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The Committee of Experts on the Application of Conventions and Recommendations  
C/o International Labour Office

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## Information and requests by workers' organization on the application of the Convention 102 in Japan

### **I. Concerned instrument**

Convention 102 ratified by Japan in 1976

### **II. Concerned Clauses in C102**

1 and 2 of the Article 26, (a) of the Article 28 and (a) of 1 of the Article 29 in PART V, 1 of Article 65, 1 of the Article 66 and appendix table of the Article 67 in PART XI

### **III. Outline of the information and our requests**

Japanese employee's pension insurance is below 40% set by the Article 67 of the Convention. The union humbly requests the ILO to take necessary guidance, support and appropriate recommendation against the Government of Japan.

### **IV Reasons to supply information and our requests**

#### **Japanese pension is below the 40% ILO standards**

##### **a) Concerning on the Periodic report by the Government of Japan in 2012**

The government of Japan submitted its report concerning on Part V, old age benefit as follows;

PART V : Old age benefit

The government incorporates Article 65, 6(b)

1. (a)(i) The government chooses male work force at transport equipment manufacturing companies with more than 10 employees as an example since this sector has the most employees in Japan.
  - (ii) The government chooses workers whose wage is equal to an average wages of male workers at transport equipment manufacturing companies.
  2. It is calculated based on official wage standard of June 2011.
- C 315,100 Japanese Yen in 2011.

Concerning on the previous reports concerning on III of the Article 65, the government wishes to make correction on the following numbers;

D 165,081 Yen per month

Calculation Formula

National Old Age Pension of husband = 589,875Yen (786,500×30/40)

Old Age Employees' Pension of husband = 801,277 Yen

(294,303\*7.5/1000×360 months×1.031×0.978)

National Old Age Pension of wife = 589,875Yen (786,500×30/40)

Total is 1,980,977 Yen per Year = 165.081 per month

\* This number is rebated to the price 315,100 Yen to 1994 standard.

G 165,081 Yen ÷ 315,100 Yen = 52.4%

However, the government takes “average standard monthly remuneration in the previous year” as an average standard monthly remuneration to calculate Basic Old Age Pension by Employee’s Pension Act, which is said in the revised National Pension Act in 2004 (Act No104). Therefore, in the calculation for workers who receive equal to the average of male workers at transport equipment manufacturing companies, lumpsum should be calculated as follows; 315,100 Yen + 130,716 Yen (equivalent to lumpsum) (1,244,600 ¥÷12 = 103,716 ¥) = 418,816Yen. The monthly pension 165,081 Yen ÷ 418,816 Yen = 39.641%, that is below the ILO standard.

b) Japanese Government uses different criteria for calculating Basic Old Age Pension from the ILO Convention 102.

- (i) The Japanese government submitted its periodic report in 2017, but they use different criteria set out in the C102. The characteristics of C102 in calculating Old Age Pension is 40% of their wage in previous employment before retirement. Also, ILO statistics means worker’s income means total income in cash or goods paid to workers either when you work or not before tax and social security premium deducted. “Earned Income” includes wage/salary directly paid to workers, income in unemployed such as benefit for paid leave (retirement lumpsum and dismissal allowance are excluded), Lumpsum, tips, allowance for house and family members. Yet, ILO Conventions are legally binding for ratified governments, so the definition of “Earned Income” applies to the ratified government. However, the government calculates basic pension for husband and wife plus husband’s employee pension by using an average income of male workers in actual employment. Its denominator is income after tax and social security payment, but its numerator is the income before tax. Also the denominator represents only one, a husband in often cases, but the numerator does so for husband and wife. They disguise numbers of pension replacement rate as bigger number. Also, according to the Labor Force Survey by the Ministry of Internal Affairs and Communication in 2024,

pension replacement rate is calculated for household of husband and wife who has not worked, but those numbers which only husband works are 5.17 million, while that of both income household 12.78 million, which means they take numbers based on less typical households in Japan.

- (ii) Concerning on periodical payment in the Article 65, if income in previous employment includes an average total standard income of male with lumpsum, Japanese pension standard in 2018 is only 38.32%, based on ratio of periodical payment stated in the Article 67 of the Convention, which is less than ILO standard 40%. According to the annual report of Employee's pension and the National Pension in 2018 by the Ministry of Welfare and Labour, an average standard income of male workers including lumpsum in 2018 was 5,072,502 Yen in a year, which means 422,875 Yen per month. Normally, its 40% is 169,150 Yen per month corresponds to the ILO standard. But an average employee's pension of male in the same year according to the same report is 163,840 Yen, while female pensioner's average is only 102,558 Yen. The national pension average for female was only 53,342 Yen per month, while male received 58,775 Yen. A model household, which is represented by husband worked more than 40 years in employment with an average income and wife has not worked to help her husband, received only 217,182 Yen per month. In this case, husband worked 40 years, which is not always the case, so if husband worked for 30 years for example, they received only 162,887 Yen. It is 38.52% for an average standard said above, 422,875 Yen. Again it is less than ILO standard 40%.

## **V The state of low pension in Japan**

### **1) Reality of pensioners with low income revealed through JPU court struggle**

Through the court struggles, several realities were found. The first point is that current pension level does not have sufficient level to support lives of aged person. The national pension is about 50,000 Yen in average, and there are so many aged people who receives only 40,000 or 30,000 yen pension per month. They have to pay health insurance and care insurance premium, and only small amount left for them. In court hearings, so many testimonies revealed very serious living condition of Japanese pensioners, like "I cut food expenses for every day, and reduced to go to my doctors. My old house cannot be repaired due to financial reason. I have great anxious for my future, and I demand the government not to further cut my pension", "my household will be bankrupt if either one of us would fell into sick or hospitalized. Cutting pension is life-or-death problem for us", "20,000 Yen per month is absolutely not enough for my living. In order to be eligible for government public assistance, I was said that we have to abandon my house and minimize my savings. Those testimonies moved the heart of judges.

Secondly, female pensioners have much greater difficulty than male. Female low pension is caused by deficit of the pension system in Japan. Until 1980's, there was special assistance scheme for women who left employment due to marriage or childbirth. But later, those who received this assistance lost eligibility for pension since they have not enough length of pension premium payment. Another typical reason for female difficulties are wage difference of men and women in employment, women tends to do unpaid care work for household and child raising, or change of employment patten due to marriage, childbirth and parenting.

Thirdly, there is increasing number of aged person who have no choice other than work to support their lives. In Japan, 9 million workers aged more than 65 years old are working, which is abnormally high ratio. Moreover, majority of them are in precarious employment. And fourth, social awareness among workers in actual employment has been growing recently. Pension issues cannot be solved by a movement of aged pension eligible people. We have built cross generation solidarity on this issue, such as young workers representatives testified in our court hearings. In Hyogo prefecture, a precarious employment wrote his situation as “I am not sure I can be eligible for pension in the future, and if I would be eligible, the amount would be very small. So I have to apply the national social assistance scheme”

2) Accelerating Poverty in aged people

- (i) An average household income in 2021, 5,457,000 Yen per year. If you take a number in aged household, it is 3,183,000 Yen, and an average of household other than aged household is 6,650,000 Yen, and an average of household with small children is 7,850,000 Yen in the same year.
- (ii) 44.0% of aged household depends only on pension: the total number of households in Japan is 54,310,000 across Japan as of June 2, 2022. Liking into its composition, single person households is 17,852,000, the largest and 32.9%. The second largest group is a household of husband, wife and unmarried children, which stands for 14,022,000, 25.8%. A household of husband and wife is 13,330,000, 24.5% in total. On age category, aged household is 16,931,000, 31.2% out of total households. Looking into composition of the types of income of each households, earned income consists of 73.2%, public and army pension does of 20.1% out of total households average. But among aged households whose income is only from public and army pension income was 44.0%, according to the Comprehensive Survey of Living Conditions by the Ministry of Labour and Welfare in 2022.
- (iii) Aged people who has no choice but to work is increasing: the consumer price has been increased by 11.3% in 12 years, but pension has increased only by 3.5%, since former Prime Minister Abe administration abolished Special standards and implemented the so-called macro-economic slides scheme to reduce pension benefit, which decreased by 7.8% in the same 12 years and that is a reflection of poor pension system in Japan. Total number of aged population in Japan is 36,230,000 out of 124,420,000, which is 29.1% out of total male population, that number and ratio have been increasing. Aged male is 15,720,000, 26.0% that is decreased by 10,000 from the previous year., and aged women is 20,510,000, 32.1% out of total women population, that has maintained from the precious year. The number of aged women is larger by 4.790,000. Total number of aged workforce in 2022 was the biggest, 9,120,000, which has been increased in 19 straight years since 2004. Out of total workforce aged over 15, aged workforce shares 13.6%, that has been increased by 0.1% and it is the highest in history. Roughly, 1 out of 7 total workforce is aged workers over 65 years old. In the aged workers, 76.6% is in precarious employment, and among them in addition, 52.5% is part timer or short-term contract workers. If you compare percentage of aged workers in major countries in 10 years ago, the of ROK increased 6.2% and that of Japan did so by 5.7%, which we can see increases among major countries. According to the statistics by the Ministry of Internal Affairs and Communication in 2022, 25.2% Japanese aged population is among the highest in the major countries.
- (iv) 55.3% on the national social assistance scheme is aged household : in 1973, total number of households

on the scheme was 696,570, and among them 217,578 households, 31.2%, were aged people. But in 1992, the ratio marked over 40%. If you look into changes around increase of consumption tax from 5 to 8% in 2014, the covered households increased 20,494, while the covered aged households did so by 41,554. The percentage also increased from 47.2% to 59.5%. And those number covered by the scheme in September 2023 was 2,020,647 persons or 1.651,187 households. Among them, 908,752 households are aged people, and its percentage is 55.3%, according to the survey on people covered by the national social assistance published on December 6, 2023, by the Ministry of Labour and Welfare.

3) Adverse-Revisions of pension scheme and its deterioration

- (i) Japan's population aged over 65 is 36,230,000, out of the population as a whole, 124,420,000, and 29.1% are aged people. Population in public pension scheme is 67,440,000 in 2022, that is 54.2% out of total population in Japan. Among them, people who is covered by the national public pension is 14,050,000 people, while 46,180,000 are covered by Employee's pension. The third category insured, often female housewives who have never been in employment or unstable job is 7,210,000. For the number of people covered by the public pension scheme, male is 35,200,000 and women is 32,340,000.
- (ii) Total amount of pension benefit paid under the public pension is 55,721,100,000 Yen.
- (iii) Average pension benefit for employee's pension (so called KOH 1, more than 25 year payment) is 143,973 Yen, and 63,061 Yen if you paid pension premium less than 25 years. The national basic pension benefit is only 51,469 Yen for a month in average.
- (iv) 6.96 million do not pay the basic national pension premium : according to the insured and premium payment of the national basic pension by the Ministry of Labour and Welfare on June 26, 2023, Category 1, national basic pension, covers 14,050,000, but it excludes 1,430,000 who are on the national social assistance scheme, 2,400,000 who are certified not paying premium due to economic reasons, 2,240,000 who are students or on moratorium, and 890,000 do not pay the premium. So 49.5% of Category 1 or 6,960,000 covered population do not pay the premium. In addition, 90,000 are not covered by this national basic pension.
- (v) Deteriorating women's low pension difficulty : Japanese public pension scheme has a standard model that husband works in full-time employment and his wife bears a burden of family responsibilities at home, and pays pension premium from age of 20 to 60, which is one of the reasons for low wage for women. There was a system that women workers received a special allowance when they quit their jobs at the time of marriage or childbirth. Wife of full-time earners were not obliged to join in the national basic pension, and part-time workers who are women in many cases are excluded from employee's pension scheme. Those are reasons for lower pension of Category 3 pensioners. Whether you are employed or not at working age, length of employment, length of working hours depend on what kind of pension scheme you are covered, and those elements greatly effect on level of pension benefit. Particularly, those who started to work before 1985 when the Equal Employment Opportunity Law put into force have no choice to quit their job since there were systems to force women to quit at their marriage or getting pregnant. If they continue to work as full-time worker, women workers experience gender wage gap with only 60 to 70% of male wages, which has large impact on pension calculation based on a standard monthly salary. As a result, women pension is much smaller than men. In particular, career suspension of women at the time of childbirth and parenting greatly impacts not

only on her career but also on the level of pension. In Japan, in most cases, women suspend her employment at childbirth and parenting, and sacrifice of quitting job or shorter working hours have paid by women's low wages and low pensions. Also, when women who left jobs at the time of marriage or childbirth decide to return to employment when her parenting responsibility becomes smaller, they only precarious contract like find part-time, short-term contracts, agency work, which is one of causes for women's pension is much smaller than men. Under federal patriarchal household concept, gender discrimination / role model enforces arbitral family responsibility idea, that is "men works outside and women should not have a job and stay home for family responsibility" or "women should quit her job at marriage and bear family responsibility at home", that is based on gender discrimination. It is necessary to change this kind of gender discriminative concept and social awareness. Women poverty has root cause in capitalistic discrimination that regards labor with family responsibility such as childbirth, parenting or household work as non-productive and unsocial work, which also put women into those low wage and precarious jobs. In addition in Japan, the system that wage standards of your employment directly reflects the level of pension benefit has big impacts on poverty in aged pensioners. Its fundamental reason is women's pension rights solely depends on her husband, and women labor at her childbirth, parenting and household work is not evaluated in order to sustain outdated family system.

(vi) Looking into an average of aged pension monthly benefit, those recipient with less than 100,000 Yen is 34.17% in male, but is 85.18% in women (17,716,543 person). It is clear that women's pension benefit is much smaller. "Poverty Pension" concentrates in the national basic pension recipients, and women's benefit is extremely smaller. Among recipients of the national basic pension, it is 54,453 Yen in a month for male in average and 50,788 Yen for women, for both paid premium more than 25 years. In those numbers, recipients who received benefit less than 50,000 Yen a month are 6.9% in Male and 37.5% in women. Those standards are below the national public assistance benefit level. For those who have paid premium less than 25 years, male average is 19,259 Yen and women average is 18,833 Yen a month, and among them, those benefitted less than 50,000 Yen a month is 21.6% of male and 78.14% of women, according to the outline of Japan's Employee's pension and the National Basic Pension in December 2023.

4) Strong attention should be paid to pension below the national public assistance standards

(i) Pension under monthly public assistance benefit of 131,000 Yen : According to information by the Ministry of Labour and Welfare in March 2023, standard benefit by single aged (68 or more) household is 131,680 Yen a month, but National Basic and Employee's pension beneficiaries who receives less than 100,000 Yen a month is 5,164,564 of Male and 17,716,543 of women. The public assistance is the government system to support any people in difficulty to secure the right to maintain the minimum standards of wholesome and cultured living. Workers paid pension premium when they work, so those pension benefit standards must not be below the public assistance level. In addition, the national basic pension recipients, and women's benefit is extremely smaller. Among recipients of the national basic pension, it is 54,453 Yen in a month for male in average and 50,788 Yen for women, for both paid premium more than 25 years, which is way below the public assistance standards. Recipients who received benefit less than 50,000 Yen a month are 6.9% or

2,207,000 of Male and 37.5% or 1,862,000 of women. For those who have paid premium less than 25 years, male average is 19,259 Yen and women average is 18,833 Yen a month, and among them, those benefitted less than 50,000 Yen a month is 21.6% of male and 78.14% of women.

- (ii) Aged Pension benefit is not enough for living : Average pension benefit for employee's pension (more than 25 year payment) is 143,973 Yen, and 63,061 Yen if you paid pension premium less than 25 years. The national basic pension benefit is only 51,469 Yen for a month in average who paid premium more than 25 years, and 18,965 Yen for those paid less than 25 years.
- (iii) Extremely Low Pension in Women : Among women recipients of the national basic pension, 25.8% are benefitted less than 50,000 Yen per month, and it occupies 85.18% or 17,716,543 persons receive less than 100,000 Yen per month. Among them, recipients who received benefit less than 50,000 Yen a month occupies 37.5% of women. For those who paid less than 25 years, average pension benefit is 19,259 Yen in a month for male in average and 18,883 Yen for women., and among them, those benefitted less than 50,000 Yen a month is 78.14% of women.

## **VI Adverse Pension Reform by the Government of Japan**

### **Revise of "Macro Economic Slide Scheme" and Change in Pension review**

#### 1) "Macro Economic Slide Scheme" and "Carry Over"

2016 pension reform contains mostly 2 elements. One is "Carry Over" system by so-called strengthening "Macro Economic Slide Scheme". "Macro Economic Slide" is a system implemented in 2004, that aims to automatically reduce pension benefit for aged people. It was first time in 2015 to implement that system, in the name of cancellation of special benefit criteria. In 6 years since then between 2015 to 2020, it worked to reduce pension benefit by 2.3%. It was revised further to adverse direction.

This Carry Over system intends the government to carry over for the amount to reduce pensions to the next fiscal year, if it could not reduce due to deflation for instance. It was implemented first time in 2019 pension review.

Another is a change rules in pension review. It started in April 2021. This can be explained as below including review rules that is intended to be revised. Annual pension review is based on "the rate of the change in price" and "the rate of nominal earned wage", hereafter price and wage. A is those over 68 years old, and B is those less than 67 years old.

- (i) If price and wage increases and wage is higher than price, A's pension is revised with the price, and B's pension is revised with wage.
- (ii) If price goes down and wage goes up, A's pension is revised with price, and B's pension is revised with wage.
- (iii) If both price and wage go down and wage is lower than price, A's pension is revised with price and B's pension is revised with wage.

- (iv) If both price and wage go down, both A and B pension are revised with wage
- (v) If price goes up and wage goes down, both A and B pension are revised corresponding to the reduces wage level
- (vi) If both price and wage go up and wage is lower than wage, both A and B pension are revised corresponding to the wage level.

Thus, A's pension benefit would be reduced in anyway or under any circumstances in price and wage. In addition, we have "Macro Economic Slide", so current working generation would receive much less pension benefit after eligible age in the future. ILO Convention 102 mandates the maintenance of the real value of pensions, and macroeconomic indexing violates ILO Convention 102.

## **VII Right for social security and pension is human rights**

- (i) In 1979, the government of Japan ratified the International Covenant on Economic, Social and Cultural Rights, ICESCR. Right for Social Security such as pension is human rights. It is said that equal treatment obligation by the Governments is "not only legislation does not discriminate, but also to address and ease deficit and inflict from the past. And positive action for women is needed to achieve equality" It admits that it is needed to have a special provisional measure for women, if discrimination is existed.
- (ii) In the Convention on the Elimination of All Forms of Discrimination Against Women that was ratified by the Government of Japan in 1985, its Article 2 articulates an obligation of the Government to abolish any discrimination.

## **VIII Ous Basic Ideas to address women's low pension problem in Japan**

As said above, women's low pension problem in Japan is caused by gender inequality. Japanese pension system is not the system for gender equality that is required by the Constitution of Japan, the International Covenants on human rights or the Convention on the Elimination of All Forms of Discrimination Against Women.

To address the issues of poverty in aged women, it is necessary to reveal the issue as human rights violation and due to gender inequality, as those low pension issue is not responsible for individual women, and those women themselves should stand up and make a voice, so our JPU as a whole is making utmost efforts to realize livable pension standards based on the Article 25 of the Japanese Constitution.

## **IX For realizing pension system that could support our lives**

The National Pension Act Article 1 says "National Pension System is aimed for maintaining and improving of healthy living, by solidarity of the people, not to be undermined by aging, disabling or death, based on the Article 25, 2 of the Constitution of Japan" Thus, the National Pension System is the system that aims to materialize obligations of the government in improving social security articulated in the Article 25, 2 of the Constitution, and guarantee sustaining and improving of the people's health living by benefitting pensions.

The article 25, 1 of The Constitution of Japan says “All people shall have the right to maintain the minimum standards of wholesome and cultured living.” And section 2 says “In all spheres of life, the State shall use its endeavors for the promotion and extension of social welfare and security, and of public health.” The wholesome and cultured living should be the one corresponding to its concept.

As for Employee’s pension, pension replacement rate is set to 50% working generation income, but there is no such provision in the National Pension. Also, it is unified premium you have to pay regardless of income in working generation income, and is retrogressive and benefit would be cut automatically by remission. The lower income, the ratio of burden bigger.

The National Pension (basic) criteria must be above the standards of the public assistance. In category 1-1, the highest, from October this year, is 75,000 for single household at the age 65 years old. This standard is set to guarantee the idea of the minimum standards of living. JPU demands 80,000 yen minimum pension benefit for all aged people, as a policy agenda.

Public assistance standard could be almost met in case of living in countryside with their own house, but it is impossible to live in city areas and living alone without their own house. For that reason, it is needed to have a system such as house allowance for low income people.

The public assistance benefit consists of 1) Allowance for living (food, cloth and utility charge), 2) Education allowance (support for education expense during compulsory education), 3) House Allowance (rent), 4) Medical Allowance (examination and medication), 5) Care Allowance, 6) Childbirth Allowance, 8) Funeral Allowance (funeral ceremony and burial).

Also it is needed to extend coverage and beneficiary for Employee’s pension, and any exemption must not reduce his/her benefit later. For instance, people who are on the Public Assistance is exempted for paying premium, so their pension benefit is reduced. Pension premium should be included into the Public Assistance, and they are deserved to receive full pension in the later stage of their life. It is also needed a system that you can receive benefit with exemption period by the reason of maternity leave.

## **X The reality in Japan violates international standards**

### **1) Pension reduction by the government is against the Constitution and its illegality**

The article 25, Section 1 of The Constitution of Japan says “All people shall have the right to maintain the minimum standards of wholesome and cultured living.” And its Section 2 says “In all spheres of life, the State shall use its endeavors for the promotion and extension of social welfare and security, and of public health.” It requires the government to oblige reviewing and improving social security system, and at the same time not to intentionally undermine without any due reasons.

Japanese pension benefit is determined by the system that basically reflects the rate of consumer price and wages for the next years benefit. If those elements go up, benefit next year also goes up. In 3 years from

the year 2000 to 2003, we experienced lowering consumer price, but the Diet unanimously adopted a law to maintain the level of pension next year for not deteriorating weak Japanese economy. This is called “Special standard”. Later in 2004, the revised Pension Act newly regards “Special standard” would be disbanded in the process of price rising. However, Japanese economy has continued in stagnation and wage and price are also in stagnation. As a result, “Special standard” has not been cancelled. On the contrary, it became bigger to 2.5%. Then in 2012, another revision of the Act was enacted and it sets to reduce 2.5% cut in pension benefit in 3 years from 2012 to 2015, while wage and price have been continued in stagnation.

The revision in 2012 and its reduction in pension benefit are retrogressive measures against Section 2 of the Article 25 of the Constitution. There are many aged persons who receive only aged basic pension (about 65,000 yen in a month in maximum), and it is below the public assistance standards. Further reduction is a clear violation of Section 1 of the Article 25, which set out the right to life.

## 2) Violation of the No Retrogressive Principle in the International Covenant on Economic, Social and Cultural Rights

The Government of Japan ratified the International Covenant on Economic, Social and Cultural Rights, that obliged the government to admit the rights and to take necessary measure for the rights. If they took a retrogressive measures, they had to consider series of items such as; a) there is any reasonable explanation on cutting pension benefit, or not, b) choice to cut pension benefit was comprehensively considered or not, c) when they consider proposed measure and choices, concerned parties which would be impacted by those policies participated in consideration, or not, d) cutting pension benefit is either directly or indirectly discriminative, or not, e) cutting pension benefit would have continued impact in realizing the right to social security, unreasonable impact on existing right to social security, or deprive of access to social security at minimum necessity level by both any individuals or groups, or not, f) an independent review on those policies at national level has been done, or not. If not, it violates the ICESCR.

Concerning on the Pension Act revision in 2012 and consequent cut on pension benefit, the Japanese Government, has to prove due justification, according to the ICESCR provision, that all choices had been carefully considered and implemented those policies.

### (1) Necessity and rationality of cutting pension benefit (item a)

In consideration of cancellation of “Special Standard”, the Government should have carefully consider as a whole economic policies, on an element of overcoming deflation as a purpose of the special standard, economic effectiveness by the standard, or possibility of economic recovery by paying pension benefit without the standard, but they did not conduct positive analysis or review on these elements. The government argument such as “equality between generations” or “maintaining sustainable pension system” are very ambiguous, so we cannot help to say the pension benefit cut has no necessity and rationality to do it for aged people.

### (2) Consideration of other policy choices than cutting pension benefit (item b)

Financial source of pension benefit in general can be from variety of policy choices, such as increasing

income by raising pension premium, or cancellation of the special standard by the government provides financial courses to the pension fund, or make use of the pension reserved fund. But they did not consider at all of other policy choices.

(3) Pensioners' opinion were heard and sufficient time at parliament discussion (item c)

Time allocated for discussion on the revised bill of the Pension Act in 2012 was very short, the committees of the House of representatives and the House of Councilors had one day each for discussion on the bill. The bill was passed with only 2 days discussion in total. As for explanation by the Minister to the committee, then Minister of Welfare and Labour Mitsui has very simple explanation like "in order to realize equality between generations, pension benefit level with the Special Standard should be adjusted to deserved level", and as mentioned above, the bill was passed with very short discussion. There was no public opinion procedure on the bill, no public hearings by the committees. Due to this short discussion, Diet members as representatives of the people could not have a chance to listen to opinions from pensioners for instance and reflects their voices and opinions, and there was no in-depth discussion or agreement on rationality or reasons of the purpose to realize "equality between generations", then the bill was enacted. It can be said as extremely sloppy diet discussion.

(4) At the Diet discussion, is there any participation by concerned parties which would be impacted by those policies (item d)

There are huge differences in pension benefits in Japan, and series of system often reforms (basically adverse revisions) resulted huge differences in pension benefit. Since there is no universal pension system in Japan, approximately 960,000 non-insured people has been abandoned. Differences in pension benefit and gender difference in benefit are very vast. At the time of no universal pension system in Japan, aged people households whose income is close to the public assistance level easily fall into the public assistance level if pension benefit cut unanimously like the one in 2012, and expand it. Once the government cut pension benefit with "Special Standard" implemented, then it lowered the benefit. It enforced those who are living just above the public assistance benefit with pension fall into below the criteria of the public assistance. As mentioned above, there were no space and opportunity for the most vulnerable and impacted group of aged people at the Diet discussion, by this pension benefit cut.

(5) cutting pension benefit would have continued impact in realizing the right to social security, unreasonable impact on existing right to social security, or deprive of access to social security at minimum necessity level by both any individuals or groups (item e)

The 2021 revision aims to reduce pension benefit by cancellation of "special Standard" in order to secure sufficient pension reserve, regardless of economic circumstance as a whole. The government claim that they can reduce pension benefit by argument such as "equality between generations" or "maintaining sustainable pension system" which are very ambiguous, and argue that the pension system would be sustainable by that revision. However, we have to examine how health the system is with the whole structure of the system. If the government ambiguous argument, "equality between generations" is allowed for the reason to cut the pension benefit, make an existing way to the current and past standards unclear, it became less resilient system from the very biggening, sustainable impact is immeasurable. If this calculation is allowed, there is huge impact on the social security as a whole, and it seems no way for

recovery to even minimum level of the system.

(6) An independent review on those policies at national level (item f)

About the 2012 revision and its consequent benefit cut, there has been no review process at national level, and insured have been continued to suffer from unjust benefit cut. There isn't any national level review on this revision, thus its correspondence by the government is against the no retrogressive principle in the ICESCR

3) Violation of "Remedy" and "Accountability" in the ICESCR.

Para 78 of "General comment 19" on the ICESCR Article 9, the rights to social security says "State parties, Before taking any measures to intervene individual rights to social security, concerned authority shall guarantee that concerned measures are according to the related laws and in accordance with the Covenant. Moreover, it includes a) sincere consultation with those would be impacted, b) timely and complete information disclosure of a bill, c) reasonable interests in a way of proposal, d) legal way and remedy for those would be impacted, and e) legal support to get legal remedy. At this points, there has been no consultation, complete information disclosure and a way to make proposal, with insured as well as the JPU. From this point, it violates ICESGR.

4) Denial of dialogue by the Japanese government.

- (i) JPU submitted an official demands to the Minister of Welfare and Labour on October 20, 2020, title "Correction on Pension Benefit Cut measure which violates ILO Convention 102 (Minimum Standard)".
- (ii) The ministry had a negotiation with JPU on December 16, but they refused any meaningful dialogue by only replying that the issue on pension benefit cut is on trial process right now, so they are not in position to reply on this matter.

5) Supreme Court Decision

(1) Abandoning the role of the Court and it admits larger desecration of the Diet

Plaintiffs of the Pension Court Struggle argued that the court should judge based on careful consideration on the reasons and necessity of the pension cut according to the Committee on Economic, Social and Cultural Rights, because the government broke its promise not to cut benefit during the consumer price goes down. However, the Supreme Decision on construction of the pension system by saying "it is necessary to comprehend various elements like awareness of social issues and future prediction, budgetary situation, state of financial policy, the state of living of the people, stability and credibility as the system, people's awareness on social security, and equity among people's awareness and understanding on benefit and premium. And it is necessary for an organization capable with specialized knowledge and expertise shall do those by comprehend drafting policy." The Supreme Court excuses that this decision should be dealt by the Diet, not by the Court.

The Supreme Court decision on December 15, 2023, admitted broad desecration of the legislative body,

and swallowed arguments of the government like “equality between generations” or “Maintaining the budget of public pension system”, then made judgement that it does not violate the Constitution of Japan. The court itself surmised the Diet and swallowed arguments by the government. We have to say this judgement was made by double subordination to politics. The judiciary should have an independent role to examine an particular legislation by the Diet is against the Constitution or not, in order to protect basic human rights, but they failed to do so.

(2) The Court denied the No Retrogressive Principle in the ICESCR

The Government of Japan ratified the International Covenant on Economic, Social and Cultural Rights, that obliged the government to admit the rights and to take necessary measure for the rights. If they took a retrogressive measures, they had to consider 6 standards, otherwise it is violation of the ICESCR. However, as for pension benefit cut that was argued during the court process, the Diet has only one-day discussion with few hours short. They did not conduct any survey on the state of living of aged people, or organized public hearings for listening to aged people, it is done in this kind of proceedings. However, the Supreme Court completely ignored the ICESCR. This is like confessing how Japanese courts ignore the international human rights standards.

(3) Serious condition was not completely ignored

In the supplement opinion by Judge MIURA.

- 1) For pensioners, their benefit actually reduced and in addition we cannot ignore the fact it is extremely difficult for aged people who does not possess sufficient income or assets. This is also true from increasing number of aged people are now on the public assistance in recent years. Concerning on judgement of violation against the Article 25 of the Constitution, those issues shall be considered taking into account of the public assistance system, other social security system as a whole the government has due responsibility to improve, as well as substantial and practical rights for living of individual people, on the assumption that the Diet has desecration. (Page 5 to 6 of the judgement).
- 2) Of course, the state has a responsibility according to the Article 25 of the Constitution, to guarantee the minimum standards of living for all people including aged people, and make efforts to improve and update social security including pension, medical, welfare and public assistance. It is a case to review the system corresponding to change of society, it is essential to guarantee smooth benefit and support of individual needs for those individual in difficult situation by various reasons, and further update of the system is necessary. (page 6)
- 3) Thus, the court admitted that concerning on this case that benefit cut is because cancelation of the “Special Standards”, there are pensioners who experiences cut in benefit and may aged people are becoming more difficult situation.

## **XI Requests of guidance and support**

ILO Convention 102 set out minimum standards of social security. And the ICESCR has the no retrogressive principle. Respecting ILO standards is necessary, but ignorance and violation of the ICESCR is also not

acceptable. JPU humbly requests ILO's guidance and support for the government of Japan based on C102 and the ICESCR as the following points.

- i) Pension benefit cut in 3 years from 2013 by 2.5% by the Japanese government is against the No retrogressive Principle of the ICESCR. JPU requests ILO to issue recommendations to respect the principle.
- ii) Improve levels of benefit of Employee's pension
- iii) Improve benefits of Employee's pension
- iv) Improve benefits of the National pension
- v) Improve much lower benefit for aged women
- vi) Abolish Macro Economic Slide System (carry over), and make pension benefit not to be reduced
- vii) Establish a minimum pension system in Japan
- viii) To realize these, the government should have meaningful and effective consultation/negotiation with concerned originations including JPU.