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## News & Media

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### **COMMITTEE ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS CONSIDERS REPORT OF JAPAN**

30 April 2013

The Committee on Economic, Social and Cultural Rights today considered the third periodic report of Japan on how that country implements the provisions of the International Covenant on Economic, Social and Cultural Rights.

Introducing the report of Japan, Hideaki Ueda, Ambassador in charge of Human Rights and Humanitarian Affairs at the Ministry for Foreign Affairs of Japan, said Japan had a target for increasing the number of women in leadership positions and an action plan to combat human trafficking. The number of persons with disabilities in employment had risen and persons with disabilities were offered vocational guidance carefully tailored to their abilities and aptitudes. The Government had implemented emergency support measures in the wake of the financial crisis, and support for employment for youth had been strengthened. An integrated reform of the social security system had taken place and insurance payment requirements for pension payments had been relaxed.

The Committee asked about the labour force supply and demand structure, working hours, labour agreements, the National Wage Council, the linkage between the minimum wage and the benefit programme, the health insurance system, social security, nuclear accidents and how the comments of the Committee were considered in Japan. Also issues concerning the impact of the financial situation on Japan's ability to implement the provisions of the Covenant, austerity measures, the Fukushima nuclear power station accident and alternative forms of energy were raised.

In preliminary concluding remarks, Mohamed Ezzeldin Abdel-Moneim, Committee Rapporteur for the report of Japan, said that at the time of reporting Japan was one of the largest world economies, and inflation in the economy had led to large debt levels. This had made spending cuts attractive but, in the face of economic recession, this approach had failed time and again. He also mentioned that in relation to the need to comply with obligations, the Covenant noted the need to comply with other elements of international law.

Mr. Ueda expressed his gratitude for a vibrant and comprehensive discussion of economic, social and cultural rights. This was a valuable opportunity for a review and Japan would continue with its efforts to improve access to these rights.

Committee Chairperson Zdzislaw Kedzia thanked all members of the delegation for the fruitful and friendly dialogue. He said there remained differences in the evaluation of some points though a better understanding had been reached.

The delegation of Japan included representatives of the Ministry of Foreign Affairs, the Cabinet Office, the Ministry of Justice, the Ministry of Health, Labour and Welfare, the Ministry of Education, Culture, Sports, Science and Technology and the Ministry of the Environment.

The next public meeting of the Committee will be at 10 a.m. on Wednesday, 30 April, when it will consider the second periodic report of Iran.

#### **Report**

The third periodic report of Japan can be read here: ([E/C.12/JPN/3](http://www.unog.ch/unog/website/news_media.nsf/(httpNewsByYear_en)/DC494862...)).

## **Presentation of the Report of Japan**

HIDEAKI UEDA, Ambassador in charge of Human Rights and Humanitarian Affairs at the Ministry for Foreign Affairs of Japan, said Japan had set a target of increasing the number of women in leadership positions to at least 30 per cent by 2020, and had already seen an increase in the share of women in corporate management positions. There was also a plan for gender equality which set target figures and time limits in each priority field.

Although the number of cases of human trafficking was not large it represented a grave infringement of human rights. Japan had adopted an action plan to combat trafficking with a number of agencies working together to take action. There were also activities to protect victims and a set of viewpoints had been compiled, together with measures that should be taken.

There had been an intensive reform of institutional systems for persons with disabilities. The number of persons with disabilities in employment had risen and persons with disabilities were offered vocational guidance carefully tailored to their abilities and aptitudes. A bill had been submitted to the Diet which promoted the elimination of discrimination on the basis of disability.

The Government had implemented emergency support measures in the wake of the financial crisis, such as by strengthening the safety net function for non-regular workers and support functions for job leavers. A budget of 350 million yen had been put to creating employment in the fields of environment and energy, which should create 198,000 new jobs. Support for employment for youth had been strengthened, and this had improved the unemployment rate.

The integrated reform of the social security system had secured a stable revenue source as a result of drastic changes seen in social and economic situations. Japan had relaxed the insurance payment requirements for pension payments so more people could receive pensions, and it had enhanced future payments for short-term workers. Debate continuing in the National Council for Social Security was to guide further reform in this area.

Recovery after the east Japan earthquake had included programmes to provide funds for house and town rebuilding, also rebuilding the lives of affected persons. In order to enable long-term health management for residents of Fukushima, particularly children, the Government was providing support to the Prefecture. Analysis and assessment was ongoing and appropriate health management continued.

Regarding the right to education, the Government had reserved the right not to be bound by the progressive introduction of free education, though this had since been removed due to the introduction of a programme for free education. This was to lower the pressure on families, and was carried through to the university level.

Regarding the Ainu people, the Government was implementing measures to stabilise their lives and narrow inequalities. The ratio of those receiving assistance had improved, as had university enrolments. They were recognised as an indigenous people and a Council for Ainu Policy Promotion had been created.

The Japanese Government was leading an international initiative to address issues of leprosy discrimination, and had proposed a resolution to the General Assembly on this topic which was unanimously adopted. The mandate of a Goodwill Ambassador had been extended and the Government was continuing to address this issue.

## **Questions from Experts**

MOHAMED EZZELDIN ABDEL-MONEIM, Committee Rapporteur for the Report of Japan, noted that there were some omissions in the country report. For example, on the right to work it was stated that the unemployment rate had increased year-on-year, apart from the 20 to 24 age group - as a country that had suffered previous crises then Japan should have been most ready. With reference to people with disabilities, he said a table included did not reflect the rates described in the text.

The employment measures implemented were not clearly explained. The mention of changes in the labour force supply and demand structure was too ambiguous - what did flexibility mean? What was wrong with having a uniform plan over a period of time against flexibility? In relation to the reduction of working hours, was this the only element needed to improve productivity? Working hours should not be reduced at the expense of revenues. Would a decrease in hours mean a decrease in wages?

The minimum wage concept referred to an adequate standard of living, the details reported were something of an abuse to this idea. Were labour agreements scrapped? How had the National Wage Council affected labour agreements? How was an employer's capacity to pay calculated? There was a linkage between minimum wage and the benefit programme - in which direction was this linkage?

How did the "strict balance" between benefits and contributions in the health insurance system work? The rate of spending on social security had increased - but how were the beneficiaries? Disaggregated data was needed. Fukushima had affected areas covered by articles of the Covenant, and more detail would be required in the next report - which covered that period. In 2001 the Committee had commented on the lack of preparation for the handling of nuclear accidents, and this was also reflected in the national report on the issue. Was this not the case?

Mr. Abdel-Moneim underscored that the handling of foreign aid in the report was exemplary, and the withdrawal of the reservation on free education should be noted.

Another Expert said that a previous Japanese delegation had said the comments of this Committee were not binding - in this case, how did the country go about fulfilling its obligations to the Covenant? A District Court decision in 2010 ruled that Article 10 of the Covenant did not infer rights - and it was respectfully suggested that the country become party to the Optional Protocol, therein offering a full and final commitment.

In relation to economic issues, how had the financial situation negatively impacted Japan's ability to provide for the provisions of the Covenant? Had there been a measurement of how austerity measures had impacted vulnerable persons? Was enough done following the Fukushima accident? As a country vulnerable to natural disasters, had Japan considered alternative forms of energy? Had the accident response been commensurate to Japan's treaty obligations?

The Committee also inquired about the general non-discrimination provision - this needed to be put into a framework of law. Gender equality actions were well-noted, but other areas also required attention and groups needed support. There was also continued discrimination against lesbian, gay and transgender communities. Was there the possibility of a general framework law against discrimination? Could a national survey be conducted to see the impact of economic and social support cuts on communities of minority groups?

Regarding irregular workers, many received low wages and unfair working conditions; were there more details on the safety-net function mentioned? Around 42.7 per cent of women's wages put them below the poverty line, this figure was 9.8 per cent for men. What was the present status of the equal opportunity employment law? What could be done to improve the social security cover for short-term workers? It appeared that many older persons would not be eligible for pensions, despite reforms, and the amount they did receive was too low for a better standard of living. Was it possible to consider a minimum pension?

Another Expert wondered whether the social insurance scheme had any impact on pensions? From another Expert came the question, what were the criteria that judges used in interpreting the elements of law related to fundamental rights? Was there a mechanism in place to allow for understanding the recommendations of the Committee?

The Committee also asked about national human rights institutions and what was the current status of discussions on establishing such an institution according to the Paris Principles? The targets set for women in senior positions were too long and too far away. There was still legal discrimination in areas of marriage and children. In order to ensure the enjoyment of rights for women, were there any programmes for new policies and legislation in Japan? How was the collection of data performed?

Related to the issue of the wage gap, it was noted that the rate was large and increasing. There needed to be a law related to sexual harassment, and provision of education on this subject. Was there an indication that the Government was to take action on this? Did the number of deaths by industrial accidents include death by overwork? What were the latest figures on suicide, and did they include persons on overseas postings?

Finally, an Expert asked about the attitude of the Government to removing all reservations in relation to the Covenant. Could the delegation provide some insight about the findings and the intentions of Japan in relation to signing up to International Labour Organization Conventions? Figures for unemployment would be most useful if sorted by sex and age.

On discrimination against persons with disabilities, could the areas not covered (such as in recruitment), be covered in the new bill? Would persons with disabilities in sheltered employment be able to be covered under labour protection, not just social protection as the situation now? What were the figures for employment of persons with disabilities in the private sector? What proportion of the elderly would be affected by the increase in coverage of the pension?

### **Response by the Delegation**

In response to these questions and comments and others, a member of the Japanese delegation said the Covenant had a legal effect in Japan and international treaties were usually positioned as domestic laws and regulations. The provisions were applicable domestically depending on the situation. It was also highlighted that the State party had a right to increase these incrementally and stagger introduction. The Government had the responsibility to implement those rights, but it was not required to give those rights to the population immediately. About a comprehensive anti-discrimination law, he said that issues were covered by the Constitution and Penal Code. The Ministry of Justice had human rights organs and they could be called to investigate. This meant that a specific bill was not necessary.

If Japan was to conclude the Optional Protocol then the relationship between this and existing national laws would need to be considered. About the withdrawal of the reservation on free education, there were still two reservations remaining, the first related to remuneration for public holidays and the second about basic labour rights. No action towards withdrawal was planned on these. Regarding the ILO Conventions, it was necessary to continue careful consideration of the possibility of ascending to these. Discrimination in recruitment was already clearly banned.

The Japanese Government policy with regard to energy was based on the fact that the country was resource-poor, and establishing stable sources of energy was extremely important. Following the Fukushima accident, several options needed to be taken into account to find the best mix of energy sources. On a more technical point, it was explained that annual exposure to radiation was at the level advised by the International Commission on Radiological Protection. In relation to suicide, managers in both the public and private sector needed to pay attention to the mental health aspect of personnel management.

On another point, the delegation said there was financial support available for refugees as they waited for their file to be processed.

Another member of the delegation explained that there was an equal opportunity law which gave obligations to employers. Advice was being offered to employers on how to implement this appropriately, and this was also the case for sexual harassment. In more concrete terms, the Ministry offered know-how on the management of female employees and examples of best practice were rewarded. For women to continue to work effectively, work-life balance was important and so various types of leave and provisions were being revised.

About wages, there had been significant improvements, but really not enough had been done compared to other countries - though this was being vigorously addressed. The gap was shrinking, as seen by comparison to the previous report. Policies and support efforts seen in private companies were part of efforts to close the gap. Employers of part-time workers were being encouraged to banish discriminatory treatment, taking into account their hours and tasks.

On the question of the prevention of sexual harassment, there was a mandatory requirement of employers to do their best to take positive action in this field.

Answering a question about family registration, a member of the delegation said there were concerns from some groups about details of their personal background being made available to third parties. This had been remedied by a policy which ensured that third parties requesting information had their request scrutinised. About the Barakumin minority, the human rights bodies provided advice and passed enquiries on to other institutions as necessary. About a human rights commission, it was explained that the bill to establish this was submitted, but it was scrapped with the dissolution of parliament. Discussions were ongoing on the best way to realise this now.

In recent years, parties considering reform of the Japanese Civil Code had looked at the rules related to remarriage and the use of names by married couples, however, this had important ramifications for Japanese life and so it was decided that more discussion was required.

There was currently a five-year plan in place to promote gender equality, reviewed every five years. There were five new priority areas added on this occasion. One of these was the representation of women in politics and the judiciary. More generally, women's participation was considered essential to revitalise the economy. A general election was approaching and political parties were encouraged to have more women participate in their activities.

In most Government statistics the data disclosed was separated for men and women, but this was to be promoted further by income level, educational background and so on. Data based on these parameters was to be further disclosed. A new survey looking into social conditions had shown some improvement on work-life balance. A special committee had been established to look at status, which had indicated that data should be segregated more and used to promote gender equality.

### **Questions from Experts**

An Expert noted Japan's efforts to help women back into work, mentioning childcare, and wondered how successful this had been? On trafficking in persons, did the country subscribe to the view that tackling the issue required a regional approach? It seemed there was a problem with support for the elderly, how were they provided for?

Another member of the Committee asked if domestic violence was punished, or was this only when there was a violation of a protection order? Talking about child prostitution and child pornography, stronger measures were needed. In case of the loss of a head of household as a result of Fukushima, there was a 5 million yen compensation payment - and for the loss of a female, the compensation was half as much. What was the basis of this discrimination? The lump-sum condolence payment was given to the head of the household, not the individual persons and there were reports that some of this had been lost through gambling. Women should also be fully involved in consultative measures.

Asking about the free tuition provided for school children, an Expert asked about the reasons for the lack of funding for Korean schools, when other foreign schools were funded. In addition, the history of the use of comfort women should be properly taught in schools to properly educate the next generation. Another Expert said that article 10 had been expanded to cover the protection of women, and under this wondered what adequate measures were being put in place to protect comfort women?

Another question addressed the point that foreign children might not be given proper access to education. What was the current position on this? In relation to cultural rights, could the Ainu language be used in interactions with the Government? What was the status of the Ainu ancestral lands - were the Ainu given land titles to enjoy this land? Did the Ainu Council interact with this group? If universities and private institutes were being privatised, which functions did they continue to fulfil? Was the knowledge produced by these institutes properly disseminated?

In the final set of questions on this cluster, an Expert wondered whether the minimum wage had increased? Was it true that many tax privileges and exemptions were given to the wealthy? Was taxation policy based around adjusting levels of income in different parts of society? What was the latest situation on scientific research in relation to the ethics of radiation?

### **Response by the Delegation**

The delegation said very few persons still spoke Ainu, and there were 10 dialects which had not been standardised. For this reason it was quite impossible to use this language in relations with the Government. Efforts were being made to bring Ainu words into common usage. On land deeds, the Ainu people lived in the same areas as the Japanese and so were afforded the same rights as them in relation to land, though there was no exclusive land title available to them. In order to transmit the Ainu culture to the next generations the Government was undertaking various projects, such as one to reconstruct the Ainu traditional living space.

The Advisory Council for Ainu Policy was led by the chief Cabinet Secretary and there were 14 committee members. Of these, five were Ainu, and the others were representatives of national and local government, as well as experts on Ainu culture. The Japanese Government felt that those participating adequately represented the group.

On the Korean schools, the delegation said they were not sure whether the Korean schools were properly managed to meet the criteria of the law. However, if they met the conditions of the article, or if Japan normalised relations with the Democratic People's Republic of Korea, then tuition would become free.

According to the newly authorised revised textbooks there were descriptions of the comfort women and the impact that Japan had had on the region was also covered. It was also explained that foreign students were entitled to go to public schools free-of-charge. Policies to realise public policies on the promotion of science and technology were in place, as well as awareness raising on the ability of technology to improve quality of life.

Privatised universities were still subject to the rules as in the public sector and much of the budget for their work came from national budgets.

### **Questions by Experts**

An Expert said it seemed an anomaly that such a sophisticated democracy did not have a national human rights institution. Inheritance rules regarding children born out of wedlock were a form of discrimination that needed to be reformed. Was health insurance coverage comprehensive? Did it include dentistry?

### **Response by the Delegation**

Responding, the delegation said that Japan had concluded many covenants and treaties but the approach as to how to implement their provisions was left to the discretion of the States parties. Dentistry work was covered under health insurance, but corrective work was not. Prescription drugs were also available. National policy had been reformed so there was no difference between children born in or out of wedlock, and this also related to inheritance issues.

Stability of employment should be assured and different working styles accepted as part of forming employment policies, said a member of the delegation. Support was offered to those who wanted to find work, including young people, women and the elderly. The shortening of working hours was also important to the Ministry, and it was raising awareness on the need for work-life balance. The safety net provided for two levels of support for the economically inactive, with the second available to allow short-term workers to secure their pension programme. Legislative efforts were to consider the career development of non-regular workers. Employers were encouraged to address this.

Support for young people had improved their unemployment rates, and persons with disabilities were also receiving assistance through the "Hello Work" programme. Counsellors offered targeted assistance there. The Bill before the Diet also dealt with discrimination in the recruitment and accommodation of persons with disabilities. It was also noted that persons with disabilities only worked short hours, and it was important to include this work in the overall picture, 382,000 persons with disabilities were currently employed.

The Ministry of Labour was trying to promote leave and holidays to people so they had time to relax, and though there were links between hours and wages it was paid leave that was being encouraged. Inspections of workplaces were undertaken, and advice given in cases where practices were found lacking. Employees were also told to have health checks. In relation to the minimum wage, the Government set the rate using the tripartite advisory committee, which local governments then adjusted to their own system. Public assistance should not offer more than being in work. Support was given to move people from benefits into work.

On the questions about pensions and social security expenses, they accounted for about 30 per cent of the budget. Pensions and health care represented about 35 per cent of this, 10 per cent went to long-term care costs. In 2012, the national pension act was revised, reducing the pension contribution period and those not covered by corporate programmes were covered by the State programmes. About 200,000 persons were now covered by this. Persons working more than 20 hours a week could be covered for both pensions and health insurance. Persons living in Japan, of whichever nationality, could join the healthcare and pension programmes. When the pension legislation was revised an agreement was made saying the national council to reform social security should consider this issue. A recommendation on this had not yet come forward.

### **Follow-up Question**

An Expert wondered if there was a definition of sexual harassment and whether there was a possibility to make public assistance less stigmatising for older persons? Was there a plan to address poverty in the country?

### **Response from the Delegation**

In response, the delegation said that if unfavourable conditions were placed on one gender then that would fall into the category of indirect discrimination. Employers were required to take action on this. In relation to the issue of older persons receiving public assistance, the laws had been changed to extend coverage and at the local government level, details had been passed from the national government about ensuring it should be fairly offered and in a conducive environment.

In response to follow-up questions on migrant workers, the delegation said there were around 700,000 migrant workers in the country and the regular labour laws applied to them. There were guidelines for their proper management and employers had to follow those guidelines, such as participation in the social security system. Japan had had no economic growth in recent years and had a two per cent inflation target, there was also a policy of fiscal responsibility away from a high level of debt, and growth policies were being created. These formed part of the fight against poverty as they created a greater fund to work from. Persons in poor categories still may not benefit from this so it was being supplemented by social policies.

Concerning sexual harassment, it was not legally outlawed but there was a name and shame policy and there were efforts in the Government to provide teaching and guidance.

The delegation also said that Japan expressed remorse for the situation of the comfort women. Issues between the countries that made the peace treaties in 1945 had been resolved, and as part of its redress Japan had offered atonement money through a variety of projects. In relation to the trafficking of persons, the budget was not as generous now as it had once been. Relations with neighbouring countries were good and there was regular information-sharing. On child pornography, a nationwide campaign had been launched and measures were being taken to work in the area of the internet to try and stop its spread. Child prostitution and the spread of pornography were now illegal.

The ageing population of Japan was increasing rapidly and guidelines had been formulated which said elderly people should have a good quality of life and their skills and knowledge should be utilised for the society as a whole. Practical measures such as non-step buses were being rolled out.

More information was now being disclosed through information materials and press conferences on Fukushima, said a member of the delegation, and this was to make decision making more transparent. Continued reviews were required on the part of operators of nuclear power plants to

ensure operations were as safe as possible.

On domestic violence, there was a law in development to outlaw this. As with sexual harassment, it was possible that the act could be charged under a number of existing crimes. Economic support was given to families with children, the amount received differed according to the age and number of children. Assistance for single-parent families was available in four different elements. Older persons could receive health care and they paid at a lower rate than younger persons.

The differences seen in the amount given in condolence payment was not gender-related, it instead related to who was considered the head of the household. Regarding those that survived the atomic bombing, their medical needs related to their exposure was subsidised and this would allow them to maintain a suitable level of living.

In response to follow-up questions on domestic violence and sexual harassment, the delegation said that marital rape was considered rape and was punishable, and sexual harassment could be prosecuted under elements of the Penal Code.

### **Follow-up Questions**

An Expert wondered about the reasons for the exclusion of the Korean schools from Government funding, saying that innocent children should not be punished for the past actions of their elders, if that was the case. Additionally, the Expert said that Japan had really not taken legal responsibility for their past actions, as Germany had, and it did not help to exclude the generation from knowledge about what had happened in the past. Another Expert asked for information on how Japan had benefitted from science and technology. Did Japan cover entirely the costs of high school education?

### **Responses by the Delegation**

Japan was able to offer redress to each individual country in Asia that was affected by its actions during the war, and in addition to that, there was a special response offered through the Asian Women's Fund for comfort women. On the Korean schools, it was highlighted that the group closely linked with these schools was closely linked to the Democratic People's Republic of Korea. It was not conscionable to Japanese taxpayers to spend their money in this way.

On science and technology, the country was trying to connect it to the overall development of Japan, as their greatest resource was the people. The idea was to use this knowledge for the benefit of the whole world. About the funding offered for schooling, this did not include the cost of textbooks or for tours or the auditing of classes.

In response to a follow-up question on whether the minimum wage was applied to migrant workers, the delegation said migrant workers were entitled to the minimum wage and also payments for industrial accidents if they occurred.

### **Concluding Remarks**

MOHAMED EZZELDIN ABDEL-MONEIM, Committee Rapporteur for the Report of Japan, said that at the time of reporting Japan was one of the largest world economies, and inflation in the economy had led to large debt levels. This had made spending cuts attractive but, in the face of economic recession, this approach had failed time and again. He also mentioned that in relation to the need to comply with obligations, the Covenant noted the need to comply with other elements of international law.

HIDEAKI UEDA, Ambassador in charge of Human Rights and Humanitarian Affairs at the Ministry for Foreign Affairs of Japan, expressed his gratitude for a vibrant and comprehensive discussion of economic, social and cultural rights. This was a valuable opportunity for review and Japan would continue with its efforts to improve access to these rights.

ZDZISLAW KEDZIA, Committee Chairperson, thanked all members of the delegation for the fruitful and friendly dialogue. There remained differences in the evaluation of some points though a better understanding had been reached. The concluding remarks of the Committee would be

adopted on 17 May, and as a group they looked forward to the follow-up.

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