

**Suggested questions for Japan under the ICCPR**

**On the human rights of people labelled as having mental illness**

(Articles 2, 7, 9, 10,16, 19,26)

1 Please provide information and statistics, in both public and private settings, on:[[1]](#footnote-1)

1. the number of people subjected to forced medical treatments and period of forced treatment ;

In Japan forced medical treatment is common practice but there is no data we can access how many and how long these are practiced.

1. the number of people subjected to restraint or solitary confinement and period of time ;

In Japan the number of restraint and solitary confinement are increasing . Over 9000 persons a day are restrained and also over 9000 persons are solitary confined on 30 June 2010.

Recently Mr. Naito the director of the psychiatric hospital Fukui Kinen Hospital confessed in the Minich newspapers that most of older inpatients of his hospital were restrained in the wheel chairs though they could walk and wheelchairs are not necessary. The case of the Fukui Kinen Hospital was reported as 6 day series by the Mainichi Newspapers from 22 to 28 June 2013.

1. the number of the people subjected to forced hospitalization because of “likely to injure others' honour” or “likely to insult others”;

In Japan one of the requirements of forced hospitalization by the prefecture governor is “ likely to injure oneself or others” and “to injure others” includes “ to injure others’ honour and to insult others”. It is the violation the right to freedom of expression. These requirements invade the article 19 of ICCPR.

We have two cases that persons were sent for examination for forced hospitalization by these requirements though fortunately they were not forced to be hospitalized. One only distributed flyers criticizing the psychiatric hospital and another reported abuse and human rights violation in the psychiatric hospital to the ministry of justice human rights division and it investigated the hospital then the director of the hospital reported him as “likely to injure others” because he injured hospital’s honour and he was sent for the examination.

We could get the information about two cases only because they were reported to our organization but we have no information on other cases especially examination resulted forced hospitalization

1. legislation permitting the restriction of the rights of people with disabilities or people labelled as incompetent ;

In the last Diet term the legislation controlling drivers license was changed and it made more strict restriction for people with mental illness. And there are many restriction items in other legislation for people who are labelled as incompetent, for instance people labelled as incompetent cannot be a board member of the nonprofit organization.

2 Is there the definition of or guidelines for free and informed consent to medical treatment in the legislation?

3 Why is there a large disparity of the prevalence of forced hospitalizations across different prefectures?[[2]](#footnote-2)

The number of new compulsory hospitalization per population by prefectures

Article 33

Over 4 times difference between the smallest and the largest

Article 29

Over 17 times difference between the smallest and the largest

The number of compulsory hospitalized inpatients per population by prefectures

Article 33

Over 4 times difference between the smallest and the largest

Article 29

Over 3 times difference between the smallest and the largest

4 How does the government justify forced hospitalization which amounts to torture, cruel, inhuman and degrading treatment and punishment of the concerned individual?

In Japan over 40 % of inpatients are forced hospitalized and Japan is ranked no 1 for the highest number of psychiatric hospital beds and the average length of stay in psychiatric hospitals between OECD countries. There are over 300,000 inpatients in psychiatric hospitals and over 110,000 patients staying for over 5 years and over 36,000 inpatients staying over 20 years.

5 What action does or will the government take to reduce the number of psychiatric hospital beds and inpatients?

6 What action does or will the government take to secure the rights of people with psychosocial disability to independent living in the community on an equal basis with others ?

In Japan 97% of the budget on mental health care in Japan is invested into psychiatric hospitals (and 90% of the beds are in private psychiatric hospitals) and only 3% on community mental health services.

7 What action does or will the government take to ban forced hospitalization, restrain, solitary confinement and forced medical treatments?

8 What action does or will the government take to monitor and to prevent the torture or ill treatment in psychiatric hospitals and to provide redress to victims?

In psychiatric hospitals, the human rights of persons with psychosocial disabilities are systematically violated by forced and arbitrary detention/hospitalisation, non-consensual medication, including overdrugging, physical restraints, solitary confinement, frequent violence and deaths by beatings and violence perpetrated by staff and non-accountability and impunity of both private and public hospitals (very rarely if any action is taken, it is limited to holding the staff person responsible), leaving persons in psychiatric hospitals without any remedies nor redress; as there are no effective complaints mechanisms nor monitoring of both public and private psychiatric hospitals.

There is a 3% rate of successful appeals of involuntary hospitalisation and a 0.005% rate of discharge by periodic review of the Psychiatric Review Board in mental health law. Periodic review is the only review of papers which are written by psychiatric hospitals.

**Annex**

**Information about Organizations**

The Japan National Group of Mentally Disabled People (JNGMDP) is the nationwide network of individual mentally disabled people and groups of them, established in 1974. We are advocating our own human rights and our membership is only mentally disabled people and our mission is to advocate our own human rights by our own voices.

We are a member organization of WNUSP and we participated making CRPD process with WNUSP international level and national level we joined to cross disability organization Japan Disability Forum (JDF) and also we are advocating to ratify and to implement of CRPD with WNUSP and JDF.

Mari Yamamoto

contact@jngmdp.org

<http://www.jngmdp.org/e/index.php?FrontPage>

Japanese website- http://www.jngmdp.org/

The World Network of Users and Survivors of Psychiatry (WNUSP) is an international organisation of users and survivors of psychiatry, advocating for human rights of users and survivors, and representing users and survivors worldwide.42 The organisation has expertise on the rights of children and adults with psychosocial disabilities, including on the latest human rights standards set by the CRPD, which it played a leading role in drafting and negotiating. WNUSP is a member organisation of IDA and has special consultative status with ECOSOC.

WNUSP supports its members to advocate before UN treaty bodies, and has provided expertise to UN bodies including the Special Rapporteur on Torture, the Subcommittee on Prevention of Torture and the Committee on the Rights of Persons with Disabilities. WNUSP is currently engaged with processes for review of the Standard Minimum Rules on the Treatment of Prisoners and for the development of an instrument on the rights of older persons.

Moosa Salie, Chair, admin@wnusp.net, www.wnusp.net

The International Disability Alliance (IDA) is the international network of global and regional organisations of persons with disabilities (DPOs), currently comprising eight global and four regional DPOs. Each IDA member represents a large number of national DPOs from around the globe, covering the whole range of disability constituencies. IDA’s mission is to advance the human rights of persons with disabilities as a united voice of DPOs utilising the CRPD and other human rights instruments, and to promote the effective implementation of the CRPD, as well as compliance within the UN system and across the treaty bodies.

Victoria Lee, vlee@ida-secretariat.org, www.internationaldisabilityalliance.org

1. CAT/C/JPN/CO/2 “Concluding observations on the second periodic report of Japan, adopted by the Committee at its fiftieth session (6-31 May 2013)” “The Committee is further concerned at the frequent use of solitary confinement, restraints and forced medication, actions which may amount to inhumane and degrading treatment. Taking into account the information received during the dialogue on plans regarding mental health care, the Committee remains concerned at the lack of focus on alternatives to hospitalization of persons with mental disabilities. Finally, the Committee is concerned about the frequent lack of effective and impartial investigation of the excessive use of restrictive measures as well as at the lack of relevant statistical data (arts. 2, 11, 13 and 16).” [↑](#footnote-ref-1)
2. In Japan there are mainly two types of forced hospitalization in the mental health act –article 29 and article 33. Article 29 is forced hospitalization by the prefecture governor. Article 29 requirements are one is mental disordered and likely to injure oneself or others unless one is hospitalized for medical treatments and protection judged by two psychiatrists. Article 33 requirements are one is mental disordered and one is incompetent to voluntary admission and necessary to be hospitalized for medical treatments and protection judged by one psychiatrist and one family member agreed it. [↑](#footnote-ref-2)