

## **Detailed and factual report for reference of “NGO Report for the UPR review of the Japanese Government”**

**The Japanese Workers’ Committee for Human Rights (JWCHR)**  
**(NGO in Special Consultative Status with ECOSOC)**  
**President: Tsuguhide SUZUKI**

### **Reference 1:**

#### **Main concerning articles and recommendations expressed in the concluding observations of the review of the 4<sup>th</sup> initial report of the ICESCR**

- \* The recommendation indicated, “Regarding legal responsibilities arisen from the Covenant, it demands to follow the interpretation in which the Covenant has itself a direct applicability”, and pointed out its importance.
- \* To consider abolishing “reserved Articles”.
- \* Discrimination against women (a virtual inequality).
- \* Excessive overworking hours are permitted.
- \* The right to strike is prohibited for all officials (contrary to Article 8.2).
- \* Compensation for war-time “Comfort Women” by Asian Women’s Fund is not regarded as measures which are acceptable to them.
- \* No existence of minimum pension (concern), to introduce minimum amount of pension in its system (recommendation).
- \* To take legislative measures in order to reduce working hours.
- \* The right to strike is not guaranteed for officials and personnel of public corporations.
- \* Prohibition of any discrimination against the disabled.
- \* General revision of the educational system, such as the introduction of free higher education.

### **Reference2:**

#### **Main concerning articles and recommendations expressed in the concluding observations of the review of 4<sup>th</sup> initial periodic report of the ICCPR. (November 5, 1998)**

- \* The Committee is concerned that the State party often makes use of statistics of public opinion in order to justify the position of the government, which violates its responsibility based on the Covenant.
- \* The right, which is guaranteed by the Covenant, is limited by the concept of “public welfare”, which is unclear and cannot be defined by its interpretation. Following the previous observations, the Committee strongly recommends the State party again that its domestic laws have to be in full conformity with the Covenant.
- \* Systematic mechanism, which offers the redress against the violation of human rights and for complaints, is lacked.
- \* Regarding to ill-treatments by the police and immigration officials, an independent body has not been installed for such relief.
- \* Discriminations against illegitimate children, minorities and women concerning the period of remarriage.
- \* The number of those who sentenced to death is not decreased, and the condition of treatment for death-row prisoners is against humanity.
- \* Regarding the right for detainees, such as length of pre-trial detention, absence of a court-appointed lawyer system and absence of defense counsel during interrogations.
- \* Deep concerns with convictions based on confessions, surveillance of interrogations in “Daiyo Kangoku” (detention in substitute prison system) and introduction of electronic and video

recording of all interrogations.

- \* No measures of redress to eradicate violence against women and domestic violence.
- \* There are no curricula of human rights education and training, which is based on the Covenant, for judges, prosecutors and executive officials.

(from 35 provisions of the recommendations)

### **Reference 3:**

#### **Concluding observations and recommendations of the Committee against Torture for the review of the 1<sup>st</sup> initial report (May 18, 2007)**

- \* Introducing the definition of Torture (article 1 of the Convention) into domestic laws, it should be contained that torture is a special crime attended with adequate punishments.
- \* Preparing the information of measures which guarantees a direct application of the Convention at the trial.
- \* The Committee regrets the dismissal of cases filed by victims of military sexual slavery during the Second World War, the so-called “comfort women”, for reasons related to statutory limitations. The State party should bring its provisions on the statute of limitations fully in line with the Convention.
- \* Deep concerns on Daiyo Kangoku (detention in substitute prison system).
- \* Undue emphasis on confession, absence of strict time limits and lack of presence of defense counsel during all interrogations.
- \* Problems on detention in penal institutions, a time limit for use of solitary confinement and amendment of its legislation in accordance with the international minimum standards.
- \* Lack of legal safeguard for death row inmates.
- \* Prompt and impartial investigations, human rights education and training, and compensation and rehabilitation, etc.

### **Reference 4:**

#### **Article 7 (b) of the ICESCR: regarding “safe and healthy working conditions**

The circumstances, where “safe and healthy working conditions” are not satisfied, have spread out. Let us examine “Karoshi” or Death from Overwork and “Working poor”.

#### **(1) regarding “Karoshi”**

“Karoshi” (death of an industrial accident) led by long time and overworking workers has become an international language.

The standard of working hours is 40 hours a week for employees in Japan.

In 2001, the government relaxed the designated standard concerning “Karoshi”, and decided to recognize in the cases where working hours beyond the standard exceed 100 hours during a month just before getting sick, or 80 hours on average during another five months.

According to this standard, it is required at least 65 working hours per week on average, in order to get recognized as “Karoshi” occurred by overworking. Without fulfilled by this standard, no one can get compensated as victim of industrial accident, although there are differences among the individuals.

Even under this severe standard, the annual number of the recognition was around 70 cases or 80 before 2000, but after 2002, the “Karoshi” is annually recognized more than 300 cases a year.

In last year (2006), 938 cases were claimed, in which 355 were recognized.

And, besides mentioned above, there are industrial accidents caused by mental disorder (depression occurred by overworking, etc).

In 2006, the number of claims of mental disorder	: 819
the number of its recognition	: 205
in which, the number of suicides (claims)	: 176
the number of its recognition	: 66

Working hours designated by the standard are the labour, for which overtime allowance is paid, but the labour called “service zangyo” or Unpaid Overtime Working has been wide-spread. The actual condition of Unpaid Overtime Working has not been statistically grasped, but regardless of government offices or private ones, there is a situation where an actual working situation has not been grasped as working hours.

Above situation violates “safe and healthy working conditions”. The government has been ignoring the implementation of a policy which protects workers from overworks such as “Karoshi”. The government should take measures to revise the designated standard of “Karoshi”, and to strengthen the control of working hours.

## **(2) Workers called “Working poor”**

The average annual income of a worker is 4,350,000 yen in 2006. And it has been reported that workers, whose wages are nothing but less than a half of this annual income (less than two millions yen), are reaching 10 millions.

These low-wage workers are called “Working poor”. Among them, there are quite a few workers who, being unable to make a contact for their housing, spend a whole night in the park or at café.

Many of them are day and short-time temporary workers, who have no long-term employment contracts. The mass media in Japan also takes this problem seriously and sometimes carries its feature articles.

As the background of the expansion of such low-wage workers, one can find the main causes in the government’s employment policies, such as the control of the minimum wage standard, the enhancement of “deregulation of employment” including the expansion of temporary personnel service and the type of business, and the promotion of the mobility of manpower.

According to the government statistics (the National Tax Administration Agency), the situation of salaried employees is mentioned below,

Number of salaried employees : 44,850,000	Average annual income : 4,350,000 yen
( men : 27,450,000	whose income : 5,390,000 yen )
( women : 17,390,000	whose income : 2,710,000 yen )

Distribution of the number according to the amount of annual income,

Less than 2 millions yen : 10,230,000 (men: 2,630,000 women : 7,600,000 )

Less than 3 millions yen : 17,410,000 ( :5,920,000 :11,490,000 )

(The reason the number of women is so large is that there are many part-time employees like housewives.)

From the above situation, the government is obliged to establish “safe any healthy working conditions” in accordance with the Covenant.

### **Reference 5:**

#### **The actual situation of a long time-unpaid overtime working of public officials**

An extraordinary long time and overtime working has become a daily occurrence in the working situation of Japanese public officials, in which the Labour Rights (except the right to organize) is deprived. Moreover, an unusual situation where the allowance for overtime working is not paid, remains unchanged for a long time.

One can often see such situation at the Kasumigaseki area where main governmental ministries and agencies are centralized.

According to a questionnaire carried out by the Joint Struggle Councils of Labour Union of Tokyo Public Officials and Independent Administrative Institutions, and Labour Union of Kasumigaseki Public officials (March 2007), the budget for allowance of overtime working paid to public officials working at Kasumigaseki is monthly fixed at 30 hours per person, instead of that their average overtime working hours are 39.1 hours a month. Therefore, the allowance for 9.1 hours is eliminated. As a result, the eliminated total amount of overtime-working allowance for 45,000 officials working there has reached 13,184,260,000 yen.

There is the actual situation in which the ratio of the officials, who are obliged to overwork more than 80 hours a month, comes to 10.3%. And the questionnaire also indicates that there are 35.6% of the officials who answered "I'm feeling the Karoshi" or "I've felt it".

This extraordinary situation of overworking shows not only a grave problem of their health, but also the disappearance of their family-lives.

In the questionnaire, it has become clear that there are 35.6% of the officials who are not able to have dinner with their families during a week.

The situation mentioned above occurs in the circumstances where the Labour Rights are deprived and the Labour Standard Law is not applied to the public officials.

We understand this abnormal situation as the international problem of human rights, and dare to accuse.