

# **Current Situation and Challenges of Occupational Safety and Health Activities in Japan**

**Report of Japan Center for Safety and Health of Working People Regarding the Fourth Item on the Agenda the 93<sup>rd</sup> International Labour Conference**

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June 1, 2005

## **Introduction**

The fourth item on the agenda of the up-coming 93<sup>rd</sup> Session of the International Labour Conference includes the introduction of a draft proposal “Promotional Framework for Occupational Safety and Health”, discussion on the proposal as well as its adoption by the Conference. The present report, prepared by the Japan Center for Safety and Health of Working People, a Japanese non-governmental organization working for the promotion of safety and health of workers, is intended to provide information about the realities regarding safety and health of Japanese working people, the governmental OSH policy and programs as well as the attitude adopted by employers’ organizations and to present our own view regarding the fourth item on the agenda. We would be happy if this report is taken into consideration in the discussion at the coming session of the International Labour Conference and contributes to its successful outcome.

## **1. Life and Health of Japanese Working People**

### **1.1 Serious disruption of health of working people**

Japan is known to the world as a country of longevity, but the health of Japanese

workers is seriously deteriorating. In 2003, the rate of workers diagnosed ill calculated on the basis of the results obtained from the national regular health examination program for workers (the ratio of workers found to be with health problems by the health examination conducted once a year in accordance with the Law on Occupational Safety and Health) was 47.3 per cent, a 13.3-point increase from 33.6 per cent recorded 10 years before. In addition, the number of people who committed suicide in 2003 was over 34,000, exceeding 30,000 mark for 6 consecutive years. About 9,000 of them were active workers. Reading into the notes they left behind has made it possible to establish that their suicides were mostly due to economic hardships and/or to problems related to livelihood and/or work. Long hours of work, moral harassment on the workplace, imposed quotas and work-related stress are causing sharp increases in deaths and suicides due to overwork, depression and other mental illnesses. According to the estimates made by the government, 470,000 workers are on long-term leave due to mental or psychological disorders and as many as 2,600,000 workers are receiving medical treatment for mental diseases. The data compiled by several of professional health insurance organizations show that mental illness constitutes by far the most common cause of long-term leave. Occupational diseases related to long working hours and excessive workloads are rapidly spreading among workers across all industries.

## **1.2 Deaths and Suicides due to Overwork**

Thirty years have passed since Japanese workers gained a sad reputation of being workaholic and living in rabbit hutches. Today, the term “karoshi”, meaning death from overwork, has become an internationally known Japanese word symbolizing Japanese workers’ deplorable condition. The cases of karoshi (deaths from brain or heart disorders related to long hours of work) and suicides due to exhaustion (heavy psychological load and job stress leading to the onset of mental illness and eventually to suicide in some cases, depending on quantity and quality of tasks to execute, degree of responsibility and discretion, support provided by co-workers and superiors, changes in material and human environment on the workplace), only to count those that are reported and recognized as work-related cases, are on a constant increase.

In 2003, the number of claims for occupational insurance benefit for brain and heart diseases amounted to 705 (including 306 fatal cases) of which 312 (including 157 deaths) were approved. The number of claims for mental disorders was 438 (including 121 cases of suicides and suicide attempts) of which 108 (including 40

suicides and suicide attempts) were approved. As the criteria set by the administration for compensation for occupational accidents and illnesses are very high, the approval rates of karoshi and suicides claims remain low: 44 per cent and 25 per cent respectively. As a result of a mechanical application of the criteria by the OSH administration authority, namely the Labor Inspection Bureau of the Ministry of Health, Labor and Welfare, many cases of karoshi and suicides of workers are determined as “off-the-job”. Some claims are approved after a long and burdensome legal battle if not simply turned down by local labor inspection officer. What is alarming is that karoshi and suicides are rampant among young workers as well as temporary and contracted workers.

The Tokyo District Court at the end of March 2005 gave its judgment on the case of suicide of a temporary part-time employee, Yuji Jodan (23 years old), deciding that the subcontracting company (actually a temporary labor agency) and Nikon (a major manufacturer of cameras and other precision instruments) using the contracted employee were responsible for his death, because they have failed to fulfill their obligation of caring for his health and ordering the two companies to pay compensation. Similar examples of health disruption abound, especially among young workers with precarious employment status, such as the case of a 21-year-old part-time worker who died from overwork only 2 months after he had been hired.

### **1.3 Compensation Mechanism for Occupational Accidents and Illnesses**

The International Labour Organization, in view of the 91<sup>st</sup> session of the International Labour Conference, conducted a survey on the governments about their OSH programs. As the reply to the ILO questionnaire, the government of Japan sent a report prepared on the basis of its “10<sup>th</sup> five-year Plan for the Prevention of Industrial Accidents”.

According to this plan, the government shall try to bring the number of workers killed in occupational accidents from the current level of over 1,700 down to below 1,500 over the five years period and to reduce by 20 percent the overall number of occupational accidents that presently exceeds 550,000. However, these official figures are more than conservative compared with the realities, since as many as 130,000 cases of work-related accidents and diseases that occur annually are not reported and that many work-related illness cases are not recognized as such and dealt with by ordinary health insurance plans.

In addition, some examiners in charge of identifying occupational accidents or diseases interfere with the claimants and their families with no consideration for human rights and the OSH authority sometimes refuses to receive claims submitted by workers victims of occupational accident or disease. Moreover, the criteria of occupational accidents and diseases adopted by the government make the relief of the victims very difficult, because they are based on the so-called “disaster principle” (consisting of excluding any work-related accident or disease that is caused by accumulation of chronic fatigue) as well as on the “principle of average person standard” according to which any illness is considered work-related only if it develops in 50 per cent or more workers doing the same work.

Many court decisions have in fact severely criticized these inappropriate criteria used for the OSH administration, saying that they totally disregard differences in physical and mental sensitivities that may exist between individuals. Fair and prompt recognition of occupational injuries and diseases, the process that should constitute the premise of the OSH administration, is not functioning at all and it is often the case that an occupational accident claim is approved some 10 years after it was submitted after having gone through a long legal procedure.

#### **1.4 Occupational Disease Patients Deprived of Opportunities to Receive Medical Treatment**

The Supreme Court on April 28<sup>th</sup>, 2004 handed down a judgment acknowledging the responsibility of the government for causing dust lung or silicosis damage suffered by coal mining workers. This final decision came 18 years and 4 months after the lawsuit had been filed. 80 percent of the 170 plaintiffs who undertook the class action had been dead by then.

In Japan, like in other countries, silicosis is the biggest and the oldest occupational disease. In 2002, the annual special health examination conducted on workers in hazardous or toxic workplaces found that 9,310 workers, accounting for 4.9 percent of the total, might possibly be with this disease. However, the number of workers who are officially recognized as silicosis patients in a year is only around 1,000. The adoption in 2005 of the “Plan for the eradication of silicosis by the year 2015” proposed by the ILO is for the Japanese government a task to tackle without delay. Actions aimed at the prevention of asbestos lung and the relief of the victims must also be urgently undertaken.

In 2002, 1,626,958 workers assigned to 72 designated hazardous duties in 80,989 establishments underwent the special periodic health examination and 96,795 or 5.9 percent of them were suspected of developing cancer or other work-related illnesses. Besides the wide gap that exists between the number of workers recognized as work-related illness patients and the number of workers suspected of developing work-related illnesses, workers who are found to have health problems at health examination are not entitled as such to medical compensation benefit unless their claims are approved (workers' work accident compensation insurance covers the totality the medical costs while employees' health insurance covers only 70 percent of the medical costs).

## **2. Realities of Work-Related Accidents**

### **2.1 Frequent Serious Accidents in Large-Scale Establishments**

The "10<sup>th</sup> Plan for the Prevention of Industrial Accidents" reported by the Japanese Government to the ILO says that the number of accidents involving 3 or more workers injured or killed is on the decrease. However, according to the official statistics, the number of casualties in industrial accidents is on a rapid rise: the number of deaths in explosion and fire accidents increased from 9 in 2002 to 43 in 2003 and the number of serious accidents rose from 92 cases in 2002 to 131 cases in 2003. Since autumn 2003, serious accidents have frequently occurred in large manufacturing establishments, including explosions and fires at Idemitsu oil refinery in Hokkaido, Bridgestone plant in Tochigi prefecture, Nippon Steel iron works plant in Nagoya and gush of high temperature and high-pressured gas following the breaking of pipes at Mihama nuclear power plant of Kansai Electric Power Company (KEPCO). In addition, a major passenger train derailment happened on JR West's Fukuchiyama Line and killed 107 people.

### **2.2 The Causes of Major Industrial Disasters**

Following the explosion disaster at Idemitsu refinery in Hokkaido, a nationwide safety inspection was conducted on all oil plants across the country and found out defects in more than 90 per cent of the facilities inspected. The pipe that broke at the KEPCO power plant in Mihama had not been checked for safety since the start of the plant operation 28 years ago. Although these serious industrial accidents are attributable to different factors, the biggest cause is that the state's safety control regulations have been eased and some parts of safety control

measures have been left to the voluntary efforts of enterprises. Japanese big enterprises, using the pretext of surviving the market competition in the context of globalizing economy, have significantly compressed personnel cost, reduced their workforce and replaced regular workers with irregular ones. They have frantically proceeded with outsourcing and compression of OHS expenses for making more profits and as a result, their earnings have now reached a record-high level. The recent train accident came as a strong warning against the dangerousness of corporate policy of increasing profitability to the detriment of safety, like the one pursued JR West management. The workers killed in the KEPCO power plant accident were all dispatched by an affiliated subcontractor. As a matter of fact, in manufacturing industry, contract workers from different temporary labor agencies and subcontractors are working together on a same site. On these sites whose number is increasing, a comprehensive OHS management system that covers all workers working in one same site regardless of their employment status is absent. This is the major cause of frequent occupational accidents in manufacturing industry. The parent companies using contract labor should therefore revise their OSH management system.

### **2.3 Responsibility of the State for Frequent Industrial Disasters**

In the context of explosion and fire disasters that successively occurred in manufacturing industry, the Ministry of Health, Labor and Welfare conducted a survey on the large-scale manufacturing plants about their self-inspection system in the area of OSH management. This survey has identified the following problems to be addressed: (1) defining the responsibility of top managers for OHS management; (2) cooperation with subcontractors and affiliated companies in OHS management; (3) activation of the OSH committees; (4) OHS training of site-workers and revision of operation manuals; (5) risk evaluation of facilities and operations and disaster prevention measures.

Subsequent to the survey, the government has introduced to the 2005 ordinary Diet session a bill to amend the current Occupational Safety and Health Law, claiming that the proposed amendments were intended to improve serious industrial disasters. However, the proposed amendments exempt from the obligation of prior reporting required for the introduction of new equipment or machinery (Article 88 of the OSH Law) those entrepreneurs who have implemented assessment of hazards and toxicity of their establishments and took measures for their reduction according to the Occupational Health and Safety Management System (OHSMS). As for those workplaces where there is a mix of

workers dispatched by different subcontractors or temporary personnel agencies, the user companies are merely required to ensure the liaison and coordination of operations among different contract workers. These measures are significantly insufficient compared with the actual needs for accident prevention. The responsibility of the state for having deregulated OSH standards under the pressure of business circles must be seriously put into question.

### **3. OSH Actions We Demand to the State**

#### **3.1 Establishment of Basic Rules that Meet International OSH Standards**

In order to protect safety and health of working people, it is essential to give workers the right to fully participate in all OSH activities. On this basis, the state must guarantee their rights to refuse to work whenever they sense a serious threat to their safety and health, to demand their employer disclosure of information and to denounce if necessary. It must also establish the right of workers to receive OSH education and training.

The Japanese government must immediately ratify the ILO Convention No. 155 that provides for these rights and clearly define the responsibilities of the state and employers as well as the basic rights of workers that meet the international standards.

#### **3.2 Restriction of Hours of Work**

The government must ratify the ILO Convention No. 1 without delay and enact a law that lays down the principle of time of work of 8 hours a day and 40 hours a week and 5 day-workweek. It must prohibit in principle any overtime work in dangerous or hazardous duties, regulate long overtime work that can cause health disorders and eradicate unpaid overtime work. It must in the same time stop easing labor regulations, including extension of the use of temporary labor and discretionary work, exemption of white-collar workers from the application of work time restriction. It must also ensure that workers can recuperate from fatigue by taking adequate sleep and rest and that adequate personnel (pooled workforce) is secured everywhere to avoid excessive workloads be imposed on workers.

#### **3.3 Clarification of the Responsibilities of Employers Using Contract Labor**

Serious accidents frequently occur in manufacturing plants using a mix of many

different types of contract workers. Article 17 of the ILO Convention No. 155 and IV.11 of the ILO Recommendation No. 164 set out OSH measures to be taken for workplaces where two or more undertakings are in activities simultaneously. The Japanese government that has ratified this particular recommendation must apply Article 30 of the OSH Law (concerning the requirements for specific employers using contract workers in high-risk industries like construction) to manufacturing industry. It must precisely define the responsibilities of enterprises using contract labor for OSH management and compensation of work-related accidents and illnesses for the sake of the workers they use.

### **3.4 Improvement of Labor Standards Administration**

The number of labor inspectors must be significantly increased so that on site inspection is carried out once a year in every workplace with high-risk duties. The government must use OSH committees more efficiently and promote the creation of an OSH committee in any workplace with 30 or more workers. For workplaces with less than 30 workers, the government must encourage the creation of an OSH committee by two or more companies of the same industry.

### **3.5 Prompt and Fair Relief of Victims**

When dealing with applications for recognition of occupational accidents and illnesses, the government must provide a prompt (recognition at least within a year) and fair (recognition in principle of any case whose work-relatedness is evident) relief to the victims. Especially when a court decision or a medical knowledge that contradicts with the recognition criteria intervenes, the government must immediately revise the recognition criteria.

### **3.6 Enhancement of Labor Inspection to Prevent the Recurrence of Industrial Disasters**

When investigating a serious industrial accident that has inflicted serious damage to the population, the priority must be given to the prevention of recurrence. For this purpose, a third-party investigation body must be put in place and be given all necessary mandate as well as financial and human resources for enabling it to thoroughly investigate the accident and identify its cause. The traditional method used for the investigation of industrial accidents that gives priority to criminal investigation by the police (consisting of confiscating and monopolizing all the evidences remaining at the theater of the



accident) should be changed. In order to ensure the safety of machinery and equipment, the state must introduce a system of obligatory prior reporting for the installation of new machinery or equipment and enhance the safety check-up program to be carried out periodically on the existing ones to make sure that they meet the safety requirements. In addition, workers' representatives must be included in the diverse disaster prevention associations so that these bodies are managed in a democratic manner.

#### **4. OSH Measures We Demand Enterprises to Implement**

##### **4.1 Safety Must Be the Top Priority for Any Enterprise**

Top corporate officers must adopt a management policy that gives priority to the safety and try to assume the corporate social responsibilities with the collaboration of employees. In order to change the situation prevailing in most workplaces where cost reduction and profitability are pursued to the detriment of OSH, all questions that may have any incidence on OSH, including staffing, work schedules and work shifts and other working conditions, spin-off, outsourcing, transmission of techniques and acquired experiences from retiring workers to younger ones, introduction of new machinery and technologies, OSH training etc. must be reviewed thoroughly from the perspective of securing OHS. Moral and sexual harassments, power harassment, all forms of discrimination, abusive punishment and other human rights violations must be eradicated from all workplaces.

##### **4.2 Respect of the Rights of Workers and Their Unions**

Enterprises must acknowledge that workers and their unions have the rights to know, to keep a close eye on how their enterprises are managed, to participate in the management and to negotiate. An "OSH management system" must be designed and established on these premises. For this, enterprises must conclude labor agreements, guarantee workers' representatives adequate time to take OSH training programs and to actively participate in OSH activities. They must provide workers with necessary information, listen to them and secure a good functioning of OSH committees. Employers must establish normal relationship with employees and respect the opinion of unions regarding OSH. They must correct personnel management practices and climate that may intimidate workers and make them refrain from expressing their grievances or opinions. They must put in place a mechanism through which, in the event that an accident or a case of

occupational disease or a karoshi (including suicides) occurs in a workplace, the workers in that workplace are allowed to express their views about the cause of the event and to have their opinions reflected in the OHS management.

#### **4.5 Verification, Discussion and Learning of How and Why an Occupational Accident or Illness Occurs**

The causes of occupational accident or disease are multiple, including lack of safety of machinery or equipment, workplace environment, insufficient safety training, accumulated fatigue due to intensive and long hours of work. Both employers and employees must do their utmost to prevent the recurrence of any accident or disease, by making sure to report every case and by verifying, discussing and learning how and why it has occurred.

### **5. Our Opinion about the Fourth Item on the Agenda of the 93<sup>rd</sup> Session of the International Labour Conference**

#### **5.1 We Support the Fourth Item of the Agenda**

Life and health of Japanese workers are in an alarming situation as shown by the sharp increase in the number of workers diagnosed ill through annual health examination, rise of deaths and suicides from overwork and mental illnesses as well as by the frequent industrial disasters. The main cause is the profit-first policy of enterprises and slowness of the state in the implementation of preventive OSH actions. Japan Center for Safety and Health of Working People totally supports the fourth item on the agenda of the 93<sup>rd</sup> Session of the International Labour Conference. We call for the adoption of the “Promotional Framework for the Occupational Safety and Health” and demand that new international instruments, convention and recommendations, be decided urgently and ratified by the ILO member countries and the elaboration of national OSH programs and systems as well as the transposition on national legislations be promoted.

#### **5.2 Workers’ Right to Participate is the Premise for Any OSH Activities**

The Premise of the “Promotional Framework for Occupational Safety and Health” should be the recognition of the right of workers to participate in the elaboration of national OSH programs and systems and this should be explicitly stipulated in the “Framework”. It is proposed in the draft document to consult with experts groups and other possible stakeholders, and we believe that non-governmental

organizations working in the area of OSH should also be consulted.

### **5.3 We Will Play a Part as an NGO**

We regard safety and health at work as the condition prerequisite for realizing “decent work” proposed by the ILO. This requires that workers’ unions also enhance their capacities to be able to fully assume their social and moral responsibilities and to evaluate and check the national OSH programs. They must educate and train their officers in charge of OSH to improve their abilities. We, as a Japanese NGO, are committed to continue developing cooperation and joint efforts with workers and their unions and are resolved to work with perseverance, calling for “tripartite (government-employer-worker) dialogue”, so that “safety culture” will firmly take roots in the Japanese society in the 21<sup>st</sup> century.

End