

**INTERNATIONAL TRADE UNION CONFEDERATION (ITUC)**

**INTERNATIONALLY RECOGNISED CORE  
LABOUR STANDARDS IN JAPAN**

**REPORT FOR THE WTO GENERAL COUNCIL REVIEW OF  
THE TRADE POLICIES OF JAPAN**

**(Geneva, 31 January and 2 February 2007)**

**EXECUTIVE SUMMARY**

**Japan has ratified six out of the eight core ILO labour Conventions. In view of restrictions on trade union rights and discrimination, determined measures are needed to comply with the commitments Japan accepted at Singapore, Geneva and Doha in the WTO Ministerial Declarations over 1996-2001, and in the ILO Declaration on Fundamental Principles and Rights at Work.**

**Japan has ratified both ILO Conventions on Freedom of Association and the Right to Organise and Collective Bargaining. However, restrictions exist on the right to organise and the right to collective bargaining in the public sector, and public sector workers do not have the right to strike.**

**Japan has ratified the core ILO Convention on Equal Remuneration but not the Convention on Discrimination. Although progress has been made, discrimination between men and women in the labour market, including with regard to remuneration remains significant, due to a concentration of women in part-time and temporary employment, but also due to a two-track personnel administration system.**

**Japan has ratified the ILO core Convention on the Worst Forms of Child Labour and the Convention on Minimum Age. Child labour generally does not occur in Japan, and education is free and compulsory up to the age of fifteen.**

**Japan has ratified the Convention on Forced Labour, but not the Convention on the Abolition of Forced Labour. Forced labour is prohibited, but there are still problems with trafficking of people into Japan for the purpose of forced prostitution and forced work.**

## INTERNATIONALLY RECOGNISED CORE LABOUR STANDARDS IN JAPAN

### Introduction

This report on the respect of internationally recognised core labour standards in Japan is one of the series the ITUC is producing in accordance with the Ministerial Declaration of the World Trade Organisation (WTO) (Singapore 9-13 December 1996) and endorsed at the fourth WTO Ministerial Conference (Doha, Qatar, 9-14 November 2001) in which the ministers stated: “We renew our commitment to the observance to the internationally recognised core labour standards”. These standards were further upheld in the International Labour Organisation (ILO) Declaration on Fundamental Principles and Rights at Work adopted by the 174 member countries of the ILO at the International Labour Conference in June 1998.

Japan was a founding member of the WTO on 1 January 1995 and thus became subject to the legal framework of this international body. Japan participated in the ministerial conferences mentioned above and accepted the commitments adopted in these global meetings. Japan equally supported the “Declaration on Fundamental Principles and Rights at Work” in the ILO in 1998.

The ITUC has one affiliated trade union centre in Japan, the Japanese Trade Union Confederation (JTUC-RENGO) with a membership of approximately 6,800,000.

The Japanese economy is a market based economy. Its main economic activities are manufacturing and services. Gross Domestic Product (GDP) was estimated at \$4,559 billion in 2005, with a real economic growth rate of 1.9%. Gross Domestic Product was composed of 1 % primary sector activity, 27% in industry and 72 % in services. The labour force amounted to 66.5 million people in 2006. In 2006, the number of organized union members was 10,041,000 workers, which corresponded to 18.2 percent of the employed.

Japan’s main agricultural products are rice, sugar beets, vegetables, fruit, pork, poultry, dairy products, eggs and fish. Its main industries are technologically advanced products including motor vehicles, electronic equipment, machine tools, steel and non ferrous metals, ships, chemicals, textiles and processed foods.

Japan’s main imports are machinery and equipment, fuels, foodstuffs, chemicals, textiles and raw materials, its main import partners being China, USA, Saudi Arabia, UAE, Australia, South Korea and Indonesia.

Japan’s main export commodities are transport equipment, motor vehicles, semiconductors, electrical machinery and chemicals, its main export partners being the USA, China, South Korea, Taiwan and Hong Kong.

In 2005 exports attained \$550.5 billion and imports \$451.1 billion, giving Japan a positive balance of trade.

Japan signed an Economic Partnership Agreement (EPA) with Singapore in 2002, covering goods, movement of natural persons, services and investment. An FTA with Mexico was signed in September 2004. Other EPAs recently concluded or under negotiation are with Korea, the Philippines, Thailand and Malaysia.

## **I Freedom of association and collective bargaining**

Japan ratified Convention No. 87 on Freedom of Association and Protection of the Right to Organise on 14 June 1965, and Convention No. 98 on the Right to Organise and Collective Bargaining on 20 October 1953.

The constitution recognises workers' freedom of association and their right to organise, bargain and act collectively. However, there are limitations, particularly for civil servants and for employees of state-run companies and private companies in positions with high social responsibility, such as the electric power industry.

Japanese labour legislation distinguishes between private and public sector workers.

There are three major labour laws governing private sector workers, including foreign workers, two of which have a direct bearing on their trade union rights. The Trade Union Law (TUL) guarantees the right to organise, bargain collectively and strike, and the Labour Relations Adjustment Law (LRAL) covers dispute settlements. The third law, the Labour Standards Law (LSL) governs working conditions.

The right to strike is protected in the private sector but ten days' notice must be given in privately-owned utilities such as electric power generation and transmission, transportation and railways, medical care and public health, and telecommunication services.

The prohibition on discrimination against strikers is generally observed by the authorities in Japan. However, problems regarding the time taken to process workers' complaints against employers results consequently in diminished effective protection for union members and other workers.

Strong legal restrictions on the trade union rights of public servants remain in place. Labour relations in Japan's public service are governed by the National Public Service Law and the Local Public Service Law, dating back to 1948, which both heavily restrict basic trade union rights.

Staff may organise at a national level, with the exception of members of the police force, fire fighting services, penal institutions, the Maritime Safety Agency, and the Self-Defence Forces. The system of trade union registration requires separate unions to be created in each municipality, and places restrictions that the ILO has described as tantamount to prior authorisation to form unions. Most staff in senior executive grades cannot be part of the same union. Administrative and clerical staff do not have the right to conclude collective agreements at local or national level. Their wages were revised when the government (or local government, depending) amended the law or regulations in line with the recommendations of the National Personal Authority (or Personal Committee, in a prefecture).

All public employees are banned from striking. Trade union leaders who incite strike action in the public sector can be dismissed and fined or imprisoned for up to three years.

Article 8 of the Law on Labour Relations in public companies regulates the application of bargaining issues. The following are included as bargaining issues: 1) wages, working hours, rest period, leave absence; 2) promotion, demotion, transfer, dismissal, seniority and disciplinary measures; 3) staff safety and health, industrial injury; 4) other working conditions. Issues which relate to the management and operation of public companies are excluded from collective bargaining.

Over the years the government of Japan has continuously failed to substantively discuss reform proposals made by the national trade union centre, JTUC-RENGO. The government also continues to ignore the recommendations of the ILO Committee on Freedom of Association to amend its legislation to bring it into compliance with its obligations under ILO Convention 87.

Japan adopted the “General Principles of Administration Reform” on 25 December 2001. Under the “General Principles”, the authority of the government as employer was greatly expanded, while the current restrictions on the fundamental labour rights of public workers were maintained. In November 2002, June 2003 and March 2006, the government determined that, because the ILO recommendations were outlined in an interim report, they were not for immediate consideration.

The ILO Committee of Experts on the Application of Conventions and Recommendations (CEACR) has made particular comments and requests with regard to the denial of the right to organise of fire fighters, the prohibition of the right to strike of public servants, and the right to organise of prison staff. According to the CEACR, fire fighters should have the right to organise. Civil servants who are not exercising authority in the name of the state and workers who are not working in essential services within the strict meaning of the term should be ensured the right to strike too. In its 2003 observation, the CEACR reiterated its request to the government “to consider the measures that could be taken to encourage the full development and utilisation of machinery for voluntary negotiation with a view to the regulation of terms and conditions of employment by means of collective agreements for public employees who are not engaged in the administration of the State”.

RENGO reported that the Minister responsible for administrative reform had publicly stated the Committee did not understand the situation, and was interfering in Japan’s internal affairs. The government has further claimed that restrictions exist because of the distinctive status of public workers, and that they are compensated by the “National Personnel Authority System”.

In November 2003, RENGO set up the “Study Group on the Reform of the Public Service System” composed of labour law and labour administration specialists. In June 2004, the study group issued an interim report whose three principal recommendations included the granting of fundamental trade union rights to public servants.

RENGO sought to engage with the government to discuss its proposals, but the government failed to articulate a clear position or respond substantively to labour’s recommendations. Consultations were effectively suspended from the autumn of 2004 until May 2005, when the President and senior officers of RENGO met Prime Minister Koizumi, the Minister of Labour and the Chief Cabinet Secretary. RENGO again received a pledge that government-labour consultations on reform of the public servants system would occur. Concretely, the Minister of Labour promised the government would retain the framework of government-labour consultations for the reform of the public servants system.

However, the negative impact of the lack of full freedom of association and collective bargaining rights in the public sector became clear when the government adopted a policy to reduce public service employment by five percent over five years. In November 2005, the Council on Economic and Fiscal Policy, which operates as an advisory board to the Prime Minister, recommended a reduction in the number of civil

servants by 1,455 - triple the level of the previous year, and the highest annual reduction since 1985 - to save labour costs. RENGO strongly opposed this recommendation when its leaders met the Prime Minister on 16 December. The result of RENGO's pressure campaign was positive. On 24 December, the Cabinet adopted a "Basic Policy for Regulatory Reforms" which indicated an interest in ensuring that reform of the public servants system would occur within the framework of the current system.

In line with the agreement of the government-trade union consultation held on 29 May 2006, the Special Examination Committee on Public Work, Civil Service Workers, and Industrial Relations was established under the Administrative Reform Promotion Office by a government ordinance based on the Administrative Reform Promotion Law. The Committee was composed of 17 members who represent trade unions, academia, employers, and journalists. The representatives of trade unions were three members from RENGO. The first meeting was held on July 2006, and thereafter held meeting in September, October, November and December, altogether five meetings during the year 2006. However, there is no certainty at this moment that the future discussions in the Committee will result in an acceptance of the recommendations by the ILO and the granting of fundamental labour rights to public service workers.

In December 2005, the Tokyo Metropolitan Police Department investigated union offices including the office of JR SOREN and the houses of the union's officers and staff. The police raided those houses over 4 days on the grounds of alleged personal use of the union's funds by its officers. The case is suspended, and official documents such as accounting books of the union which were confiscated on the occasion of the search have not yet been returned to the union, which results in an obstacle to union activities. The recommendation of the ILO to the government of Japan to return the confiscated property to the union has so far been ignored. RENGO regards this excessive investigation as a case that may violate freedom of association

**Conclusions:** *The national law in Japan allows workers in the private sector to organise and to undertake collective bargaining, and the right to strike. Workers in the public sector are not well protected. The right to organise is not applied to certain groups and the right to collective bargaining is limited in its scope. Public sector workers do not have the right to strike.*

## **II Elimination of discrimination in respect of employment and occupation**

Japan ratified Convention No. 100 on Equal Remuneration on 24 August 1967, but has not ratified the ILO convention no. 111, the Discrimination (Employment and Occupation) Convention.

The law prohibits discrimination on the basis of race, gender, disability, language and social status. However, discrimination remains a problem in Japan.

Although the law prohibits wage discrimination, the average hourly wage for women is only 65.9 percent of the hourly wage for men. Women are underrepresented in senior and managerial posts. Much of the disparity results from employment management systems such as the two-track personnel administration system under which many private sector companies direct men into the higher paying managerial

track while at the same time steering women into the lower paying clerical track. Discrimination against women in wages and employment occurs in almost all sectors, although less regarding specialists, professionals, skilled workers, and the like.

The law prohibits sexual discrimination; however, sexual harassment in the workplace remains problems throughout the country. The new revision of the Equal Employment Opportunity Law provides for enforcement of further penalties for sexual harassment at the workplace from April 2007.

The law prohibits discrimination against persons with physical and mental disabilities in employment, education, and access to health care. Persons with disabilities are not generally subject to overt discrimination in employment, education, or in the provision of state services; however, they face limited access to these services in practice.

**Conclusions:** *Despite the fact that national law in Japan bans discrimination on different grounds, discrimination persists. Women experience significant wage discrimination. Sexual harassment exists in workplaces and effective measures to tackle the problem are still needed.*

### **III Abolition of child labour**

Japan ratified ILO Convention No. 138, the Minimum Age Convention on 5 June 2000 and ILO Convention No. 182, the Worst Forms of Child Labour Convention on 18 June 2001.

In general children's rights are protected adequately in the country. Education is free and compulsory until the age of 15. There are generally no differences in the treatment of girls and boys at any level of school.

The law bans the exploitation of children in the workplace, and this law is implemented effectively. The law establishes that children under the age of 15 cannot be employed, and those under the age of 18 cannot be employed in dangerous or harmful jobs either. However, there are some exceptions such as for children in the entertainment industry, who are allowed to begin work at the age of 13 under certain conditions.

**Conclusions:** *Child labour is not a problem in Japan. Implementation of the national law regarding this issue is effective.*

### **IV Elimination of Forced Labour**

Japan ratified ILO Convention No. 29, the Forced Labour Convention, on 21 November 1932 but has not ratified ILO Convention No. 105, the Abolition of Forced Labour Convention.

The law prohibits forced or compulsory labour, including by children.

Trafficking of women and minors and child pornography continue to be a problem in Japan. Women and girls, primarily from Asian countries are trafficked into the country for sexual exploitation. Sometimes, women trafficked into the country enter legally on entertainer visas. Many of those are exploited by criminal groups which results in no protection from the law. According to statistics issued by public

institutes, 106 persons were confirmed as victims of trafficking from January to October 2006.

To prevent and prohibit trafficking, the Immigration Control Law and Criminal Law were revised with effect from 2005.

The government of Japan has cited the National Public Service Law and the Local Public Service Law as preventing it from ratifying Convention 105. Those laws stipulate that public servants who incite strike action can be imprisoned.

**Conclusions:** *The national law in Japan bans forced or compulsory labour and the law is generally enforced. However, trafficking, mainly of women and girls for sexual exploitation or forced work, is still a problem.*

## Conclusions and Recommendations

1. The government of Japan must ratify ILO Convention No. 111 on discrimination and ILO Convention No. 105 on the Abolition of Forced Labour, and implement measures to ensure an effective transposition into national law.
2. While both Convention No. 87 and Convention No. 98 have been ratified by Japan, the basic rights enshrined therein are denied to the vast majority of public sector workers in Japan. No public sector workers have the right to strike; many public sector workers, including all administrative and clerical staff, have no right to conclude collective agreements; and others, such as fire fighters, do not have the right to form a trade union. Combined with the recent unilateral restructuring of the public service, executed without genuine consultation of public services unions, these restrictions constitute a major violation of Conventions 87 and 98. The government must adopt the recommendations of the ILO Committee on Freedom Association (CFA) and Committee of Experts on the Application of Conventions and Recommendations (CEACR) regarding these issues.
3. The government of Japan must implement affirmative actions to ensure the equal representation of women in managerial posts. Measures are needed also to tackle the problem of sexual harassment at workplaces.
4. The government of Japan must implement effective measures to tackle the problem of trafficking of women and girls for sexual exploitation.
5. The National Public Service Law and the Local Public Service Law, which stipulate that public servants who incite strike action can be imprisoned, must be amended.
6. In line with the commitments accepted by Japan at the Singapore, Geneva, and Doha WTO Ministerial Conference and its obligations as a member of the ILO, the government of Japan must therefore provide regular reports to the WTO and the ILO on its legislative changes and implementation of all core labour standards.
7. The WTO should draw to the attention of the authorities of Japan the commitments they undertook to observe core labour standards at the Singapore and Doha WTO Ministerial Conferences. The WTO should request the ILO to intensify its work with the government of Japan in these areas and provide a report to the WTO General Council on the occasion of the next trade policy review.

## References

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