

Resource of poverty, women, children and people with disability in Japan (Aug. 2019)

Report on the Initial Report of the State Party
by the Japanese Government
under the Convention on the Rights of Persons with Disabilities

- Information and Recommendations for the List of Issues -

Resource of Poverty, Women, Children and People with Disability in Japan

July 2019

Introduction

The Resource of Poverty, Women, Children and People with Disability in Japan (the RPWCDJ) is a new-born organization just established in July 2019 by a psychiatrist and a journalist. They have been working with close relations to people with vulnerability, including people with disability, and have been working with other CSOs and DPOs in Japan to eliminate human rights violations especially for people with poverty. In addition to that, they already have made effective reporting for the Special Rapporteurs, reporting for CEDAW in 2016 and speech in UPR review for Japan in 2017 (some of the achievements were as a former member of other DPO).

The mission of the RPWCDJ is to provide information about Japan over language barrier for people who are not Japanese speaker. Japan has a series of official data and reliable information source by lawyers and researchers, but most of them are unknown because of written only in Japanese. Not all of laws and few of operating rules of each law have official translation by the government in foreign language. The RPWCDJ will lower the language barrier and make it more and more visible situations among people with vulnerability in Japan to the international society.

One of two members of the RPWCDJ is person with physical and mental disability. This is the person who planned to establish this organization, and in an equal relationship with the other one, and working together on this submission.

<p>Resource of Poverty, Women, Children and People with Disability in Japan</p>

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Executive Summery

In this report, situations among people with disability in poverty, especially those who on the Public Assistance are sharply focused, which is never mentioned by the Government.

When the Public Assistance Act (1950 [1], rev. 2013 and 2018) was enforced in 1950, there was no social welfare for people with disability, no public medical insurance, no disability pension and other social welfare acts. In origin, this act was fated to receive every defects or absences of other social welfare and social security. For an example, in 1970s, a first social care was created in the Public Assistance, as an addition for wage of personal assistants. After the basic disability pension was created, it is still needed because the amount of pension is beneath the Public Assistance Standard. The standard is decided annually by the Minister of Health, Labour and Welfare to guarantee the right to maintain the minimum standards of wholesome and cultured living. It means that “Nothing with CRPD in Japan without budget growth on the Public Assistance”. However, the budget cut for the act in all aspects of human living since 2013, and 2 revisions of the act in 2013 and 2018, have been threatening the independent life of people with disability. For them, ratification of CRPD in 2014 seems to as same as nothing.

.Since 2013, the Japanese government has been continuing to deprive persons with disability on the Public Assistance of about all aspect of human rights, to independent living, right to medication, right to housing, right to health, right to family, right to education, and other all rights in CRPD. Most of these decisions are administrative, or for rules of practice. They don't need to revision of laws, so not have need to be reviewed in the Diet [2]. Urgent and strong pressures for the government by the CRPD Committee through this review is needed.

Article 4 – General obligations

Current Status

In the Initial Report of the State Party submitted by the Japanese Government under Article 35 of CRPD in June 2016, there is no regarding about paragraph 2 of Article 4, “With regard to economic, social and cultural rights, each State Party undertakes to take measures to the maximum of its available resources”. In addition, there is no mention about the Public Assistance.

Since 2014, no economic benefits for each person with disability or each household with person with disability has been increased. For the number of the Public Assistance and disability pensions recipients, the government has taken no measure to increase.

For the Public Assistance, the government is planning to reduce all additions. For additions for disability (the addition for disability (about 22630 to 26310 yens/month) and addition for severe disability (14580 yens/month)), there are high possibility to be reduced in 2023, the next revision for the Public Assistance Standard. The examination for the reduction will start in 2020, according to the precedent [3]. These additions have been compensating special expending because of disability though the amount is not enough. These additions have been expended for meals when going out with care helpers, for rent for housing with enough floor space for wheelchair and care helper. For housing, the upper limit of housing assistance for a single person who uses wheelchair is 69800 yens in Tokyo city area, but under this condition, there are dilapidated or small rental housings in inconvenient area. Persons with disability on the Public Assistance have been forced to pay difference between rent and the upper limit from the additions for disability. If the additions will be cut, persons with disability will have to pay these expending from their livelihood assistance as same amount as person without disability.

These situations are already violating paragraph 2 of Article 4, and the government may promote these violations.

Proposals for LOIs

- Does the Government have any plans after 2020 about the Public Assistance Act, especially for persons with disability?
- How are the effect of reduction of the Public Assistance Standard in 2013 and 2018 for livelihood assistance, in 2015 for housing assistance, and revisions of the act in 2013 and 2018?

Article 8 – Awareness-raising

Current Status

According to the Initial Report of the State Party, about Article 8 of CRPD, the government have been promoting awareness of the public. However, once a serious crime occurs, and the police found that the criminal suspect may have mental disability or mental disease, media tend to start reporting according to information by police without consideration about possibility of human rights violation. The public may easily consider with these media reports the disability or the disease as the cause of the crime, increase prejudices, and consider persons with disability as targets of monitoring and control.

Only in 2019, 2 major consequences are progressing now. In May, after a knife attack for elementary school children in Kanagawa Prefecture [4], the suspect (killed himself after the murder) have been reported with possibility of his mental illness. In July, after the arson for Kyoto Animation just before one week of this submission, many media are reporting about the suspect's mental illness [5] and receiving of the Public Assistance with relations to

this crime. The government has never raised awareness of Japanese media to prevent to increase prejudices for person with mental disability. These situations are violating all part of Article 8, especially for paragraph 2-c.

Proposals for LOIs

- Does the Government have any plans to encourage all organs of the media to portray persons with disabilities in a manner consistent with the purpose of the present Convention?
- Does the Government have any plans to control disclosure of information by the police, especially about individual information of persons with mental disability?

Article 10 – Right to life

Current Status

In paragraph 67 of the Initial Report of the State Party, the Government mentioned about Article 13 of the Constitution of Japan about right to life, liberty, and the pursuit of happiness, without mentioning about Article 25 about right to life. The Article 25 is a basis of the Public Assistance Act.

In 2015, the Government started to reduce the addition for winter season of the Public Assistance. The possibility was cautioned that to cause health damages and death because of low temperature especially in the north of Japan. In addition, there has been no addition in summer season though Japan has areas in subtropical climate. The Government hasn't produced survey on damage for health and life caused by poor living environment under these budget reductions.

There is at least one death because of air-conditioning loss. In July 2018, a female welfare recipient with mental disability was found dead of heat stroke in one of the coldest

areas in the North Japan. In her housing, there was a built-in air conditioner, but she couldn't use. The electricity was cut off because she couldn't pay the bill.

These situations are violating Article 10 and Article 25 of CRPD, also totally against the general assembly "Report of the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health" on 12 April 2019(A/HRC/41/34).

Proposals for LOIs

- What is meaning of the right to life for persons with disability on the Public Assistance, and does it have equal meaning for these persons and the other persons?
- Does the Government have any plan to survey on effect of living environment change after reduction for the addition for winter season in the Public Assistance was reduced?
- Does the Government have any plan to survey on damage for health and life because of low and high temperature for households on the Public Assistance, especially for households with persons with disabilities?

Article 12 – Equal recognition before the law

Current Status

In the paragraph 75-80 of the Initial Report of the State Party, consideration about the adult guardian system are mentioned, though the guardianship itself is violating Article 12 of CRPD.

On revision of the Public Assistance Act and related acts in 2018, institutionalization for persons on the Public Assistance in poor facility called "poverty business", including persons with disability, was legalized. These facilities provide poor and dangerous living environment, poor meals and control for persons on the Public Assistance. More than half of

residents in those facilities, including facilities of “poverty business”, are considered as persons with mental, intellectual and developmental disabilities [6] [7], and it is often difficult to find reasonable housing. The “poverty business” facilities receive large part of (up to 80-90 %) their welfare payment as “rent”, “food”, “management” or other nominal terms.

The Government released a draft of ministerial order about these acts in June 2019. In the draft, no effective measure to prevent human rights violations and exploitation. In addition, the draft has possibility to devastate small social actions with respect for human rights like “housing first” for homelessness.

The largest problem of the draft is financial management for the persons by these facilities under agreement. In the adult guardianship, lawyers, medical doctors, and other outside professionals can prevent abuse under decision of courts. Under this draft, “poverty business” facilities can manage welfare payment for residents, easier than the adult guardianship, without effective monitoring.

These situations are violating all part of Article 12 of CRPD, especially paragraph 5. They also violating Article 14, Article 16, Article 17, Article 19, and Article 22 of CRPD. In addition, it is totally against the general assembly “Report of the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health” on 12 April 2019(A/HRC/41/34).

Proposals for LOIs

- Is the Government willing to recognize that persons with disabilities on the Public Assistance have a right to enjoy legal capacity on an equal basis with others in all aspects of life?
- Does the Government have any plan to eliminate all kind of institutionalization for person with disability, especially for these persons on Public Assistance?

- Does the Government have any plan to encourage small social actions for these persons and their housing with respect for human rights?
- Is the Government willing to ensure the right to manage their own welfare payment, for persons with disabilities on Public Assistance?
- Is the Government willing to protect these persons from exploitations?

Article 23 – Respect for home and the family

Current Status

Although there no mention in the Initial Report of the State Party, since 2013, the Public Assistance Standard (= the amount of welfare payment) have been decreasing. The major reductions are for Livelihood assistance (2013 and 2018), addition for the winter season on heating (2015), housing (2015), medication (2013 and 2018), addition for childcare (2018), and addition for single parent (2018) [3] [8]. It is not allowed to receive simultaneously the addition for disability and the addition for single parent households. It means for a parent with disability is not allowed to be a single parent.

These situations are violating paragraph 1 and 3 in Article 23. In addition, Article 6 and 7 in CRPD, and UN Convention on the Rights of the Children are violated.

Proposals for LOIs

- Does the Government recognize that all children, including children in households on the Public Assistance, have right to live with their family decently?
- Is the Government willing to ensure the equal right of single parents with disabilities on Public Assistance, as single parents by addition for single parents, and as persons with disability by addition for disability?

Article 24 - Education

Current Status

In the Initial Report of the State Party, there are no description about education for children nor young persons with disability in households on the Public Assistance.

These children and young persons don't have right to receive educations after high school graduation, because the enforcement rule of the law does not allow. Before high school graduation, the opportunities are already limited.

In 2014, a female high school student was forfeited her scholarship by the local government. She was living with her single mother on the Public Assistance, and both have mental and developmental disability. She made many efforts while she was in junior high school to achieve scholarship, but just after she attended to high school, she lost her result of her effort. They struggled through administrative review and lawsuit, to ensure no one will have the same experience, and won totally [8] [9] [10]. But the student received damages from the treatment by the local government. At last, she was forced to abandon her plan to attend a university and to build career.

In 2017, one another single mother household on the Public Assistance faced another difficult situation. The son has developmental disability, and the mother has mental disability. The son desired to attend professional school to develop his talent after his graduation from high school. He realized his dream with support by the mother. But under the public assistance, it was not allowed. While he was in the school, this household survived on welfare payment for one person, the mother. The reason was that he should work after high school graduation. In this case, the son did not have ability to work. After administrative review, in 2018. his right to live on the Public Assistance was confirmed, whether he was in higher education or not.

These situations are violating Article 24.

Proposals for LOIs

- Does the Government recognize the right of persons with disabilities to inclusive education without exclusion because of poverty and welfare status, at all levels for every stage of their life?
- Is the Government willing to ensure the equal right to education on the basis of equal opportunity for person without disability and person with disability, for persons on the Public Assistance and other persons?

Article 25 - Health

Current Status

Although there is no mention in the Initial Report of the State Party, on revision for the Public Assistance Act in 2013, it was prescribed to prioritize for generic drugs in article 34. This was the first time that the term “generic drugs” appeared in all laws in Japan. Then, on revision in 2018, it was prescribed the principle to use generic drugs [9].

This is medical discrimination for persons on the Public Assistance, and persons with disability. Because of deprivation of opportunities in all aspects, persons with disability have higher possibility to be poverty and higher needs for the Public Assistance.

These situations are violating Article 25.

Proposals for LOIs

- Does the Government recognize the responsibility to provide persons with disabilities with the same range, quality and standard of free or affordable health care and programmes as provided to other persons, including prescription of medical drugs?

- Is the Government willing to consider the description about generic drugs in article 34 of the Public Assistance act as medical discrimination?

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