

Resource of poverty, women, children and people with disability in Japan (July 2022)

**Parallel Report for the Concluding Observations
under the Convention on the Rights of Persons with Disabilities**

- Regarding the Replies of Japan to the list of issues in relation to its initial report -

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

July 2022

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Introduction

The Resource of Poverty, Women, Children and People with Disability in Japan (RPWCDJ) is an organization which founded by a journalist with disabilities and a psychiatrist without disabilities in 2019. Each of the members has been working as various professionals with close relations to people with vulnerability, including people with disability, especially for people with poverty. In addition to that, the members already have made effective reporting for the Special Rapporteurs, reporting for CEDAW in 2016 and speech in UPR review for Japan in 2017 as individuals or a former member of a DPO which no longer exists.

Japan has structured domestic laws, official records and data, though not all of them have official translation into other languages. The first mission of RPWCDJ is to lower the language barrier and make them more accessible for persons those who are hard to read written Japanese.

The director of RPWCDJ is a journalist with physical and psycho-social disability, who is also one of the co-founders. The members with or without disabilities have been working together in equal relationship.

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Executive Summary

In this parallel report, we focus to situations about the Public Assistance and the recipients with disabilities. We are grateful to the committee and the list of issues (LOI, CRPD/C/JPN/Q/1) and kind attention for our previous report for the list of issues (INT_CRPD_ICO_JPN_35627_E.pdf), especially about the article 28. In the issue 28(b), the committee asked the government to provide information whether social protection and support service ensure the adequate standard of living. Though, the replies to this issue by Japanese government, the paragraphs 140-143 in the Replies of Japan to the list of issues in relation to its initial report (CRPD/C/JPN/RQ/1) are not enough description, especially on the amount of welfare benefits. The replies to the issue 28(a) and 28(c) are also insufficient to the issues.

Legal background

In the Public Assistance Act (1950 [1], rev. 2013 and 2018), the national responsibility has been clarified to guarantee “the right to maintain the minimum standards of wholesome and cultured living” in Article 25 in the Japanese Constitution in 1947. Though, in the revisions in 2013 and 2018, transformation from national responsibility to self-responsibility have been progressing. In the purpose, a number of revisions for each article were proposed. Some of them were not realized actually through registration process, however, the basis of self-responsibility had been introduced into some articles. We describe this transformation with three examples.

1. In 2013, it was planned to transform application procedure to the public assistance to require particular legal action. The plan was de facto refusal to application for persons with intellectual disability, persons with insufficient cognitivity, or persons without

enough education. With the consideration of the fact that children with disability were not guaranteed the right to mandatory education before 1979, this transformation might make a large part of adults with disability not to be able to apply. Eventually, though this transformation plan was partially disabled, still remained as one of potentially barrier for persons with disability.

2. In the revision in 2013, generic drugs were prioritized in medication for the recipients of the public assistance. It was the first “generic drugs” in Japanese laws. In the revision in 2018, it was reinforced from “prioritize” to “principle”. We concern about restriction in medication for recipients in near future.
3. Through the revisions, duties of the recipients have been reinforced. In the other words, the public assistance has been transforming from the right to life to “workfare”.

In addition, institutionalization was legalized in unclear form. In Japan, there was accommodation facilities called “poverty business (貧困ビジネス)” which provide poor housing facilities for public assistance recipients since 2000’s. The largest problem is exploitation. The business owners take the most of livelihood assistance payment in many reasons and all of housing assistance payment from the residents, instead of poor meals and poor housing without privacy. Though some of supporters for independent living of people with disabilities insisted to this revision, those style of institutionalization was legalized in the Social Welfare Act in 2018. Amid pandemic of Covid-19, some support organizations heard about group infections by some former residents who escaped from those facilities [2], but there is no official survey report.

At this time, additional drastic social security reforming has been discussed in many committees in MHLW. The revisions in many acts in 2023, includes the Public Assistance Act, are planned by the government [3].

Consequences about the mount of benefits

Since 2013, amount of benefits have been decreased again and again, The Liberal Democratic Party (LDP) wrote “we decrease the public assistance payment by 10 %” in policy promise in 2012 before election, and they won. They also said that they were considering “popular emotion”, malice and discrimination against the public assistance recipients. In the beginning of 2013, the Minister of Health, Labour and Welfare (MHLW) presented the reduction plan with explanation. They originally calculated the consumer price index for the public assistance recipients besides the formal consumer price index by the other minister, and they concluded that the benefits should be reduced by 6.5%. But a journalist who were specialized in economics found the disguised calculation. He, Mr. Yasuhiko Shirai, uncovered the reality of the calculation in collaboration with lawmakers and scholars in about one year [4]. In the same timeframe, about 1,000 recipients started a class action suit in 29 prefectures. At the end of June 2022, 11 local court decision was made. In 3 decisions, the government lost because of the disguised calculation, but it was not finalized [5].

An expert committee in the MHLW has been discussing about the adequate amount of benefit since 2012. Though the members of the committee have been conscientious scholars and they have been carefully examining the benefit amount for each household and impacts by previous reduction, the government read the unwritten messages which show necessarily of reduction. In addition to the reduction in livelihood assistance (2013 and 2018), addition for winter seasons(2015), housing assistance (2015), the third reduction for livelihood assistance has being discussed at this moment in another reason, to correct disparities between urban and rural [6].

Trends in the amount of benefits since 2013

According to the calculation by Dr. Keita Sakurai, a scholar who have been studying social security and a former social worker in a local government, especially large amount of benefit reduction is shown in urban area. For example, for households on the public assistance in Tokyo city area, from 2012 to 2020, the livelihood assistance was reduced by 6.7 % (single person (50 years old) households) and 10.9 % (households with two adults and two children). The amounts of the monthly livelihood assistance benefits in 2020 for each household was 76,160 yens and 196,010 yens [7]. The maximum amounts of the housing assistance benefits for each household were 53,700 yens and 69,800 yens. In this report, we don't show the details in calculation, but the yearly sums of livelihood assistance and housing assistance are above poverty line. Though, no savings is one of requirements to be a recipient to the public assistance. Actually, in about all areas in Japan, maximum amounts of the housing assistance are not enough to rent housings. It means that the actual living assistances amounts are lower than the nominal ones. In addition, increase in consumer price since 2020, consumption tax rise in 2019 and insufficient coverage for households on the public assistance have been hitting all households in poverty, includes households on public assistance or other welfare.

For households with persons with disabilities on public assistance, the impacts of those situations are more serious than other households. Though there has been addition for needs for persons with disabilities (about 15,000 yens to 27,000 yens per person), before the reduction for the public assistance benefits reductions and consumer price rising, the addition used to cover the rents for housings and transportation which are enough for wheelchairs

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and/or care workers. Extreme and unusual heat, cold, rains, and heavy snowing in these years according to the global climate change, have been making the situation worse. Though, the real status is unknown.

Restriction for Higher Education

There are many unreasonable restrictions in the public assistance. In this report, we describe the restriction for higher education, and describe about other restrictions in the suggested recommendations.

Because the public assistance ensures the “minimum” standard of adequate living, higher education after secondary education is restricted for person on the public assistance. Many young persons have to attend higher education institutes with large amount of student loans and tough jobs, or have to give up their hope on poor but stable daily life on the public assistance.

For children and youths who escaped from abuse, this is a hard burden. They often have physical illness or psycho-social disability because of continuous abuse for long term. Once they succeed to make resident registration apart from the abusive families, the public assistance can help them to provide housing, living costs, and medication though the amounts are not enough. But instead of that, they have to give up receiving higher education though the higher education rate already reached over 80 %.

This restriction might be removing opportunities from persons with various vulnerabilities, includes persons with disabilities. Though, for only abused children and youths, the real situations are not clear [8].

Exclusion for foreign people

The Public Assistance is basically limited for persons with Japanese citizenship. For foreign people with quite limited residence status can apply of foreign people can apply be recipients. In 2021, a Ghanaian who was working in Japan lost his residence status which could make him work, because of kidney failure. He could receive another residence status to medication, without allowance to work. He applied for the Public Assistance but was refused because of the residence status. He started a lawsuit with support of Japanese lawyers [9], but lost in the local court decision in 2022, and lawsuit is in the second court now. In this case, the current Public Assistance became a reason to deprive live from someone without Japanese citizenship.

In addition, because of difficulties to receive the refugee qualification, thousands of unqualified refugees under temporary release are in extreme poverty. They cannot register as a resident. It means that they cannot work, receive job income, apply for the Public Assistance, and enroll public health insurance. According to Dr. Yuma Osawa, who have been supporting foreigners in poverty as a social worker, there should be many foreigners with severe illness and disabilities without any public support [10].

Conclusion of the Executive Summery

We consider the insufficient public assistance benefit amount for all types of households is most urgent and important issue, because living cost is rising because of Covid-19 since 2020 and war in Ukraine since Feb. 2022. The benefit amounts for each household are the upper limit to become a recipient., so to rise the benefit amount means to ease the application. At the same time, many unreasonable restrictions should be removed.

Urgent and strong pressures for the government by the CRPD Committee through this review is needed.

Proposed Recommendations

In this section, at first, we describe the proposed recommendations for the Article 28, because it is the basis of the economic life for all. After that, we describe the proposed recommendations for other articles.

Article 28 – Adequate standard of living and social protection

Current Status

The current status of the Public Assistance is not ensuring the adequate standard of living and social protection. Not only the insufficient benefit amount itself, but many structured discriminations and unreasonable restrictions are included. The government has been making effort to increase opportunities for persons with disabilities to work and to gain job income. Though, labor market and economic climate are instable. It is clear that to ensure the right to work is not enough, and it will not be income security. The situations since 2020 shows this reality. At this time, the government should expand the social security and increase the benefit amount. However, the government seems to shrink to the opportunity to live by decreasing the level of “standard” [11].

These situations already violated Article 28 and had led to other violations in 2019. In 2022, the violations have never solved, and the intensity of violations seems to be increased, by lowering the Public Assistance Standard and revision plans for laws. The government also should recognize the adverse impact might be more severe for persons with disabilities, because of underestimating of needs by disabilities.

Proposals for Recommendations

(a) To eliminate institutionalizations in any reasons, includes “daily life support” in the Social Welfare Act, the government should clarify the numbers of accommodation facilities for the Public Assistance recipients and situations about the residents. The government also should clarify the situations about infections among those facilities. As soon as possible, the government should plan to eliminate that kind of institutionalization.

(b) About the Public Assistance Standard (= benefit amount), the government should suspend current plans to revise for the Public Assistance Standard itself and revision plans for related laws. Regarding the local court decisions in 2021 and 2022 on the lawsuits against the reduction for the benefit amount in 2013, the government should recover the Public Assistance Standard to at least the amount in the beginning of 2013. The government also should secure that all of conventions of income, job income, pensions, the Public Assistance benefits, and other benefits can provide adequate living for all persons with disabilities to remove every inconvenience by application and every procedure.

(c) The government should reform its social security, especially the Public Assistance that ensure the right to adequate living in fact, without additional discriminations. The application procedures should be simplified, and the stigma should be removed. For persons with intellectual or psychosocial disabilities, enough advocate should be provided every time they need.

Article 8 – Awareness-raising

Current Status

In December 2021, an arson in a mental clinic in Osaka prefecture by a patient with mental illness killed about 27 persons, other patients, staffs, a psychiatrist, and the person who made the arson attack [12]. Later, the person’s background was revealed. He was in

poverty and alone at that time. He had planned to apply for the Public Assistance twice, but he had never been a recipient. After the arson, discrimination against patients of mental clinics raised, but the government did not take efficient measure. At that time, the police released information carefully to avoid discrimination, and many media made efforts to cover and report with careful attitude to do not produce same crimes and additional discrimination. Though still far from enough, in comparison with the arson in 2019 in a studio of Kyoto Animation by a public assistance recipient with psycho-social disability which killed 36 persons, police and some of media worked in their better way to respect human rights with suspect and victims with psycho-social disability. Also, it is clear that measures by the government to raise awareness and mental health for all were not insufficient. These situations are violating all part of Article 8.

Proposals for Recommendation

- The government should encourage people with difficulties or poverty to apply for public support and benefits, with enough supply of resources, to free people with disabilities from heavier difficulty, poverty, and discriminations.

Article 10, 12,25 – Right to life, Equal recognition before the law, Health

Current Status

For eligible people in current Public Assistance, opportunity for medication has been degraded since 2013 about generic drugs. We are concerned with that as the beginning of future exclusion for the Public Assistance recipients of standard medication. For foreigners without eligibility and refugees without status recognition, the situations are neglects or slow murdering because of nationality.

These situations are violating Article 10, 12 and general concepts of CRPD. Also, they totally violating 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 Recommendations

- The government should recognize that there is no room for discrimination against people with disabilities, despite of the status for social security, nationality, or residence status, especially about the right to live.
- The government should eliminate the unreasonable restriction about medication for the Public Assistance recipients, including the recipients with disability.
- The government should stop discrimination and exclusion from the Public Assistance against foreign residents and refugees without recognition, especially those who with disabilities, in the basis of equal recognition on the right to live.

Article 24 - Education

Current Status

In 2022, restriction to education after secondary education for family members of households on the Public Assistance is still effective. Similar restriction to high school education was eliminated in 1970, because of the attendance rate to high schools became over 80 %. This rate show that high school education became one of commodities. In 2010s, the attendance rate to higher education became over 80 %, but the elimination for the restriction with the same reason is still not realized. It is unreasonable deprivation of opportunities from children and youths in poverty, especially in poverty related to disabilities.

For children and youths who experienced abuse, they already lost some of the opportunities to live, to grow up, and to learn in family life. After they succeed to escape from the abusive family with various disability, they have to choose to live on the Public Assistance without higher education or higher education without support to live.

These situations are violating Article 24.

Proposals for Recommendation

- The Government should recognize 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. The restriction for higher education should be eliminated immediately.

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