

MISSION PERMANENTE DU JAPON
AUPRÈS DES ORGANISATIONS INTERNATIONALES
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The Permanent Mission of Japan to the United Nations and Other International Organizations in Geneva presents its compliments to the United Nations Office of the High Commissioner for Human Rights and has the honour to transmit herewith the follow-up responses of the Government of Japan to the questions from the Human Rights Committee submitted during the 111th Session of the Covenant on Civil and Political Rights, in July 2014, in Geneva.

The Government of Japan shares and supports the view of the Chairperson of the Human Rights Committee that the consideration of the report deserves an appropriate environment. The Government of Japan wishes to express its commitment to continue to engage in a constructive dialogue with the Committee.

The Permanent Mission of Japan to the United Nations and Other International Organizations in Geneva avails itself of this opportunity to renew to the United Nations Office of the High Commissioner for Human Rights the assurances of its highest consideration.

Geneva, 18 July 2014

Enclosure mentioned



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The Government of Japan is pleased to submit additional information related to the questions from the 111th Session of the Human Rights Committee.

Q1. How does the Act on the Protection of Specially Designated Secrets modify Japan' s existing laws?

1. The Act on the Protection of Specially Designated Secrets (herein referred to as SDS) does not change any existing laws in terms of the right of citizens to know for the following reasons.
2. First, this act does not expand the scope of existing state secrets. It is among the category of secrets under the National Public Service Act referred to as "secrets acquired through official functions" and only highly confidential information concerning national security shall be designated as SDS. This act sets out clear and strict rules for the designation and handling of such information which is particularly necessary to be kept secret for national security reasons.
3. Second, as already mentioned in reply to the question from Ms. Seibert-Four, the Public Records and Archives Management Act¹ and Information Disclosure Act shall apply to administrative documents that record SDS. The documents containing SDS shall be, in the same manner as other official documents, handled in accordance with the disclosure rules defined by these two basic laws pertaining to the right of citizens to know.

Q2. What were the inconveniences that required the legislation of this Act?

¹ The Public Records and Archives Management Act prescribes that administrative document files and administrative documents, when they fall under Historical Public Records and Archives, shall be transferred to the National Archives of Japan, etc.

4. The security environment surrounding Japan is becoming ever more severe. This has been demonstrated by events such as the hostage crisis in Algeria in January 2013 where 10 Japanese nationals were killed. In order to secure the safety of Japan and its citizens in such a situation, it is necessary to promote the exchange of highly confidential information concerning national security with relevant countries and within the government. Many of Japan's partner countries have long been enforcing laws on the protection of state secrets.
5. In Japan, in contrast, the only legal provision on national security secrets, except in the area of defense, has been the general duty of confidentiality of civil servants under the National Public Service Act that simply stipulates that "civil servants shall not leak secrets acquired through official functions." The chapter containing this Article 100.1 is on civil servants' discipline, that provides for obligations such as to serve the public interest and obey laws, and its primary objective is not the protection of secrets. There has been no general law on the management of secrets providing for protective measures on secrets and security clearance procedures, for example.
6. It should also be recalled that the maximum penalty against Article 100.1 is imprisonment for 1 year. This is significantly less severe than in laws on national security in many other countries. It is also different from rules on commercial secrets in Japan, as unlawful disclosure of commercial information can be punished by imprisonment up to 10 years according to the Unfair Competition Act. The situation has been that, even if there is a leak of sensitive information on national security that may affect the lives of citizens, it will only be penalized with imprisonment up to 1 year, whereas unlawful disclosure of commercial secrets can be punished by imprisonment up to 10 years.
7. For the sake of exchanges of highly confidential information with relevant other countries, it has been necessary to legislate a general law regarding rules to protect information related to national security and thus enhance the reliability of protection of such information in Japan. The legislation of this Act responds to such an objective.

8. It should also be reiterated that this Act introduces clear legal rules on the protection of SDS, strictly defining the conditions for designating information as SDS, and establishing a multi-layered structure to prevent arbitrary implementation by the government through the oversight mechanism involving the Diet and the Council of non-governmental experts. This Act is expected to strengthen objectivity and transparency when handling confidential information within the government, compared with the current legal framework on state secrets.

Q3. According to the information from an NGO, there is a survey conducted by a news agency, which says that 58% of adults answered that corporal punishment is necessary and that 65% inflicted corporal punishment.

9. We recognize that there are several surveys on corporal punishment, although we are not aware of which survey the committee is referencing.

10. However, concerning corporal punishment in the home, the Child Abuse Prevention Law provides that one must not subject a child to abuse. Therefore, Corporal punishment in the home recognized as child abuse is definitely prohibited.

11. The School Education Law clearly prohibits corporal punishment at school. We believe that not only is the affirmation of corporal punishment by adults incorrect thinking, but also that it will foster corporal punishment at school. Unfortunately, there have been cases of corporal punishment at school, but boards of education, which are the agencies responsible for appointing teachers, have taken strict disciplinary action against the offenders in such cases based on the objective facts. We will investigate efforts thus far to ensure that such punishment has not been overlooked due to strict teaching or acceptance by parents. We will also continue our efforts to ensure more people have a correct understanding of the prohibition of corporal punishment.

12. Article 822 of the Civil Code stipulates that a person who exercises parental authority may “discipline” a child to the extent necessary. The term “discipline” does not include “corporal punishment”, the way and extent of which goes beyond the socially-accepted norm. Therefore, Article 822 of the Civil Code does not permit “corporal punishment” .

13. Based on this, we would like to stress that the Japanese government takes a clear and strict view on corporal punishment.

Q4. Since the criteria for designation as a high school with “appropriate school management in accordance with regulations” is not clear to us, could you explain them in more detail?

14. The High School Tuition Support Fund is a mechanism by which high schools receive support funds on behalf of their students and then cover their tuition with those funds. Accordingly, high schools are required to have in place a system that will appropriately manage these tuition support funds.

15. To ensure this, Article 13, which stipulates the regulations regarding the criteria for designation, requires that appropriate school management must be carried out in accordance with the relevant regulations; specifically, schools are required to strictly observe all relevant regulations stipulated in the Basic Act on Education, the School Education Law, the Private School Law, etc.

[Designated criteria for designation]

Article 13 - In addition to regulations specified in the preceding Article, designated educational institutions must carry out appropriate school management in accordance with regulations, including ensuring that funds provided through the High School Tuition Support Fund are appropriated to cover equivalent tuition costs.

Q5. It has been pointed out that students of Korean schools are being discriminated against.

16. In regards to the application of the High School Tuition Support Fund system to Korean schools (chosen-gakko/choson-hakkyo in Japanese), as a result of an examination to determine whether Korean schools satisfy the requirements for eligibility into the system, it became clear that Korean schools have a close relationship with Chongryon (Chosen Soren in Japanese), an organization that is understood to have close relations with North Korea, and that these schools are under the influence of Chongryon in regards to educational content, personnel affairs, and finance. Since we were unable to obtain adequate evidence that these schools were not under "inappropriate management," which is proscribed by Article 16, Clause 1 of the Basic Act on Education, and were unable to confirm that these schools conform with one of the criteria for designation, "proper school management based on laws and regulations," they could not be designated for eligibility into the High School Tuition Support Fund System.

[Clause 1, Article 16, Basic Act on Education]

Education shall not be subject to improper control and shall be carried out in accordance with this and other acts; education administration shall be carried out in a fair and proper manner through appropriate role sharing and cooperation between the national and local governments.

17. Should a Korean school obtain the approval of the relevant prefectural governor and become a high school conforming with the requirements stipulated in Article 1 of the School Education Act, or should Japan's diplomatic relations with North Korea be restored, the eligibility of Korean schools (choren-gakko/choson-hakkyo in Japanese) for entry into the current High School Tuition Fund System will be reexamined. At present, many Korean and South Korean residents of Japan are studying in high schools recognized under Article 1 of the School Education Act or in schools for foreign nationals that are already covered by the High School Tuition Fund System, and, in these cases, these students are

receiving support through the program. Therefore, Korean Schools (chosen-gakko/choson-hakkyo in Japanese) are not subjected to discrimination based on nationality.

Q6. In regards to the Fukushima Daiichi Nuclear Power Plant accident, with restrictions being planned to be lifted on evacuation ordered zones despite the continuing high level of contamination, will residents stop receiving compensation from the Committee? In such a case, will residents be compelled to return?

18. In regards to damages incurred by the accidents at the nuclear power plant, all damages for which a causal relationship between the accident and the damages have been recognized will be compensated by Tokyo Electric Power Co. in accordance with the Act on Compensation for Nuclear Damages.

19. In order to provide compensation promptly, fairly, and appropriately to the disaster victims, MEXT has formulated benchmark standards as sequential guidelines for damage compensation regarding matters for which the items and scope of damages can be categorized and for which compensation should be uniformly provided can be shown by the Dispute Reconciliation Committee for Nuclear Damage Compensation. Tokyo Power Co. is providing compensation in line with these standards.

20. In regards to the "reasonable period" during which compensation should be continued for mental anguish incurred after the lifting of the evacuation orders and for evacuation expenses, which is taken up in the Fourth Supplement to the Interim Guidelines issued by the Dispute Reconciliation Committee for Nuclear Damage Compensation in December last year, a period of one year has been set as the benchmark standard, with the assumption that the conditions for the lifting of the evacuation orders, which is decided by the Nuclear Emergency Response Headquarters, have been fulfilled, including the general restoration of infrastructure necessary for daily life and of daily life-related

services, and sufficient consultation with residents.

21. In regards to compensation after one year has passed after the lifting of the evacuation orders, the Fourth Supplement to the Interim Guidelines stipulates that the continuation of compensation in cases with special circumstances, such as to persons requiring constant medical or nursing care, or in consideration of the medical care and welfare system in the area, should be determined flexibly.
22. Concerning compensation for damages to businesses and incapacity to work, it will be reasonable to provide compensation up until the date when the business operator or person is able to resume his/her previous or equivalent business activity. In the case that damages continue or occur because of the return home after the termination of evacuation orders, such damages should also be subject to compensation.

[About special circumstances]

- Medical care and the welfare system in the area should be considered for persons requiring constant medical or nursing care.
- Status of the recovery of schools should be considered for students that attend.
- For residents whose houses require repair prior to returning, actual periods needed for repair and other construction work as well as supply and demand conditions for construction work and other services, etc., such as for the selection of contractors, should be considered.

23. The evacuation orders are compelling regimens that restrict residents' freedom to choose and change their residence, including those who hope to return their homes.

24. Lifting the evacuation orders enables the residents to return their homes, resolving this constraint. While on the other hand, it goes without saying that the decision as to whether he or she returns is up to the individual. Lifting the orders does not compel residents to

return.

25. On lifting the orders, one of the basic conditions is that it must be made sure the annual cumulative dose is 20mSv/y or less.
26. This criterion is decided based on scientific expertise of international organizations such as the ICRP, and is sufficiently low compared to that of other carcinogens. Aiming at further decontamination from now on, this criterion is seen to be appropriate as the starting line, as it is low enough for residents to avoid medical/health risks, with radiation protections such as food administration, decontamination of the living environment, and so on.
27. It is also one of the basic conditions that decontamination is being expedited sufficiently, particularly in children's living environments.
28. Aiming to limit residents' individual doses below 1mSv per year or less in the long run, the government will, even after lifting the orders, continue to implement measures to reduce residents' dose levels and ensure their health as much as possible, in response to residents' concerns about radiation's effects on their health.
29. The Government of Japan is appropriately supporting both those who return their homes and those do not. For instance, compensation is being paid for psychological damages, property damages, evacuation expenses, occupational disabilities, suspensions of business, and so on. In a model case of the Dispute Reconciliation Committee for Nuclear Damage Compensation, a house hold located in the area where the evacuation order has been lifted three years after the accident is set to receive 586,500 USD, and another located in Area 3 (the area where it is expected that the residents will have difficulties to return for a long time) is set to receive 1,030,000 USD.
30. The compensation for psychological damages, property damages, and evacuation expenses will continue for one year after lifting the orders.

In addition to this, with respect to those experiencing occupational disabilities and suspensions of business, lifting the orders will not mean an end to this compensation; basically, it will continue to be paid until the day when the residents become able to restart businesses at the same level as that in the past. If their businesses continue to be or will be damaged due to their returning after the lifting of the orders, they will also receive compensation.

