the range of students who can receive tuition for free is against the paragraph 2 (c) of Article 13 (and Article 2), which sets forth the progressive introduction of free education. Does the State Party not consider that reducing the range of students who receive tuition for free at high school is against the principle of the Covenant?

#### **Question 28**

Does the State Party have a plan to provide same subsidies provided to school accredited as formal educational institutions set forth in Article 1 of Japan's School Education Law to Korean school, Chinese school, South Korean school, German school, as well as all international schools? Additionally, will a tax incentive programme be introduced in all schools?

#### Article 15: Cultural Rights

#### **Question 29**

What measures have been taken to ensure the right of Ainu people to receive education in their own language at schools and so forth?

#### Questions Related to Several Articles

#### **Relating to Article 3, 10 & 12**

1. Please reveal the current situations of violence against children who are exposed to domestic violence. What is the Government's understanding of the current situation?

2. Please reveal the current situations of violence committed under circumstances where children are exposed to violence, yet it is not committed against them. What is the Government's attempt to understand the situation?
3. Is there any suicide cases due to domestic violence included within any of those children?
4. What effect does domestic violence have on the living environment of children who have committed suicide?
5. Does the Government consider collecting data about children who are exposed to domestic violence? Please indicate the measures that the Government is going to take in regard to this.
6. Please clearly indicate what effect the survivors of domestic violence suffer in their occupational life.
7. What measures have been taken for the victims of domestic violence at the workplace of companies, local government and national government?
8. What is the state of progress with regard to the collection and provision of information which is one of the priority policies in the Third Basic Plan for Gender Equality? Please report the progress that has been made including the issue of violence against women.